

# Code of Civil Procedure 1908

## Stages in a suit & application

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# What is suit?

- 'Suit' is not defined in the Act. A suit is initiated by presenting a 'plaint'
- In a suit there are two parties i.e. plaintiff and defendant.
- Plaintiff institute suit against defendant by presenting a plaint before court of law.
- In suit plaintiff has claimed certain remedies against the defendant.

# Stages in a suit.

1. Institution of suit
2. Issue of summons
3. Written Statement
4. Discovery
5. Issues
6. Trial
7. Judgement and Decree  
(execution proceeding/appeal)

# 1. Institution of suit

- A suit is instituted by plaintiff.
- Suit is not defined in the Code but a suit is initiated by presenting 'plaint' in the Court.
- Plaint contains concise statement of facts and claim/relief. It is accompanied with necessary documents on which plaintiff rely.
- Provisions about it are contained under Section 26; Order I, II, IV, VI, VII.

## 2. Issue of summons

- After institution of suit, Court issue summons to defendant to appear before Court and enter into his defence.
- Provisions about summons are under Section 27, 28, 29; Order III.

# 3. Written Statement

- After summons is served, defendant has to appear before Court and at first hearing has to submit his Written Statement i.e. w.s.
- In w.s. defendant has to reply allegations from the plaint and take his defence.
- Provisions as to w.s. are under Order VIII.

# 4. Discovery

- Parties to a suit i.e. plaintiff and defendant are entitled to know nature and particulars about the case.
- If pleading is not clear or is vague opponent will not be in position to give proper reply.
- Under Section 30 and Order XI, party to suit can ask opposite party for 'discovery of documents or by interrogatories'.

# 5. Issues

- Court has to settle issues between plaintiff and defendant.
- It is finding of actual matter of controversy between parties to suit. Issues are settled or framed by considering facts mentioned in plaint, written statement and other documents submitted by parties.
- Order XI contains provisions for issues.



# 6. Trial

- Trial is the stage where Court can receive evidence produced by the parties.
- First it is for plaintiff then defendant to produce evidence before Court. Evidence includes all statements and document permitted by the Court to be produced as evidence.
- Provisions mentioned in Order XVIII and Indian Evidence Act 1872 is applicable.

# 7. Trial

- After trial, when Court has been heard, shall pronounce judgement in the open Court.
- About judgement notice shall be given to parties. Judgement covers finding of Court on all issue involved in the suit. On such judgement decree shall follows.
- Provisions as to judgement and decree are under Section 33 and Order XX.

# Execution proceeding / Appeal

- After judgement and decree ...
- Plaintiff who is decree holder can file execution proceeding against defendant i.e. judgement debtor, before the same court. It is an independent proceeding than suit. Execution proceeding is possible for execution of an order or decree.
- If either plaintiff or defendant or both are dissatisfied or aggrieved by the decision of the court they may file appeal before the appellate court.

# Stages in application.

- An application can be filed in a pending suit or it may be filed independently. In a suit there is no limitation as to numbers of application. Application in a suit can be presented at any stage.
1. Application: Application may be any interim relief or otherwise. It may be for injunction, stay of proceeding, appointment of commission etc. Application may be made by plaintiff or defendant.
  2. Stay: After receiving application Court issues notice or calls for the say of defendant on the application.
  3. Evidence: Generally Court considers pleading and documents filed by parties. Court may direct party to give oral or documentary evidence.
  4. Order: After considering hearing on both parties, Court passes a suitable order on the application.

THANK YOU.