

**MOGHA'S**

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Law of  
**Pleadings**  
in India

**WITH PRECEDENTS**

Sixteenth Edition

S.A. Kader  
G.C. Mogha

**Eastern Law House**

**THE  
LAW OF PLEADINGS  
IN INDIA**

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*Calcutta*

Eastern Law House Private Ltd.  
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Eastern Law House Private Ltd.  
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# The Law of Pleadings in India

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WITH PRECEDENTS

*by*

**P.C. MOGHA, B.A., LL.B.**

Late Chief Justice Vindhya Pradesh, Rewa, Law and Revenue Minister, Jammu & Kashmir State, Formerly Legal Rememberancer and Secretary to Government, U.P. Judicial and Legislative Departments, Government Conveyancer, member of the U.P. Legislative Council, and member of the Faculty of Law of the Agra University and Author of the Indian Conveyancer.

SIXTEENTH EDITION

*by*

**S.A. Kader**

Former Judge, Madras High Court

**G.C. Mogha**

Former District & Sessions Judge

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NEW DELHI

**EASTERN LAW HOUSE**

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G.C. MOGHA

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LATE SRI P. C. MOGHA

## INTRODUCTION

*HIGH COURT*

*Allahabad*

*January 20, 1926*

DEAR MR. MOGHA,

I promised that I would write an introduction to your book. I am sending it to you in the form of a letter because in it I can tell you more directly and intimately how heartily I congratulate you on the happy thought which caused you to commence this work and the industry which enabled you to carry it through. A lawyer coming to this country finds at least a sufficiency of books on general law and on its special branches, but until recently at least no work on pleadings of an authority was in existence. I am specially glad to notice the ability and knowledge you have brought to bear on this most important subject. In my opinion a knowledge of the science of pleading is the essential equipment of any man who desires to make headway in his profession and ignorance of it is a daily impediment. I could give no better advice to any one than to study again and again the precedents, principles and authorities which are to be found in your book. I confess that when I came here in 1919 nothing shocked me more than the abusive, irrelevant, reckless statements in pleadings and the failure of Subordinate Judges to exercise any control over them, by striking out irrelevant passages and demanding particulars so as to keep the evidence at the trial within proper limits and to prevent surprise. The position is getting better and lawyers are realising that unfounded charges of fraud, reckless justifications, failure to give particulars, intentional mis-statement and other patent defects of pleading do injury to their clients and to their own reputation.

I hope your book will have the success that it deserves, and that it will be studied by the members of the profession, judges and practitioner alike.

Again I congratulate you heartily upon the completion of your task.

Your Sincerely

**GRIMWOOD MEARS**

To

P.C.MOGHA Esq.

*Subordinate Judge*



## PREFACE TO THE FIRST EDITION

The plaints and written statements which have been coming before me during the course of my judicial work have always struck me as singularly lacking in precision and conciseness, the two most important essentials of a good pleading. I have very often attempted to effect an improvement by freely returning pleadings for amendment and by making the party at fault pay heavy costs. But I could not achieve the desired success, partly because I could not bestow so much time to this work as I wanted, but more so, because no improvement is possible unless the bar makes a real and earnest endeavour. The apathy of the members of the bar is due not so much to natural conservatism as to the want of a clear knowledge of the correct principles of pleading, due to want of training. The subject is not taught in our law colleges, and also there is a singular absence of a book on pleadings in this country. Certain forms of pleadings were introduced in the Code of Civil Procedure of 1908, but, with the exception of a few forms of plaints in mortgage suits, they have never been followed. Even these forms do not supply the real want, because, in the first place, many of them are defective and offend against the elementary rules of pleading, and secondly, they cannot be appreciated until the principles of pleading are correctly understood. The Civil Justice Committee also noticed this state of affairs in their report and threw out a suggestion to the legal profession for the preparation of a standard book on pleadings on the lines of the English work by Bullen and Leake.

As I was interested in this subject, I at once took up the suggestion. I received great encouragement from the Hon'ble Sir Grimwood Mears in my undertaking, and his kind appreciation of the work and encouragement alone have enabled me to carry it through and to present it to the profession in the form of this book.

As a thorough grasp of the principles is essential before a lawyer can derive the fullest benefit by a reading of the precedents, I realized that a book written entirely on the lines of Bullen and Leake and

containing a sketchy summary of the principles will only serve half its purpose. I have, therefore, devoted sixteen chapters of this book to a full and exhaustive discussion of the principles of pleading and almost all the case-law on the subject has been digested in them. The portions of the Code of Civil Procedure which relate to pleadings, complaints, written statements, etc., have been incorporated in these chapters, so that there should be no necessity to refer to any other book on a point of pleading. A chapter on appeals, and another on applications and affidavits has also been added, and, it is hoped, will be found useful in every day practice.

In Part II, I have given precedents for different kinds of suits which ordinarily come before the civil courts in this country. I have arranged them, for convenience of reference, in alphabetical order according to the various subjects. Explanatory footnotes have also been appended to the precedents. They will be particularly useful for a thorough understanding of the essential requisites of pleadings, in a particular class of cases, and an intelligent study of these notes will enable a pleader to modify the precedents according to his own needs. The exact nature of a particular kind of suit, what should be alleged and proved in such a suit, what possible defences can be raised, and all important points of procedure and practice, have been discussed in these notes. Important questions of court-fees, valuation and limitation have also been touched upon.

As the drafting of petitions and affidavits is as important as that of complaints and written statements, I have also given precedents of all important applications under the Code of Civil Procedure and other Acts of daily use in civil courts.

I have thus spared no pains in making the book really useful for the practitioners, and I hope that if the principles of pleading are fully and intelligently studied and followed, there will be substantial improvement in the pleading in mofussil courts.

I must take this opportunity of most respectfully expressing my sense of immense gratitude to the Hon'ble Sir Grimwood Mears for the introduction and for all the encouragement and help he has so kindly given me. He has taken a great interest in this work and has, in some instances, made valuable suggestions with regard to the form of precedents.

My thanks are also due to Messrs. Suresh Chandra Chaturvedi and Randhir Singh, Munsifs, for having kindly assisted me in going through the proofs.

**P.C.MOGHA**

Muzaffarnagar

January 23, 1926

## **PREFACE TO THE SIXTEENTH EDITION**

It has given me great pleasure in revising the celebrated work of Shri P.C. Mogha which has held a pre-eminent position on the subject of Pleadings for over seventy five years and undergone fifteen editions so far. It is the book of reference found on the table of every lawyer practising on the Civil Side.

The present edition has undergone a thorough revision and incorporates several other kinds of Suits, Fundamental Principles of Substantive law relating thereto, more Model Forms under the existing heads and under the Administrative Tribunals Act, The Recovery of Debts due to Financial Institutions Act and The Consumer Protection Act and case laws upto date.

My thanks are due to Mr. M. I. Meerasahib and Mr. M. Imtiaz, advocates, High Court Madras for their assistance, to my stenographer Mr. Srinivasan and M/s Kraftworx Communications (P) Ltd.

I wish and hope that this revised edition will be as useful to the Bar and the Bench as its predecessors.

**S. A. KADER**

Chennai  
January 10, 2002

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