

Procedures

Affidavit



An Affidavit is a declaration of facts, made in writing and sworn before a person having authority to administer oath.

Object & Use

The objective of filing an affidavit is to state certain facts on oath. It is assumed by an affidavit that whatever assertion is made by a party are believed to be true and necessary action can be taken.

Affidavits are filed in:



Court proceedings either as part of the procedure or on special order passed by the Court.



They are also used in government offices and in applications for various documents certified by the government like passport, marriage registration, change of name/address, social security schemes etc.

Essentials and Key Elements:

AFFIDAVIT

It must be a declaration made by a person ("the deponent").

It must be in first person

It must relate to relevant facts according to the personal knowledge of the party*

Name of the party and his father*

Address of the party*

Signature of the party*

Declaration made by the party that facts stated are true*

It must be in writing

It must have been sworn or affirmed before a magistrate or any notary/officer authorised under Section 139 of the Code of Civil Procedure, 1908.

I, _____ d/o _____ r/o _____ do hereby solemnly affirm and declare as under:

That the deponent _____
that after _____
_____ that the deponent _____
_____ that at the time

Deponent

Verification

Verification that the contents of the above affidavit are true and correct to the best of my knowledge and nothing has been concealed therein.

Verified at _____ on _____



Deponent

* must include

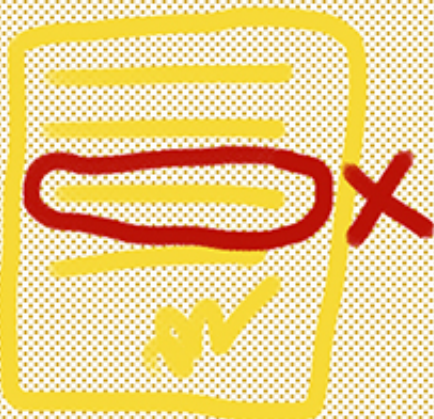
To remember:



It must be noted that only the information that can be proved by the deponent has to be mentioned.

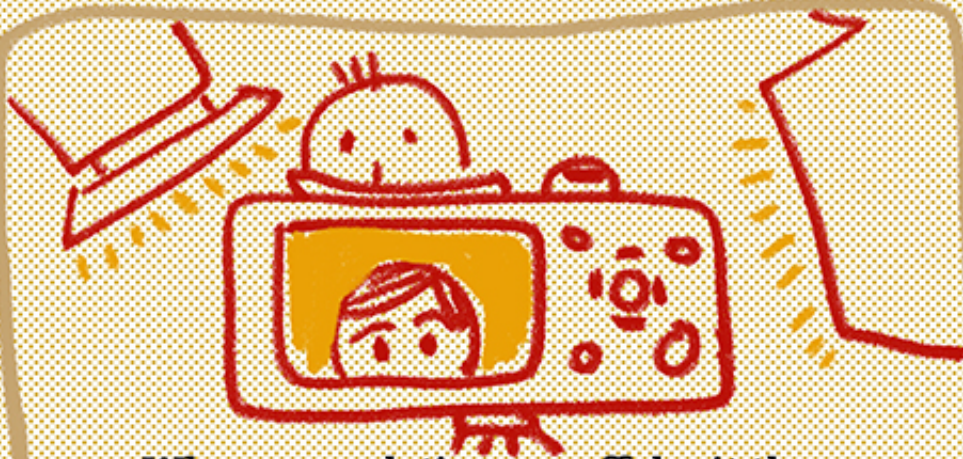
I, Me,
We, Us

Affidavits must be in first person and cannot be created on behalf of another person.



It is a criminal offence to knowingly make a false statement on an affidavit and the individual may be charged with contempt of court or for perjury under Section 193 of the Indian Penal Code.

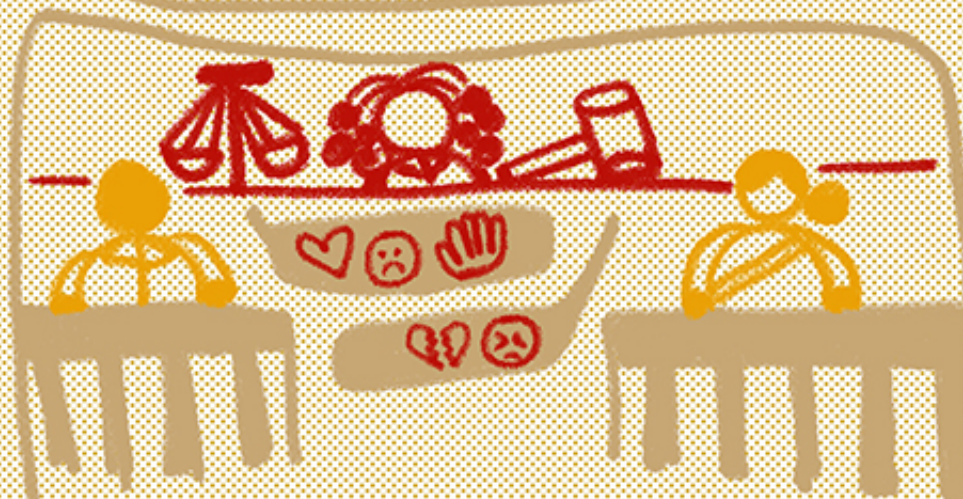
Best Practices:



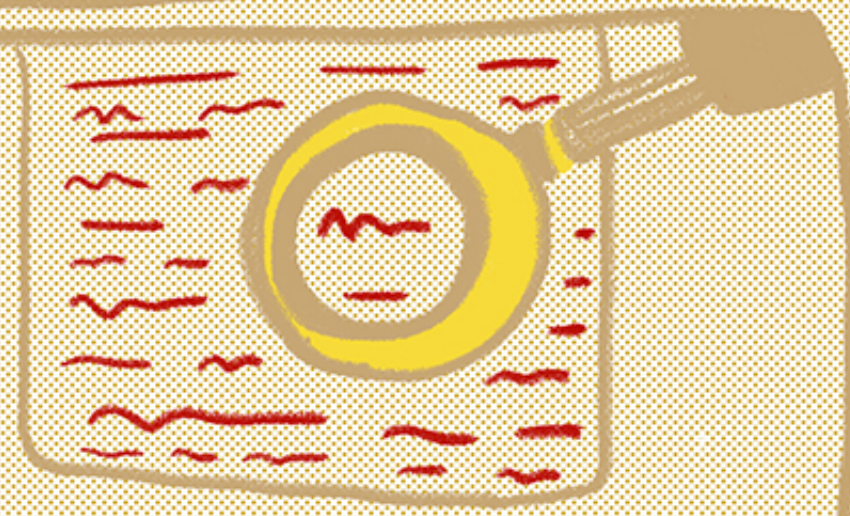
When completing an affidavit the party should ensure that the facts or the events are written exactly as they happened.

PLAIN *plain*

The party should use plain language rather than resorting to legal jargon.



The party should refrain from making personal comments about the other party to the suit.



The party should read the document thoroughly and ensure it to be correct.

Documents relied on in the affidavit should be attached as clearly labelled annexures.

FAQs

1) Should I include my full name or can I use my short name?

A) Full name has to be included



FAQs

2) Which address should I include if I have multiple residences?

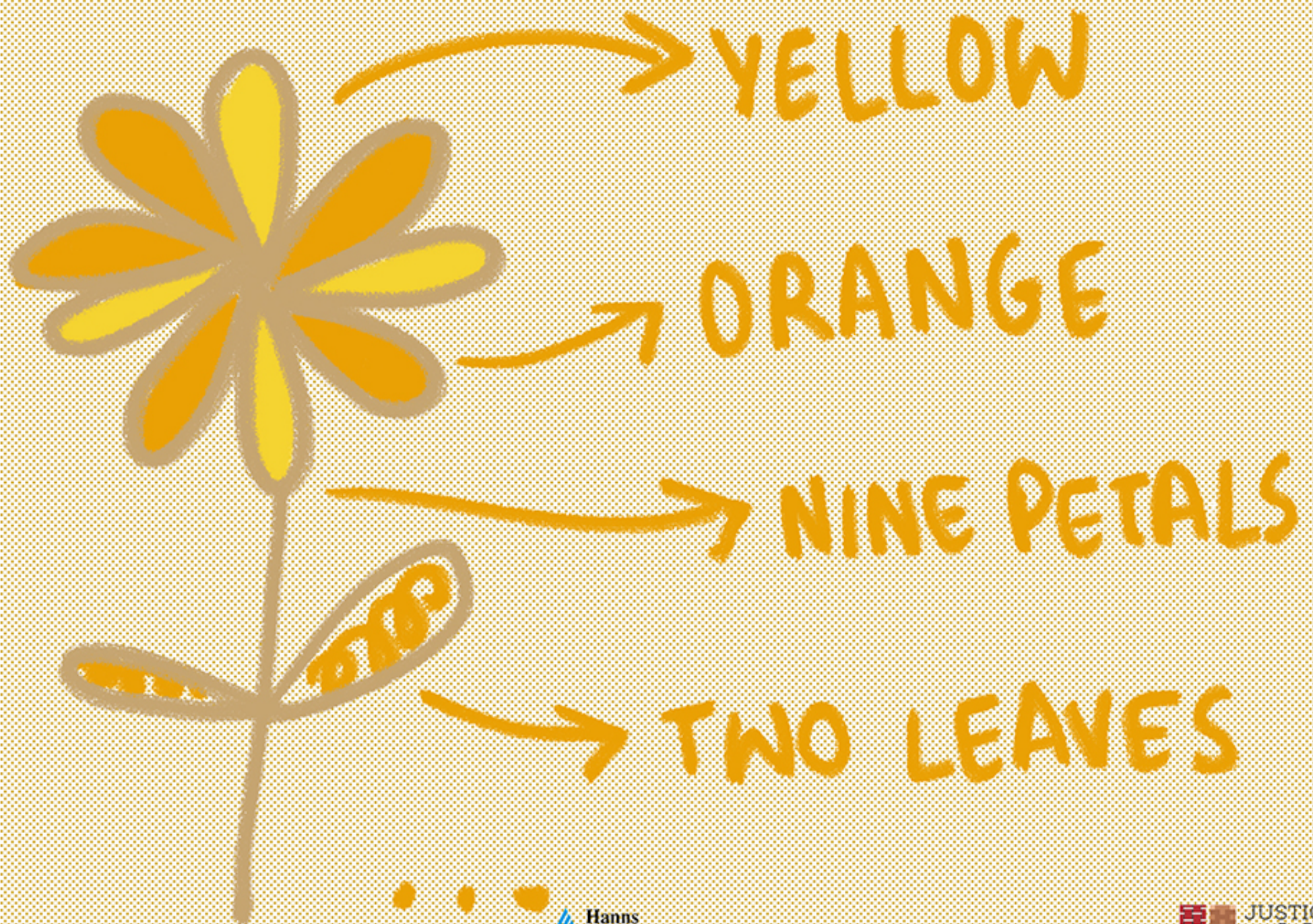
A) The address that you are currently residing in.



FAQs

3) Do I need to disclose every fact?

A) All those facts, which are relevant to the issue, should to be disclosed.



FAQs

4) Will the affidavit be valid if it is not sworn before a magistrate/officer?

A) The purpose of administering oath is to certify genuineness. It will not be valid unless competent authority administers oath.



FAQs

5) Who is the competent authority to administer oath?

A) Section 139 of the Code of Civil Procedure 1908 provides for competent authorities to administer oath, which include magistrates or any notary appointed under The Notaries Act, 1952.

