

Justice Rahmat Hussain Jafferi
 Sitar-a-Imtiaz
 Former Judge Supreme Court of Pakistan
 and
 Member Judicial Commission of Pakistan

81/D Kehkashan
 Block 7 Clifton Karachi
 Phone: 02135833091
 03008202586
 Date.16/5/2026

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

ARTICLE

TWO TIER SCRUTINY OF PLAINT BEFORE ITS ADMISSION UNDER CPC

In the civil justice system of Pakistan, the "admission" of a plaint is not a mere clerical act; it is a judicial function. The current practice of routinely admitting plaints only to have them rejected years later under Order VII, Rule 11 of the Code of Civil Procedure (CPC) undermines the principle of "speedy justice." This delay often stems from a hesitation to exercise judicial mind at the initial stage. To ensure the efficiency of the legal process, courts must act as vigilant gatekeepers. Below is a guide on the relevant provisions and the correct procedural approach for the minute examination of a plaint before its admission. The primary objective of the CPC is to prevent frivolous litigation. The court is not bound to wait for a defendant's application to reject a plaint. Under Order VII, Rule 11, the court has an inherent , suo moto and mandatory duty to examine the plaint at the earliest possible

The filing of a plaint marks the formal commencement of a civil suit, but its admission is not automatic. The law requires a careful, structured, and legally grounded scrutiny before a suit can proceed. This scrutiny is not confined to the judge alone; it is a two-tier mechanism involving:

1. Ministerial scrutiny by the court office, and
2. Judicial scrutiny by the presiding judge

The combined framework under the CPC and the Sindh Civil Courts Rules is designed to filter defective and non-maintainable suits at the very inception.

However, in practice, this mechanism is often ignored. Plaint is admitted mechanically, summons are issued without scrutiny, and defects are raised only after the defendant appears—resulting in delay, inefficiency, and unnecessary litigation.

This article aims to restate the correct legal position and provide clear operational guidance.

I. Statutory Framework

The governing provisions include:

- Code of Civil Procedure, 1908
 - Section 26 (institution of suits)
 - Order IV Rule 1 (institution)
 - Order V Rule 1 (issue of summons)
 - Order VII Rules 1–11 (particulars and rejection of plaint)
- Sindh Civil Courts Rules
 - Rule 81 (time, priority, and handling of filings)
 - Rule 92 (examination of complaints)

A combined reading establishes that issuance of summons is contingent upon prior scrutiny and judicial satisfaction, not merely upon filing.

II. True Scope and Operational Scheme of Rules 81 & 92

Rules 81 and 92 together constitute a complete procedural system governing:

- Time discipline and traceability of filings, and
- Comprehensive legal scrutiny of complaints before admission

1. Rule 81: Time Discipline, Priority, and Accountability

Rule 81 of the Sindh Civil Courts Rules is an important procedural provision governing the handling of complaints and urgent matters at the very threshold of civil litigation. Although often treated as a routine administrative rule, its true scope reveals that it is designed to ensure:

- Prompt handling of judicial business,
- Transparency in movement of files,
- Accountability of ministerial staff, and
- Procedural discipline in civil courts.

The rule lays the foundation for the subsequent scrutiny contemplated under Rule 92 and for the proper institution of suits under the Code of Civil Procedure, 1908.

Rule 81 reads:

“Precedence should be given to urgent matters and the officer receiving them shall forthwith enter thereon also the hour of presentation. Each ministerial officer of the Court, through whose hands such matters pass, shall in his turn put his initials and the hour of receipt and passing on by him.”

Objects and Purpose of Rule 81

The rule serves several important purposes:

1. Priority to Urgent Matters

The rule expressly requires that urgent matters be given precedence. This ensures that:

- Matters requiring immediate judicial attention are not delayed;
- Interim relief applications, injunction matters, and time-sensitive filings are promptly processed;
- Administrative delays do not defeat substantive rights.

Without such prioritization, urgent judicial remedies may become ineffective due to delay at the filing stage itself.

2. Recording the Exact Hour of Presentation

The officer receiving the filing must immediately record:

- The hour of presentation of the plaint or matter.

This requirement is significant because:

- Rights of parties may depend upon exact timing;
- Questions of limitation or priority may arise;
- It prevents later disputes regarding filing time.

The recording of time thus creates an authentic procedural record.

3. Traceability of File Movement

The rule further requires that every ministerial officer handling the file must record:

- His initials;
- Hour of receipt;

- Hour of forwarding or passing on.

This creates a complete chronological trail showing:

- Who handled the file;
- At what time it was received;
- How long it remained with each official.

Thus, Rule 81 establishes a system of procedural traceability.

4. Accountability of Ministerial Officers

One of the most important features of Rule 81 is the accountability mechanism it creates.

Because each officer must endorse:

- Initials; and
- Time entries,

responsibility for delay, negligence, or irregular handling can be identified.

The rule therefore discourages:

- Unexplained delay;
- Misplacement of files;
- Informal or unauthorized handling;
- Manipulation of filing dates or timings.

Relationship with Rule 92

Rule 81 is closely connected with Rule 92 relating to examination of complaints.

- Rule 81 governs the **receipt, priority, and movement** of the complaint;
- Rule 92 governs its **legal scrutiny and examination**.

Together they create a coordinated procedural framework ensuring that:

1. The complaint is promptly processed;
2. Its movement remains documented; and
3. Its legal compliance is properly examined before admission.

Thus, Rule 81 forms the procedural foundation upon which Rule 92 operates.

Importance in Civil Administration

Proper compliance with Rule 81 promotes:

(a) Judicial Efficiency

Files move systematically and promptly.

(b) Transparency

Every stage of handling becomes traceable.

(c) Institutional Discipline

Ministerial staff become conscious of responsibility.

(d) Reduction of Complaints

Litigants can ascertain whether delay occurred and at what stage.

(e) Prevention of Abuse

Manipulation of dates or preferential handling becomes difficult.

Practical Importance in Institution of Suits

At the stage of institution of suits, Rule 81 ensures that:

- The plaint is immediately processed for scrutiny under Rule 92;
- Delay in examination is minimized;
- Urgent matters are quickly placed before the court;
- Summons are not delayed due to administrative inefficiency.

Failure to comply with Rule 81 often leads to:

- Files remaining unattended;
- Delay in scrutiny;
- Delayed judicial orders;
- Procedural confusion.

Duty of Supervisory Courts

District & Sessions Judges and Presiding Officers should ensure:

- Strict compliance with time endorsements;
- Proper maintenance of filing records;
- Accountability in movement of files;
- Regular inspection of institutional practices.

Training of ministerial staff regarding Rule 81 is also essential.

Rule 81 of the Sindh Civil Courts Rules is not a mere clerical formality. It is a significant procedural safeguard intended to ensure:

- Prompt handling of urgent matters,
- Accurate recording of filing time,
- Transparency in movement of judicial files, and
- Accountability of ministerial officers.

When read together with Rule 92 and the provisions of the CPC, it forms an essential part of the procedural mechanism governing the lawful institution and scrutiny of civil suits.

Strict observance of Rule 81 is therefore indispensable for efficient, transparent, and disciplined administration of civil justice.

Examination of Complaints by Ministerial Staff

Rule 92 of the Sindh Civil Courts Rules is one of the most important procedural provisions governing the institution of civil suits. The rule casts a mandatory duty upon the Chief Ministerial Officer or any designated official to examine every complaint immediately after filing in order to ensure compliance with the requirements of law before the matter is placed before the Court.

The object of the rule is:

- To prevent institution of defective suits;
- To assist the Court in judicial scrutiny;
- To ensure compliance with the Code of Civil Procedure, 1908;
- To save judicial time by filtering procedural defects at the threshold stage.

The scrutiny contemplated by Rule 92 is not merely clerical; it is a structured legal examination linked with various provisions of the CPC and other laws

Scope of Rule 92

Rule 92 requires examination of complaints particularly with reference to fifteen specified matters. Each item serves a distinct legal purpose and collectively forms a complete procedural audit before admission of the suit.

Item-wise Explanation of Rule 92

(i) Whether the complaint bears proper Court-fee stamp

The ministerial officer must verify:

- Whether court fee has been properly affixed;
- Whether valuation corresponds with the relief claimed;
- Whether the suit is undervalued.

Improper court fee affects maintainability of the suit and revenue of the State. Deficiency may require correction under Order VII Rule 11 CPC.

(ii) Whether it complies with Rules 33 to 38

These rules relate to:

- Form and presentation of pleadings;
- Margins, spacing, language, pagination, and arrangement;
- General procedural requirements of filing.

Ensures uniformity, readability, and proper court record management.

(iii) Whether it has been properly signed and verified (Order VI Rules 14 & 15 CPC)

The officer must verify:

- Signature of plaintiff or authorized person;
- Proper verification clause;
- Distinction between statements based on knowledge and belief.

An unsigned or improperly verified plaint is procedurally defective and may not constitute a valid pleading.

(iv) Whether it complies with Order VII Rules 1 to 4 and 6 to 8 CPC

The plaint must contain:

- Name of Court;
- Names and addresses of parties;
- Facts constituting cause of action;
- Jurisdictional facts;
- Relief claimed;
- Valuation;
- Limitation-related particulars where necessary.

These particulars form the foundation of a valid civil action.

(v) Whether copies of plaint, forms of summons and process fee have been supplied

The officer must check:

- Copies of plaint and annexures for each defendant;
- Properly filled summons forms;
- Deposit of process fee.

Without these, service upon defendants cannot proceed effectively under Order V CPC.

(vi) Whether documents relied upon are filed with the plaint (Order VII Rule 14 CPC)

The officer must see:

- Whether original documents or copies are filed;
- Whether documents mentioned in the plaint are actually annexed.

Ensures documentary basis of the claim is disclosed at the outset.

(vii) Whether list of documents produced with plaint is endorsed or annexed

[Order VII, rule 0(1)]

The officer must verify:

- Proper preparation of document list;
- Endorsement on plaint or annexure.

Facilitates record management and future reference.

(viii) Whether a list of documents relied upon is annexed (Order VII rule 14)

This requires separate identification of:

- Documents relied upon in support of the claim.

Clarifies evidentiary foundation of the suit and prevents surprise litigation.

(ix) Whether address for service has been supplied (Order VII rule 19 & 37)

The officer must examine:

- Correct postal address;
- Address for summons and notices;
- Compliance with Order VII Rule 19 CPC and relevant rules.

Proper service depends upon complete and accurate addresses.

(x) Whether requirements relating to minors have been complied with

Where a party is minor:

- Guardian must be properly appointed;
- Provisions of Order XXXII CPC must be followed.

Protects interests of minors and ensures validity of proceedings.

(xi) Whether Order VI Rule 4 CPC has been complied with

Where allegations involve:

- Fraud;
- Misrepresentation;
- Undue influence;
- Breach of trust;

specific particulars must be pleaded.

General allegations are insufficient in such matters; detailed particulars are mandatory.

(xii) Whether proper power of attorney has been produced

Where plaint is filed, signed, or verified by an attorney:

- Valid authority document must be filed.

Ensures the person acting has lawful authority from the plaintiff.

(xiii) Whether the suit is within pecuniary and territorial jurisdiction

The officer must examine:

- Monetary competence of the Court;
- Territorial nexus with cause of action or parties.

Institution before a Court lacking jurisdiction renders proceedings defective.

(xiv) Whether the vakalatnama has been properly executed, accepted and endorsed

The officer must check:

- Signature/thumb impression of party;
- Acceptance by advocate;
- Proper endorsement and identification.

Ensures valid authorization of counsel.

(xv) Compliance with special statutory requirements

In suits relating to land under specified revenue laws:

- Certified copies required by special statutes must accompany the plaint.

Special laws may impose mandatory preconditions to institution of suit.

Nature of the Function under Rule 92

The examination under Rule 92 is:

- Preliminary but essential;
- Ministerial in form but legal in substance;
- Intended to assist judicial scrutiny under Order VII Rule 11 CPC.

The ministerial officer acts as the first institutional filter before the plaint reaches the Judge.

Relationship with Judicial Scrutiny

After completion of scrutiny under Rule 92:

- The plaint is placed before the Court;
- The Judge applies judicial mind regarding maintainability;
- Appropriate orders are passed:
 - Admission,
 - Return for correction, or
 - Rejection under Order VII Rule 11 CPC.

Thus, Rule 92 complements and facilitates judicial scrutiny.

Consequences of Non-Compliance

Failure to properly apply Rule 92 results in:

- Admission of defective plaints;
- Delay in disposal of cases;
- Unnecessary applications under Order VII Rule 11 CPC;
- Burden upon litigants and courts.

Mechanical scrutiny defeats the purpose of the rule

Rule 92 of the Sindh Civil Courts Rules establishes a comprehensive procedural mechanism for examination of plaints before admission. The fifteen items mentioned therein collectively ensure:

- Procedural compliance;
- Proper institution of suits;

- Jurisdictional correctness;
- Documentary completeness; and
- Assistance to judicial scrutiny.

Strict observance of Rule 92 is indispensable for efficient, disciplined, and legally sound administration of civil justice.

Role and function of Judge

Rules 81 and 92 of the Sindh Civil Courts Rules establish an important procedural framework for scrutiny of complaints before institution of a suit proceeds further. While these rules primarily assign duties to ministerial officers, the ultimate responsibility for lawful admission of a complaint rests upon the Judge.

The scrutiny conducted by ministerial staff under Rules 81 and 92 is intended to assist the Court, but it does not replace judicial scrutiny. After the office completes its examination and records objections, the complaint comes before the Presiding Officer for application of judicial mind under the provisions of the Code of Civil Procedure, 1908.

The Judge thus performs the final and decisive filtering function before summons are issued.

1. Nature of the Judge's Function

The role of the Judge at this stage is:

- Judicial and not ministerial;
- Mandatory and not optional;
- Preventive and filtering in nature.

The Judge must independently examine:

- The complaint;
- Annexed documents;
- Office objections recorded under Rule 92; and
- Relevant provisions of law.

Admission of complaint is therefore not a mechanical administrative act but a judicial determination regarding maintainability of the suit.

2. Relationship between Ministerial Scrutiny and Judicial Scrutiny

The scrutiny under Rules 81 and 92 serves as a preliminary institutional examination. It assists the Judge by:

- Identifying procedural defects;
- Highlighting deficiencies in pleadings and documents;
- Drawing attention to jurisdictional issues;
- Facilitating efficient judicial examination.

However:

- Ministerial officers cannot decide legal questions;
- They cannot determine maintainability conclusively;
- They cannot reject a plaint.

These powers belong exclusively to the Judge.

Thus:

- Ministerial scrutiny is preparatory;
- Judicial scrutiny is determinative.

3. Duty of the Judge to Apply Judicial Mind

After receipt of the file from the office, the Judge must carefully examine whether:

- Cause of action is disclosed;
- The suit is barred by law;
- Jurisdiction exists;
- Court fee and valuation are proper;
- Necessary parties are impleaded;
- Mandatory provisions of CPC have been complied with;
- Any legal defect appears on the face of the plaint.

The Judge must not merely rely upon the office report but must independently assess the plaint.

4. Power and Duty under Order VII Rule 11 CPC

The most important judicial function at this stage is the application of Order VII Rule 11 CPC.

The plaint must be rejected where:

- It does not disclose a cause of action;
- Relief is undervalued and defect is not corrected;
- Insufficient court fee is not supplied;
- Suit appears barred by law;
- Mandatory legal requirements are not fulfilled.

This power is not merely discretionary. Where grounds exist, rejection becomes a judicial duty.

5. Distinction between Curable and Non-Curable Defects

The Judge must distinguish between:

(a) Curable Defects

Examples:

- Insufficient court fee;
- Missing copies;
- Defective verification;
- Improper vakalatnama.

In such cases:

- Time may be granted for rectification.

(b) Non-Curable Defects

Examples:

- Lack of cause of action;
- Bar of limitation apparent on plaint;
- Express statutory bar;
- Absence of jurisdiction incapable of correction.

In such cases:

- Plaintiff should be rejected forthwith.

6. Judicial Responsibility before Issuance of Summons

Under Order V Rule 1 CPC, summons should only issue after the Court is satisfied that:

- A properly instituted and maintainable suit exists.

Mechanical issuance of summons without judicial scrutiny results in:

- Harassment of defendants;
- Delay in proceedings;
- Multiplicity of litigation;
- Waste of judicial time.

The Judge must therefore ensure that summons are not issued merely because the plaintiff has been filed.

7. Importance of Reasoned Judicial Orders

Where objections exist, the Judge should pass clear and reasoned orders:

- Directing rectification;
- Returning the plaint; or
- Rejecting the plaint under Order VII Rule 11 CPC.

Reasoned orders promote:

- Transparency;
- Judicial accountability;
- Proper appellate scrutiny;
- Procedural discipline.

8. Supervisory Role over Ministerial Staff

The Judge also has supervisory responsibility regarding office functioning. The Presiding Officer should ensure that:

- Rules 81 and 92 are strictly followed;
- Office objections are properly recorded;
- Time endorsements are made;

- Scrutiny is not conducted mechanically.

Failure of ministerial staff should not be ignored.

9. Judicial Efficiency and Early Filtering

Effective judicial scrutiny at the threshold stage:

- Prevents frivolous litigation;
- Reduces unnecessary summons;
- Saves judicial time;
- Prevents delayed rejection after years of litigation;
- Promotes expeditious disposal of genuine cases.

Thus, early scrutiny strengthens the administration of civil justice.

10. Consequences of Failure to Exercise Judicial Scrutiny

Where Judges fail to properly scrutinize complaints:

- Defective suits proceed unnecessarily;
- Defendants are compelled to appear and contest non-maintainable cases;
- Applications under Order VII Rule 11 CPC arise at later stages;
- Delay and congestion increase in courts.

This defeats the very purpose of Rules 81 and 92 and Order VII CPC.

After scrutiny by ministerial staff under Rules 81 and 92 of the Sindh Civil Courts Rules, the Judge performs the crucial judicial function of determining whether the suit deserves to proceed further.

The office scrutiny serves as an institutional aid, but the final responsibility lies with the Court to:

- Apply judicial mind independently;
- Enforce Order VII Rule 11 CPC;
- Prevent institution of non-maintainable suits; and
- Ensure lawful issuance of summons.

Strict and careful exercise of this judicial function is essential for maintaining procedural discipline, reducing frivolous litigation, and ensuring efficient administration of civil justice.

11. Judicial Pronouncements

Superior courts have consistently emphasized early scrutiny:

- PLD 2012 SC 247

This case affirm that Order VII Rule 11 CPC is a mandatory filter at the threshold.

12. Practical Measures

- Introduce standard Rule 92 checklist forms
- Ensure written office reports in every case
- Require reasoned judicial orders at admission stage
- Conduct training for staff and judges
- Enforce supervisory inspections

The CPC and the Sindh Civil Courts Rules establish a robust, two-tier filtering mechanism at the threshold of civil litigation.

Conclusion

- Rule 81 ensures *timely, transparent, and accountable handling*
- Rule 92 ensures *comprehensive legal scrutiny*
- Order VII Rule 11 CPC ensures *judicial filtration of non-maintainable suits*

When properly implemented, this framework:

- Prevents admission of defective suits
- Reduces delays and unnecessary litigation
- Promotes efficient and fair administration of justice

Strict adherence to these provisions is essential to uphold the integrity and effectiveness of the civil justice system.

Justice Rahmat Hussain Jafferi
Former Judge SCP

