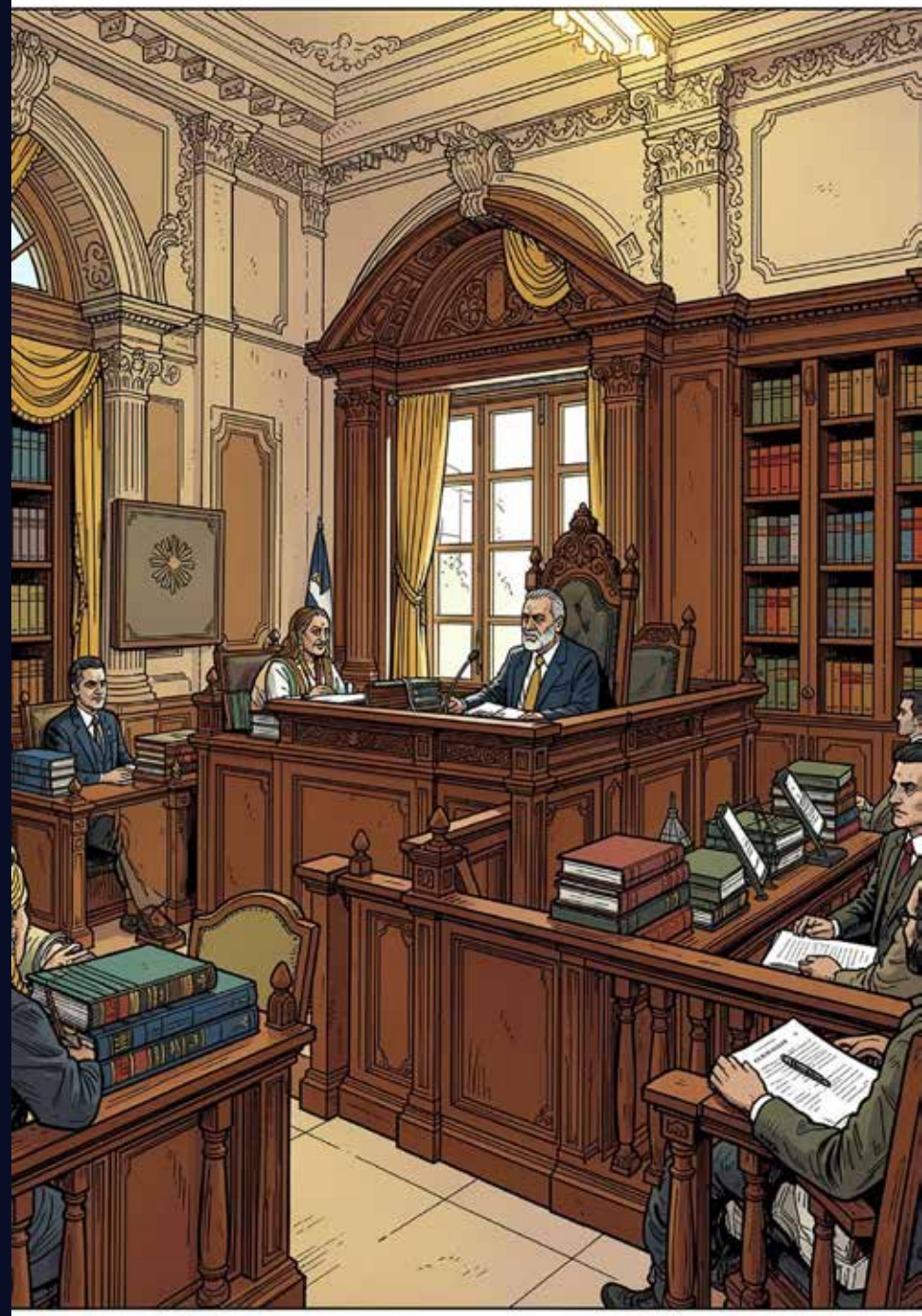
Trial of Civil Cases with Limitation and Injunction

Presented by: **Mr. Ashok Priyadarshi**, Advocate
A Product of Radha Raman Memorial Foundation for Legal Studies

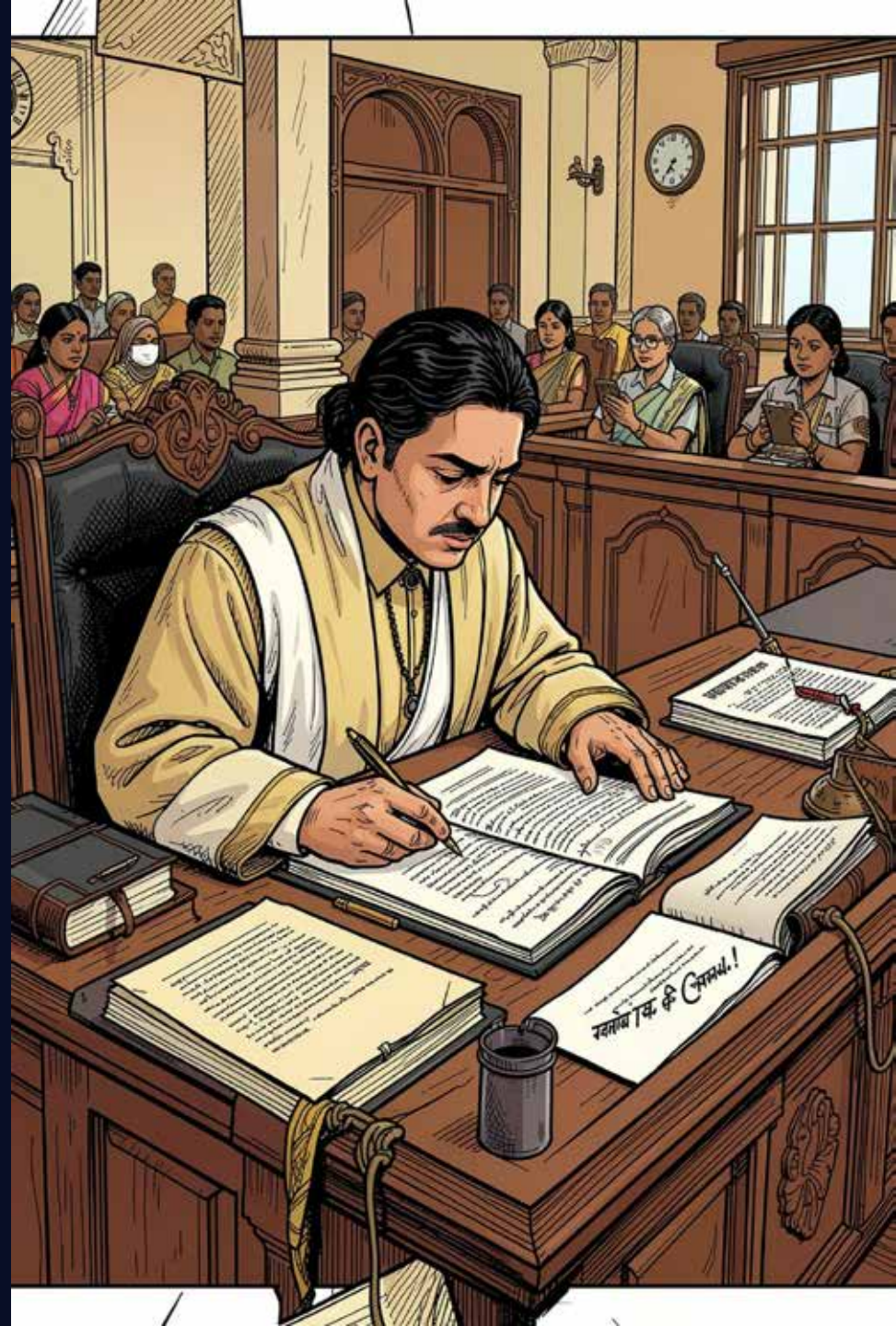


Object of a Judicial Trial

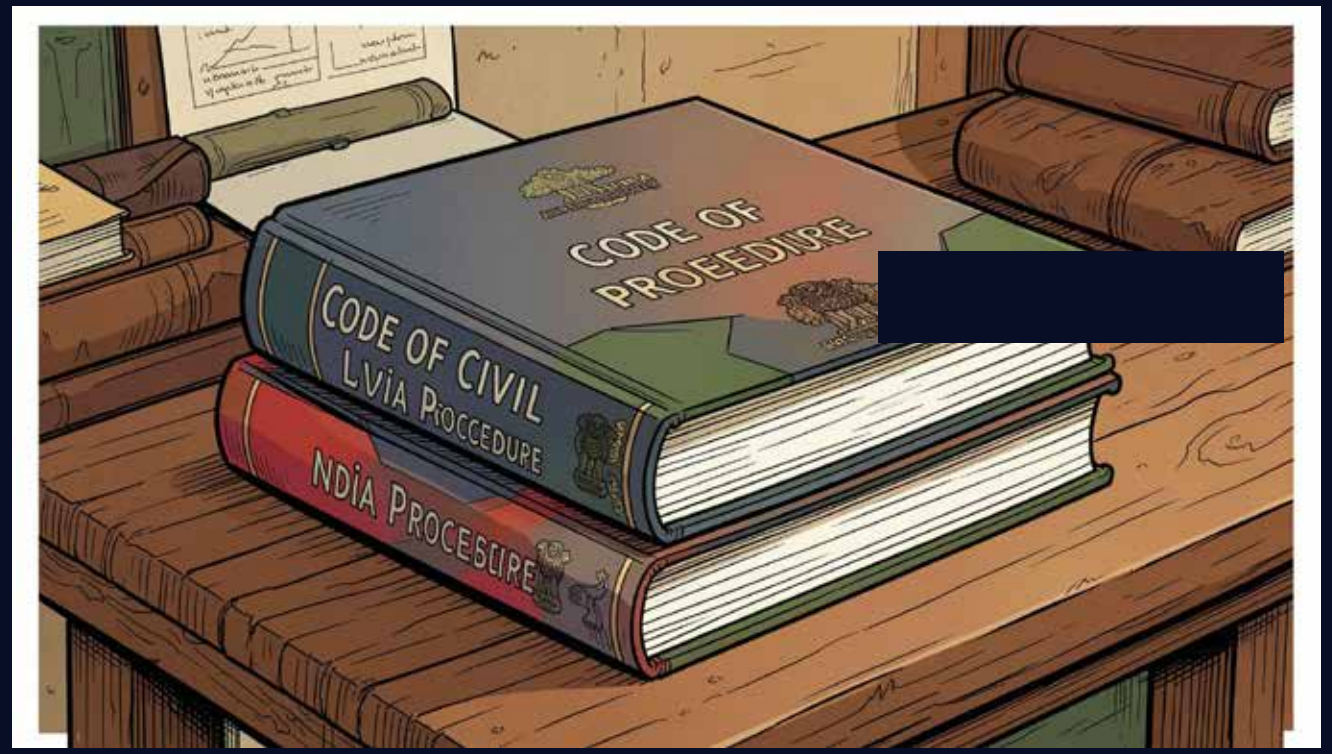
The Supreme Court holds that a trial must give parties an opportunity to present their cases, ascertain facts through evidence, and end in a **reasoned judgment** applying law to facts found.

- Pleadings
- Issues
- Admissible Evidence
- Applicable Law

Governed by: CPC, 1908 · Bharatiya Sakshya Adhiniyam, 2023 · Limitation Act, 1963 · Specific Relief Act, 1963 · Transfer of Property Act, 1882 · Indian Contract Act, 1872 · Registration Act, 1908 · Court Fees & applicable State laws.



Structure of the Code of Civil Procedure



Two-Part Structure

Sections 1–158: Confer substantive powers on the Judge to deal with civil cases.

Schedule (Orders 1–51): Specify how those powers are to be exercised in practice.

A Civil Court is a body established by law for administration of justice. Which court qualifies depends on the text and context of the statute. *Nahar Indl. Enterprises Ltd. v. Hong Kong & Shanghai Banking Corpn.*, AIR 2009 SC (Supp) 2474

Institution of the Suit

Before proceeding, the Court must examine four jurisdictional thresholds:

1

Subject-Matter Jurisdiction

Whether the Court has jurisdiction under Section 9 CPC or it is expressly/impliedly barred.

2

Territorial Jurisdiction

Governed by Sections 15–20 CPC.

3

Pecuniary Jurisdiction

Whether the suit valuation falls within the Court's pecuniary limits.

4

Statutory Jurisdiction

Special statutes may confer exclusive jurisdiction upon particular forums.

Suits in General —Section 9, CPC

> *"There is an inherent right in every person to bring a suit of a civil nature and unless the suit is barred by statute one may, at one's peril, bring a suit of one's choice…A suit for its maintainability requires no authority of law and it is enough that no statute bars the suit*
> **Ganga Bai v. Vijai Kumar**, AIR 1974 SC 1126

Explanation I

A suit contesting the right to property or office is civil in nature, even if it depends on religious rites or ceremonies. ***Syed Mohammed Ghouse Pasha Khadri v. Syed Mohammed Adil Pasha Khadri*** (2026) INSC 314

Explanation II

It is immaterial whether fees are attached to the office or whether the office is attached to a particular place.

Jurisdiction of Court — Key Principles

Equity Subject to Law

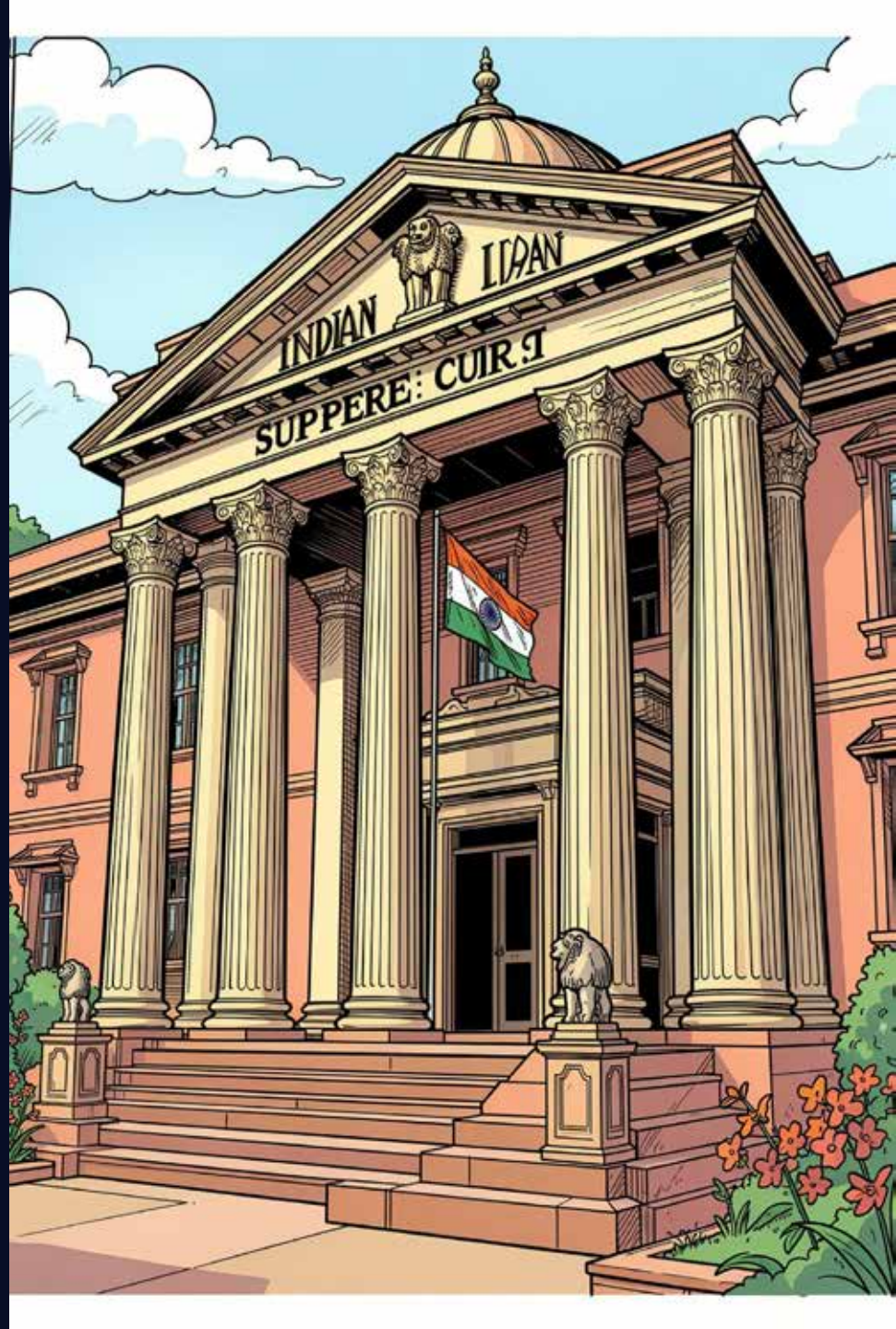
Courts exercise equity jurisdiction, but always subject to statutory provisions. *Shiv Kumar Sharma v. Santosh Kumari*, AIR 2008 SC 171

Exclusion Must Be Express or Implied

Civil Court jurisdiction under a statute can be excluded only when cognizance is expressly or impliedly barred. *Dayaram v. Sudhir Batham*, 2011 AIR SCW 6781

Maintainability Plea — First Instance

Must be raised in the written statement; adjudicated as a preliminary issue under Order 14 Rule 2 CPC. *A. Kanthamani v. Nasreen Ahmed*, AIR 2017 SC 1236



CIVIL PROCEDURE CODE

When Courts Must Not Decree a Premature Suit

Under the Code of Civil Procedure, judicial discretion has limits. A court **shall not** decree a premature suit when a statute bars it, when public policy would be defeated, or when the institution is patently void —going to the root of jurisdiction.

JURISDICTION

Ouster of Civil Court Jurisdiction

Heavy Burden of Proof

The party asserting ouster of civil court jurisdiction bears a heavy burden. The court will not lightly infer that jurisdiction has been excluded in favour of another forum.

Mahant Dooj Das v. Udasin Panchayati Bara Akhara, 2008 AIR SCW 3651

Suit Not an Abuse of Process

A suit initiated per law cannot be termed an abuse merely because it may cause hardship or be ultimately rejected. Provisions on costs and security suffice — Section 151 cannot be invoked on "ends of justice" grounds.

Vinod Seth v. Devinder Bajaj, 2010 AIR SCW 4860

Bar to Civil Court's Jurisdiction

JURISDICTION

Plaint as the Starting Point

A plea of bar to jurisdiction must be assessed having regard to the **contentions in the plaint**. Averments disclosing cause of action and reliefs sought must be considered **in their entirety**.

Church of North India v. Lavajibhai Ratanjibhai, AIR 2005 SC 2544

Tenant Recovery Suits

A suit for recovery of possession by a tenant is **neither expressly nor impliedly barred** —the civil court retains jurisdiction to entertain such a suit.

Amina Beevi v. Thachi, AIR 2011 SC 244

PARTIES

Impleadment of Parties

Where a plaintiff seeks to implead persons likely to be **adversely affected** by the suit's outcome, justice demands allowing such impleadment — ensuring affected parties are aware of proceedings and may defend themselves.

Robin Ramjibhai Patel v. Anandibai Rama

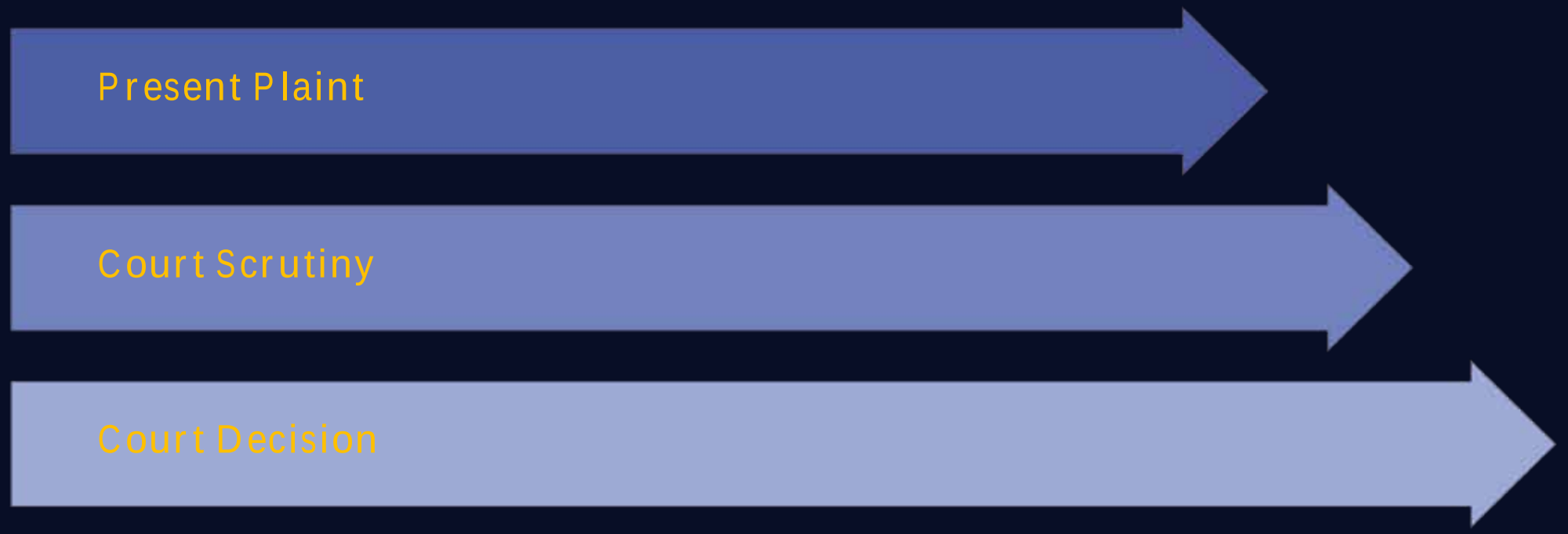
(2017) SCCR 14

Kasturi v. Iyyamperumal

(2005) 6 SCC 733

PROCEDURE

Steps in a Suit



Every suit commences with the **presentation of a plaint** to the court or its appointed officer — personally, through an authorised representative, or by an advocate. The court may **accept, reject, or return** the plaint.

ORDER VII RULE 11

Grounds for Rejection of Plaint

M/S. Marg Limited v. Sushil Lalwani, 2026 INSC 402 — the Supreme Court distilled the following principles:

01

Object

Prevent frivolous litigation from occupying judicial time.

02

The Test

Do plaint averments, read with documents, yield a decree? Written statement pleas are irrelevant.

03

Holistic Reading

Cause of action is a factual question — read the plaint as a whole, not in isolation. **AIR 2020 SUPREME COURT 2721**

04

Prima Facie Standard

If cause of action appears prima facie, the court cannot enquire into correctness of averments.

05

Mandatory Exercise

Court must ascertain whether cause of action is real or merely illusory.

06

Any Stage

Power under Order VII Rule 11 may be exercised at any stage of the suit.

ORDER VII RULE 11

Key Principles on Order VII Rule 11

Election of Remedies

After choosing one remedy, the plaintiff cannot avail another for the **same relief on the same cause of action**.

State of Rajasthan v. Union of India, (2017) SCCR 39

Plaint as a Whole

If the entire plaint falls under Order VII Rule 11, it must be rejected — the court cannot proceed with trial without disposing of the petition.

(2016) SCCR 739

Plaintiff's Pleadings Only

The court examines only the plaintiff's pleadings — not the defendant's rebuttal or materials — to determine cause of action.

Kuldeep Singh Pathania v. Bikram Singh Jaryal, AIR 2017 SC 593

ORDER V

Summons to Defendants

30-Day Rule

Post-2002 amendment, summons must be served **within 30 days** of suit institution. Appearance date must be specified.

Copy of Plaint Mandatory

Every summons must be accompanied by a **copy of the plaint**. Without it, the defendant cannot file a written statement.

Nahar Enterprises v. Hyderabad Allwyn Ltd., (2007) 9 SCC 466

Document Production

Summons must order the defendant to produce all documents relied upon in support of their case.

Made with GAMMA

ORDER V

Service of Summons

Governed by **Sections 27–29 and Order V CPC**, amended in 2002 to incorporate modern methods. Expenses borne by the plaintiff.

Registered Post Presumption

Where summons is properly addressed, prepaid, and sent by registered post — if acknowledgement is not returned within **30 days**, service is presumed duly effected.

P.T. Thomas v. Jacob, AIR 2005 SC 3575; 2025 INSC 859

Substituted Service

Under **Order V Rules 17, 19, 19A and 20**, the court has wide discretion to direct service in such manner as it thinks fit when ordinary service fails.

PROCEDURE

Plaintiff-Effected Service & Consequences of Non-Appearance

Order V Rule 9A(2)

Court may permit plaintiff to effect service. If returned refused, court serves under Rule 9A(4).

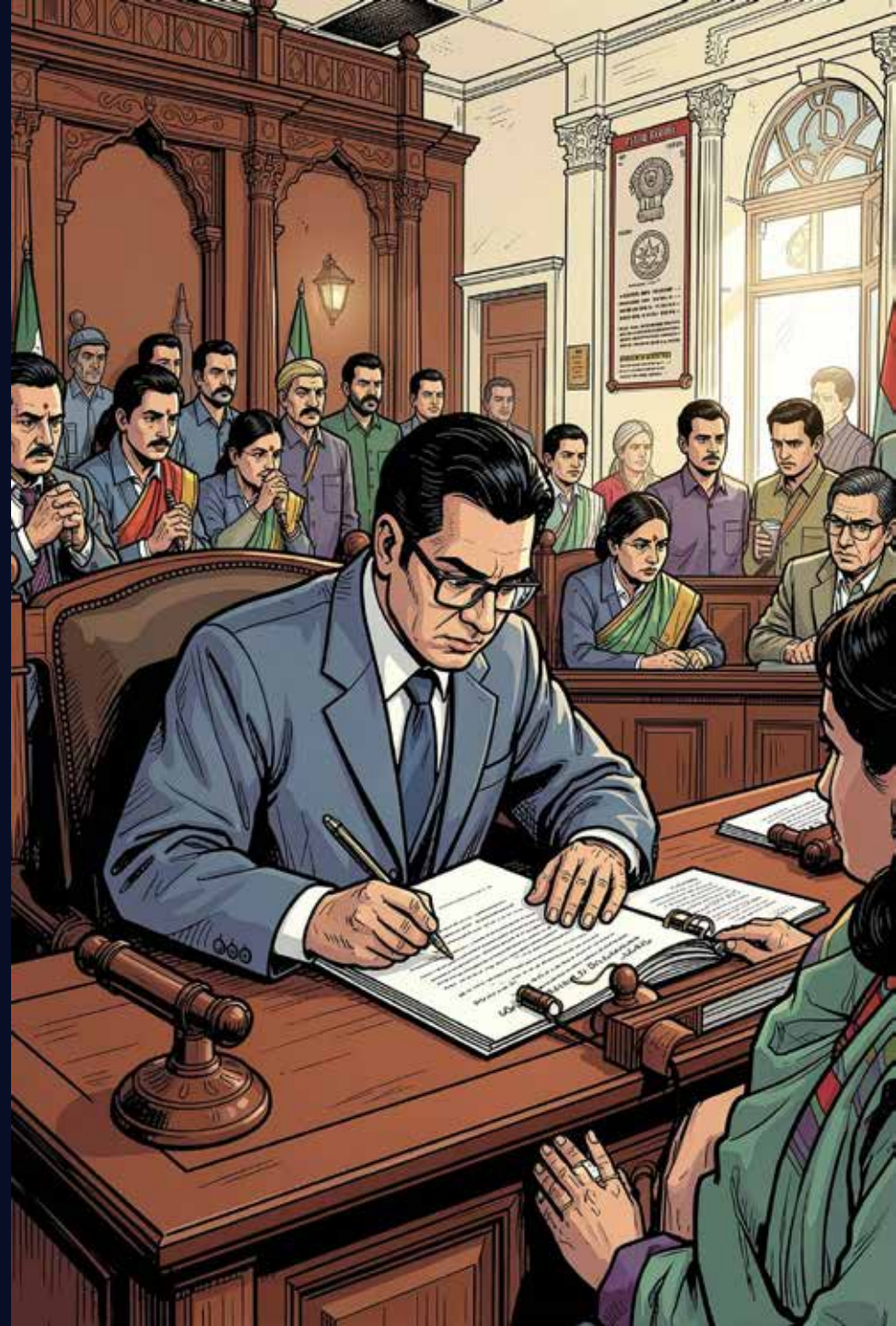
Order IX Rule 2

If summons duly served and defendant fails to appear, court may proceed *ex parte*.

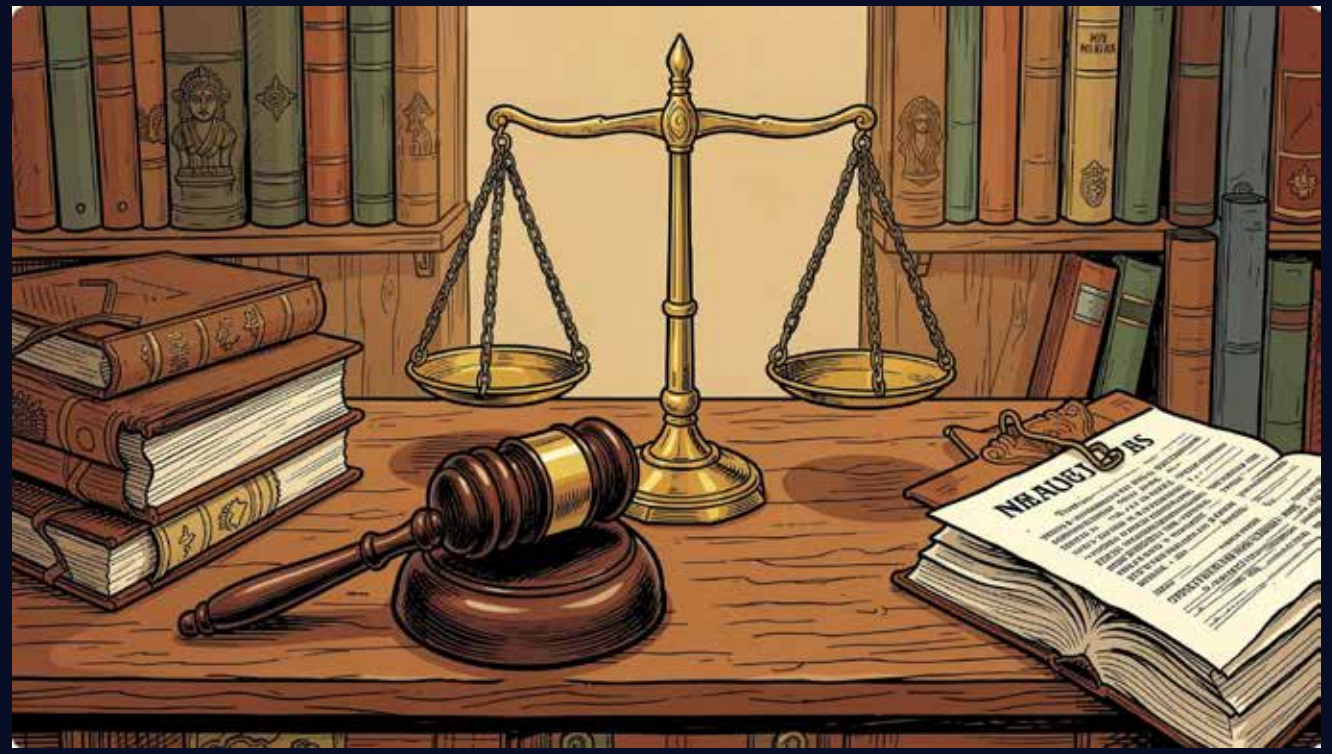
Order IX Rule 6

If summons not served due to plaintiff's default, court may order fresh summons or dismiss the suit.

Key Takeaway: Strict adherence to summons and pleading rules is essential — procedural lapses can result in dismissal or ex parte proceedings.



Presumption in Favour of Jurisdiction



The General Rule

Civil Courts have jurisdiction to try all suits of civil nature except those expressly or impliedly excluded under Section 9 CPC. **Such exclusion is not readily inferred** — the presumption favours existence of jurisdiction.

***Official Trustee, West Bengal v. Sachindra Nath Chatterji*, AIR 1969 SC 823**

Scope of Power

The Court may enquire into facts, apply law, pronounce judgment, and carry it into execution. ***Ujjain Bai v. State of U.P.*, AIR 1962 SC 1621**

Courts Before Admission —Checklist

Every suit must satisfy these threshold requirements before it proceeds to trial:

01

Civil Nature

Is the dispute civil in nature?

02

Jurisdiction Not Barred

Is jurisdiction expressly barred? Is there an alternative statutory forum?

03

Valuation & Court Fee

Is the suit properly valued and requisite court fee paid?

04

Limitation

Is the suit within the period of limitation?

05

Proper Institution & Parties

Is the suit properly instituted with all necessary parties before the Court?

06

Cause of Action

Does the plaint disclose a cause of action?

Territorial Jurisdiction & Key Principles

Section 19 CPC — Wrong to Person or Movable Property

If the wrong occurred within one Court's jurisdiction and the defendant resides/works in another, the **plaintiff may choose either Court**. The defendant cannot challenge this choice.

Shaji Verghese v. Bishop Vincent Barwa, AIR 2014 (2) BBCJ 469; *Harshad Chiman Lal Modi v. D.L.F. Universal Ltd.*, AIR 2005 SC 4446

Three Cardinal Rules

- **No jurisdiction → return, not dismiss:** Return suit for presentation to the proper Court. ***R.S.D.V. Finance Co. v. Shree Vallabh Glass Works*, AIR 1993 SC 2094**
- **Consent cannot create jurisdiction** where none exists. ***Jagmittar Sain Bhagat v. Dir., Health Services*, AIR 2013 SC 3060**
- **Waiver cannot oust jurisdiction** — consent, acquiescence, or estoppel cannot take it away. *Hira Lal Patni v. Sri Kali Nath*, AIR 1962 SC

Exclusion of Jurisdiction & Conclusion

Not Readily Inferred

Even if a statute grants finality to a tribunal's order, courts must examine whether the tribunal can grant relief normally available from a Civil Court. *Ramesh Gobindram v. Sugra Humayun Mirza Wakf*, AIR 2010 SC 2897

Return of Plaint — Order 7 Rule 10 CPC

If the Court lacks jurisdiction, it must **return the plaint** for presentation to the proper Court — not dismiss the suit.
***Dhulabhai v. State of M.P.*, AIR 1969 SC 78**

Summary — Trial of Civil Cases

- Examine jurisdiction before admission
- Presumption favours Civil Court jurisdiction
- Exclusion must be express or implied
- Return plaint if no jurisdiction — do not dismiss
- Consent or waiver cannot create or oust jurisdiction
- Trial ends in a reasoned judgment on pleadings, issues, evidence, and law

ORDER 8, CPC

What a Written Statement Must Address

Order 8 governs the written statement. The defendant must specifically admit or deny each allegation — failure amounts to **admission**.

Preliminary Objections

Maintainability, jurisdiction, limitation

Denials & Admissions

Specific denial required; general denial demands proof

Defences

Fraud, misrepresentation, estoppel, res judicata, waiver

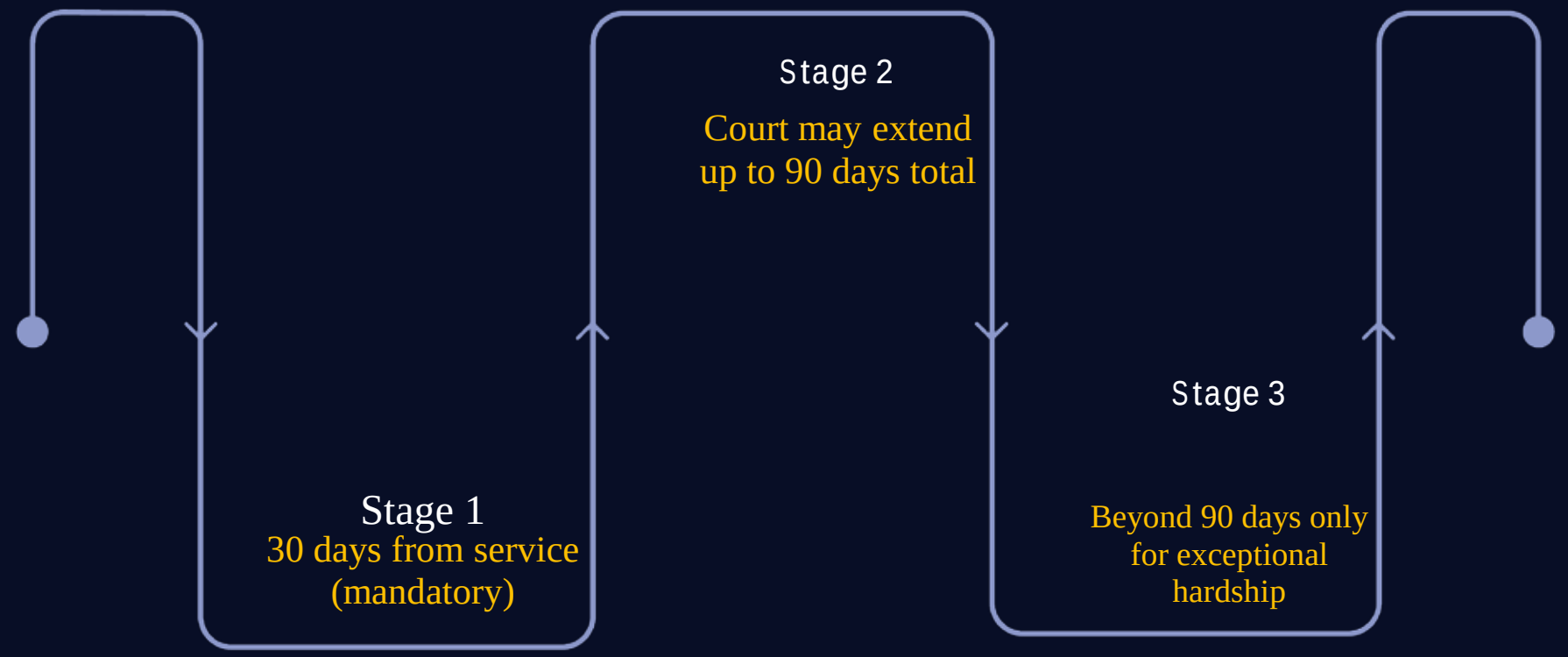
Counter-Claim

Set-off and counter-claim may be pleaded

Key Cases: *Dumtibai v. Paras Finance* (2007) 10 SCC 82; *FCI v. Yadav Engineer* AIR 1982 SC 1302; *Jaspal Kaur Cheema v. Industrial Trade Links* AIR 2017 SC 3995

ORDER 8, RULE 1

Time Limits for Filing Written Statement



The 90-day outer limit is **directory, not mandatory** — courts may accept late filings in exceptional cases, but extensions must not be routine.

Key Cases: *Salem Advocate Bar Assn. v. Union of India* AIR 2005 SC 3353; *Zolba v. Keshao* AIR 2008 SC 2099; *(2024) 4 SCC 696*

SECTION 148, CPC

Enlargement of Time

Under Section 148, the Court may enlarge any fixed period by up to **30 days in total**, even after expiry — provided the delay is **bona fide** and not due to negligence.

Condition 1

A period must have been fixed by the Court

Condition 2

The period must relate to an act prescribed or allowed by the Code

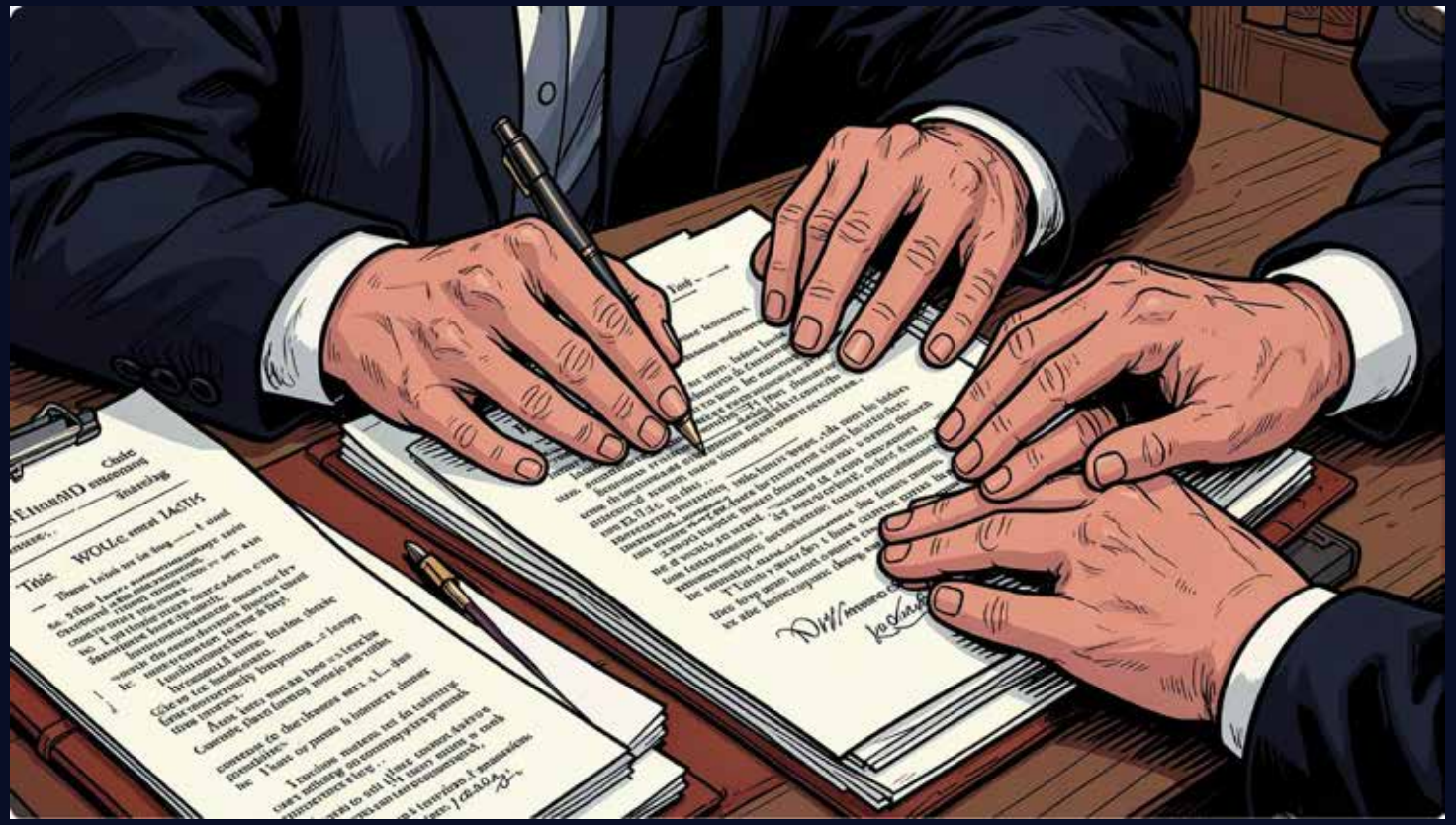
Discretionary Power

Even expired periods may be extended if delay is bona fide

Mahanth Ram Das v. Ganga Das AIR 1961 SC 882; *D.V. Paul v. Manisha Lalwani* AIR 2010 SC 3356

ORDER 11, RULE 15

Inspection of Documents



After summons are served, the defendant must scrutinise the plaint and all annexures before filing the written statement.

- If annexures are not supplied, issue notice to the plaintiff to produce them for inspection
- Inspection enables the defendant to respond with full knowledge of the documentary record
- This step is critical for identifying discrepancies and preparing a robust defence

AMENDMENT OF PLEADINGS

Amending the Plaint or Written Statement

Amendments may be sought at any stage, but **after trial commences**, only if the party shows due diligence.

1. **File Petition**
   Plaintiff or defendant may apply to amend pleadings
2. **Court Scrutiny**
   Amendment must not introduce a new cause of action
3. **Costs & Prejudice**
   Opposite party compensated by costs if prejudiced

Key Cases: *Sushil Kumar Jha v. Manoj Kumar* AIR 2009 SC 2544; *Rajkumar v. Dipendar Kumar*; *Bollepanda P. Poonacha v. K.M. Madapa* (2008) 13 SCC 179; *(2019) 13 SCC 342*; *Mondira Ghosh v. Chaitali Ghosh* 2026 INSC 545

ORDER 14, CPC

Framing of Issues

Issues are the **points in controversy** — the questions the Court must decide. The Court is duty-bound to frame them; parties must assist.

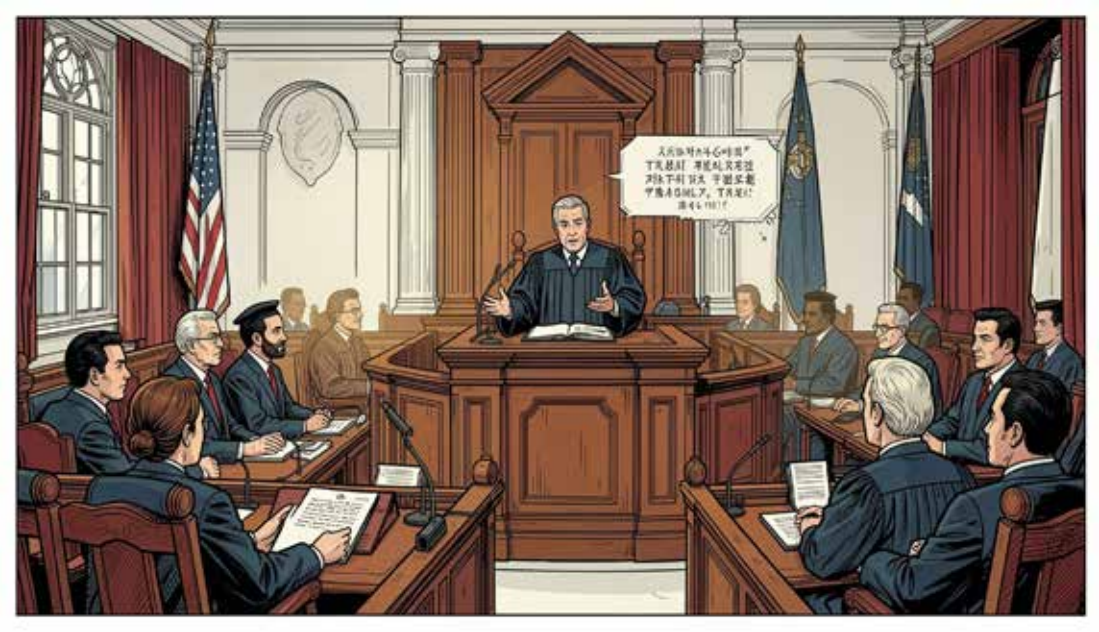
- **Issue of Fact** — disputed allegations requiring evidence
- **Issue of Law** — legal questions for the Court's determination
- **Mixed Issues** — combining factual and legal elements

Issues must not overlap. Jurisdiction or maintainability may be decided first, keeping others in abeyance.

Ajay Mohan v. H.N. Rai AIR 2008 SC 804; *Dugar Electronics v. Collector* AIR 2003 SC 716; *Mathura Prasad v. Dossibai* AIR 1971 SC 2355; AIR 2025 SC 5098

ORDER 10, CPC

First Hearing & Examination of Parties



At the first hearing, the Court to examine parties to ascertain admitted and denied facts, then directs them towards settlement.

Examination

Identify admitted and denied facts; parties may be examined in person

Postponement

If a party cannot answer, hearing postponed max **7 days**; personal appearance directed

ADR Referral

Parties directed to opt for arbitration, conciliation, Lok Adalat, or mediation

SETTLEMENT & ADR

Settlement & Adjournments

If parties agree on settlement, the Court records it. If not, issues are framed and the suit proceeds to trial.

Adjournments

Not more than **3** per party; costs may be imposed

Ex Parte Proceedings

If a party absent, Court may proceed ex parte or adjourn

Setting Aside

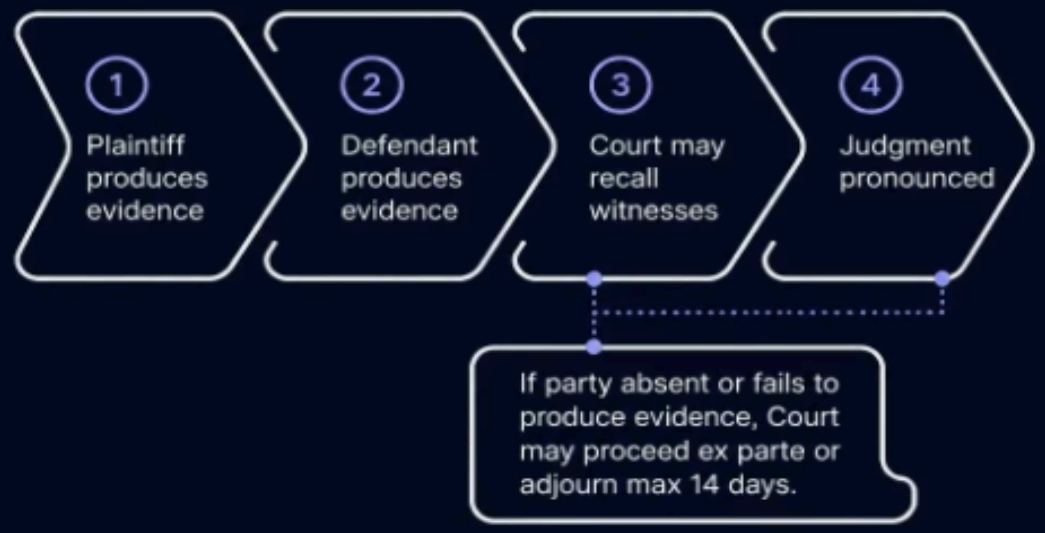
Ex parte order set aside if summons not duly served or party prevented by sufficient cause

Key Cases: *Sangita Devi v. Sushil Kumar* AIR 2024 SC 5033; *Kunwarjeet Singh v. Harnek Singh* AIR 2024 SC 5078; *Shiv Shankar v. Annapurna Devi* AIR 2024 SC 4721

Trial Procedure & Key Takeaways

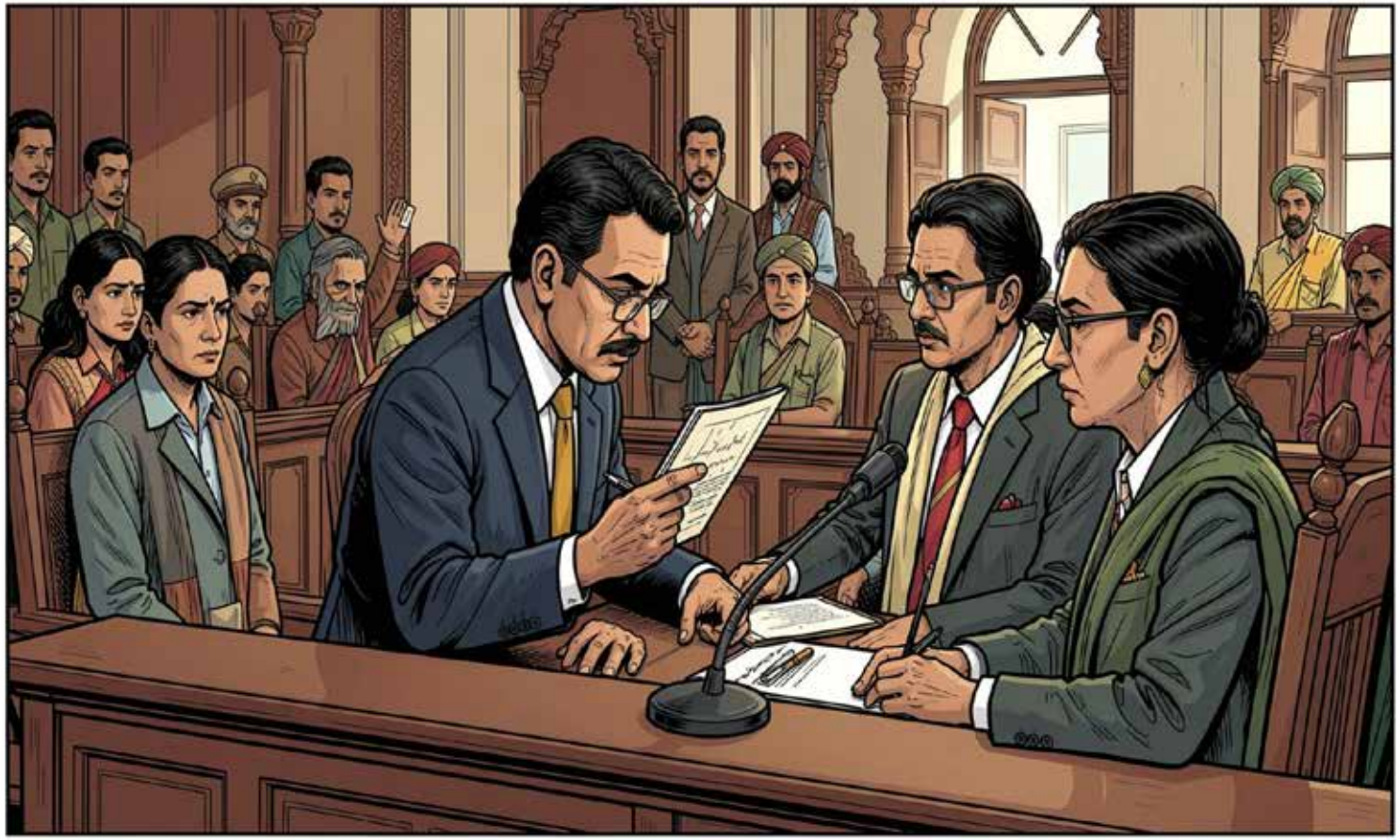
The plaintiff begins by producing evidence; the defendant follows. The Court may recall witnesses before judgment. If a party fails to produce evidence, the Court may pronounce judgment or adjourn (max **14 days**).

- Written statement – **30 days**, extendable to **90 days**
- Enlargement under S.148 – max **30 days** extra
- Adjournments – max **3** per party
- Post-examination adjournment – max **14 days**



ORDER 18, CPC

Examination of Witnesses



Right to Begin

After framing of issues, the **plaintiff has the right to begin** examination of witnesses under Order 18 — unless the defendant admits the plaintiff's facts and contends that in law or on additional facts, no relief is due.

Procedure Under Order 18(2)

On the fixed date, the court examines statements and evidence. Parties may address **oral arguments** and, with court permission, submit written arguments with a copy to the other side.

Facts Relevant to an Enquiry

Only facts that directly or inferentially support conclusions on the issues may be admitted as evidence.

1

Identity of Parties

Facts establishing who the parties are

2

State of Mind or Body

Facts showing mental or physical condition

3

Proof of Fact in Issue

Facts necessary to prove or disprove a fact in issue

4

Presumptive Facts

Facts raising presumption as to existence of essential facts

Maintainability Plea: Must be raised in the written statement to be adjudicated as a preliminary issue under Order 14 Rule 2. — *A. Kanthamani vs. Nasreen Ahmed, MANU/SC/0234/2017*

Specific Denial

Order 8 Rule 5 — The Governing Rule

Pleadings must be answered **specifically** in the written statement. A general or evasive denial is **not sufficient**. Denial for want of knowledge is no denial at all.

Key Legal Principles

- Denial of knowledge of a fact is **not a denial of the fact itself** — *(2016) SCCR 588*
- Order VIII Rules 3 & 5 require specific admission or denial — *AIR 2024 SC 1324*
- Even admitted facts may be required to be proved at the court's discretion (Proviso to Order VIII Rule 5)

Counter Claim

When Must It Arise?

The cause of action for a counter claim must accrue **before the defendant files the written statement**. One cause of action cannot substitute another. Courts must discourage belated counter claims — *(2016) SCCR 425*

Scope Under Rule 6-A(1)

A defendant may assert **any right or claim** against the plaintiff, even if unrelated to the plaintiff's suit — subject only to the court's pecuniary jurisdiction. Treated as a **cross-suit**, governed by rules applicable to plaints including court fees. — *AIR 2025 SC 4284*

Admissibility of Admissions

Order 12, CPC governs admissions — applicable to **facts only**, not law.

Strongest Evidence

Even a wrong construction of a document will be assumed correct in view of admission — *AIR 1914 PC 220*

Conditional Admissions

If admissions are made subject to condition, they are accepted **with those conditions** — *AIR 1915 PC 2*

Admission as a Whole

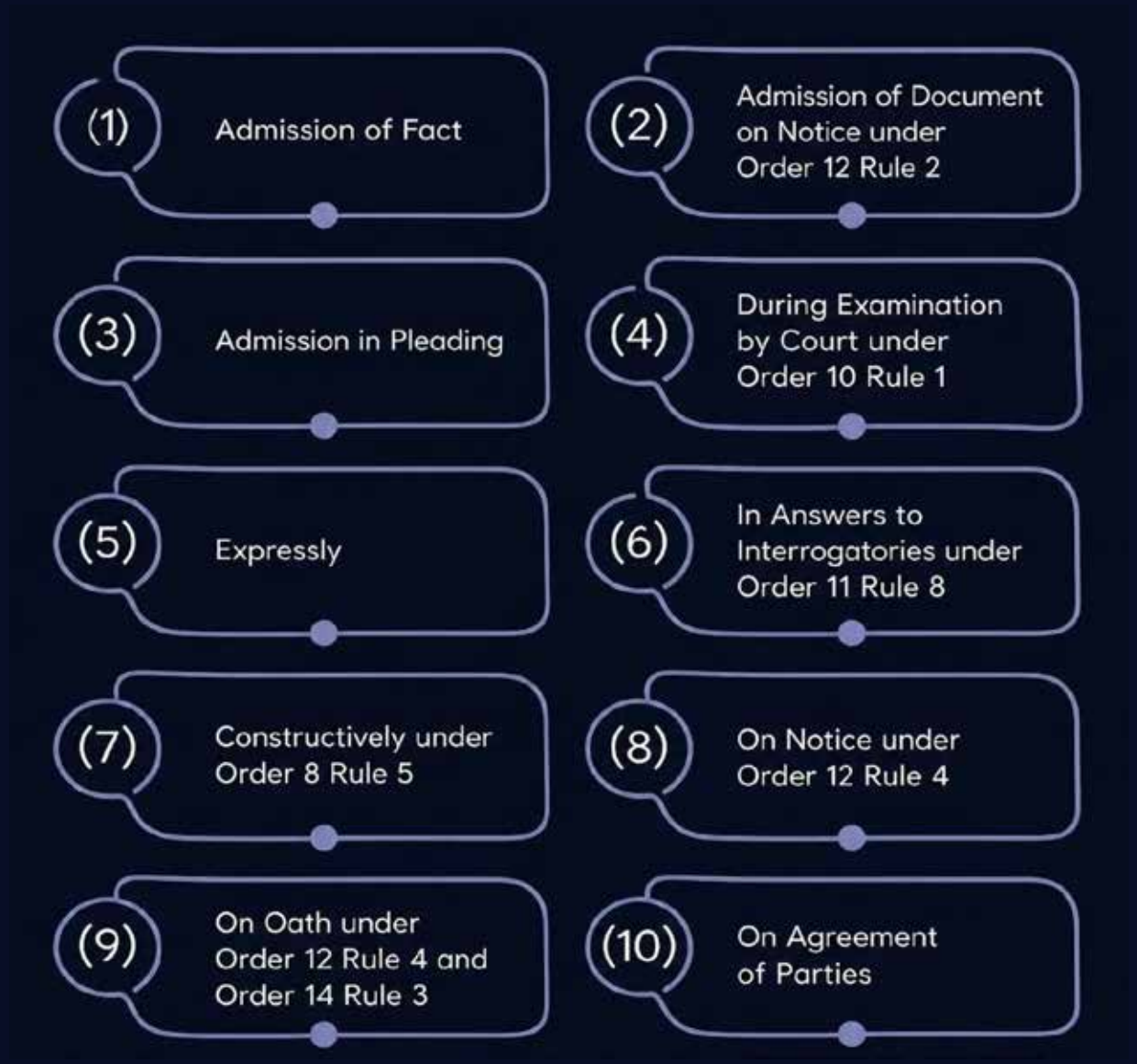
An admission in pleading must be taken **as a whole** — *AIR 1986 SC 1509*

Co-Defendant's Admission

Cannot be used against other defendants; binding only for the suit in which delivered — *AIR 1980 SC 1255*

Types of Admission Under CPC

The Code recognises multiple forms of admission, each governed by specific provisions.



Admission of Fact — Order 10, CPC

At the first hearing, the court must ascertain from each party which allegations are **admitted or denied**. This is an enabling provision — the court may seek clarification at any stage before framing of issues to advance justice. — *Vikas Aggarwal v. Anubha, AIR 2002 SC 1796*

Documents and Witnesses

Role of Documents

Courts rely on documents and witnesses to ascertain material facts. Under the **2002 Amendment**, notice to produce documents must be given at or before settlement of issues.

Key Provisions

- **Order 9 Rule 15:** Directory — inspection may be allowed after settlement of issues — *Salem Advocate Bar Association v. Union of India, AIR 2005 SC 3353*
- **Order 11 Rule 21:** Non-compliance by plaintiff → suit dismissed; by defendant → defence struck off

Notice to Admit Facts or Documents

Order 12 provides that **facts admitted need not be proved**.

Admissibility of Documents

Admissibility means admission of facts contained in the document. There cannot be **part admissibility and part rejection** — *Sitaram Motilal Kalal v. Sanatanu Prasad, AIR 1996 SC 1697*

Document as a Whole

A document must be construed **as a whole** to ascertain the executor's intent — *CIT West Bengal v. Sri Jagannathjee, AIR 1977 SC 1523*

Inspection & Terms

Inspection is necessary to explain the executor's intention — *Usha Subbaroa v. B.N. Vishwewaraian, AIR 1996 SC 2260*. Parties must be guided by the document's terms — *AIR 1992 SC 1236*

Interrogatories & Key Takeaways

Under **Order 11 Rule 8**, interrogatories are answered by affidavit within 10 days of the time specified by the court.

Specific Denial

Order 8 Rule 5 demands specificity — vague denials fail

Counter Claim

Must arise before written statement; treated as cross-suit

Admissions

Strongest evidence — must be taken as a whole

Documents

Non-compliance with inspection orders carries serious consequences

Remember: Procedural rules under CPC are tools of justice —use them strategically to protect your client's interests at every stage of trial.

ORDER XII RULE 6, CPC

Object of Order XII Rule 6

Where a claim is **admitted** by the defendant, the Court has jurisdiction to pass judgment and decree without a full trial.

Speedy Relief

Enables plaintiff to obtain judgment to the extent of the admitted claim. *AIR 2000 SC 2740 —Uttam Singh Dugal & Co. Ltd. v. Union Bank of India*

Expedite Trials

Where admission exists or can be inferred from facts, the Court may act upon it to dispose of the matter. *AIR 2005 SC 2765 — Charanjit Lal Mehra v. Kamal Saroj Mahajan*

EVIDENCE LAW

The Duty of the Court on Admissibility

1. **Resolve Doubt in Favour of Admission**

   In doubtful cases, admit rather than exclude evidence.

2. **Object at the Time of Tender**

   Objection must be raised when evidence is tendered, not before.

3. **Decide Then and There**

   Ruling on admissibility must be brief; trial should not be interrupted thereafter.

Key Principle: Arguments on admissibility should not be heard when the case is opened. If a document's proof is objected to, treat it as inadmissible until properly proved.

EVIDENCE LAW

Admissibility: Questions of Law

Mode of Obtaining Evidence

Court is not concerned with *how* evidence was obtained — only with its admissibility. *(1970) 2 SCC 889*

Question of Law

Admissibility is a **question of law** to be declared by the judge; relevancy depends on evidence laid before the Court.

Prejudicial Value vs. Evidentiary Value

Prejudicial effort must not be disproportionate to evidentiary value; otherwise it may be ignored. *AIR 1987 SC 1748*

LIMITATION ACT, 1963

Nature and Scope of the Limitation Act

The Limitation Act is a **consolidating and amending statute** — an exhaustive code of adjective (procedural) law, not substantive law.

- Cannot be extended by analogy to proceedings it does not expressly cover
- Provisions apply only where the legislature has so provided expressly or by necessary implication
- Courts cannot travel beyond the Act's provisions *(AIR 1964 SC 227)*

LIMITATION ACT, 1963

What the Limitation Law Does—and Does Not Do

Bars Remedies Only

Limitation bars the **judicial remedy**, not the primary or substantive right of the parties.

Does Not Bar Defence

A defendant may raise a plea in defence even if he cannot file a suit on the same claim. *AIR 1916 PC 172*

Waiver by Sufficient Cause

Limitation may be condoned upon showing sufficient cause for delay.

Governing Principle: Where a specific Article covers a case, courts must not apply another doubtful Article by analogy. *AIR 1953 SC 125*

ORDER 22, CPC

Abatement of Suits

1

Governing Provision

Order 22 CPC governs abatement. Trial cannot proceed without following Rules 2, 3, or 4 as applicable.

2

Pending Suit Requirement

Abatement arises only when a suit is **pending**. No question of abatement arises once the suit is disposed of. *AIR 1979 PAT 319*

3

Survival of Cause of Action

In personal actions, death may extinguish the cause of action — suit abates. Where the right to sue survives against legal representatives, it does not. *(1996) 2 SCC 205*

EVIDENCE & PROCEDURE

Waiver of Objection and Consent

Admission Without Objection

A document may be treated as **duly admitted** where the affected party raises no objection to its admission without proof.

Limits of Consent

Consent of parties **cannot** render irrelevant or inadmissible evidence admissible under law. However, in civil cases, consent may validate an irregular mode of recording evidence — but objection cannot be raised *after* such recording.

ORDER 40, CPC

Appointment of a Receiver

Equitable & Discretionary Relief

Like an injunction, appointment of a receiver is an **equitable relief** — a discretionary power of the Court. *2025 INSC 700*

Officer of the Court

A receiver is an **officer or representative of the Court**, subject to its orders at all times.

When Appointment is Appropriate

Court may appoint a receiver when it is unreasonable for either party to collect rent or profits, enabling fair distribution. *AIR 1993 SC 1721*

ORDER 16, CPC

Summoning of Witnesses

Submit Witness List

Court Issues Summons

Witnesses Attend / Condone

Parties must submit a witness list and obtain summons on or before the day appointed by the Court — not later than **15 days** after issues are settled.

Liberal Approach: Names need not be listed for witnesses attending voluntarily. Courts may condone delay or omission in the interest of justice. *Mange Ram v. Brij Mohan, AIR 1983 SC 925*

CIVIL PROCEDURE

Cross-Examination & Recall of Witnesses

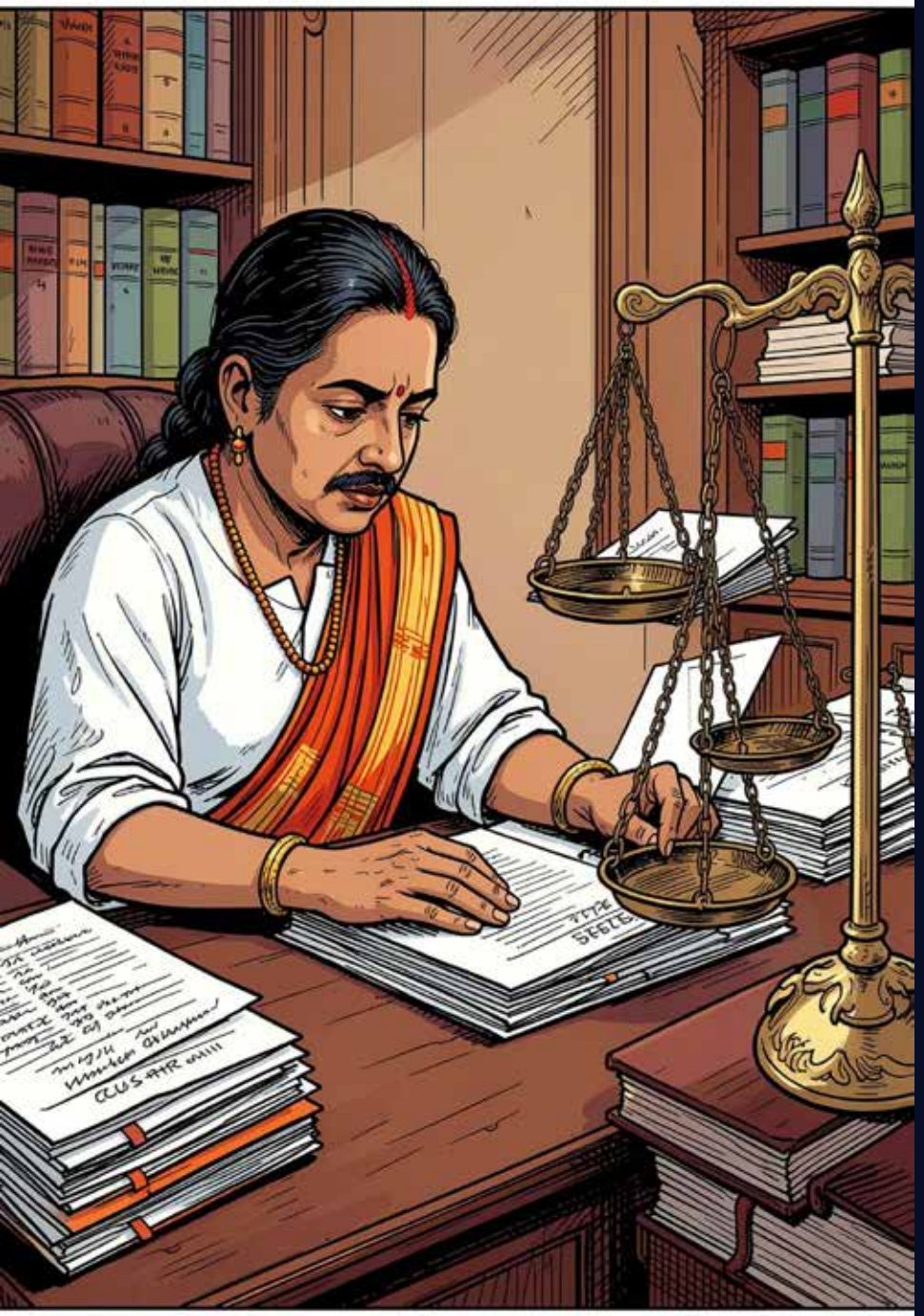
Cross-examination is a matter of **substance, not procedure**. A party must put their version to the opposing witness — failure invites the presumption that the witness's account is accepted. *(2016) SCCR 588*

Order 18 Rule 4(2) — Commission

A court-appointed commissioner may record cross-examination and objections, but **cannot decide** them — that power rests with the court at the argument stage.

Order 18 Rule 17 — Recall

Recall is for **clarification only**, not to fill omissions. Power must be used sparingly and must not prejudice the other party. *Vadiraj Naggappa Vernekar v. Sarad Chandra Prabhakar Gogate, AIR 2009 SC 1604*



STAGE 1

Hearing & Disposal of the Case

First Hearing

The stage at which **issues are framed** and the court applies its mind to the pleadings to understand each party's contentions. *Arjun Khiamal Makhijani v. Jamnadas Tuliani, AIR 1989 SC 1599*

Framing of Issues

A **critical juncture** that determines the trial's scope, direction, and any permissible departures or diversions. *Makhan Lal Bangal v. Manas Bhunia, AIR 2001 SC 490*

2002 AMENDMENT

Evidence by Affidavit & Examination on Commission

The 2002 Amendment to the CPC introduced affidavit-based examination-in-chief. Witnesses may be examined on commission under **Order 26 Rules 1, 4, and 5**, and pre-hearing examination is permitted under **Order 18 Rule 16** where sufficient cause exists.

Post-2002 Amendment, parties **must submit written arguments** upon conclusion of evidence. The court then fixes a **time limit for oral arguments** under Order 18 Rule 2(3D), ensuring expeditious disposal and a complete record.

ORDER XXIII RULE 1(3)

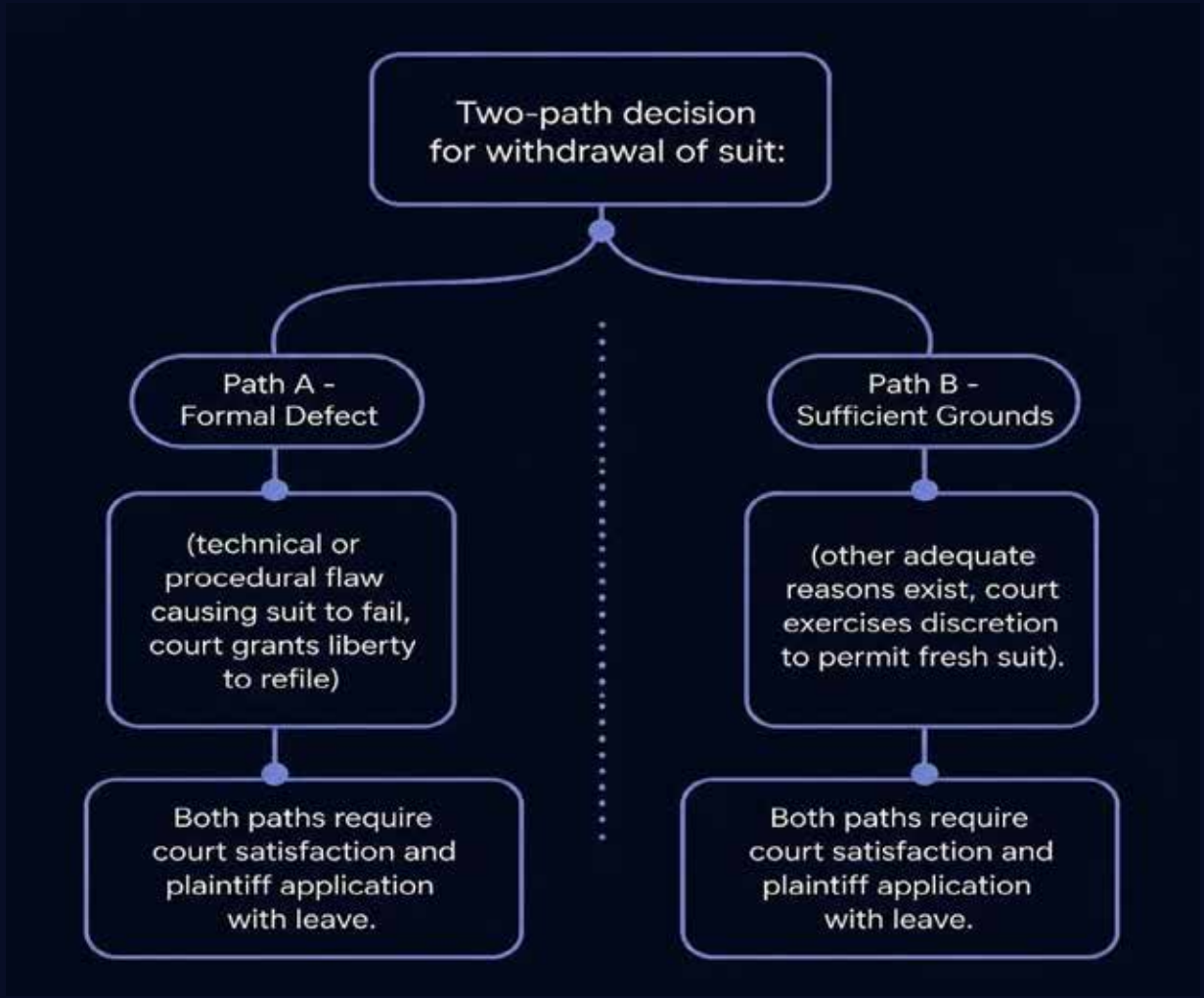
Withdrawal / Compromise of Suit

Withdrawal with liberty to file a fresh suit is **discretionary**. The plaintiff must satisfy the court under either clause:

The underlying principle is **public policy** — preventing repeated suits on the same cause of action. *V. Rajendran v. Annasamy Pandian, AIR 2017 SC 685*

A compromise, to be lawful under Order XXIII Rule 3, must be in writing and signed by the parties themselves

2026 INSC 662



Clause (a)

Suit fails due to a **formal defect**

Clause (b)

Other **sufficient grounds** exist

ORDER 20

Judgment

1 **Pronouncement**

At once after arguments, or reserved for later

2 **30 Days**

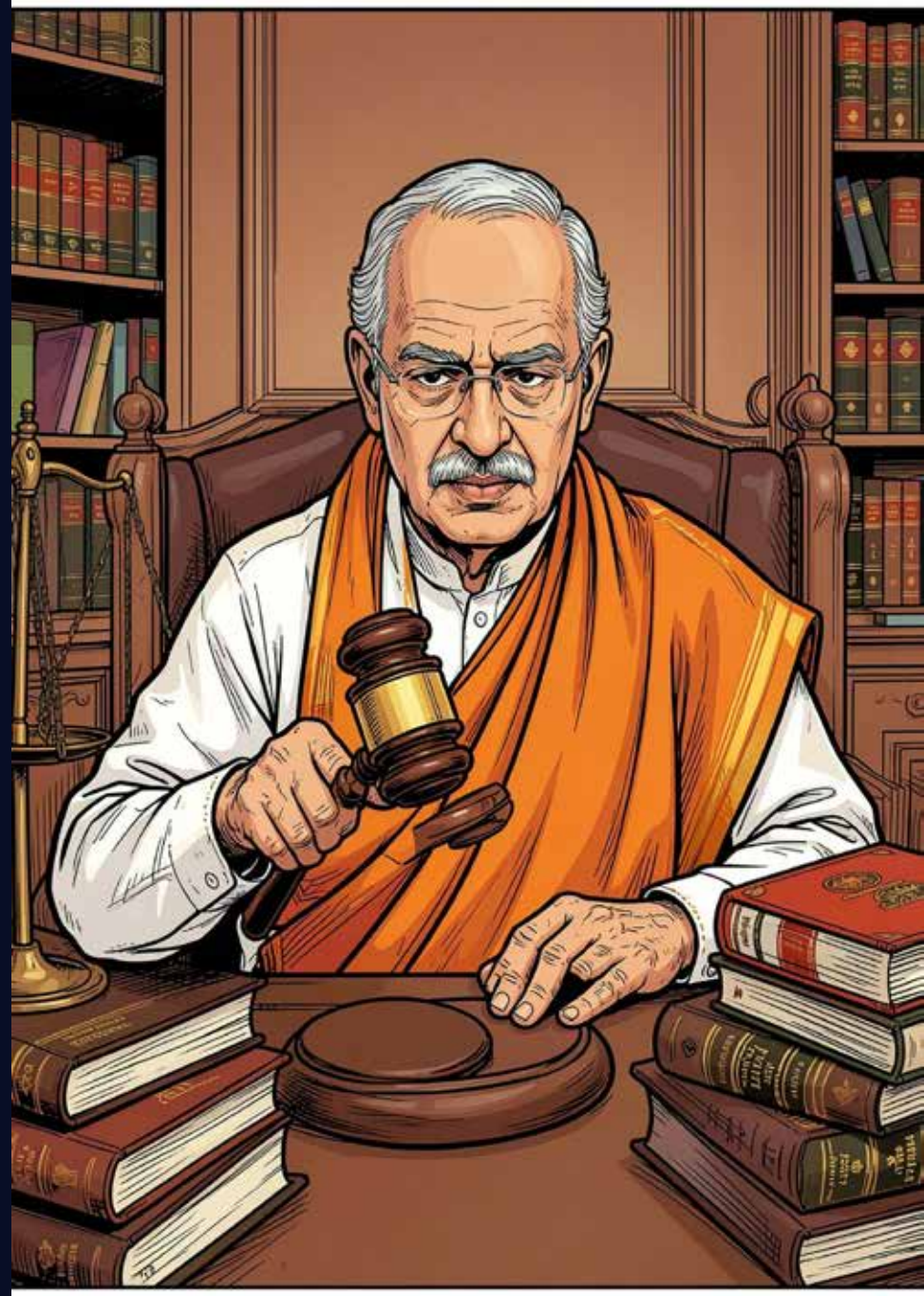
Standard deadline; delay must be recorded with reasons *(Anil Rai v. State of Bihar, AIR 2001 SC 3173)*

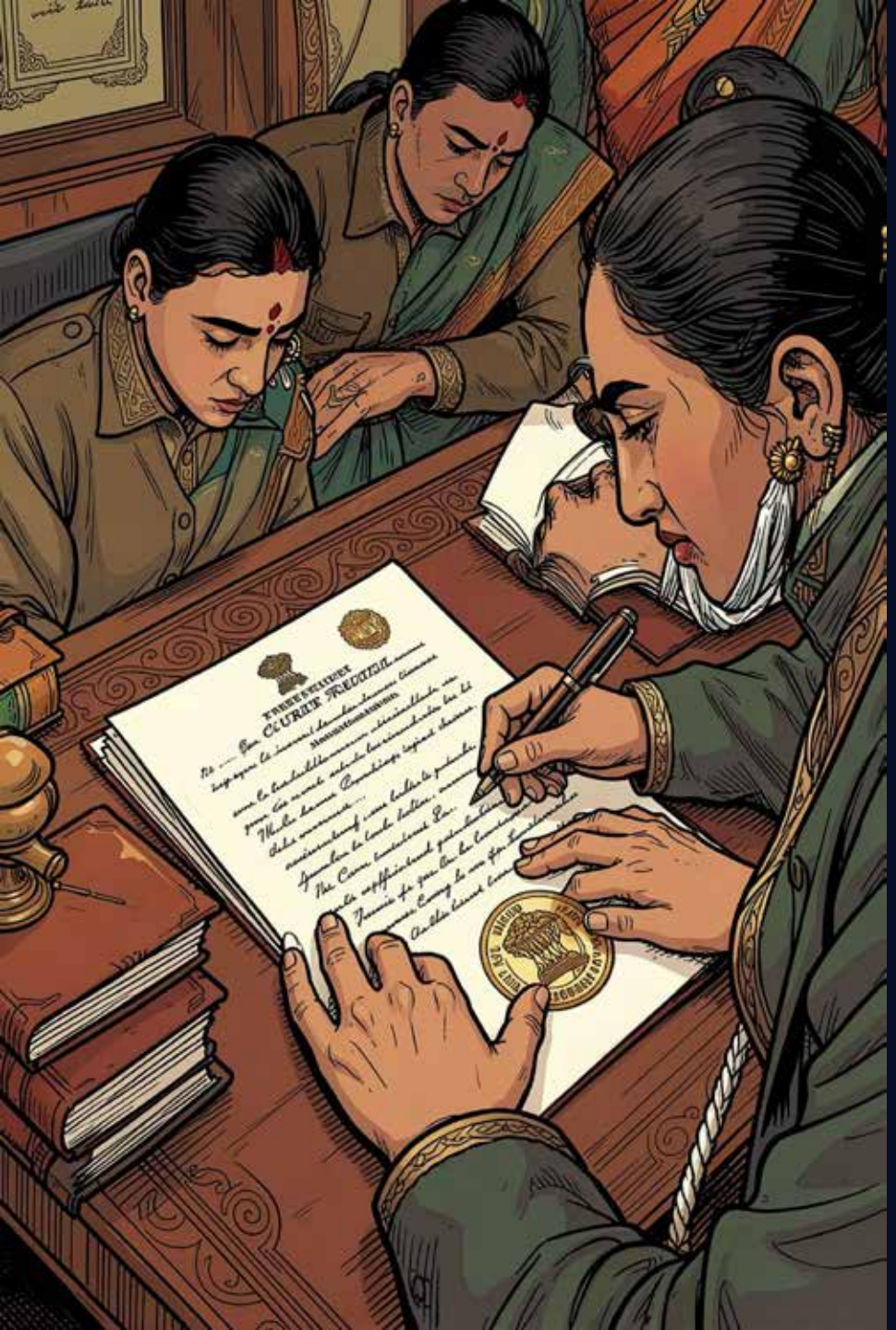
3 **60 Days**

Extended period in special circumstances per Amendment

4 **Specific Reliefs**

Reliefs must be specific, not general *(State of Bihar v. Secretariat Press, AIR 2002 SC 2145)*





SECTION 33 & ORDER 20 RULE 6A

Decree

01

Judgment Pronounced

Court delivers its findings and reliefs granted

02

Decree Drawn Within 15 Days

Under Order 20 Rule 6A, decree must be formally drawn up

03

Decree Must Match Judgment

Court ensures conformity; inherent power to amend discrepancies *(Om Prakash Verma v. State of A.P, 2010)*

04

Trial Concludes; Appeal Begins

Right to challenge in appeal arises from the date the decree is signed

SECTION 34, CPC

Interest on Decrees

Statutory Framework

Under **S.34 CPC**, the court may order reasonable interest on the principal sum from the **date of suit to the date of decree**, and further interest not exceeding **6% p.a.** from decree to payment.

- Interest is **not a penalty** — it is a normal accretion on capital. *AIR 2007 SC 1198*

Discretionary Power

Award is discretionary but guided by principle. *AIR 2009 SC 3171; AIR 2016 SC 553*

Primary Provision

S.34 CPC is the main provision; S.60 Sale of Goods Act is its offshoot. *AIR 2012 SC 3167*

Limitation

No interest for periods when plaint was not re-presented. *AIR 2011 SC (Supp) 455*

CIVIL PROCEDURE CODE

Suit Against Government

Under **Order 27 Rule 5B of the C.P.C.**, the Court is under a statutory duty to assist parties in reaching a settlement concerning the subject matter of the suit. Where settlement fails, the case must be **finally decided in accordance with law**.

> **(2016) SCCR 666** —Court's duty to assist settlement; on failure, case must be finally decided.

TRANSFER OF PROPERTY ACT, 1882

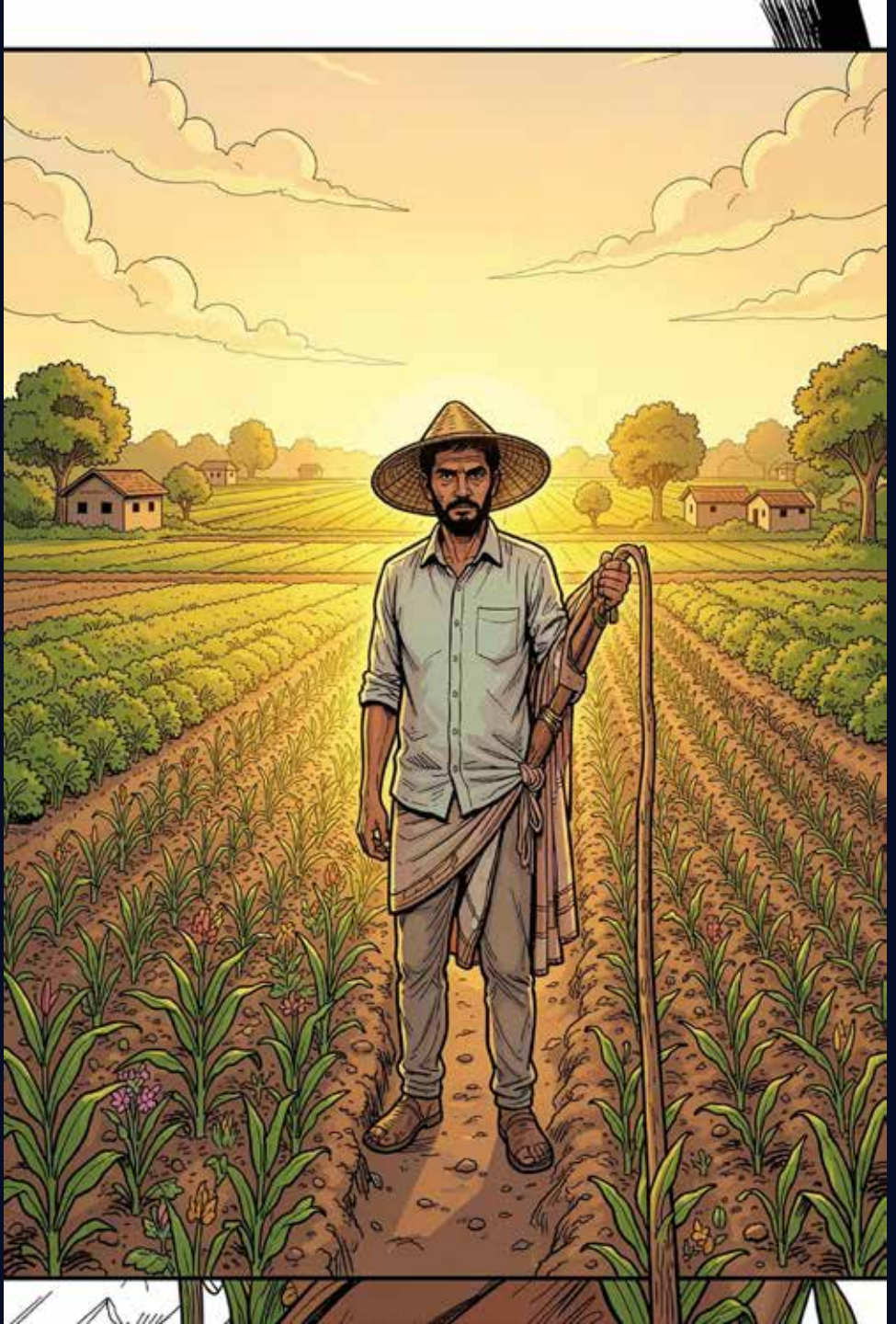
Mortgage Suits: Exclusive Domain of Civil Courts

A suit for **sale, foreclosure, or redemption** of mortgaged property is exclusively triable by a civil court — not by an arbitral tribunal.

Where a mortgage suit is pending, the court **cannot refer parties to arbitration**. Enforcement of a mortgage by sale is inherently a judicial function.

AIR 2011 SC 2507

Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd.



Maintainability of Civil Suit in Tenancy Disputes

A mere **denial of the plaintiff's title** by the defendant does not oust civil court jurisdiction. Where a suit is for possession and mesne profits — and not strictly for eviction of a cultivating tenant — the civil suit remains **maintainable**.

Plaintiff's Claim

Land given on lease to defendant for cultivation.

Defendant's Defence

Claimed ownership by adverse possession; denied being a cultivating tenant.

Legal Outcome

Civil suit held maintainable — not exclusively for eviction under the Tenancy Act.

AIR 2009 SC (Supp) 690 — *Kurella Naga Druva Vidya Bhaskara Rao v. Galla Jani Kamma*

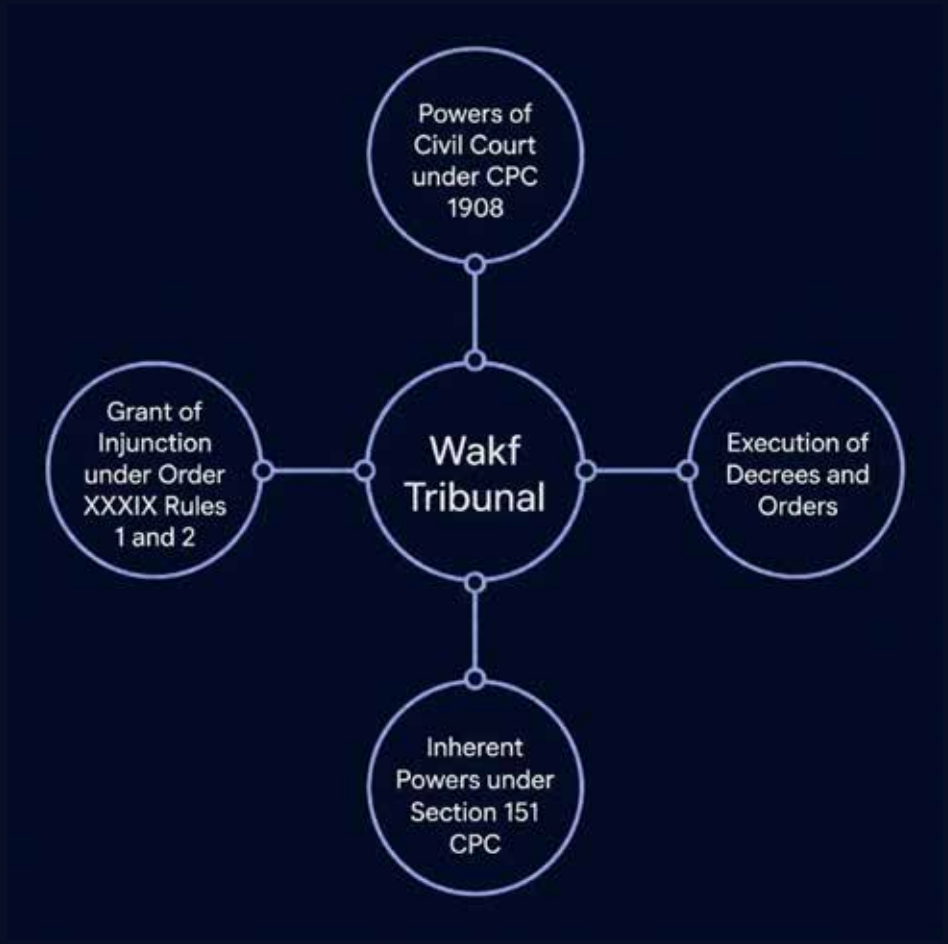
WAKF ACT, 1995

Wakf Tribunal: Powers of a Civil Court

Under **Section 83(5)** of the Wakf Act, 1995, the Wakf Tribunal is **deemed a civil court** with the same powers as a civil court under the C.P.C., 1908.

Accordingly, the Tribunal may pass orders of **injunction** under Order XXXIX, Rules 1 & 2, and Section 151 C.P.C., wherever a case is made out.

2011 AIR SCW 3568
Syed Mohideen v. Ramanathapura Peria Mogallam Jamath



SPECIFIC RELIEF ACT, 1963

Suit for Possession: No Declaration of Title Required

Where a plaintiff holds **clear title** and seeks only possession against a trespasser, a prayer for **declaration of title is not necessary**. A mere claim of adverse possession by the defendant does not create serious doubt as to the plaintiff's title.

Plaintiff's Right

Entitled to sue for possession to evict a trespasser.

Defendant's Claim

Alleged title by adverse possession — insufficient to challenge plaintiff's title.

Maintainability

Suit for mere possession is maintainable without a prayer for declaration.

2008 AIR SCW 5682 — *Kurella Naga Druva Vidya Bhaskara Rao v. Galla Jani Kamma*

LAND ACQUISITION — INJUNCTIONS & VALIDITY

Civil Court's Limited Jurisdiction in Acquisition Matters

Mandatory Injunction Against State

A civil court **cannot issue a mandatory injunction** against the State to denotify acquisition under **Section 48** of the Land Acquisition Act.

- **(1997) 11 SCC 250**
  S.P. Subramanya Shetty v. Karnataka State Road Transport Corp.

Validity of Notifications

Civil courts have **no jurisdiction** to examine the legality or validity of notifications under Section 4(1) or declarations under Section 6. Only the **High Court** may do so under **Article 226** of the Constitution.

- **(1995) 4 SCC 229** — State of Bihar v. Dhirendra Kumar
  (1996) 7 SCC 218 — Laxmi Chand v. Gram Panchayat, Kararia
  (2007) 2 SCC 159 — State of A.P. v. V. Sarma Rao

LAND ACQUISITION ACT, 1984

Implied Bar on Civil Suits in Acquisition Proceedings

Civil courts are **impliedly barred** from entertaining suits relating to land acquisition proceedings. Cognizance under **Section 9** of the Land Acquisition Act is the exclusive remedy.

Section 9 Bar

High Court Remedy

The civil court has no jurisdiction to entertain suits relating to acquisition proceedings; the High Court alone may intervene under Article 226.

(1997) 11 SCC 250

S.P. Subramanya Shetty v. Karnataka State Road Transport Corp.

(2007) 2 SCC 159

State of A.P. v. V. Sarma Rao

(1995) 4 SCC 229

State of Bihar v. Dhirendra Kumar

Thank You

Technical Assistance

Piyush Priyank

B.Sc (I.T.)