

**Prof. (Dr.) K. V. S. Sarma,
Professor of Law &
Vice Chancellor,
Maharashtra National Law University,
Aurangabad,
Maharashtra.**

CIVIL PROCEDURE CODE, 1908

It consists of 158 Sections and 51 Orders. It is divided into Eleven Parts.

It has eight appendices. Sections deal with Policy matters and Orders and Rules deal with Detailed Procedure.

Hierarchy of Civil Courts:

- 1) Junior Civil Judge- Junior Civil Court;
- 2) Senior Civil Judge- Senior Civil Court;
- 3) District Judge – District Court;
- 4) High Court Judge- High Court;
- 5) Supreme Court Judge- Supreme Court;

Hierarchy of Courts on Criminal Side:

- 1) II Class Judicial Magistrate;
- 2) I Class Judicial Magistrate- Magistrate Court;
- 3) Assistant Sessions Judge- Assistant Sessions Court;
- 4) Sessions Judge- Sessions Court;
- 5) High Court Judge- High Court;
- 6) Supreme Court Judge – Supreme Court;

-
- 1) Metropolitan Magistrate;
 - 2) Chief Metropolitan Magistrate;

Procedure of Civil Trial:

- 1) A suit is instituted by filing a Plaint- Section 26 read with Order VII;
- 2) Written Statement- Section 26 read with Order VIII;
(Set-Off and Counter Claim);
- 3) a) Interlocutory Application: I.A-
b) Order XIX- Affidavit- Every Affidavit must be accompanied by a Petition – Petitioner;
c) Counter-Respondent;
d) Inquiry;
e) Order – Appealable Order – Non Appealable Order;

f) **Plaint – Written Statement – Trial – Judgment-Decree – Section 33;**

4) **Appeals – Part – VII – (Sections 96 to 112);**

5) **Reference – Part VIII – Section 113;**

6) **Review – Section 114;**

7) **Revision – Section 115;**

8) **Place of Suing – Jurisdiction of Court – Sections 15 to 20 of CPC;**

a) **Courts in which suits to be instituted;**

b) **Suits to be instituted where subject-matter situate;**

- c) Suits for immovable property situate within jurisdiction of different courts;
- d) Place of institution of suit where local limits of jurisdiction of courts are uncertain;
- e) Suits of compensation for wrongs to person or movables;
- f) Other suits to be instituted where defendants reside or cause of action arises;
- g) Objections to jurisdiction;

- 9) Suits of Civil Nature – Section 9;
- 10) Stay of Suits – Res Subjudice – Section 10;
- 11) Bar to further Suit – Res Judicata-S. 11,12;
- 12) Foreign Court and Foreign Judgment-
Sections 13, 14;
- 13) Application of the Code to Revenue
Courts – Section 5;
- 14) S. 6- Pecuniary jurisdiction;
- 15) S. 7- Provincial Small Causes Courts;
- 16) S. 8- Presidency Small Causes Courts;

- 17) S. 22. Power to transfer suits which may be instituted in more than one court;
- 18) S. 24. General Power of transfer and withdrawal;
- 19) S. 23. To what court application lies;
- 20) S. 25. Power of Supreme Court to transfer suits;
- 21) S. 27 to 29 – Service of Summons- Order – V;
- 22) S. 30 – Power to order discovery and like;

- 23) S. 31 -Summons to witnesses;
- 24) S. 35 – Costs;
- 25) S. 35-A- Compensatory costs in respect of false or vexatious claims;
- 26) S. 35-B – Costs for causing delay;
- 27) Part II – Execution – Sections 36 to 74 read with Order XXI;
 - a) Courts by which decrees may be executed – Sections 36 to 48;
 - b) S. 49, 50: Transferees and Legal Representatives;

- c) Ss. 51 to 54 – Procedure in Execution;
- d) Ss. 55 to 59 – Arrest and Detention;
- e) Ss. 60 to 64 – Attachment;
- f) Ss. 65 to 67 – Sale;
- g) S. 74 – Resistance to Execution;
- 28) Part III- Incidental Proceedings- Commissions-Ss. 75 to 78;
- 29) Part IV – Suits in particular cases – a) Ss. 79 to 82;
Suits by or against Government;
- b) Suits by or against aliens, Foreign Rulers, Ambassadors

And Envoys; Ss. 83 to 87-B;

c) Interpleader Suit – S. 88;

30) Part V- Special Proceedings- Ss. 89 to 93 – public nuisance and public charities;

31) Part VI -.Supplemental Proceedings – Ss. 94,95- Compensation for obtaining arrest, attachment or injunction on insufficient grounds;

32) Part VII – Appeals – Ss. 96 to 112 – a) Appeal from Original Decrees; b) Appeal from Appellate Decrees; c) Appeals from Orders; d) Appeals to the Supreme Court;

33) Part VIII- Ss. 113 to 115- a) Reference to High Court; b) Review; Revision;

34) Part IX – Ss. 116 to 120 - Special Provisions relating to the High Court not being a court of a Judicial Commissioner;

35) Part X – Rules – Ss. 121 to 131;

36) Part IX – Miscellaneous – 132 to 158;

- 37) Schedule I- 51 Orders;
- 38) Order I –Parties to Suit;
- 39) Order II – Frame of Suit;
- 40) Order III – Recognized Agents and Pleaders;
- 41) Order IV – Institution of Suits;
- 42) Order V – Issue and Service of Summons;
- 43) Order VI – Pleadings Generally;
- 44) Order VII – Complaint;
- 45) Order VIII – Written Statement, Set-Off and Counter Claim;

- 46) Order IX – Appearance of Parties and consequences of Non-appearance;
- 47) Order X – Examination of Parties by the Court;
- 48) Order XI – Discovery and inspection;
- 49) Order XII – Admissions;
- 50) Order XIII – Production, impounding and Return of documents;
- 51) Order XIV – Settlement of Issues and determination of suit on Issues of Law or fact or on Issues Agreed Upon;

- 52) Order XV – Disposal of the suit at the first hearing;
- 53) Order XVI – Summoning and attendance of witnesses;
- 54) Order XVI –A--- Attendance of witnesses confined or detained in prisons;
- 55) Order XVII – Adjournments;
- 56) Order XVIII – Hearing of the suit and examination of witnesses;
- 57) Order XIX – Affidavit;

- 58) Order XX - Judgment and Decree;
- 59) Order XX –A – Costs;
- 60) Order XXI – Execution of Decrees and Orders;
- 61) Order XXII – Death, Marriage and Insolvency of Parties;
- 62) Order XXIII- Withdrawal and adjournment of suits;
- 63) Order XXIV – Payment into court;
- 64) Order XXV – Security of costs;
- 65) Order XXVI – Commissions;

66) Order XXVII – Suit by or against the Government of Public Officers to their Official Capacity;

67) Order XXVII- A – Suits involving a Substantial Question of Law as to the interpretation of the Constitution or as to the validity of any Statutory Instrument;

68) Order XXVIII – Suits by or against Military or Naval men or air men;

69) Order XXIX – Suits by or against Corporations;

70) Order XXX – Suits by or against firms;

- 71) Order XXXI- Suits by or against Trustees, Executors and Administrators.
- 72) Order XXXII – Suits by or against Minors or by Persons of Unsound mind.
- 73) Order XXXIII – Suits by Indigent Persons.
- 74) Order XXIV – Suits relating to Mortgage of Immovable Property;
- 75) Order XXXV – Interpleader.
- 76) Order XXXVI – Special Case.
- 77) Order XXXVII – Summary Procedure.

78) Order XXXVIII – Arrest and Attachment before Judgment;

79) Order XXXIX – Temporary Injunctions and Interlocutory Orders.

80) Order XL- Appointment of Receivers.

81) Order XLI – Appeals from Original Decrees.

82) Order XLII – Appeals from Appellate Decrees.

83) Order XLIII – Appeals from Orders.

84) Order XLIV – Appeals by Indigent Persons;

85) Order XLV – Appeal to the Supreme Court.

86) Order XLVI – Reference.

- 87) Order XLVII – Review.
- 88) Order XLVIII – Miscellaneous.
- 89) Order XLIX – Chartered High Courts.
- 90) Order L – Provincial Small Cause Courts.
- 91) Order LI – Presidency Small Cause Courts.
- 92) a) Appendix –A- Pleadings; b) Appendix-B –Process; c) Appendix-C-Discovery, Inspection and Admission; d) Appendix – D – Decrees; e) Appendix –E – Execution; f) Appendix –F- Supplemental Proceedings;

g) Appendix – G- Appeal, Reference and Review; h) Appendix –H- Miscellaneous;

93) Section 2: Interpretation Clause:

a) S. 2(2)-Decree; b) s. 2(3)-Decree Holder; c) s. 2(5)-Foreign Court; d) s. 2(6)-Foreign Judgment; e) s. 2(12) –Mesne Profits; f) s. 2(14) – Order; g) s. 2(18) – S. 122, 125 –Order I;

Specific Relief Act, 1963– a) s. 26 –
Rectification of Instruments; b) Ss. 27 to 30 –
Rescission of Contracts; c) s. 31 to 33–
Cancellation of Instrument; d) s. 34 to 35 –
Declaratory Decrees; e) s. 36-37- Injunction
generally; f) ss. 38 to 42 – Perpetual
Injunctions;