

CIVIL PROCEDURE CODE

PART 2

Salient Features

- It is a territorial law. It extends to whole of India except –
- The State of Nagaland and the tribal areas
- It also gives a provision that the concerned state government may extend the provisions of the Civil Procedure Code by notifying in the Official Gazette.[10] The code can be extended to the whole state or any part of the state using this provision.
- The **Civil Procedure Code** made the procedure to be followed in the Civil Courts very simple and effective. Enforcement of rights, liabilities and obligations of the citizens are dealt by this code. To say, in other words, the Civil Procedure Code provides the mechanism for enforcement of rights and liabilities.a

- The **Civil Procedure Code** has been amended several times to meet the needs and requirements which are dynamic and changing from time to time. Between 1909 to 1976, the Code has been amended for more than 30 times.
- The Amendments of 1999 and 2002 brought in many changes to the procedure to be followed.
- The **Civil Procedure Code** is a general law and will not affect local or special laws which are already in force. In case of any conflict with local or special laws, the local or special law will prevail over the Civil Procedure Code. In case, if the local or special law is silent about any particular issue, then the Civil Procedure Code will apply.

Changes brought by Amendments of 1999 and 2002

- The **main object of the amendments** is to ensure fair and natural justice and providing a speedy remedy by eliminating untoward delay in disposal of the cases.
- According to the amendment,
- **Summons should be delivered** to the defendant within 30 days from the date of filing of the suit.
- The **written statement should be filed** within 30 days. The court may extend this period up to 90 days.
[11]
- The **penalty** for non-appearance and default has been increased to Rs.5000/-
- **In case of decree** for payment, if the judgment debtor does not pay, he can be detained in civil prison. If the default is for payment up to Rs.2000, he will not be detained in civil prison

- **In case of attachment** while executing a decree, the monthly salary up to Rs.1000/- and two third of the remaining salary exceeding Rs.1000/- will not be attached.
- The amendments paved the way to the new and efficient methods for settlement of disputes, like Arbitration, Conciliation and Mediation. Lok Adalat is a very good example for this.
- There is a **provision for the defendant** to get compensation for the expenses incurred, loss or injury including the loss of reputation caused to him because of his arrest or attachment of his property.
- After the amendments, if the value of subject matter of the suit is below Rs.1000, such disputes cannot be appealed.
- If the **case is adjudicated by a single judge** of a high court whether in the original or appellate jurisdiction, no appeal will be entertained against the order of the single judge of the high court.

- There is **no second appeal** if the subject matter of the suit is for the recovery of money not exceeding Rs.25,000/-
- The Court may adjourn the **framing of issues** for a period not exceeding seven days while examining the witnesses or examining the documents presented before the court.
- Any party to the suit will not be given more than 3 adjournments during the hearing of any suit.
- The Court will pronounce the judgment once the trial is over. The Court shall endeavor to pronounce judgment within 30 days from the conclusion of hearing. But, **in the case of exceptional or extraordinary circumstances**, the court may fix a day beyond 30 days but before 60 days from the conclusion of the hearing.

Difference between Decree, Judgment and Order

- **When a Court adjudicates a dispute, after the hearing, it has to either pronounce its decision by way of a decree or dismiss the case. Such decision is called Decree.** While arriving to such decision, the court will explain the grounds because of which the court came to such conclusion. Such grounds for the decision is called Judgment.
- An **Order** is also a decision of the court but which will not come under the head 'Decree'. [12]
- An order will not determine the rights or liabilities of the parties.
- Any number of orders can be passed in one suit.
- The Order can be passed on a suit as well as on application.
- There are –
- Appealable orders.
- Non-appealable orders.
- There are no second appeal for the **Appealable orders**.
- **To constitute a decree**, there should be an adjudication by a court in which the rights or liabilities of the parties have been determined conclusively. It should have been formally expressed by the Court.

Jurisdiction & Important Doctrines

- Jurisdiction means the authority through which a court entertain suits, appeals and applications, and the court administer justice according to the provisions of the law.
- **Jurisdiction of the Civil Court may be categorized as follows –**
 - Territorial or Local Jurisdiction
 - Pecuniary Jurisdiction
 - Jurisdiction over subject matter
 - Original and Appellate Jurisdiction

Territorial or Local Jurisdiction

- Every Court has a territorial limit beyond which it cannot exercise the power vested upon it. **This limit based on the territory is called territorial jurisdiction.** Example: The district judge at East Godavari District can exercise his powers only within the district of East Godavari. He cannot exercise his powers in any other district. In the same way, the High Courts will exercise the powers within the state in which it is situated and the neighboring Union Territories attached with the same High Court.

Pecuniary Jurisdiction

- Pecuniary means “**involving money**“. Civil Courts, according to their grades, have some limitation to try suits and entertain appeals for the value of money not exceeding some stipulated amount. The High Courts and the Court of Sessions have unlimited pecuniary jurisdiction. Junior Civil Judges have pecuniary jurisdiction of Rs.3,00,000 and Senior Civil Judges have pecuniary jurisdiction of Rs.10,00,000.

Jurisdiction over the subject matter

- There are civil courts established to try suits or cases of particular nature. For example, the small cases courts can try only non-contentious cases, like suits relating to promissory notes etc.
- Similarly, there are **Industrial tribunals and labor courts** having jurisdiction to try suits related to industrial and labor disputes only.
- The **Administrative tribunals** are there to try only the service related matters of the Government employees. These tribunals are not courts but they have been conferred judicial powers to try the matters and enforce the orders

Original and Appellate Jurisdiction

- **The Court in which the suit is filed initially and if the court has jurisdiction to try the original suits (the initial suit regarding the subject matter), such jurisdiction is called original jurisdiction.**
- Once the case is decided, the aggrieved party may prefer an appeal in appropriate court. Such **jurisdiction of the court to hear the appeal is called the Appellate jurisdiction.** The Supreme Court, High Court and District Courts are having both original and appellate jurisdiction and can hear both appeals and original suits.
- **Important Principles:** There are some important principles related to jurisdiction of courts. These principles are there to improve the efficiency of the courts and to avoid any delay.