

The Code of Civil Procedure: Important terms/expressions

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Golden Jubilee Celebration



Commencement..

Code came into force with effect from from 1 st January 1908

1 Jan. 1908

The Code of Civil Procedure(Amendment) Act, 1999 received the assent of the President on 30th December 1999 and came into force from 1st July 2002

1999

1976

While the Amendment Act, 1976 came into force with effect from 1st Feb. 1977

Scheme of the Code

Code divided into two parts

1. code containing 158 Sections

2. First Schedule containing 51 Orders

Important Terms

Affidavit

Appeal

Cause of
action

Caveat

Defendant

Execution

Issue

Jurisdiction

Plaint

Plaintiff

Suit
summon

Written
statement

Decree

Judgment

Order

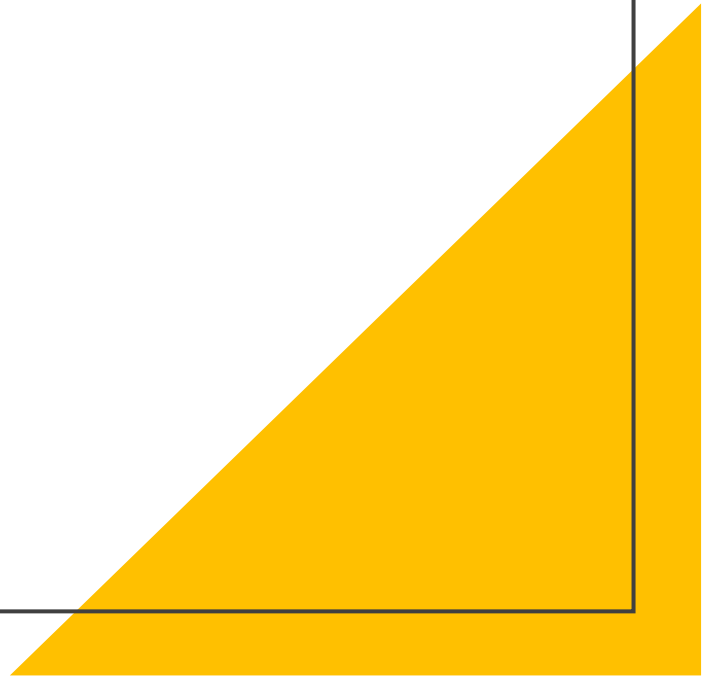
Judgment: Sec. 2 (9)

- Meaning



Judgment means the statement given by a judge of the grounds of a decree or order

1. A concise statement of the case
2. The point for determination
3. The decision thereon
4. The reason for such decision



Decree: Sec. 2(2)



- It means the formal expression of an adjudication which conclusively determines the rights of the parties with regard to all or any of the matter in controversy in the suit. A decree may be either preliminary or final.
- Essentials
 - ✓ There must be an adjudication.
 - ✓ The adjudication should be done in a suit.
 - ✓ It must determine the rights of parties regarding the matter in dispute.
 - ✓ The determination of the right should be of conclusive nature.
 - ✓ There must be a formal expression of such adjudication.

Order

Sec. 2 (14)

Means the formal expression of any decision of a Civil Court which is not Decree

Decree holder: Sec. 2 (3)

***Any person in whose favour a decree has
been passed***



Judgment debtor:

Sec. 2 (10)

*Means any person
against whom a decree
has been passed*

Means profits: Sec. 2 (12)

Means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but shall not include profits due to improvements made by the person in wrongful possession.



Affidavit

- An affidavit is a declaration of facts, reduced to the writing and affirmed or sworn before an officer having authority to administer oaths.
- It should be drawn up in the first person and contain statements and not inferences.



As the judicial examination of the decision by a higher court of the decision of an inferior court

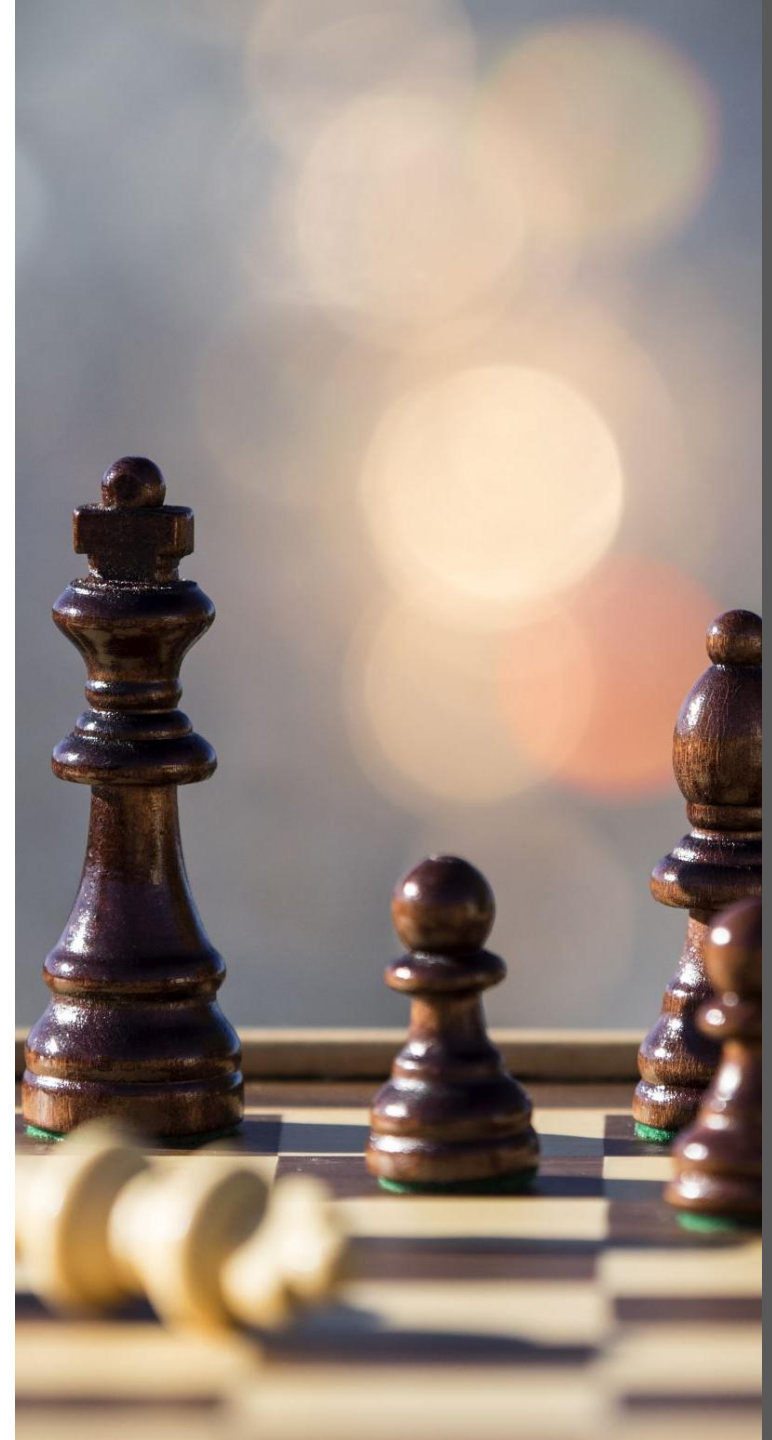
Appeal

Cause of action

A bundle of essential facts, which it is necessary for the plaintiff to prove before he can succeed

Caveat

- A caveat is an official request that a court should not take a particular action without issuing notice to the party lodging the caveat and without affording an opportunity of hearing him.





Execution

Means the process of enforcing or giving effect to the judgment, decree or order of the court.

Issue

Means a point in question, an important subject of debate or litigation.



Issues are of two kinds-



1. issues of fact

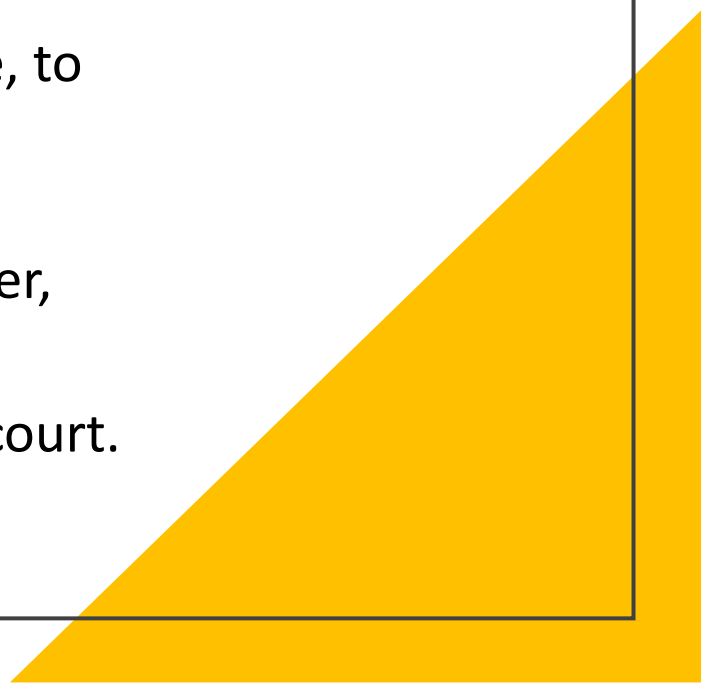


2. issues of law



3. mixed issues of facts and law

Jurisdiction

- Means authority of the court to decide.
 - Power or authority of a court to hear and determine a cause, to adjudicate and exercise any judicial power in relation to it.
 - Jurisdiction means the extent of the authority of a court to administer justice prescribed with reference to subject matter, pecuniary value and territorial limits.
 - Consents can neither confer nor take away jurisdiction of a court.
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Plaint

A plaint is a statement of claim, a document, or a memorial by the presentation of which a suit is instituted.

It contains the grounds on which the assistance of a court is sought by a plaintiff.

It is a pleading of the plaintiff.



Written Statement

Written statement may be defined as a reply of a defendant to the plaint filed by a plaintiff.

It is a pleading of the defendant dealing with every material fact of a plaint.

It may also contain new facts in favour of a defendant or legal objections against the claim of a plaintiff.

It is a pleading of the defendant.

Summons

A summons is a document issued from an officer of a court of justice calling upon the person to whom it is directed to attend before a judge or an officer of the court for a certain purpose.

It is a written order that legally obligates someone to attend a court of law at a specified date.