



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

- Three major amendments so far
- 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.



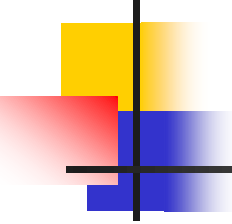
Bars to Institution/Trial of Suits

- 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)



Suits by or against Govt./Public Servants in their official capacity (O.27, Sec.79-82)

- Two months prior notice before institution of suit
- Cases in which Government Departments are concerned and in which officials have to attend, should be disposed of promptly
- Extension of time etc



Conclusion

Thank You