

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to

the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on

March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He

participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal,

Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

CIVIL PROCEDURE CODE AND LIMITATION ACT

PLAINT IN INTERPLEADER SUIT

Authored By: Vartika Rawat

TABLE OF CONTENT

1. ABSTRACT

2. INTRODUCTION

2.1 WHAT IS PLAINT

2.2 WHAT IS INTERPLEADER SUIT

3. CONDITIONS IN INTERPLEADER SUIT

4. PLAINT AND PROCEEDINGS IN INTERPLEADER SUIT

4.1 WHO CAN FILE AND INTERPLEADER SUIT

4.2 WHO CANNOT FILE AN INTERPLEADER SUIT

4.2.1 AGENTS AND TENANANTS CANNOT FILE

INTERPLEADER SUIT

5. Neeraj Sharma v. The District Sangpur

6. SAMPLE OF THE SUIT

7. CONCLUSION

8. BIBLOGRAPHY

1. Abstract

The topic interpleader suit is different in itself. The present paper will explain the topic plaintiff in an interpleader suit, it firstly explain what is plaintiff and what is an interpleader suit then it will cover the conditions for an interpleader suit that what are the conditions to apply. Then finally coming to the procedure, one sample of such plaintiff is also there to have a clear understanding of the cases. The focus will shift towards who can file and who cannot file these suit then conclusion of the paper on personal understanding .

2. Introduction

ORDER XXXV

INTERPLEADER

1. Plaintiff in interpleader-suit.-In every suit of interpleader the plaintiff shall, in addition to the other statements necessary for plaintiffs, state

(a) that the plaintiff claims no interest in the subject-matter in dispute other than for charges or costs;

(b) the claims made by the defendants severally; and (c) that there is no collusion between the plaintiff and any of the defendants.¹

There are various types of suits like representative suit, suit by or against minor, interpleader suit is also one if its kind in normal situation there is dispute between plaintiff and defendant but in interpleader suit there is no dispute between plaintiff and defendant the dispute is between two defendant there cannot be only one defendant. The plaintiff does not have any interest in particular movable and immovable property. And he should be ready to transfer the possession.

“²The Hon’ble Bombay High Court held in **Mangal Bhikaji Nagpase vs State of Maharashtra**³ that the plaintiff must affirm in support of Rule 1 that he has no interest in the

¹ BARE ACT, CODE OF CIVIL PROCEDURE 1908

² LI Network, Interpleader Suits – Guidelines and Landmark Judgements - Law Insider India Law Insider India (2022), <https://www.lawinsider.in/columns/interpleader-suits-guidelines-and-landmark-judgements> (last visited Sep 15, 2022).

³ Mangal Bhikaji Nagpase v. State of Maharashtra (1997) 99 BOMLR 91

subject matter in dispute other than for charges or costs.”⁴

EX Like if one person has lost his pencil in the call and one of the student find it but there will be four students claiming for that pencil so the defendant who has found the pencil will handover it to teacher and the rest four who were claiming for it will be defendant so there will be no personal interest of plaintiff and the defendant will always be more than one in such interpleader suit.

2.2 WHAT IS PLAINT

Plaint defined in order VII that what are content of plaint, how it reject and accept there is no proper definition of plaint in Code of civil procedure. It is legal document which contains legal content which is necessary for a legal suit as any rights may be violated, its the first step for commencement of any suit. Contents of plaint including name of court, about the plaintiff, same as of defendant, if any of them is a minor or unsound mind, facts of cause of action and the jurisdiction of the court.

2.3 WHAT IS INTERPLEADER SUIT

Interpleader suit when plaintiff file complaint for knowing actually owner of the property. Plaintiff has no personal interest over the property but the claimant of the property means the defendant will be more than one. Plaintiff claim that he don't have the personal interest and he want to handover the property to actual owner of the property and the possession of the property will be with the plaintiff then he will file the interpleader suit Example if the plaintiff finds the bag full of money and the claimant of the bag who are defendant will be more than one Court will decide whome the property belongs to.

3. Conditions For Intituting An Interpleader Suit

There are certain conditions to file an interpleader suit

1. There will be more than one defendants as the party in such suits.
 2. There will be property either movable or immovable, money debt in the following dispute
 3. If the judgement us given under res judicata then the suit shall not files twice
 4. Suits shall not be pending under this
 5. There should not be a valid interest of the person who have to pay the debt in this interpleader suit
 5. The property will be claimed by both the defendant
-

6. There should be willing of claimant to pay certain amount to the defendant in these suits⁵
The plaintiff will be free from all the liabilities since he handover the property to court for the possession. The plaintiff will deliver all liabilities and cuts all the ties from the property just leaving one this which are the damages because of the property. The plaintiff can only demand the charges what he pays for taking care of the property of defendant what he pays for its servicing or saving it other than this there will not be any personal interest over the property.

4. Plaintiff In Interpleader Suit And Proceedings

The plaintiff should have no interest over the property of interpleader suit other than charges and damages faced by him while serving the property

Claim for the property should not be done by only one defendant

There should not be any collusion between defendant and plaintiff otherwise there will not be any interpleader suit

After the suit file in the court the court will instruct the plaintiff to deposit the property or asset or anything he have to the custody of the court only after that he will be entitled to any order of the suit

After the start of hearing of suit the plaintiff will be discharged of all the liability related to possession of the property as they will be submitted to court only and he will not be liable to anything as he dont have any personal interest over the defendant property and he wants to handover it to them. Then it's upto court discretion that they may remove the plaintiff from the suit or if the court want he will attend the proceedings otherwise the final dismissal.

On the basis of evidence the suit will be decided and the court will decide the suit will run in ordinary way or not.⁶

⁵ Interpleader Suit | CPC Free Notes - Prolawctor, Prolawctor (2020), https://prolawctor.com/interpleader-suit-under-cpc-cpc-free-notes/#Plaint_in_an_interpleader_suit (last visited Sep 15, 2022).

⁶ Iscak lemaro, Interpleader: Meaning, proceedings and everything you need to know Sheria na Jamii (2022), https://sheriajamii.com/2020/04/interpleader.html#Plaint_in_Interpleader_Suits_and_Proceedings (last visited Sep 15, 2022).

4.1 WHO CAN FILE AN INTERPLEADER SUIT

The plaintiff can file the interpleader suit in whose possession the property is and he should be ready to give the possession of the property and the property should be in condition to transfer. The plaintiff who is the person in possession should not have any personal interest over the property and has the motive to transfer the property to its original owner. The defendant will claim the property belongs to him and he is the original owner but the plaintiff will be out of interest of the property.

In **National Insurance Co. Ltd. vs. Dhirendranath Banerjee And Anr (1937)**⁷, it was determined that a person may file an interpleader suit if he or she has no interest in any debt, sum of money, or property other than the fees or costs and is willing to pay or deliver the property to the rightful claimant.

4.2 WHO CANNOT FILE AN INTERPLEADER SUIT

4.2.1 Agents cannot file an interpleader suit against their principal

Tenant cannot file the interpleader suit against their landlords these are some exceptions of people who cannot file an interpleader suit.⁸

Defendant cannot file the interpleader suit as they are free from all the liabilities they just have to claim the property belongs to them or not as the suit is filed by the plaintiff only so they need to prove that the property or asset is his and the possession should be transferred to him as he is the original owner of the property. The one who claims for the ownership of the property will be the defendant and he cannot file the suit.

Neeraj Sharma v. The District Sangpur Khadi Gram, the Punjab and Haryana High Court held that an interpleader suit by a tenant is maintainable if the other party claiming a right over the disputed property is doing so through the original landlord, but such suits are not maintainable if the party independently claims ownership over the property and rent from

⁷ AIR 1938 Cal 287

⁸ Iscah Iemaro, Interpleader: Meaning, proceedings and everything you need to know Sheria na Jamii (2022), https://sheriajamii.com/2020/04/interpleader.html#Plaint_in_Interpleader_Suits_and_Proceedings (last visited Sep 15, 2022).

the tenant."⁹

- Res Judicata

Res Judicata is specified in Section 11 of the Civil Procedure Code. Res Judicata refers to a case in which the court has already rendered a verdict. If a lawsuit is brought under Res Judicata, the same subject matter cannot be litigated again in any other court of law or on any other legal theory. If, by mistake, a case that has already been filed under Res Judicata is submitted in another court of law, the judge may reject the petition without further proceedings.

- Reinstatement of interpleader suit

Sections 88 and 90 of the Code of Civil Procedure 1908 describe the circumstances in which an interpleader action may be reinstated and the court's power to explain the case for its opinion. When defendants accuse each other for the claim of the same property, debt, or amount of money from a plaintiff who is not in direct possession of the property or debt, does not claim interest, and is willing to transfer the property. Res Judicata prevents a court from hearing a case that has already been filed.

- The purpose of bringing an interpleader suit.

When the object is to be claimed by the defendants, the lawsuit is filed. The lawsuit is adjudicated. The suit is filed when any person in any cause of death has left some property without transferring it to other family members. The other family member must claim the property or money from the bank, and then the bank must become the claimant and file a lawsuit in court to determine to whom the property must be transferred.

⁹ Interpleader Suit | CPC Free Notes - Prolawctor, Prolawctor (2020), https://prolawctor.com/interpleader-suit-under-cpc-cpc-free-notes/#Plaint_in_an_interpleader_suit (last visited Sep 15, 2022).

5. Sample Complaint In Interpleader Suit

The suit will be conclude with the prayer as the normal suit.

REPUBLIC OF THE PHILIPPINES
NATIONAL CAPITAL JUDICIAL REGION
REGIONAL TRIAL COURT
Manila, Branch _____

X, Inc.

Plaintiff,

- versus -

Civil Case No. _____
For Interpleader

Y and Z

Defendants.

x ----- x

COMPLAINT

PLAINTIFF, by counsel and to this Honorable Court, respectfully alleges:

1) Plaintiff is a corporation duly organized and existing under the laws of the Philippines, with principal office at Suite 501 and 502, Metropolitan Tower, 1746 Mabini Street, Malate, Manila; it is represented herein by its president, X. Defendants Y and Z are both of legal age and with residences at Forbes Park, Makati City, Metro Manila, Philippines and Unit 1, The Fort Residences, Bonifacio Global City, Metro Manila, Philippines, respectively, where they may be served with summons and other legal processes.

2) On 25 August 2017, Y subscribed to 5,000 shares of stock of plaintiff, with par value of P1,000.00 per share, and accordingly, he was issued a certificate of stock No. 099, which, upon his request, was in blank, he explaining that a blank certificate would be easy to negotiate and transfer.

3) On or about 3 September 2017, a certain Z called on plaintiff's corporate secretary, presenting and leaving to the corporate secretary Stock Certificate No. 099 in which his name was already written therein and which he claimed was endorsed to him by Y, and asking that said certificate of stock be cancelled and a new certificate issued to him. But before the corporate secretary could effect the transfer, Y submitted an affidavit claiming that his Stock Certificate No. 099 was lost and asking that the same be cancelled and a new replacement be issued to him.

4) Plaintiff, who claims no interest whatsoever in the subject matter of this action, cannot determine the veracity of the conflicting claims of the defendants;

¹⁰ <https://imgv2-1-f.scribdassets.com/img/document/358961926/original/785492ed05/1566436763?v=1>

6. Conclusion

-
The plaint in interpleader suit are the suits where the original collusion is not between the plaintiff and defendant in fact the plaintiff is the party who has no interest over the property involved in the suit. There will be more than one defendant for the property and all of them will be claim for the ownership of that property, they will give the evidence for that and the court will decide that whom the property belongs to. The plaintiff will be free from all the liabilities after he handover the property to the court.

The plaint will be filed by the defendant and there will always be more than one defendant for the suit there is also one main condition that plaintiff should not have any personal interest over the property. There are some exceptions also which shows against whom the suit cannot be filed and what are the conditions to file an interpleader suit which are mentioned above. In case of Neeraj Sharma v. The District Sangpur Khadi Gram, the Punjab and Haryana High Court held that a "interpleader suit by a tenant is maintainable if the other party claiming a right over the disputed property is doing so through the original landlord, but such suits are not maintainable if the party independently claims ownership over the property and rent from the tenant.

IJLRA

7. Bibliography

1. INTERPLEADER SUITS | LAWYERS UPDATE

Interpleader Suits | Lawyers Update, Lawyers Update | Magazine for Law Students and Professionals (2017), <https://www.lawyersupdate.co.in/legal-articles/interpleader-suits/> (last visited Sep 15, 2022).

2. NETWORK, L.

Interpleader Suits – Guidelines and Landmark Judgements - Law Insider India

: LI Network, Interpleader Suits – Guidelines and Landmark Judgements - Law Insider India Law Insider India (2022), <https://www.lawinsider.in/columns/interpleader-suits-guidelines-and-landmark-judgements> (last visited Sep 15, 2022).

3. SINGH, S.

What is Interpleader Suit? - iPleaders

: Shruti Singh, What is Interpleader Suit? - iPleaders iPleaders (2022), https://blog.ipleaders.in/what-is-interpleader-suit/#Who_cannot_file_an_interpleader_suit (last visited Sep 15, 2022).

4. WHAT IS INTERPLEADER SUIT, ITS CONDITIONS AND PROCEDURE

: What Is Interpleader Suit, Its Conditions and Procedure, WritingLaw (2019), <https://www.writinglaw.com/what-is-interpleader-suit-cpc/> (last visited Sep 15, 2022).

5. CORNER, L.

Interpleader Suit Under Code of Civil Procedure

Footnote: Law Corner, Interpleader Suit Under Code of Civil Procedure Law Corner (2020), <https://lawcorner.in/interpleader-suit-under-code-of-civil-procedure/> (last visited Sep 15, 2022).

6. INTERPLEADER SUIT | CPC FREE NOTES - PROLAWCTOR

: Interpleader Suit | CPC Free Notes - Prolawctor, Prolawctor (2020), https://prolawctor.com/interpleader-suit-under-cpc-cpc-free-notes/#Plaint_in_an_interpleader_suit (last visited Sep 15, 2022).

7. INTERPLEADER SUITS | LAWYERS UPDATE

Interpleader Suits | Lawyers Update, Lawyers Update | Magazine for Law Students and Professionals (2017), <https://www.lawyersupdate.co.in/legal-articles/interpleader-suits/> (last visited Sep 15, 2022).

8. LEMARO, I.

Interpleader: Meaning, proceedings and everything you need to know

Iscak lemaro, Interpleader: Meaning, proceedings and everything you need to know Sheria na Jamii (2022), https://sherianajamii.com/2020/04/interpleader.html#Plaint_in_Interpleader_Suits_and_Proceedings (last visited Sep 15, 2022).

