

Training Module-Tool, Technique and Guide On

How to Write Daily Orders in Civil Cases

(An Introduction to C.P.C.with Model Orders)

Target group- Civil court staff

Date: 19.06.2024



CIVIL PROCEDURE CODE, 1908

.Scheme of the Act:- It consolidates the law relating to procedure of Civil Courts.

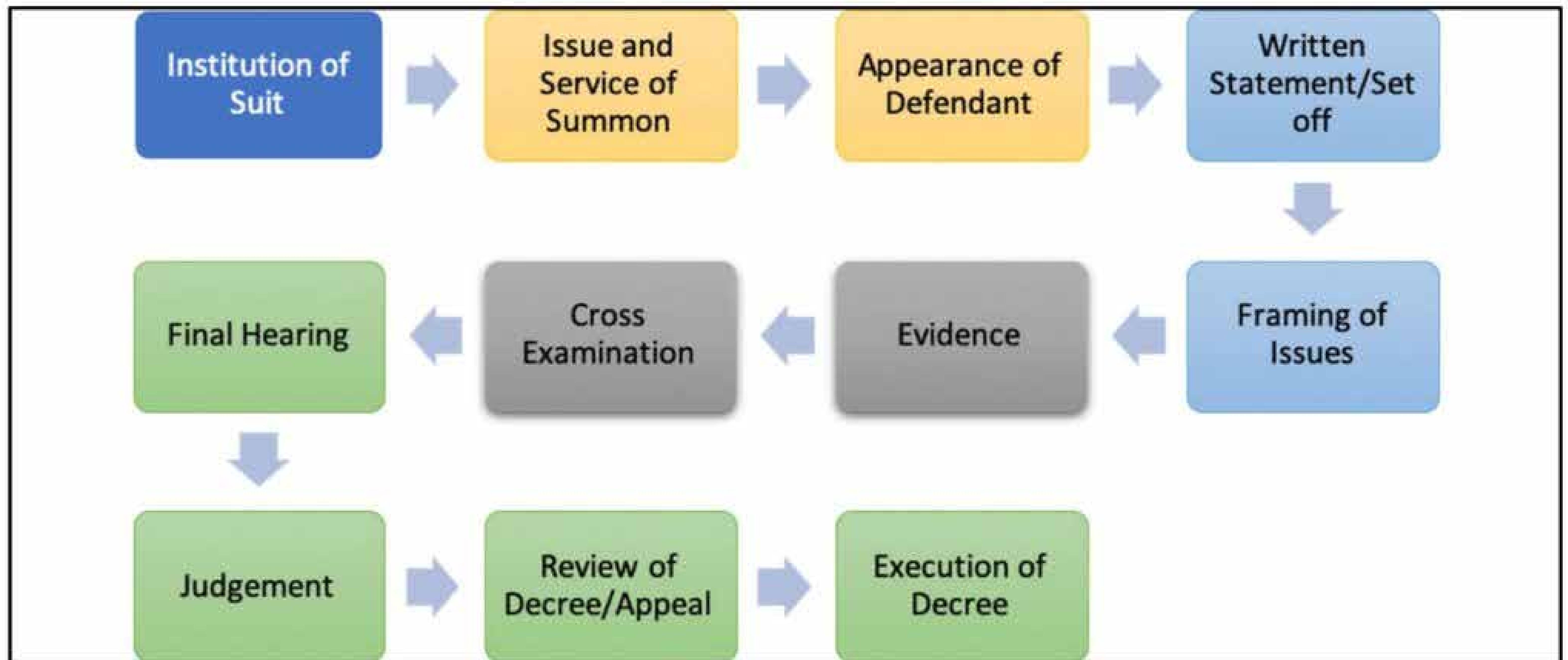
.It has 158 sections in the first part (the main part) and 51 ORDERS in the second part containing Rules and 8 appendices .

.The Sections contain the *fundamental principles*, and thus create jurisdiction hence a substantive law whereas the Rules deal with the *detailed procedure* as to how the jurisdiction should be exercised.

- **DAILY ORDERS OF THE CASE SETS A SCHEME FOR THE ENDS OF THE LITIGATION. IT REFLECTS THE HOLD OF THE COURT ON THE CASE. IN ONE GO ONE CAN GET THE WHOLE HISTORY OF THE CASE.**
- **ESSENTIALS OF A BASIC ORDER/ A CHECK LIST:**
 - **IT SHOULD BE CLEAR, NON CRYPTIC. IF POSSIBLE THROUGH PRINTING ONLY.**
 - **IT SHOULD BE NUMBERED AND DATED.**
 - **IT SHOULD BE SIGNED BY THE P.O.**
 - **IT SHOULD CONTAIN THE NAME OF THE CASE, PARTIES AND COURT ON THE TOP.**
 - **IT SHOULD NOT BE VAGUE.**
 - **IT SHOULD CONTAIN THE NEXT STAGE AND DATE.**
 - **IF REQUIRED DIRECTION SHOULD BE SPECIFIC TO B/C OR O/C AS THE CASE MAY BE.**
 - **IT SHOULD BE WRITTEN AS PER THE RULES OF THE CODE.**

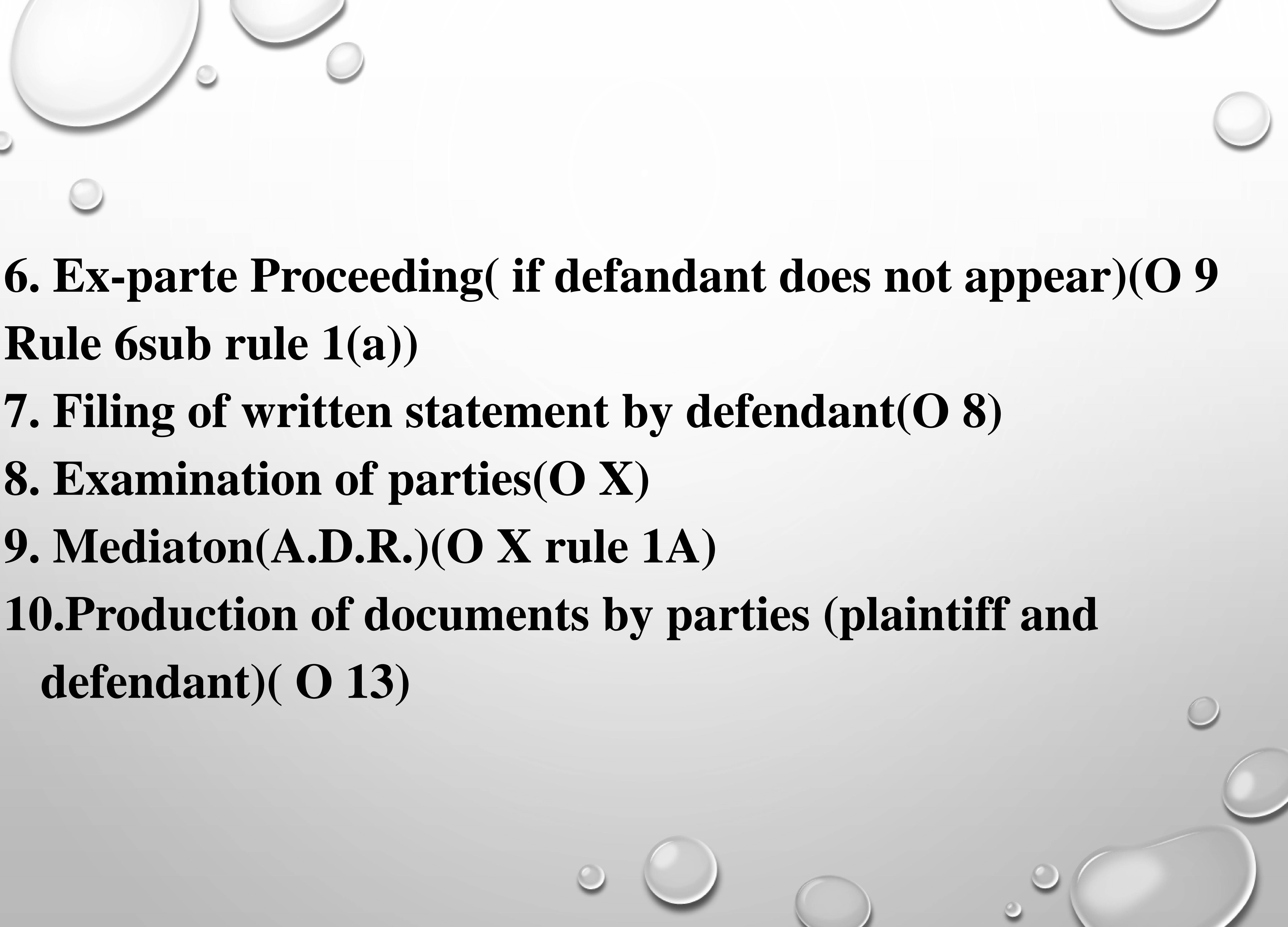


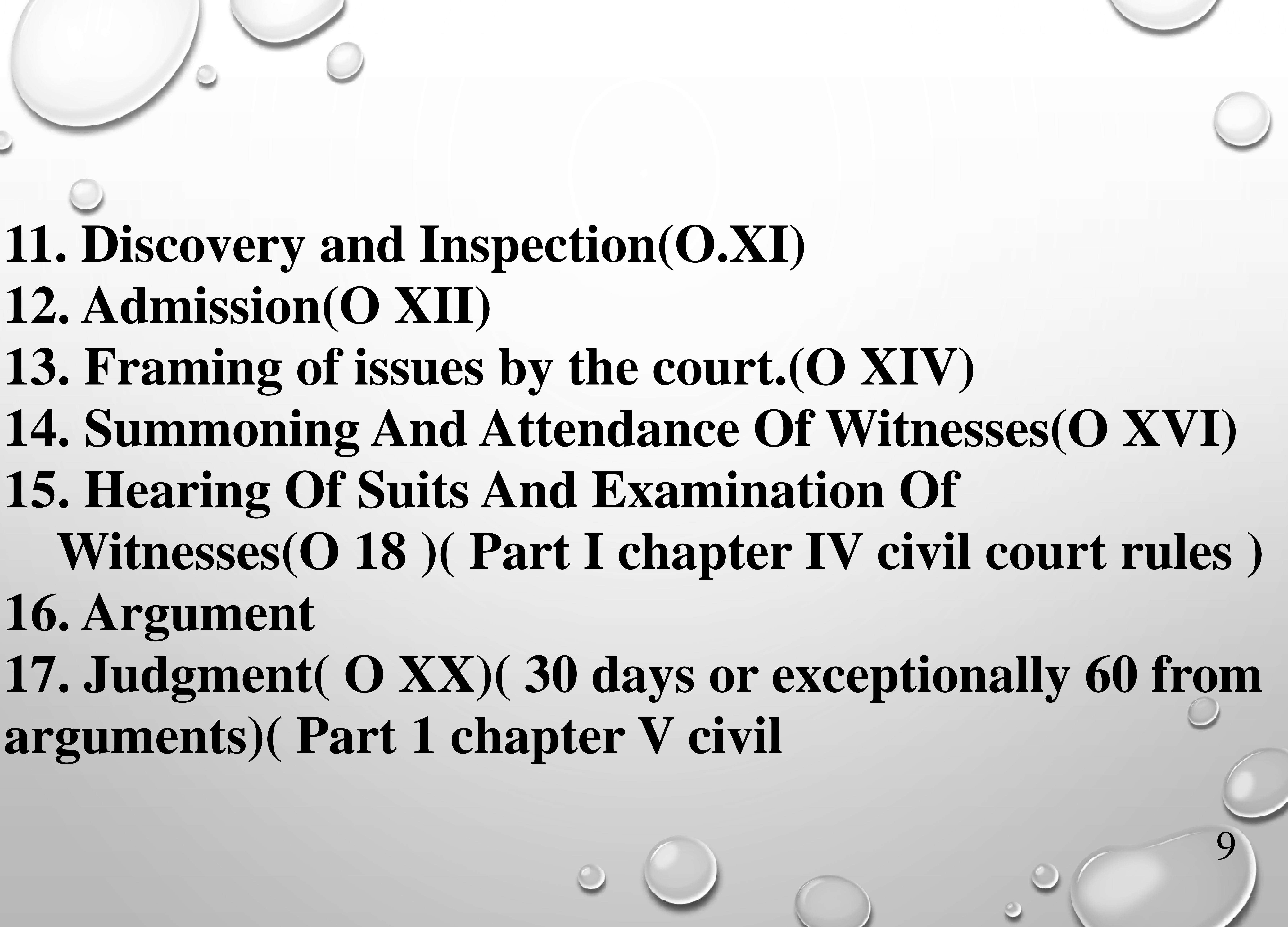
Stages Of Civil Suit as per Civil Procedure Code, 1908



**Stages Of Civil Suit as per
Civil Procedure Code, 1908 are as under**

- 1. Presentation of plaint/ Institution of Suit.(O. 4 and section 26)(*Part I chapter I Civil Court rules 13, 15, 21, 26, 27*)**
- 2. Sheristadar Report(*civil court Rules preliminary rule 8*)**
- 3. Admission of plaint(order VII rule 1 r/w 9)(*Part I chapter II rule 45*)**
- 4. Service of summons on defendant (s).(O. 5 section 26 to 29)(*Part I chapter II in B to D Heading*)**
- 5. Appearance of parties(O. 9)**

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- 6. Ex-parte Proceeding(if defendant does not appear)(O 9 Rule 6sub rule 1(a))**
 - 7. Filing of written statement by defendant(O 8)**
 - 8. Examination of parties(O X)**
 - 9. Mediaton(A.D.R.)(O X rule 1A)**
 - 10.Production of documents by parties (plaintiff and defendant)(O 13)**

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- 11. Discovery and Inspection(O.XI)**
 - 12. Admission(O XII)**
 - 13. Framing of issues by the court.(O XIV)**
 - 14. Summoning And Attendance Of Witnesses(O XVI)**
 - 15. Hearing Of Suits And Examination Of
Witnesses(O 18)(Part I chapter IV civil court rules)**
 - 16. Argument**
 - 17. Judgment(O XX)(30 days or exceptionally 60 from
arguments)(Part 1 chapter V civil**

Admission Order (under order VII rule 1& 9)

- . Plaintiff is in attendance (or plaintiff is represented through his lawyer).**
- . Today the case is fixed for the hearing on the point of admission of the plaint.**
- . Heard and perused the record including documents as the basis of suit.**
- . On perusal it trasnpires that the seristedar has submitted its report, wherein it has been reported that the plaint is in order, adequately stamped suit, within limitation period, within the jurisdiction of this court and is properly valued.**
- .Accordingly it is hereby ordered that the plaint stands admitted.**
- . Plaintiff is directed to file as many copies of the plaint as there are defendants along with the requisite fee for the service of summons.**
- .Put up onfor filing requisites and issuing of summon (s).**

Post Admission Order / Dasti Summons **(order V rule 9, 9A)**

.Received the case record from the court of Sri..... on transfer vide order number.....dated after admission.

.Plaintiff is present/respresented through his lawyer. Perused the case record. Proper Requisite along with copies of plaint has been filed.


.O/c is directed to send the summon to the defendants.

.The plaintiff is also directed to take necessary steps for issuance of summons to the defendant through personal service i.e. dasti summons and submit the acknowledgment for same.

.Put up on.....for the sevice report.

Order for Substituted Service- Paper publication (order V rule 17 , 20)

- . Plaintiff is present/represented through lawyer.**
- .The defendant is absent.**
- .Service report of summon has been submitted along with the affidavit mentioning**
- . therein that personal service could not be done and the same was pasted on the conspicuous place of his house.**
- .Ld. Counsel for the plaintiff has submitted that the defendant is keeping out in order to avoid service and it is also not possible to serve**
- . the summons in ordinary way. Therefore, the same be allowed to be served through substituted service by way of advertisement**
- . in the newspaper having daily circulation in the locality wherein the defendant resides and the plaintiff is / are ready to bear the necessary cost.**

- 
- .Heard the Ld. Counsel and perused the service report.**
 - .In the present circumstances, the Court is satisfied with the abovementioned**
 - . submissions and the same stands allowed.**
 - .The plaintiff is directed to file requisite for the same and also take necessary steps.**
 - .Put up onfor the report of publication.**

Case I: The defendant (s) do(es) not appear(s): (O-9 R-6)

- . Plaintiff takes steps. The defendant is still absent.**
- . Ld. Counsel for the plaintiff has submitted that all the steps have been taken for**
- . securing the presence of the defendant through all the prescribed mode i.e., through process server / personal service / newspaper publication-- but then also defendant (s) do(es) not appear, therefore, prayed for the ex-parte proceeding.**
- . Heard the plaintiff, perused the record.**
- . It is proved from service reports of summons that it was duly served and despite proper service on correct address, the defendant (s) failed to appear.**
- . Hence, the prayer to initiate ex-parte proceeding against non appearing / absent defendant is allowed.**
- . However, the plaintiff has to prove its case as per its relief sought in the plaint on its own stand and must submit all documents in original including list of witnesses.**
- . Put up on.....for the necessary compliance so that the case may be taken up for recording of plaintiff's evidence.**

Case II: The defendant (s) appear (s) but did not file written statement (Order VIII rule 1)

- .Plaintiff takes step. The defendant referred as D -1, D-2are present and rest are absent.**
- . Ld. Counsel for the plaintiff submitted that the defendants – D1, D2.....-- have appeared on..... but have not filed W/S yet. It is to be**
- . noted that summons were duly served on and since then more than 90 days have been elapsed. Hence, defendants may be debarred from filing of W/S.**
- . Heard and perused the service report.**

- .It is found that the summons was duly served on D 1, D 2....– have appeared on but did not file WS as yet. Keeping in view the mandatory provision provided in O VIII R-1, the total 90 days, (the maximum time granted to file WS from date of service of summons) has been elapsed.**
- . Hence, in aforesaid circumstances D 1, D 2.... shall not be allowed to file the WS and hence, the prayer is allowed and they are hereby debarred from filing the same.**
- . Put up on..... for the first hearing and examination of parties as per Order X rule 1A.**
- . Both the parties are directed to appear personally on the date fixed.**

(The Court has two options)

O VIII Rule 10

- (i) Either to pass judgment against defendants; or**
- (ii) to pass such order as it thinks fit.**

***It is to advisable to proceed for first hearing and
decide the case on merit***

Order u/s 89 r/w O. 10 R 1 A (Referrral Order)

- . Attendance of Plaintiff and Defendant have been filed. The matter was fixed for hearing on first appearance.**
- . On call Learned counsels appearing with parties have submitted that there are chances of mutual settlement of the dispute between the parties and therefore, this matter may be referred to mediation.**
- . This Court, having conferred with the parties and having determined that there exists elements of settlemnet between the parties and in in pursuant of Order u/s 89 r/w O. 10 R 1 A, Orders that the parties and their ld. advocates will report at Mediation Centre, Giridih Civil Courts, on _____ at _____ a.m/p.m. If it is not possible to mediate this case on the date fixed, the Mediation Centre will arrange a future date for mediation convenient to the parties and the mediators shall also keep the court informed about the dates fixed in the matter with details of effective sittings for mediation.**

. The details of parties are as under (as per prescribed format which is made available in the all court):

1.Name and address of the Plaintiff (With Mobile Number):

2.Name and Mobile Number of the Counsel of the Plaintiff:

3.Name and address of the Defendant (With Mobile Number):

4.Name and Mobile Number of the Counsel of the Defendant:

. Office to refer the case to the mediation centre.

. Put-up the case record on 01.10.18 for receiving the report.

Order to file all the documents (mediation report filed)

- . Both parties take step.**
- .Ld. Counsel for both sides are present.**
- . Received the report from mediation centre with remarks --
“unsuccessful”. There is no further chance of reconciliation between
parties. Therefore, it is necessary to proceed further for hearing on the
framing of issues.**
- . Both the parties are directed to submit / produce all documents in original
and if desire, may also file proposed issues.**
- . Put up on.....for filing of documents and proposed issues.**

Framing of issues order XIV

- .Both parties are present through their Ld. Counsels.**
- .The case record is fixed for hearing on the point of framing of issues.**
- .Heard both parties.**
- .The case in hand is related for declaration of Title and Confirmation of posssession of the suit property..... (as per prayer). Accordingly, the plaintiff filed the plaint and the defendant opposed the aforesaid prayer while filing the W.S.**
- .Perused the plaint, W.S. and other materials adduced in the record. It appears that there are material proposition of fact and law which is affirmed by the one party and is being denied by the other, therefore parties are at varience. Accordingly, it is necessary to frame the issues for the purpose to adjudicate and to settle the matter in controvercies.**
- .Hence following issues are hereby framed – (Copy attached with)**
- .Put up on for evidence of plaintiff (Hearing). The plaintiff is directed to file list of witnesses.**

Order of recording of evidence as the case proceeds

.Both parties take step.

. Ld. Counsel for both sides are present.

. The case record is fixed for recording of evidence for plaintiff/defendant.

. Attendance of PW -1/ DW1 namelyis filed alongwith examination-in-chief on affidavit. The Ld. Advocate (namely).....is appointed as commissioner to record the cross-examination of the PW1/ DW1. Let the affidavit be handed over to the commissioner to record the cross-examination in the court.

.Plaintiff/ defendant shall bear the cost of commissioner.

. A petition has been filed on behalf of Plaintiff/ defendant praying therein to exhibit the document and same may be marked as--proved or that it is public document or certified copy etc.

.Ld counsel for the opposite party does not have any objection in exhibiting the document.(if any objection then the same should be noted as- exhibited with objection).

. Heard and perused.

.From perusal it appears that document filed on behalf of the palintiff/ defandant are public document/certified copy/ sufficiently proved, hence the follwing documets are marked as exhibit as follows in case of plaintiff / defendant :

Plaintiff

Defendant

(a).....-- Ext (1) (i/a, i/b)

Ex. (A), (A/1), (A/2)....

(b).....--- Ext. (2)

Ex. (B),

(Add as per number of documents)

.Put up for further evidence of Plaintiff evidence/ defandant evidence on.....

Order for Argument heard order XVIII rule 3-A

- Both parties take step and filed their Hazri .
- Ld. counsel for both sides are present.
- The case is fixed for addressing the arguments.
- The Ld. Counsel has for the defendant submitted that he has concluded recording of evidence and adduced all the necessary documents and therefore the Counsel is willing to adress the oral arguments.
- Heard the oral submissions / arguments of both sides.
- Ld. Counsel for the defendant argued the matter in detail on all points to counter the reliefs sought by the plaintiff.
- Ld. Counsel for the plainitff argued the matter in detail on all points in support of the reliefs sought for and replied all the issues raised by the defendant.

.The Ld. Counsel for both parties have also submitted that they are also willing to submit the written argument in support of their contentions.

.The same is hereby permitted but no adjournment shall be granted for the same. Both parties are directed to submit the written arguments consisely and under distinct headings.

.Put up on..... for pronouncement of final order / judgement.

Order for Judgement(XX)

- Both parties take step and filed their Hazri .
- Ld. counsel for both sides are present.
- The case is fixed for pronouncement of judgment.
- The judgment running in totalpages, is ready.
- The judgement has been pronounced on all issues in open Court. The issues are decided in favour/against plaintiff or the suit has been dismissed. Parties shall bear their own cost.
- (Operative portion of Judgement).
- O/c(suit clerk) is directed to preapre the Decree accordingly.
- Put upon submission of prepared decree by the suit clerk.
- (when the decree is prepared call for the objection from the parties and fix the date and
on the fix date sign it, if no objection filed)

Substitution Order-O XXII (within time)

- Both parties take step. Today the date is fixed for order on the petition datedfiled by the petitioner(generally plaintiff) namely..... u/o XXII Rule 3(death of any plaintiff)/ rule 4(death of nay defandant).....
- Rejoinder to the petition has been filed on behalf of respondent.
- Heard both the sides and perused the record.
- Ld. counsel for the petitioner submitted that the plaintiff/defendant no.... namely died on 01.01.2020 (imaginary) leaving behind his wife / husband and sons and daughters. It is further submitted that the above substitution petition is within time or, (as the information about the death has been received onfrom the defendant, therefore it is within the time from the knowledge as such- only in case of death of defendant), hence paryed for deleting the name of deceased party and substituting it with leagl heirs/legal representative(LRs) as:

1(a).....

1(b).....

- . On the other hand Id counsel for the respondent does not raise any objection to the petition.**
- . From aforesaid submission, it appears that the above substitution petition of dated..... is within time (from the date of death or, from the date of knowledge of death).**
- . Death certificate of the deceased plaintiff/ defendant has also been filed.**
- . Also, to add that the right to sue survives in favour of petitioners or against LR's of defendants. Hence, the above substitution petition is hereby allowed.**
- . The petitioner is to delete the name of deceased plaintiff/defendant namely.....from the array of the plaint/ WS and substitute their legal heirs accordingly.**
- .Put up onfor compliance.**

Substitution Order (with condonation petition) Order XXII Rule 3 or 4

- Both the parties are represented through lawyer. Today the date is fixed for order on the petition filed on behalf of the petitioner(plaintiff/ defendant) (under Order XXII rule 4 CPC r/w section 5 of the Limitation Act) or (Order XXII rule 3 r/w rule 9 r/w section 5 of the Limitation Act) for setting aside abatement order and substitution of legal heirs of deceased plaintiff/ defendant namelyand condonation of delay.
- The rejoinder has also been filed by the respondent dated...
- Heard both the sides and perused the record.
- It appears that the ground as mentioned in the limitation petition is genuine and the court is satisfied that there exists sufficient cause for not making the application within prescribed period. Hence, the delay is condoned and abatement order is set aside and the suit is restored in its original form as far as it relates to the petitioner.

- **Further it is apparent that the right to sue survives in favour of petitioners or against LRs of defendants. Hence, above substitution petition is hereby allowed.**
- **The plaintiff is/are directed to expunge(delete) the name of plaintiff/defendant namely from the array of the plaint and substitute their legal heirs accordingly.**
- **It is advisable to impose cost on the petitioner.**
- **Put up onfor compliance.**

Compromise order (order XXIII Rule 3)

.The parties are in attendance through their respective lawyer. The case is called out. On being called, the case record was put up before me.

.Perused the case record. From perusal of the case record, it appears that this case has been fixed today for submission of Shristadar Report on the joint compromise petition dated..... filed on behalf of the plaintiffs and the defendant and also for hearing on the same.

.Heard the learned counsel appearing on behalf of the plaintiffs as well as learned counsel appearing on behalf of the defendant on the compromise petition dated

. The learned counsel appearing on behalf of both the sides have submitted before the court that in the instant suit, the parties of the suit have settled their all the dispute, differences, and grievances whatsoever with the intervention of the well wisher and common friends of the parties out of the court and they do not want to proceed further with this case, rather they want to dispose of this case in terms of compromise.

.Perused the case record including the joint compromise petition.

.From perusal of the case record it appears that this Title suit has been filed on behalf of the plaintiffs Deba Prasad Chakarborty and others against the defendant Smt. Mina Mondal on..... for a decree inter alia for the declaration of title and also delivery of vacant possession thereof to the plaintiffs..

.Further, it also appears that in the instant case issues were not settled till date.

Further from perusal of the case record, it also appears that the joint

compromise petition filed on behalf of the plaintiffs and defendant, supported with an affidavit and duly signed by both the parties as reported by the Shristadar vide report dated.....

.Since both the parties of the suit do not want to continue with the litigation rather they want to dispose of this case on the basis of compromise petition filed by the parties. It is also stated in the petition that the suit has been adjusted fully by agreement. The agreement appears to be voluntarily and lawful in nature.

- . Hence, this suit is hereby decreed in terms of compromise. It is made clear that the compromise petition datedshall be the part of the decree.**
- . Accordingly this case is hereby disposed of in terms of compromise.**
- . Office is directed to prepare a decree accordingly.**

Amendment order (Just formal in nature) (filed before framing of issues)

.Both parties filed their respective haziri.

.A petition U/o 6 rule -17 r/w section 151 of the CPC supported with an affidavit has been filed on behalf of the plaintiff with a prayer that thehas been left / has been wrongly mentioned in the plaint which is essential to be corrected. The sought amendment is formal in nature and do not alter the nature and character of the suit. Hence, prayed that the amendment petition filed on behalf of the petitioner may be allowed.

.No objection has been raised against the prayer of the plaintiff by the defendant at the time of hearing/or (if objection is raised-mentioned the objections.....)

.Heard and perused the record

.

On perusal It appears that the amendment sought in the above noted petition is:

- 1) Formal in nature and it does not change nature and character of the suit.***
- 2) It will not cause irreparable injury to the opposite party. The loss caused may be compensated with cost.***
- 3) The mistake appears to be bona fide in nature.***
- 4) Further the petition is filed before framing of issues and it also appears that the proposed amendment is necessary for determining the real controversy in the suit.***

Under the aforesaid facts and circumstances and in the interest of justice, the amendment petition filed on behalf of the petitioner is hereby allowed on the cost of ₹....to be paid to the respondent.

The petitioner is directed to amend in the plaint accordingly within stipulated time.

Put up onfor necessary compliance.

Amendment order (Illustration based)

Both parties take steps.

The Ld. Counsel for both sides are present. The case record is fixed for order on the amendment petition.

ORDER

On the plaintiff filed and moved a petition u/o VI rule 17 C.P.C. and prayed that it is necessary for the plaintiff to amend the suit in the interest of justice and the suit is before pending for framing of issues. The amendment is quite formal and will not change the nature and character of the suit. Hence the following proposed amendments may be allowed :-

I) Court may be pleased and kind enough to allow the plaintiffs to write the following statements after end and closure of the whole statements made in para no. 1 in first line the digit 991 be deleted and in its place the digit 941 be insouted. 2) That in para no. 5 in para 19 in 4th line the digit 10441 be deleted and its place the digit 10411 be inserted. 3. That in the schedule of the suit land in 3rd line the digit “835” be deleted and its place “832” be inserted. (imaginary situation)

On the other hand on defendant has filed rejoinder while opposing the aforesaid move.

Heard the parties. Perused the entire records.

Let me take the provision of law enshriend in Order- VI Rule 17 :- Amendment of pleadings-

“The Court may be stage of the proceedings allow either paerty to alter or amend his pleadings in such manner and on such terms as may be just and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Provided that no application for amendment shall be allowed after the trial has commenced, unless the Court comes to the conclusion that in spite of due diligence, the party could not have raised the matter before the commencement of trial.”

It appears that this the suit for declaration of right, title and interest with confirmation of possession in the schedule A lands. *The stage of the case is-appearance of parties and before framing of issues.* The proposed amendment is appeared to be very formal in nature and is not going to affect the very nature and character of the suit. Rather the proposed amendment appears to be typographical mistake as the suggested documents number is the actual number with same persons but plaint showed different number which might have occurred due to typing mistake. To my mind by deleting and adding certain aforesaid facts and statements do not change the very nature of the suit; rather the proposed amendment is just and necessary to dispell the controversy and find the truth.

Therefore, in aforesaid facts and circumstances the petition for amendment is allowed.

Put up on for the appearance of defendants and filing of W.S.

Adjournment order (formal –without Cost)

- .Both parties filed their Haziri through their Id. Counsel.**
- .The case record is fixed for(mention stage other than recording
of evidence of plaintiff / defendant.)**
- .The plaintiff filed a time petition (with or without affidavit). Copy of the same is supplied to the opposite party. The petition has been moved and heard.**
- .It appears, that two adjournments have already been granted to the plaintiff/defendant and today the plaintiff / defendant has again filed a time petition. Today plaintiff/defendant has sought adjournment parying that he is sick (mention the reason) and the same is supported with affidavit. That the sufficient cause is shown in the said petition appears to be genuine. In aforesaid circumstnaces, the same is allowed without cost. The party is directed to produce/adduce evidence by next date failing which necessary order shall be passed.**
- .Put up onfor (mention stage).**

Adjournment order (formal –with Cost)

- .Both parties filed their Haziri through their Id. Counsel.**
- .The case record is fixed for(mention stage other than recording of evidence of plaintiff / defendant.)**
- .The plaintiff filed a time petition (with or without affidavit). Copy of the same is supplied to the opposite party. The petition has been moved and heard.**
- .It appears, that three adjournments have already been granted to the plaintiff/defendant and today the plaintiff / defendant has again filed a time petition. Today plaintiff/defendant has sought adjournment parying that he has been sick or any other reasonable ground (mention the reason) and the same is supported with**

affidavit. That the sufficient cause is shown in the said petition appears to be genuine. In aforesaid circumstances, the time petition is allowed but it is necessary to impose cost occasioned due to adjournment that caused delay in the proceedings.

.Hence, a cost of Rs. 300 / - to 500/- (suuggestive) is hereby imposed upon the petitioner. Out of Ruppes 500/-, Rs. 300/- be deposited to the DLSA, Giridih and Rs. 200/- will be given to the opposite party toowards expenses incurred in attending the matter.

.Put up onfor (mention stage).

Adjournment order (evidence stage and old case)

- .Both parties filed their Haziri through their Id. Counsel.**
- .The case record is fixed for recording of evidence of plaintiff / defendant.**
- .The plaintiff filed a time petition (with or without affidavit). Copy of the same is**
 - . supplied to the opposite party. The petition has been moved and heard. The opposite party raised objections.**
- .The petitioner has prayed that due to his continued poor health conditions, he could not produce witnesses before the Court. The petition is supported with affidavit and the medical report.**
- .Opposite party raised the objection by stating that the illness was not continued and he could have produced the witnesses earlier. This is done only to linger the case.**
- .Heard and perused.**

.The time petition submitted by the party appears to be genuine but since .it is a old case and need to be concluded on urgent basis. Therefore, the time petition is allowed but not without cost. Hence, a cost of Rs. 500/- to 800/- (suggestive)..... is hereby imposed upon the petitioner. Out of Ruppes 800/-, Rs. 500/- be deposited to the DLSA, Giridih and Rs. 300/- will be given to the opposite party toawards expenses incurred in attending the matter.

.Put up onfor recording evidence.

Setting aside Ex-parte decree **(U/O IX rule 13, 14)**

Step-1

- .A petition U/o IX rule 13 r/w section 151 of the CPC supported with an affidavit,**
- .has been filed on behalf of the petitioner namelywith a prayer to set aside the ex-parte judgment dt.and decree dt.passed by this court.**
- .The documents alongwith list have been filed on behalf of the petitioner. Let the same be kept with record.**
- . Register it in Misc Register. o/c to call for office report. put up onwith office report.**

Step-2

- .Attendance has been filed on behalf of the petitioner.**
- .Received the report from civil Shristedar with noting of filing the petition on time.**
- .Heard the Id. Advocate for the petitioner, on the point of admission of the case.**
- .Perused the case record and the report of the office.**

**.It appears that the present Misc. Case has been filed within time from the date of
knowledge of the suit bearing no.which have been disposed off against the petitioner
onby this court.**

**.Under the fact and circumstances the Misc. Case is hereby admitted for consideration of
passing the order of setting aside the ex-parte decree passed against the petitioner.**

.However, no order can be passed unless notice has been served upon the opposite party.

**. Put up onfor issuing of the notice to the opposite party, after filing of the
requisite of the notices, simultenuosly within seven days.**

Order seeking time to bring stay order

- . Both parties filed their Haziri through their Id. Counsel.**
- .The Ld. Counsel for plaintiff /defendent has submitted that the order passed by**
 - . this court on dated..... on the application moved by the party, has been challenged in the Hon'ble High Court while filing Revision. He also submitted the Revision no. And a certificate for the same.**
- .The Ld. Counsel for plaintiff / defendend (opposite party) has not raised any objection.**
- .In aforesaid circumstances the matter is adjourned till next date.{maximum 45 days(30+15)}.**
- .Put up on..... for receiving any order or direction from Hon'ble Court.**

Order in case of stay Granted

- . Both parties filed their Haziri through their Id. Counsel.**
- .Received the order pssed vide Misc. Appeal / Revision No.dated.....by**
- . Hon’ble High Court/ Respected Ld. Court. The Hon’ble Court has been pleased to grant stay in the ongoing hearing of the suit till further order. The operative paragraph of the said order is hereby incorporated “.....”**
- . The Bench Clerk is directed to flag the order of stay with displaying about the stay on it.**
- . Put up on ...for receving further direction.**

U/o IX R-4 (Restoration of suit filed)

Step-1

**.The present Misc. Case supported with an affidavit has been filed on behalf of the
.petitioner namelyU/o IX R- 4 r/w section 151 of the CPC. ,for an order to setting
aside the dismissal of order.**

.Enter in the Misc. Register/ Register it.

.

.Put up onwith office /Sharistedar report.

Step2

- .Attendance filed on behalf of the petitioner.**
- .The Id. Advocate for the petitioner is present.**
- .Shristedar report has been received. It has been submitted that the**
- .petition is on time and in proper order.**
- .Perused the case record and the sbmitted report.**
- .In aforesaid circumstances the Misc. Case is hereby admitted.**
- . Put up onfor evidence. The petitioner is directed to adduce his witnesses.**

U/o 9 R-9 (Restoration of suit)

Step-1

- .The present Misc. Case supported with an affidavit has been filed on behalf**
- .of the petitioner namelyU/o 9 R-9 r/w section 151 of the CPC., for an order to setting aside the dismissal of order passed U/o 9 R-8**
- .Enter in the Misc. Register/ Register it.**
- . Put up onwith office /Sharistedar report.**

Step2

- .Attendance filed on behalf of the petitioner.**
- .The Id. Advocate for the petitioner is present.**
- .Saristedar report has been received. It has been submitted that the petition is on time and in proper order.**
- .Perused the case record and the sbmitted report.**
- .In aforesaid circumstances the Misc. Case is hereby admitted for consideration.**
- . Before any order shall be made Under this rule, the notice of the application must be served to the opposite party. Therefore, the petitioner must file the proper requisite to issue the notice to the opposite party for filing the reply / Show cause.**
- . Put up onfor appearance of opposite party and submission of show cause.**

Struck off order (U/o 11)

Both parties take step.

Id. Counsel for both parties also present. The case record is fixed for order on the petition U/o XI rule 15.

ORDER

On the plaintiff filed and moved a petition u/o XI rule 15 R/W 151 C.P.C. and made following prayer -

I. The defendant appeared and filed W.S. on and he relied on several documents and therefore such documents require to be inspected by plaintiff.

II. In the para 10 & 11 of the W.S. the defendant referred as many as six documents including final order for acquisition of the land and Govt. Notification published in Bihar Gazzette which are essential for inspection.

III. The defendant did not file those documents despite the mandatory provision u/o VIII rule 1A of C.P.C.

Therefore it is necessary for the plaintiff to make inspection of the same properly, hence the plaintiff hereby serving the notice upon defendant to produce all documents referred in W.S. failing which the defendant shall be precluded from filing later on. The plaintiff also attached the notice and the same has been received by the defendant on the

On the other hand the defendant filed rejoinder on while opposing the aforesaid prayer-

A. that the defendant said that the all relevant documents were kept in the head office of Kolkata and same will be produced at the time of filing of documents.

B. It has been also said that the plaintiff is in the habit of filing civil cases on similar grounds and therefore plaintiff can not take advantage of wrong of defendant and he has to stand on his own case and petition must be rejected.

Further on the plaintiff filed another petition with prayer that despite notice served upon the defendant, no any documents has been submitted for inspection so far. It has been also prayed that as per provision of order XI rule 17 the defendants has to file the documents for inspection within 10 days but same has not been complied with and today being the last date to file such documents, the defendants only filed the time petition. Finally the plaintiff prayed that the defendant's defence may kindly be struck off for non compliance of the mandatory provision for producing documents by the defendant for inspection within ten days from the receipt of the notice.

**On the other hands the plaintiff also filed and another rejoinder on
against the aforesaid move by plaintiff while mentioning that the aforesaid prayer by plaintiff is
against the sprit of u/o XI rule 17 and 21 of C.P.C. and therefore plaintiff can not rely on the
documents of defendants.**

Heard the parites. Perused the case record including the petitions and rejoinders.

**It appears that the provisions of rule 15 to 17 and rule 21 of Order XI
(Discovery and Inspection) requires discussion.**

Order XI rule 15 – *It mandates – Inspection of documents referred to in pleadings or affidavits*- every party shall be entitle to give notice to other party to produce such documents for inspection if that party made reference to such documents in the pleadings. The notice is required to produce such documents as per form No. 7 in Appendix-C (Rule 16).

Order XI Rule 17-*Time for Inspection when notice given* -The party to whom the notice was given shall within ten days from the receipt of such notice deliver the documents for inspection. Now the matter in issue is whether or not the aforsaid mandatary provision is complied with.

The stage of the case – before the settlemen of issues. It is true that defendant in its W.S. mentioned about six documents possessed by it. It is also true that such documents referred by defendant are in need of inspection as prayed for by plaintiff. As per the facts emerged the notice for inspection of documents was served by plaintiff and same has been received by the Ld. Counsel of defendant on It is also a matter of record that defendant did not deliver such documents to the plaintiff on or before- within TEN days and even till date same has not been produced and delivered by the defendant.

**In aforesaid background the consequences for failure to comply
the aforesaid provision are discussed in the provision below mentioned--**

**Order XI Rule 21-*Non compliance with order for discovery* -It mandates that
Where the defendant fails to comply the aforesaid provision then his defence
shall be struck out.**

**The defendant failed to explain any plausible reason as to why it could not
delivered the documents despite receiving notice. As per version of defendant,
the documents are kept in the head office of Kolkata but same has not been
brought as yet.**

In aforesaid circumstance, keeping in view the mandates of law- it is believed and ordered that the defendant's defence be struck out and Defendant shall not afterwards be at liberty to put such document in evidence.

Put up on for hearing on the issues. Parties may file proposed issues.

MODEL ORDER SHEET OF EXECUTION CASE(STAGE WISE)

| Sr no | Stage | |
|--------------|---|--|
| 1. | Institution | |
| 2. | Office report | |
| 3. | Admission | |
| 4. | Appearance of J.Drs/ for filing requisite | |
| 5. | Show cause | |
| 6. | Hearing | |
| 7. | For filing writ of D.P | |
| 8. | Seristedar report on writ of D.P | |
| 9. | Depositing cost of Nazir, drummer and process server | |
| 10. | Depositing cost of Police Force and Executive Magistrate as well as survey knowing commissioner fee, if any | |
| 11. | For issuance of writ of D.P | |
| 12. | Awaiting Nazir report on writ of D.P | |
| 13. | Nazir report on writ of D.P | |
| 14. | Disposal order | |

1. Institution:- (order XXI Rule 10-14)

**.An application for the execution of decree has been filed by the decree Holder(D.Hr)
.supported with affidavit alongwith vakalatnama. It must also fulfill the conditions
.mentioned under rule 11,12,13,14 (for example details of property to be attached,
.if crops date of its harvesting,). D.Hr has also filed certified copy of judgment and
Decree in OS /passed by the Ld.Court ofon.....(date of judgment) and
signed the decree on..... (date of decree).**

.O/c to call for the civil shristedar report.

.Put up on date for office report.

2. Office report and Admission(order XXI Rule 17)

.D.Hr has filed attendance through lawyer.

.Received the office report.

.Shristedar has submitted that this Execution application has been filed on.....on behalf of

.D.Hr for execution of Decree passed in O.S.....D.Hr has filed certified copy of decree passed in

.T.S..... which shows that the decree was signed and sealed on

.Perused the case record and seristedar report.

.From perusal the same it appears that this execution petition filed by D.Hr is within time and

. fulfill all the conditions required under rule 11 to 14 of order XXI. Considering above facts and circumstance the execution petition filed by D.Hr is hereby admitted.

.D.Hr is directed to file necessary requisite and talwana for appearance of J.Drs. (Judgment debtor)

3. Appearance of J. Dr. and submission of show cause(order XXI Rule 22)

.J.Drs appeared and filed their show cause/reply/objections alongwith fresh Vakalatnama. The same has already been supplied to the decree holder.

.Put up onfor hearing.

4. Hearing (order XXI rule 23 and 24)

.Both parties take step. Attendance has been also filed by Dr. H and

.J. Dr. through their Ld. Counsels.

.Heard the Ld. Lawyer for both the parties.

.As per available documents, there is no any stay on execution of decree(stay rule 26). There is nothing material in the show casue / reply which may require further hearing. Therefore, the decree is executable in the eyes of law. Let the fruits of Decree be enjoyed. Hence, let the order of issuing writ of delivery of possession(D.P.) be passed.

.Put up onfor filing writ of D.P.

5. D.Hr has filed writ of D.P.

.D. Hr. takes step and files duly filled writ of D.P.

.(as per prescribed format)

.O/C is directed to call for shristedar report on writ of D.P.

.Put up onfor the said report.

6. Shristedar report on writ of D.P

.The report of seristedar on D.P. is received / obtained.

**.Perused the seristedar report on writ of D.P as well as execution
.petition. It appears that, Seristedar has reported the writ of D.P.
has been compared with Decree and the same is found in order.**

**.Put up on for depositing Nazir cost, process server cost and
drummer cost, to be paid by the decree holder.**

7. Depositing cost of Nazir etc.

D.Hr has deposited Nazir cost, process server cost and drummer cost vide Nazarat receipt no..... dt..... (If required , the cost of appointment of survey knowing commissioner be also deposited)

8. Depositing cost of Police force and Executive Magistrate

- .The execution report of writ of DP has been received. It is reported that the delivery of possession in favour of Dr. H could not be provided and there is chance of breach of peace and hence, there is need of deploying of police force and local Executive Magistrate.**
- .Perused the report. The Dr. H is ready to deposit the cost for the same.**
- . The report has been received from the Police Administration and District Administration regarding the cost of deploying police force and Executive Magistrate.**
- .Dr. H has also deposited one day salary of Police force and one day salary of Executive Magistrate cost vide receipt no.....dt..... as per the report of administration.**
- .The Executing Clerk is directed to issue the fresh Writ of DP.**
- . Put up onexecution report of D.P. from Najir.**

9. Nazir report on writ of D.P

Nazir's report on writ of D.P is obtained. Nazir has submitted report on writ of D.P with endroisement that he alongwith drummer, process server and police force and Executive Magistrate reached on the spot as mentioned in schedule of writ of D.P. He compared the schedule of writ of D.P. as per decee and found correct. Thereafter by digging flag and by beating the drum, delivery of possession was given to D.Hr and obtained his / her signature in presence of Ex. M. and L.T.I / Signatures of witnesses were also obtained.

Put up onfor hearing on Nazir's report.

10. Hearing on Nazir report , parties on writ of D.P

Attendance has been filed on behalf of both parties. The Decree holder has filed his affidavit mentioning therein that the decree has been executed in its full satisfaction. So the execution process be noted as disposed off.

11. Final order

- .Perused Nazir's report and the affidavit submitted by decree holder.**
- .No objection has been raised by the any party.**
- .Heard Ld. Counsel for Dr. H.**
- .In the light of aforesaid submissions the decree has been properly**
- .executed with full**
- .satisfaction. The execution process is completed .**
- .The Case in hand, and all matters are**
- .hereby disposed off.**
- .OC to deposit the case record.**

List of misc. Civil application

As per order no. 206/17 issued from the office of
respected Pr. Dist. & Sessions Judge, Giridih – a
direction for filing below mentioned interlocutory
applications in the establishments (Civil Judge Senior
Division and Junior Division Establishments) in CIS
under the headings as Misc. Civil Applications through
Centralised Filing Centre only :-

Misc. Civil Application

Injunction Petition U/O XXXIX Rule 1 & 2 of CPC

Amendment Petition U/O VI Rule 17 of CPC

Petition U/O I Rule 10 of CPC for adding/altering parties

Petition for appointment of Receiver

Petition for appointment of Commission

Petition for objection against Execution proceeding U/S 47 CPC

Petition for objection in Execution U/O XXI Rule 97 and 99 of CPC

Petition U/O VII Rule 11 of CPC Rejection of plaint

Petition for objection U/O XXXII Rule 3A or Objection U/O XXXII Rule 15.

THANK YOU