



The Code of Civil Procedure, 1908: An Introduction

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Kinds of Law

- **Substantive Law**
 - creating rights and obligations on persons E.g.: IPC, ICA and TPA
- **Procedural Law/Adjective Law**
 - laying the procedure for enforcing such rights and obligations E.g.: **CPC**, Cr.P.C and partly IEA.
 - include Rules framed under various enactments.

Kinds of Wrongs

- **Civil Wrongs** – generally affecting private rights and interests
- **Criminal Wrongs** – public wrongs affecting the whole society, also called crimes / offences

Code of Civil Procedure, 1908

- Primary procedural law in administration of civil justice
- Enacted in 1908 & Came into force w.e.f. 01-01-1909
- Contains principles of natural justice
- Based on **justice, equity, and good conscience**
- Contains both procedural & substantive laws.

Scheme of CPC

- Contains **158 sections** – called **Body**
- **51 orders** in First schedule – called **Rules**
- **Sections** deal with the substantive aspects of civil procedure
- **Orders** deal with procedural aspects
- **Each order** contains no. of Rules
- Contains **08 Appendices.**

Amendments to CPC

- Major amendments so far include
- 1976 amendment
- 1999 amendment
- 2002 amendment
- **Object of amendments** -to keep procedural law in tune with **changing needs of society** and **even technological advances.**

Hierarchy of Civil Courts in India

- Supreme Court
- High Courts
- District Courts
- Courts of Senior Civil Judge
- Courts of Junior Civil Judge
- Small Causes Courts
- Court annexed mechanism – Lok Adalats

Civil Litigation in India

- Most common form of civil litigation-Suit
E.g. **Original Suits (OS)**, **Original Petitions (OP)**
- **Suit**-not defined by Code
- **Suit**-always relate to civil litigation and derived from the word **suing** (take legal action)

Stages of Civil Litigation in india

- **Plaint**
- **Summons**
- **Written Statement** (Set-off, Counter Claim & New facts)
- Appearance/Non-appearance of parties
- Discovery. Inspection & Interrogatories
- Amendment of Pleadings
- **Framing of Issues**
- **Hearing & Trial**
- **Judgment & Decree**
- **Execution Proceedings** (subject to **appeals, reference, review and revision**)

Possibility of Settlement of dispute outside court

- **Section 89** inserted by 1999 amendment w.e.f.. 1-7-2002
- If it appears to court that there exist elements of such settlement
- Courts may formulate terms of settlement & inform parties
- After receiving observations of parties, court may reformulate terms of possible settlement

Possibility of Settlement of dispute outside court (contd.)

- **Refer terms of settlement to**
 - **Arbitration**
 - **Conciliation**
 - Judicial settlement including **Lok Adalat**
 - **Mediation** (for effecting compromise)
- * **If no such possibility exists, it may proceed with suit.**

Essential Conditions of Civil Suit

- **Parties**
- **Cause of action** /Subject matter/Civil dispute
- **Jurisdiction of Court** -Territorial, Subject matter & Pecuniary
- **Limitation**
- **Relief**
- **Other incidental conditions** - **No bar to suit, Court fees etc.**

Interim Orders

- May be passed during pendency of suit
- Include Commissions, Arrest before judgment, Attachment, Temporary Injunctions, Receiver & Security for costs.
- Object: to protect subject matter of suit and to meet the ends of justice
- Orders— passed at discretion of court and depending on facts and circumstances of each case.

Bars to Institution/Trial of Suits

- Stay of Suit (Res subjudice)
- Res judicata
- Court Fees (subject to filing of indigent/pauper suits)
- Expiry of Limitation Period (subject to condonation of delay)
- Lack of jurisdiction
- Compulsory Arbitration Clause in agreement

Important issues for Public Officers

- Definition of Public Officer- S.2 (17)
- Affidavits
- Pleadings (O.6,7 & 8)
- Summons – Issue and Service
- Suits by or against Govt./Public Servants in their official capacity (O.27, Sec.79-82)
- S.80 Notice
- Attachment of Property (Sec.60)
- Arrest & Detention (S.55-59)

Please Remember

- **Interest Republicae Ut Sit Finis Litium** (In the interest of society as a whole, litigation must come to an end)
- **Nemo Debet Lis Vaxari Pro Eadem Causa** (no man should be tormented twice for the same cause)
- **Res Judicata Pro Veritate Occipitur** (a judicial decision must be accepted as correct.)
- **Vigilantibus Non Dormientibus Jura Subveniunt**
(Law will help only those who are vigilant. Law will not assist those who are careless of his/her right.)

Thank You