

**Chapter 1 : Civil Procedure Code - 2nd Page**

*(1) This Act may be cited as the Code of Civil Procedure, (2) It shall come into force on the first day of January, 1 [(3) It extends to the whole of India except*

Appeal, Reference and Reviews Miscellaneous The various High Courts are empowered to alter or add any rules in the schedules under Section to , , and and such new rules should not be inconsistent with the provisions of the body of the code. Salient Features It is a territorial law. It extends to whole of India except “ The State of Jammu and Kashmir 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. 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. 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. 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 to , the Code has been amended for more than 30 times. The Amendments of and brought in many changes to the procedure to be followed. 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. If the default is for payment up to Rs. In case of attachment while executing a decree, the monthly salary up to Rs. Lok Adalat is a very good example for this. After the amendments, if the value of subject matter of the suit is below Rs. There is no second appeal if the subject matter of the suit is for the recovery of money not exceeding Rs. 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. 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. 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 “ 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. Every Court has a territorial limit beyond which it cannot exercise the power vested upon it. 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. 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. Junior Civil Judges have pecuniary jurisdiction of Rs. 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. 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. 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. According to Section 10 of the Civil Procedure Code, , when a suit is pending before a competent court, between the same parties

and under the same title then, no other court in India should entertain and try such suits. This prevents the courts from trying two parallel suits simultaneously. According to Section 11, a court shall not try any issue in which the parties and subject matter are same and already been decided by a competent court. This is based on the following principles: A person should not be vexed twice for the same cause. There should be an end to a litigation, in the interest of the state. Every decision of the court must be accepted as correct and conclusive. Sometimes Res Judicata is considered as a kind of Principle of Estoppel. Estoppel is related to evidence, and it stops a person from saying some other thing contrary to what he has said earlier. Exclusive Jurisdiction

### Clauses 8 Interlocutory Applications

The Civil Procedure Code provides for many interlocutory applications under various sections and rules. Interlocutory applications are used in almost every civil proceedings. Usually, from the time of institution, till the disposal of suits, any number of interlocutory applications can be filed. If a party files an interlocutory application, the opposite party will be given an opportunity to file the counter for the same. When a suit is filed before a competent civil court, the party has to pay the prescribed court fee. If the suit is filed without the prescribed court fee, the suit is liable to be rejected. In some cases, the plaintiff may not be able to pay the prescribed court fee due to poverty, etc. The dispute is between the defendants and they inter-plead against each other. The property may be movable or immovable, and the plaintiff must not have any interest in the property. There shall be two or more claimants for the property and the plaintiff must be ready to hand over the property to the right claimant based on the decision of the court. In such suits, the aggrieved party may prefer to appeal against the decision of the trial court. But any person can bring in a suit of civil nature as it is an inherent right. According to this, a Court may reconsider a decision given by the same court. But a court cannot review its decision Suo moto. Section of the Code of Civil Procedure, deals about Revision. This power is given for the efficient exercise of supervisory jurisdiction of Higher Courts.

### Conclusion

To enable the courts to deliver impartial and unbiased justice, the Code of Civil Procedure, provides simple and clear procedures to be followed by the Civil Courts. In case of no provisions relating to some issue or matter, the court will not be able to decide efficiently. Hence the Code of Civil Procedure, incorporated the provisions for inherent powers. When there is no legislation, the court, in the interest of justice may exercise the discretionary power by acting beyond the powers conferred on them under the Code of Civil Procedure. It is called the Inherent powers of the Court. The Code of Civil Procedure is one of the important branches of procedural laws and it is the one regulating the procedure to be followed by the Civil Courts in India. Although it may have some limitations, but it is still efficient, simple, clear and enables the courts to deliver impartial justice.

## Chapter 2 : Code of Civil Procedure

*An Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature. Comment This is the basic law of procedure in civil matters. It codifies principles of natural justice and for this reason is also referred to by judicial forums other than civil courts.*

Option lies to plaintiff whether which jurisdiction he prefers. But advise-able and preferable jurisdiction lies where defendant ordinarily resides or works. Withdrawal of case does mean withdrawal of case by Court and then Court transfers the case to another Court at the convenience of defendant. Withdrawal is executive function while transfer is based upon withdrawal. Jurisdiction for more than one defendants: Where there are more than one defendants in a similar case and reside in different places, case either can be instituted at their place of residence or in one Court with the consent of all defendants. Suit can be split in different areas if they do not give unanimous decision or give varied consents. Objection as to jurisdiction: Under normal circumstances any appellate or revisional Court cannot allow objection as to the jurisdiction of Court. When objection can be allowed: It is well-established practice of law that objection as to jurisdiction should be raised very first time in proceedings. Earliest possible opportunity is the right period to object the jurisdiction of the Court. How objection can be raised: There are three methods by which objection as to jurisdiction can be raised. They are stated as follows: Defendant may raise this objection at very first time in preliminary appearance. He may object by oral statement. Court may either order him to submit a separate application or may take suo motu action upon such statement. This objection may also put in written statement. Filing of informal application: Defendant may file an application stating the objection on jurisdiction of the Court. This application does not require any special format to be fulfilled. Mere conveyance of the fact regarding non-jurisdiction on any appropriate cause is sufficient ground to reject the case. Filing of formal application: Above application may also be filed under Order 7, Rule Lacking cause of action and original or territorial or pecuniary jurisdictions, wrong suit valuation, wrong affixation of stamps, time barred case, are the sufficient grounds to get plaint rejected. When the objection is allowed at later stage: As stated earlier that in normal circumstance once objection as to jurisdiction is omitted cannot be raised at any later stage. But it may be allowed upon the arising of question of fundamental or primary importance. Court of latter stage may ask certain questions to get satisfaction to ascertain the real need to admit the objection on jurisdiction, which has been omitted once. Cessation of chance of appeal is good ground to put objection on jurisdiction. Without prejudice is also good ground to get the order set aside. Mistake of lawyer is also mistake of client. But if lawyer gives in writing that he had wrongly assessed the jurisdiction of the Court and there is no fault of his client, Court may entertain it but not necessarily. Under decision of Supreme Court, order of the Court having no jurisdiction should be kicked out without entertaining it. Order of such Court is liable to set aside. This stage includes joinder, non-joinder, misjoinder, proper party, and necessary party. It also includes parties in a suit, who may file suit, against whom suit may be filed, legal right of plaintiff, right to sue, pray for remedy, determination of legal right and its violation. A place of standing. The right to be heard in Court or other proceeding. It is competency of the Court to proceed the suit. Joinder of parties or plaintiffs: A cause of action may arise from violation of legal right for more than one parties. When more than one parties, join in a single suit, it is called joinder of parties. This situation arises when common right of persons is violated. They may sue severally or independently, but their joining in a single suit causes convenience not only to parties but to Court, as well. Where common right exists, it is advise-able to join in a single suit rather than separate suits. All persons may join in one action as plaintiffs or defendants where the claim is in respect of the same transaction or series of transactions and common question of law or fact arises. Necessary party in suit: Plaintiff and defendant are the necessary parties without whom case is not maintainable. If joinder is necessary and party has not joined, case shall remain non-maintainable. Her joining is necessary. Any party whose joining may cause effect the case either positively or negatively in favour or against of plaintiff or defendant is supposed necessary party. He must join the suit to give effect its conclusion. Case may be rejected if the necessary party has not joined the case. She effects the case. Court may order to join her if it is necessary. It is

removal of irregularity. Proper party under Order 3: This is the party joining of whose makes the case stronger and important. Where common cause of action arises, mere one plaintiff may file suit, which shall definitely give benefit to all of the parties concerned. Joining of remaining parties is not requirement of law but they may join, if they want. Their joining supports the case. They may file suit either jointly or severally. Severely filing of suit involves huge timings and finance whereas joining in a single suit saves not only time but also money. Joining of proper party is neither fatal nor beneficial. This party may or may not join the common cause of action. Representation of plaintiff under Order 3, Rule 2: Where plaintiff remains unable to keep himself in Court, he may appoint any person in his place. Plaintiff may give power of attorney to his agent who may appear in Court in his place. Where plaintiff has not given the power to a certain person, his presentation in Court is not acceptable being authorized agent. Where a clerk had not authority to act upon as agent, his appearance in Court is held not acceptable. Joinder of cause of action: A plaintiff may without the leave of the Court, join in one action under several causes of action, even if in the alternative, against the same defendant including other causes of action with a claim for the recovery of land subject to the power of the Court to order separate trials where joinder may embarrass or delay the trial or is otherwise inconvenient. Where persons are wrongly joined as plaintiffs or defendants in an action, i. No action can be defeated by a misjoinder illegal joining or non-joinder of such parties, and the Court may of its own motion, or on application, order a party to cease to be a party. Where a party does not join the case while its joining is necessary is called non-joinder of the suit. Her non-joining makes case defective. Effective decision cannot be given without her joining. Court has power that at any stage of the pleading either beginning or before judgement, may pass an order for joining or non-joining of the parties. This may happen, either on application of the party or its own motion, i. Application can be moved to Court stating please strike out the party being misjoinder. Every suit must include all possible claims. Once you have waived off your right, you cannot claim it again except where permission of Court has been obtained. Where due to certain reason claim cannot be prayed, all the reasons must be mentioned in plaint for not claiming them. Leave of Court permits its reopening. If plaintiff cannot afford Court fee for larger claim, he may confine his claim upto Rs. Relinquish extinction or abandon of his right without permission of Court will lose his right permanently. He cannot lodge case again. Leave of Court enables person to reopen the case, whenever is required. Due care must be taken while filing the suit. It must contain due reservations for future claim. Suit should be framed in such a way so that future litigation may be eliminated. Where there are same parties and same causes of actions must be joined in a single litigation so that proceedings may be minimized for different parties on similar causes of action. It should be kept in mind that relinquishes extinction or abandon the claim debars its subsequent claim. All relevant claims must be prayed in a single litigation. There is an exception to this rule. Where claims are extinguished with the permission of Court due to any justifiable reason, its subsequent litigation is permitted. The sole test for joining of the parties and causes of actions is that whether the parties may institute independent suit for each cause of action.

**Chapter 3 : Code of Civil Procedure, :: Indian Bare Acts**

*The Code Of Civil Procedure, (Act No. 5 of ) An Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature.*

Particulars of set-off to be given in written statement, Effect of set - off RuleA: Counter-claim by defendant RuleB: Counter-claim to be stated RuleG: Rules relating to written statement to apply Rule New ground of defence Rule Where neither party appears, suit to be dismissed Rule Plaintiff may bring fresh suit or Court may restore suit to file Rule Procedure when only plaintiff appears Rule Procedure where defendant appears on day of adjourned hearing and assigns good cause for previous non-appearance Rule Procedure where defendant only appears Rule Decree against plaintiff by default bars fresh suit Rule Procedure in case of non-attendance of one or more of several plaintiffs Rule Procedure in case of non-attendance of one or more of several defendants Rule Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person Setting aside decrees ex-parte Rule Setting aside decree ex-parte against defendant Rule Ascertainment whether allegation in pleadings are admitted or denied RuleA: Direction of the Court to opt for any one mode of alternative dispute resolution RuleB: Appearance before the conciliatory forum or authority RuleC: Appearance before the Court consequent to the failure of efforts of conciliation Rule Oral examination of party, or companion of party Rule Discovery by interrogatories Rule Objections to interrogatories by answer Rule Setting aside and striking out interrogatories Rule Order to answer or answer further Rule Application for discovery of documents Rule Notice to produce Rule Non-compliance with order for discovery Rule Notice to admit documents RuleA: Document to be deemed to be admitted if not denied after service of notice to admit documents Rule Form of notice Rule Notice to admit facts Rule Judgment on admissions Rule Original documents to be produced at or before the settlement of issues Rule Material from which issues may be framed Rule List of witnesses and summons to witnesses Rule Procedure where witness fails to comply with summons Rule Party to appear before other witnesses Rule Questions objection to and allowed by Court Rule Remarks on demeanour of witnesses Rule Court may recall and examine witness Rule Power of Court to inspect Rule Power to order any point to be provided by affidavit Rule When Court may stay execution, Power to require security from, or impose conditions upon, judgment -debtor Rule Stay of execution pending suit between decree -holder and judgment debtor Mode of execution Rule Decree for specific performance for restitution of conjugal rights, or for an injunction Arrest and detention in civil prison Rule Warrant for arrest to direct judgment - debtor to be brought up Sale generally Rule Power to order property attached to be sold and proceeds to be paid to the person entitled Rule Adjournment or stoppage of sale Sale of immoveable property Rule Postponement of sale to enable judgment -debtor to raise amount of decree Rule Application to set aside sale on deposit Rule Application to set aside sale on ground of irregularity or fraud Rule Application by purchaser to set aside sale on ground of judgment -debtor having no saleable interest Rule Sale when to become absolute or be set aside Resistance to delivery of possession to decree-holder or purchaser Rule Setting aside orders passed ex parte, etc. Suit not abated by marriage of female party RuleA: When security for costs may be required from plaintiff Rule Cases in which Court may issue commission to examine witness Rule Order for commission Rule Commission to make local investigation Commissions for scientific investigation, performance of ministerial act and sale of movable property RuleA: Commission for scientific investigation Commissions to examine accounts Rule Commission to examine or adjust accounts Commissions to make partitions Rule Notice to the Attorney General or the Advocate-General. Suing of partners in name of firm Rule Representation of beneficiaries In suits concerning property vested in trustees, etc. Minor to sue by next friend Rule Who may act as next friend or be appointed guardian for the suit Rule Removal of next friend Rule Application of the Order Rule Proceedings to be held in camera Rule Duty of Court to make efforts for settlement Rule Assistance of welfare expert Rule Courts and classes of suits to which the Order is to apply Rule Institution of summary suit Rule Procedure for the appearance of defendant Rule Power to set aside decree Rule Power to order bill, etc. Recovery of cost of noting non-acceptance of dishonoured bill or note Rule Where defendant may be called upon to furnish

security for appearance Rule Where defendant may be called upon to furnish security for production of property. Cases in which temporary injunction may be granted Rule Injunction to restrain repetition or continuance of breach RuleA: Ground which may be taken in appeal RuleA: Application for condonation of delay Stay of proceedings and of execution Rule Security in case of order for execution of decree appealed from Procedure on admission of appeal Rule Appellate Court may require appellant to furnish security for costs, Where appellant resides out of India Rule Power to dismiss appeal without sending notice to lower court Procedure on hearing Rule Re-admission of appeal dismissed for default Rule Re-hearing on application of respondent against whom ex parte decree made Rule Remand of case by Appellate Court Rule Where Appellate Court may frame issues and refer them for trial to Court whose decree appealed from Rule Production of additional evidence in Appellate Court Rule Mode of taking additional evidence Rule Points to be defined and recorded Rule Power of court to direct that the appeal be heard on the question formulated by it Rule

**Chapter 4 : Code of Civil Procedure (India) - Wikipedia**

*amending act 1 - code of civil procedure (amendment) act, Amending Act 2 - CODE OF CIVIL PROCEDURE (AMENDMENT) ACT, Save Judgments // Add Notes // Store Search Result sets // Organizer Client Files // Start your Free Trial Today!*

Civil Procedure Code 3rd Page Stay of sale Where before the claim was preferred or the objection was made, the property attached had already been advertised for sale, the Court may- a if the property is movable, make an order postponing the sale pending the adjudication of the claim or objection, or b if the property is immovable, make an order that, pending the adjudication of the claim or objection, the property shall not be sold, or, that pending such adjudication, the property may be sold but the sale shall not be confirmed, and any such order may be made subject to such terms and conditions as to security or otherwise as the Court thinks fit. When an attachment of movable property ceases, the Court may order the restoration of the attachment property to the person in whose possession it was before the attachment. A copy of such notice shall, unless otherwise ordered by the Court, be served on the judgment-debtor. Whenever in any proceedings under the foregoing rules it is alleged by the garnishee that the debt attached belongs to some third person, or that any third person has a lien or charge upon or interest in it, the Court may order such third person to appear and state the nature and particulars of his claim, if any, upon such debt, and prove the same, if necessary. After hearing such third person and any other person who may subsequently be ordered to appear, or in the case of such third or other person not appearing as ordered, the Court may pass such order as is provided in the foregoing rules, or make such other order as the Court shall think fit, upon such terms in all cases with respect to the lien charge or interest, if any, of such third or other person as shall seem just and reasonable. Payment made by, or levied by execution upon the garnishee in accordance with any order made under these rules shall be a valid discharge to him as against the judgment-debtor, and any other person ordered to appear under these rules, for the amount paid or levied although such order or the judgment may be set aside or reversed. The costs of any application for the attachment of a debt under the foregoing rules and of any proceedings arising from or incidental to such application shall be in the discretion of the Court. Costs awarded to the decree-holder shall, unless otherwise directed, be retained out of the money recovered by him under the garnishee order and in priority to the amount of his decree. Out of the amount recovered under the garnishee order the Court shall deduct a sum equal to the court-fee payable under the Indian Court-Fees Act on a plaint in a suit for recovery of the money and credit the same to the Government. Power to order property attached to be sold and proceeds to be paid to person entitled Any Court executing a decree may order that any property attached by it and liable to sale, or such portion thereof as may see necessary to satisfy the decree, shall be sold, and that the proceeds of such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same. Sales by whom conducted and how made Save as otherwise prescribed, every sale in execution of a decree shall be conducted by an officer of the Court or by such other person as the Court may appoint in this behalf, and shall be made by public auction in manner prescribed. Proclamation of sales by public auction 1 Where any property is ordered to be sold by public auction in execution of a decree, the Court shall cause a proclamation of the intended sale to be made in the language of such Court. Provided further that nothing in this rule shall be construed as requiring the Court to enter in the proclamation of sale its own estimate of the value of the property, but the proclamation shall include the estimate if any, given, by either or both of the parties. Mode of making proclamation 1 Every proclamation shall be made and published, as nearly as may be, in the manner prescribed by rule 54, sub-rule 2. Time of sale Save in the case of property of the kind described in the proviso to rule 43, no sale hereunder shall, without the consent in writing of the judgment-debtor, take place until after the expiration of at least 1[fifteen days] in the case of immovable property, and of at least 2[seven days] in the case of movable property, calculated from the date on which the copy of the proclamation has been affixed on the court-house of the Judge ordering the sale. Adjournment or stoppage of sale 1 The Court may, in its discretion, adjourn any sale hereunder to a specified day and hour, and the officer conducting any such sale may in his discretion adjourn the sale, recording his reasons for such

adjournment: Provided that, where the sale is made in, or within the precincts of, the court-house, no such adjournment shall be made without the leave of the Court. Provided that where the adjournment is for a period not longer than [thirty] days from the date originally fixed for sale, no fresh proclamation shall be necessary: Provided also that the Court may dispense with the consent of any judgment-debtor who has failed to attend in answer to a notice issued under rule 72, a mortgagee of immovable property shall not bid for or purchase property sold in execution of a decree on the mortgage unless the Court grants him leave to bid for or purchase the property. Restriction on bidding or purchase by officers. No officer or other person having any duty to perform in connection with any sale shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold. Sale of movable property Sale of agricultural produce 1 Where the property to be sold is agricultural produce, the sale shall be held,- a if such produce is a growing crop, on or near the land on which such crop has grown, or b if such produce has been cut or gathered, at or near the threshing floor or place for treading out grain or the like or fodder-stack on or in which it is deposited: Provided that the Court may direct the sale to be held at the nearest place of public resort, if it is of opinion that the produce is thereby likely to sell to greater advantage. Special provisions relating to growing crops. Where the property to be sold is a growing crop which can be sold to greater advantage in an unripe or unreaped state, it may be sold unreaped, and the purchaser shall be entitled to enter on the land to do all that is necessary for the purpose of tending and reaping it. In all other cases the day of sale shall be so fixed as to admit of the crop ripening and reaped before the sale. Negotiable instruments and shares in corporations Where the property to be sold is a negotiable instrument or a share in a corporation, the Court may, instead of directing the sale to be made by public auction, authorize the sale of such instrument or share through a broker. Sale by public auction 1 Where movable property is sold by public auction the price of each lot shall be paid at the time of sale or as soon after as the officer or other person holding the sale directs, and in default of payment the property shall forthwith be re-sold. Irregularity not to vitiate sale, but any person injured may sue No irregularity in publishing or conducting the sale of movable property shall vitiate the sale; but any person sustaining any injury by reason of such irregularity at the hand of any other person may institute a suit against him for compensation or if such other person is the purchaser for the recovery of the specific property and for compensation in default of such recovery. Delivery of movable property, debts and shares 1 Where the property sold is movable property of which actual seizure has been made, it shall be delivered to the purchaser. Transfer of negotiable instruments and shares. Judge of the Court of or as the case may be, in a suit by E. Vesting order in case of other property. In the case of any movable property not hereinbefore provided for, the Court may make an order vesting such property in the purchaser or as he may direct; and such property shall vest accordingly. Sale of immovable property What Courts may order sales. Sales of immovable property in execution of decrees may be ordered by any Court other than a Court of Small Causes. Postponement of sale to enable judgment-debtor to raise amount of decree. Provided that all moneys payable under such mortgage, lease or sale shall be paid, not to the judgment-debtor, but, save in so far as a decree-holder is entitled to set-off such money under the provisions of rule 72, into Court: Provided also that not mortgage, lease or sale under this rule shall become absolute until it has been confirmed by the Court. Deposit by purchaser and re-sale on default. Time for payment in full of purchase-money. The full amount of purchase-money payable shall be paid by the purchaser into Court before the Court closes on the fifteenth day from the sale of the property: Provided, that, in calculating the amount to be so paid into Court, the purchaser shall have the advantage of any set-off to which he may be entitled under rule 72. Provided further that, if as a result of some bona fide mistake or miscalculation the amount deposited fails short of the full amount of the purchase-money, the Court may in its discretion allow the shortfall to be made up after fifteen days of the sale, and if the full amount of the purchase-money is deposited within such time as the Court may allow, the Court may condone the delay, if it considers it just and proper to do so. Set-off where execution has been transferred to Collector. Time for payment in full of purchase-money and of stamp certificate of sale. Provided that in calculating the amount of purchase-money to be so deposited the

purchaser shall have the advantage of any set-off to which he may be entitled under rule Procedure in default of payment In default of payment within the period mentioned in the last preceding rule, the deposit may, if the Court thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. Notification on re-sale Every re-sale of immovable, property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of fresh proclamation in the manner and for the period hereinbefore prescribed for the sale. Bid of co-sharer to have preference Where the property sold is a share of undivided immovable property and two or more persons, or whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer. Application to set aside sale on deposit 1 Where immovable property has been sold in execution of a decree, 1[any person claiming an interest in the property sold at the time of the sale or at the time of making the application, or acting for or in the interest of such person,] may apply to have the sale set aside on his deposition in Court,- a for payment to the purchaser, a sum equal to five per cent of the purchase-money, and b for payment, to the decree-holder, the amount specified in the proclamation of sale as that for the recovery of which the sale was ordered less any amount which may, since the date of such proclamation of sale, have been received by the decree-holder. Subs, by Act No. Provided further that where the immovable property sold is liable to discharge a portion of the decree debt, the payment under clause b of this sub-rule need not exceed such amount as under the decree the owner of the property sold is liable to pay. Application to set aside sale on ground of irregularity or fraud 1 Where any immovable property has been sold in execution of a decree, the decree-holder, or the purchaser, or any other person entitled to share in a rateable distribution of assets, whose interests are affected by the sale, may apply to the Court to set aside the sale on the ground of a material irregularity or fraud in publishing or conduction it. Application by purchaser to set aside sale on ground of judgment-debtor having no saleable interest. The purchaser at any such sale in execution of decree may apply to the Court to set aside the sale, on the ground that the judgment-debtor had no saleable interest in the property sold. Deposits how to be made. Sale when to become absolute or be set aside. Provided that no order shall be made unless notice of the application has been given to all persons affected thereby. B1, dated 7th April, Added by Act No. Inserted by Act No. Return of purchase-money in certain cases. Where a sale of immovable property is set aside under rule 92, the purchaser shall be entitled to an order for repayment of his purchase-money, with or without interest as the Court may direct, against any person to whom it has been paid. Where a sale of immovable property has become absolute, the Court shall grant a certificate specifying the property sold and the name of the person who at the time of sale of is declared to be the purchaser. Such certificate shall bear date the day on which the sale became absolute. Such document shall bear the date the day on which the transfer was ordered. Such certificate shall bear the date the day on which the sale becomes absolute. If the necessary stamp for sale certificate is not filed within the prescribed period the sale may, if the Court thinks fit, be set aside. Delivery of property in occupancy of judgment-debtor Where the immovable property sold is in the occupancy of the judgment-debtor or of some person on his behalf or of some person claiming under a title created by the judgment-debtor subsequently to the attachment of such property and a certificate in respect thereof has been granted under rule 94, the Court shall, on the application of the purchaser, order to delivery to be made by putting such purchaser or any person whom he may appoint to receive delivery on his behalf in possession of the property, and, if need be, by removing any person who refuses to vacate the same. If it is found at the time of delivery, that there are movables, in the house to which the purchaser has no claim and the judgment-debtor is absent or, if present, does not immediately remove the same, the officer entrusted with the warrant for delivery shall make an inventory of the articles so found with their probable value in the presence of respectable persons on the spot, have the same attested by them and leave the movables in the custody of the purchaser after taking a bond from him for keeping the articles in custody pending orders of Court for disposal of the same. The officer shall then make a report to the Court and forward therewith the attested inventory taken by him. The Court shall thereupon issue a notice to the judgment-debtor requiring him to take delivery of the said movables within thirty days from the date of the notice, and in default will be sold in public auction at his risk and the proceeds

applied for meeting all legitimate expenses of custody and sale and the balance, if any, will be refunded to the judgment-debtor: Provided that, if movable articles referred to above are perishable, the officer shall sell them in public auction immediately and bring the proceeds into Court. The notice to the judgment-debtor shall in such case call upon him to receive the amount from Court within three months. Delivery of property in occupancy of tenant Where the property sold is in the occupancy of a tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under rule 94, the Court shall, on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the judgment-debtor has been transferred to the purchaser. Resistance or obstruction to possession of immovable property. The Court may also order the person or persons whom it holds responsible for such resistance or obstruction to pay jointly to severally in addition to costs, reasonable compensation to the decree-holder or the purchaser, as the case may be for the delay and expenses caused to him in obtaining possession. Any order made under this rule shall have the same force and be subject to the same conditions as to appeal or otherwise as if it were a decree. Dispossession by decree-holder or purchaser 1 Where any person other than the judgment-debtor is dispossessed of immovable property by the holder of a decree for possession of such property or, where such property has been sold in execution of a decree, by the purchaser thereof, he may make an application to the Court complaining of such dispossession. Order to be passed upon application complaining of dispossession Upon the determination of the questions referred to in rule 97, the Court shall, in accordance with such determination,- a make an order allowing the application and directing that the applicant be put into the possession of the property or dismissing the application; or b pass such other order as, in the circumstances of the case, it may deem fit. Questions to be determined All questions including questions relating to right, title or interest in the property arising between the parties to a proceeding on an application under rule 97 or rule 99 or their representatives, and relevant to the adjudication of the application, shall be determined by the Court dealing with the application and not by a separate suit and for this purpose, the Court shall notwithstanding anything to the contrary contained in any other law for the time being in force, be deemed to have jurisdiction to decide such questions. Rules not applicable to transferee pending life Nothing in rules 98 and shall apply to resistance or obstruction in execution of a decree for the possession of immovable property by a person to whom the judgment-debtor has transferred the property after the institution of the suit in which the decree was passed or to the dispossession of any such person. Orders to be treated as decrees Where any application has been adjudicated upon under rule 98 or rule 99, the order made thereon shall have the same force and be subject to the same conditions as to an appeal or otherwise as if it were a decree. Order under rule 98 or rule 99 to be subject to the result or pending suit Every order made under rule 98 or rule 99 shall be subject to the result of any suit that may be pending on the date of commencement of the proceeding in which such order is made, if in such suit the party against whom the order under rule 98 or rule 99 is made has sought to establish a right which he claims to the present possession of the property. Hearing of application 1 The Court, before which an application under any of the foregoing rules of this Order is pending, may fix a day for the hearing of the application. Setting aside order passed ex parte, etc. When the certificate prescribed by section 41 is received by the Court which sent the decree for execution, it shall cause the necessary details as to the result of execution to be entered in its register of civil suits before the papers are transmitted to the record room. Every attachment of movable property under rule 43, of the Negotiable Instruments under rule 51 and of immovable property under rule 54, shall be made through a Civil Court Amin, or bailiff, unless special reasons render it necessary that any other agency should be employed; in which case those reasons shall be stated in the handwriting of the presiding Judge himself in the order for attachment. When the property which it is sought to bring to sale is immovable property within the definition of the same contained in law for the time being in force relating to the registration of documents, the decree-holder shall file with his application for an order for sale a certificate from the Sub-Registrar within whose sub-district such property is situated, showing that the Sub-Registrar has searched his books Nos. I and II and their indices for twelve years preceding the mortgage or attachment as the case may be and stating the encumbrances, if any, which he has found on the property. When an application is made for the sale of land or

of any interest in land, the Court shall, before ordering sale thereof, call upon the parties to state whether such land is or is not ancestral land within the Notification No. On the day so fixed, or on any date to which the enquiry may have been adjourned, the Court may take such evidence, by affidavit or otherwise, as it may deem necessary, and may also call for a report from the Collector of the district as to whether such land or any portion thereof is ancestral land. After considering the evidence and the report, if any, the Court shall determine whether such land, or any, and what part of it, is ancestral land.

*calendrierdelascience.com title.- (1) This Act may be cited as the Code of Civil Procedure, (2) Commencement and extent. It shall come into force on the first day of January,*

Inquiry as to truth of information Section Order to give security Section Discharge of person informed against Section Commencement of period for which security is required Section Provisions not applicable to High Court in original civil jurisdiction Part X: Effect of rules in First Schedule Section Power of certain High Courts to make rules Section Constitution of Rule Committees in certain States Section Committee to report to High Court Section Power of other High Courts to make rules Section Rules to be subject to approval Section Publication of rules Section Matters for which rules may provide Section Power of High Courts to make rules as to their original civil procedure Section Powers of other High Court to make rules as to matters other than procedure Section Publication of rules Part XI: Exemption of certain women from personal appearance Section Exemption of other persons Section Arrest other than in execution of decree Section Exemption from arrest under civil process Section A: Exemption of members of legislative bodies from arrest and detention under civil process Section Procedure where person to be arrested or property to be attached is outside district Section Language of subordinate Courts Section Power of High Court to require evidence to be recorded in English Section Oath on affidavit by whom to be administered Section Assessors in causes of salvage etc. Orders and notices to be in writing Section Application for restitution Section Enforcement of liability of surety Section Proceedings by or against representatives Section Consent or agreement by persons under disability Section Enlargement of time Section A: Right to lodge a caveat Section Power to make up deficiency of court-fees Section Transfer of business Section Saving of inherent powers of Court Section Amendment of judgments, decrees or orders Section General power to amend Section A: Power to amend decree or order where appeal is summarily dismissed Section B: Place of trial to be deemed to be open Court Section Saving of present right of appeal Section Amendment of certain Acts Section Continuance of orders under repealed enactments Section No appeal to lie, unless otherwise provided Section Appeal from orders requiring security or refusal to accept or rejecting surety for keeping peace or good behaviour Section Appeals from convictions Section Suit to include the whole claim Rule 3 Order II: Joinder of causes of action Rule 4 Order II: Only certain claims to be joined for recovery of immovable property Rule 5 Order II: Claims by or against executor, administrator or heir Rule 6 Order II: Objections as to misjoinder Order III.

**Chapter 6 : Code of Civil Procedure Section 60 - Citation - Bare Act | LegalCrystal**

*Civil Procedure Code Review. Subject as aforesaid, any person considering himself aggrieved- (a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred.*

Code of Civil Procedure, Indian Bare Acts 1. It shall come into force on the first day of January, Amended in the U. Act 24 of Amended in Assam by Assam Act 8 of It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final: Application of the Code to Revenue Courts. Provincial Small Cause Courts. Presidency Small Cause Courts. Courts to try all civil suits unless barred. Bar to further suit. When foreign judgment not conclusive. Presumption as to foreign judgments. Court in which suits to be instituted. Suits to be instituted where subject matter situate. Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain. Suits for immovable property situate within jurisdiction of different Courts. Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court. Place of institution of suit where local limits of jurisdiction of Courts are uncertain. Provided that the suit is one with respect to which the Court competent as regards the nature and value of the suit to exercise jurisdiction. Suits for compensation for wrongs to person or movables. Illustrations a A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi. Other suits to be instituted where defendants reside or cause of action arises. Illustrations a A is a tradesman in Calcutta. B carries on business in Delhi. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business. A may sue B and C at Benares, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi. There C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court. Power to transfer suits which may be instituted in more than one Court. To what Court application lies. General power of transfer and withdrawal. Power of State Government to transfer suits. Service of summons where defendant resides in another State. Service of foreign summonses. Summonses and other processes issued by- a any Civil or Revenue Court established in any part of India to which the provisions of this Code do not extend, or b any Civil or Revenue Court established or continued by the authority of the Central Government outside India, or c any other Civil or Revenue Court outside India to which the Central Government has, by notification in the Official Gazette, declared the provisions of this section to apply, may be sent to the Courts in the territories to which this Code extends, and served as if they were summonses issued by such Courts. Power to order discovery and the like. Subject to such conditions and limitations as may be prescribed, the Court may, at any time, either of its own motion or on the application of any party,- a make such orders as may be necessary or reasonable in all matters relating to the delivery and answering of interrogatories, the admission of documents and facts, and the discovery, inspection, production, impounding and return of documents or other material objects producible as evidence; b issue summonses to persons whose attendance is required either to give evidence or to produce documents or such other objects as aforesaid; c order any fact to be proved by affidavit. The fact that the Court has no jurisdiction to try the suit shall be no bar to the exercise of such powers. It has been so brought into force in Bombay, Bengal, U. Compensatory costs in respect of false or vexatious claims or defenses. Provided, further, that the High Court may limit the amount which any Court or class of Courts is empowered to award as costs under this section. Definition of Court which passed a decree. Court by which decree may be executed. Transfer of decree to Court in another State. Result of execution-proceedings to be certified. Powers of Court in executing transferred decree. All persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if it had passed the decree. And its order in execution such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself. Execution of decrees passed by Civil Courts in places to which this

Code does not extend. Execution of decrees passed by Revenue Courts in places to which this Code does not extend. Execution of decrees passed by Courts in reciprocating territory.

**Chapter 7 : Section “ Civil Procedure Code “ Laws and Bare Acts of India at calendrierdelascience.co**

*Code of Civil Procedure, Other suits to be instituted where defendants reside or cause of action arises.-Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction”.*

Property liable to attachment and sale in execution of decree. Provided that the following particulars shall not be liable to such attachment or sale, namely: For amendments to section 60, in its application to East Punjab, see the Punjab Relief of Indebtedness Act, Punjab Act 7 of , section 35, as amended by Punjab Acts 12 of and 6 of Substituted by Act of , section 23 i a , for "an agriculturist" w. Inserted by Act of , section 23 i b , w. For such a notification, see Gazette of India, , Pt. Substituted by the A. Substituted by Act 9 of , section 2, for clauses h and i. The amendments made by that section have no effect in respect of any proceedings arising out of a suit instituted before 1st June, , See Act 9 of , section 3. The words "and salary, to the extent of the first hundred rupees and one-half the remainder of such salary" omitted by Act 5 of , section 2. Substituted by Act 5 of , section 2, for clause i and proviso. Substituted by Act 26 of , section 2, for "the first hundred rupees". Substituted by Act of , section 23 i c i , for "two hundred rupees and one-half the remainder" w. Substituted by Act 46 of , sec. Inserted by Act 66 of , section 6 w. Substituted by Act of , section 23 i c ii , for the proviso w. Substituted by Act of , section 23 i d , for clause j w. Substituted by Act 9 of , section 2, for ". Substituted by Act 9 of , section 2, for the clause 1. Substituted by Act 5 of , section 2, for "public officer". Substituted by Act 5 of , section 2, for "any such officer or servant". Substituted by Act of , section 23 i f , for Explanation 1 w. Substituted by Act of , sec. Inserted by the A. Substituted by Act of , section 23 i h , for "3" w. Clause ii omitted by the A. The word "railway or" omitted by the A. The letter and brackets " a " rep. The word "or" rep. Inserted by Act of , Section 23 i i w. Inserted by the of , Section.

**Chapter 8 : Civil Procedure Code for Students - WRITING LAW**

*Posted in Civil Procedure Code Tagged bare acts, bareacts, Civil Procedure, Civil Procedure Code, Civil Procedure Code , Civil Procedures, indian laws, laws of india Post navigation “• ORDER XXI() - Civil Procedure Code*

**Chapter 9 : The Code of Civil Procedure,**

*[ Act, No. 5 of ]1 [21 st March, ] PREAMBLE. An Act to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature.*