How to file a case for recovery of money based on a promissory note or contact?

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The "holder" of a promissory **note** is defined under [section 8](https://indiankanoon.org/doc/1033371/) of the Negotiable Instruments Act. Under that section the "holder" of a promissory **note** is defined to mean "any person entitled in his own name to the possession thereof and of receive or recover the amount due thereon from the parties thereto." In this case the plaintiff had been expressly authorized by the promisee to recover the **money** due under the promissory **note**. In contrast to [section 9](https://indiankanoon.org/doc/1680872/) of the Negotiable Instruments Act, [section 8](https://indiankanoon.org/doc/1033371/) of the said Act does not provide for any consideration for a person to be a "holder" of an instrument. From the tenor of the endorsement found on the promissory **note**, there cannot be any doubt that the plaintiff is a person entitled in his own name to the possession of the said instrument. Therefore there cannot be any difficulty in holding that the plaintiff is a "holder" of the instrument. The question that follows then is whether a "holder" can maintain a **suit** on the promissory **note** to recover the **money** due.

CONTRACT: The 'Specific Relief Act 1963' is an Act of the people in India, large number of remedial aspects of law. It came in the replacement of the earlier Act of 1877. Protection of life and property cannot be assured by a simple declaration of rights and duties. The enumeration of rights and duties must be supplemented by legal devices which help the individual to enforce his rights. Social redress must be provided to every person who is injured in the social process. Basically, the mission of the Specific Act is to assure that whenever there is a wrong there must be a right.

Remedies are generally provided by the branch of substantive law which defines its rights and duties for its own purposes. The law of contract provides the remedy of damages for breach of contract. Similarly the law of tort provides for recovery in cases of tortuous wrongs. However, substantive laws can never afford to be exhaustive in terms of their remedies and reliefs. Scope of the Act remains specific to provide a network of relief. The Act does not confer any Rights on itself. Specific relief is only provided for the violation of a legal right.

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According to **section 118**, until the contrary is proved the following **presumptions**shall be made in case of all **negotiable instruments**: Consideration: It shall be presumed that every **negotiable instrument** was made, drawn, accepted or endorsed for consideration.

Requirements for filing Suit: Filing of Suit/Plaint - Plaint is the written complaint or allegation. One who files it is known as "Plaintiff" and against whom it is filed is known as "Defendant". It contains Name of the Court, Nature of Complaint, Names and Address of parties to be suit, it also contain verification from plaintiff, stating that, contents of the plaint are true and correct.

Filing -Filing of plaint before Chief Ministerial Officer [Superintendent)–paying appropriate court fee & process fees, different amount of court fees is paid for different type of documents.

How Proceedings are conducted - On the first day of hearing, if the court thinks there are merits in the case, it will issue notice to the opposite party, to submit their arguments, and fix a date. When the notice is issued to the opposite party, the plaintiff is needed to do the following:

* File requisite amount of procedure - fee in the court.
* File 2 copies of plaint for each defendant in the court.
* Of, the 2 copies for each defendant, one shall be sent by Register/post/courier, and one by Ordinary post.
* Such filing should be done within 7 days, from date of order/notice.

The justice delivery system will be considered to be satisfactory when it renders speedy, fair and efficient justice at a reasonable and affordable cost which results in maintenance of rule of law, securing human rights and ensuring constitutional good governance. To achieve this goal, it is not sufficient to merely improve the performance of judges but a parallel effort should be made : (i) to reform the legal profession; (ii) to improve legal education; and (iii) to ensure that better laws are made and bad laws are repealed.

There are laws on civil rights versus freedom of expression, rules on public access to government information, and individual access to information held on them by private bodies. There are laws on what data must be retained for law enforcement, and what may not be gathered or retained, for privacy reasons.

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