BLOGS

Misjoinder and Non-joinder of Parties under the Civil Procedure Code

Ruchika Mohapatra · 30 Jan 2025

***When parties are incorrectly joined or omitted, it leads to* misjoinder or non-joinder of parties, which can affect the suit's outcome. Read this post to learn more about misjoinder and non-joinder of parties under the Civil Procedure Code.**

Misjoinder of Parties under CPC

Misjoinder occurs when parties who should not be joined in a suit are included or when parties having conflicting interests are made part of the same litigation. This may happen in two forms:

- Misjoinder of Plaintiffs: When two or more plaintiffs, whose claims are not related, are joined in a single suit.
- Misjoinder of Defendants: When multiple defendants, against whom there is no common cause of action, are sued together.

Misjoinder of parties occurs when:

1. Unrelated parties are joined together in a single suit without a common cause of action.
2. Multiple defendants are sued jointly when the claims against them are not connected by common legal or factual grounds.
3. Improper inclusion of parties whose interests are not aligned with the subject matter of the suit.

Misjoinder can lead to procedural inefficiencies and possible dismissal of the suit if not corrected.

Relevant Provisions under the Civil Procedure Code

Order I, Rule 1: Joinder of Plaintiffs

According to this rule, multiple plaintiffs can join in a single suit if:

- Their claims arise out of the same act or transaction.
- There is a common question of law or fact involved in the suit.

If these conditions are not met, the suit may suffer from mis-joinder of plaintiffs.

Order I, Rule 3: Joinder of Defendants

Defendants can be joined in a suit only if:

- The right to relief is claimed against them jointly, severally, or in the alternative.
- There is a common question of law or fact applicable to all defendants.

Failure to satisfy these conditions results in mis-joinder of defendants.

Order I, Rule 9: No Dismissal for Misjoinder

This rule states that a suit shall not be dismissed solely due to misjoinder of parties. Instead, the court has the power to rectify the issue by removing or adding parties as necessary.

Order I, Rule 10: Power of the Court to Add or Remove Parties

The court may, at any stage of proceedings:

- Strike out misjoined parties if their inclusion is improper.
- Add necessary parties to ensure complete adjudication.

Consequences of Misjoinder of Parties

1. Under Order I, Rule 9, a suit is not dismissed merely due to misjoinder.
2. The court may rectify the defect by ordering the removal of misjoined parties.
3. Misjoinder can lead to procedural delays and confusion.
4. If a party is found to be misjoined, the court may exclude them from the proceedings without affecting the remaining suit.

Non-joinder of Parties under CPC

Non-joinder of parties occurs when a person or entity who is essential for the adjudication of a suit is omitted from the proceedings. This can lead to incomplete or ineffective judgments, as the

rights and obligations of all necessary parties are not considered.

Non-joinder may be classified into two types:

1. Non-Joinder of Necessary Parties: When a party whose presence is essential to adjudicate the dispute is not included in the suit, it constitutes non-joinder of necessary parties. If a decree cannot be passed effectively in their absence, the suit may be dismissed or directed to be amended.
2. Non-Joinder of Proper Parties: A proper party is one whose presence is not mandatory for the suit but would assist the court in effectively deciding the matter. Their absence does not make the suit unmaintainable, though it may impact the comprehensiveness of the judgment.

For example, in a property dispute involving multiple co-owners, if one co-owner is not made a party to the suit, it would be a case of non-joinder of a necessary party.

Relevant Provisions under the CPC

Order I, Rule 9: Suit Not to be Dismissed for Non-joinder

This rule states that no suit shall be defeated solely on the ground of non-joinder of parties, except in cases where a necessary party is missing. This ensures that technical errors do not obstruct the administration of justice.

Order I, Rule 10: Addition of Parties

The court has the discretion to add necessary or proper parties at any stage of the proceedings if it finds their presence crucial for an effective and complete decision.

Order I, Rule 13: Objection to Non-joinder

If a party raises an objection regarding non-joinder, it must be done at the earliest possible stage. Delayed objections may be disregarded by the court.

Consequences of Non-Joinder

- If a necessary party is not joined, the suit may be dismissed or the decree may be rendered ineffective.
- If a proper party is not joined, the suit can proceed, but it may lead to incomplete adjudication.

Conclusion

The proper joinder of parties ensures a fair and complete adjudication of disputes. While misjoinder does not usually lead to dismissal, non-joinder of necessary parties can be fatal to a suit. The CPC provides courts with discretionary powers to rectify such errors, thereby upholding the principles of justice.