Landmark Judgment collection topic wise on CPC

For Judicial service Examination

Table of Content

CODE OF CIVIL PROCEDURE....1
GENERAL PRINCIPLES....4
DEFINITIONS....5
JURISDICTION....6
TRANSFER OF SUITS....8
RES SUB JUDICE & RES JUDICATA....9
FOREIGN JUDGMENTS....12
PARTIES TO SUIT....12
ORDER 2 RULE 2....13
PLEADINGS....13
APPEARANCE & NON-APPEARANCE OF PARTIES....17
EXECUTION....17
SPECIAL SUITS....18
TEMPORARY INJUNCTIONS....19
APPEALS, REVIEW & REVISION....20
REVISION....22
OTHERS....23

GENERAL PRINCIPLES

Yashpal Jain v. Sushila Devi and others

1. All district and taluka courts are directed to ensure prompt execution of summonses within the time limits specified in Order V Rule (2) of the CPC. Principal District Judges will oversee this process and compile statistics for submission to the High Court's committee for review and monitoring.

2. Furthermore, courts at both district and taluka levels must ensure timely filing of written statements as per the provisions of Order VIII Rule 1, preferably within 30 days. Any extensions beyond this period must be justified in writing, adhering to the provisions of the proviso to sub-Rule (1) of Order VIII of CPC.

3. After completion of pleadings, parties should be summoned as per Order X to record admissions and denials. They should then be directed to opt for alternative dispute resolution (ADR) methods as per Section 89(1). If ADR is unsuccessful, trial should commence within two months, proceeding on a day-to-day basis.

4. Failure to opt for ADR should prompt the court to frame issues for determination within one week. Trial dates should be fixed in consultation with advocates, and once set, proceedings should continue on a day-to-day basis.

5. Judges should maintain a trial diary to ensure manageable caseloads and prevent unnecessary adjournments. Counsel should be familiarised with procedural rules to streamline disputes, with bar associations encouraged to conduct periodic refresher courses.

6. Compliance with procedural rules, particularly Order XVII Rule 1, is imperative for expeditious trial proceedings. Costs should be imposed to deter frivolous adjournments, and oral arguments should follow immediately after trial, culminating in a timely judgement as per Order XX of CPC.

7. Monthly reports on cases pending for over five years must be submitted to Principal District Judges, who will forward them to the High Court's review committee. The committee, chaired by the Chief Justice, shall convene bi-monthly to prescribe corrective measures and monitor long-pending cases.

Sangram Singh v. Election Tribunal AIR 1955 SC 425

Code is designed to facilitate justice and hence too technical construction of provisions should not be made. Provisions should be construed liberally and technical objections should not be taken up.

Salem Advocates Bar Association v. Union of India, AIR 2005 SC 3353

The Preamble of the Code states that the object of the Code is two fold; (1) to consolidate and (2) to amend the laws relating to the procedure to be followed in civil courts. It is a procedure designed to facilitate justice and further its ends; not a penal enactment for punishment and penalties.

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)	
Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

Mahohar Lal v, Seth Hiralal, AIR 1962 SC 527

Code is exhaustive on the matters specifically dealt in it However, the legislature is incapable of contemplating all possible circumstances that may arise in civil litigation therefore, with regard to those circumstances the court has inherent powers to act according to principles of justice, equity and good conscience. Such inherent powers of the court is saved under Section 151 of the Code.

State of Madras v. C.P. Agencies, AIR 1960 SC 1309

The term 'cause of action' connotes all categories of facts which is necessary for the plaintiff to prove, if traversed, in order to entitle him to a decree in suit.

Ashok Kumar Kalra v. Surendra Agnihotri, (2020) 2 SCC 394

Procedural laws should not be interpreted to defeat justice rather than furthering it. Procedural laws are not meant to serve as a tyrant against justice but to act as a lubricant in its administration. When courts set out to do justice, they should not lose sight of the end goal amidst technicalities.

DEFINITIONS

Shankar v. Chandrakant, (1995) 3 SCC 413

A preliminary decree is one which declares the rights and liabilities of the parties leaving the actual result to be worked out in further proceedings. As a result of the further enquiries pursuant to preliminary decree rights of the parties are fully determined and final decree is passed.

Dhani Ram v. Lala Sri Ram, (1980) 2 SCC 162

A decree-holder need not necessarily be plaintiff. A person who is not a party to the suit but in whose favour an order capable of execution has been made is also a decree holder.

Renu Devi v. Mahendra Singh, (2003) 10 SCC 200

The difference between preliminary decree and final decree lies in its purpose. A preliminary decree declares the rights and liabilities of the parties and leaves the actual result to be worked out for a later stage. Final decree determines the rights of the decree finally and decree is passed in accordance with such determination.

Phoolchand v. GopaL Lal, AIR 1967 SC 1470

There is nothing in the Code which prohibits the passing of more than one preliminary decrees if circumstances justify the same and where it is necessary to do so.

Balraj Taneja v. Sunil Madan, AIR 1999 SC 3381

In judgement the whole process of reasoning has to be set out in deciding the case one way or the other. It must not merely say 'suit decreed' or 'suit dismissed'.

JURISDICTION

Kiran Singh v. Chaman Paswan, AIR 1954 SC 340

Defect of jurisdiction goes to the root of the decree or order. A decree passed without jurisdiction is a nullity. The Supreme Court held that a decree passed without jurisdiction is a nullity. A defect of jurisdiction strikes at the very authority of the court and it cannot be cured even by the consent of the parties.



Dhulabhai v. State of M.P., AIR 1969 SC 78

Every presumption is made in favour of jurisdiction of the court. Provision of exclusion of jurisdiction of the courts must be strictly construed. In case of doubt as to jurisdiction the courts will lean in favour of jurisdiction.

Hakam Singh v. Gammon (India) Ltd., AIR 1971 SC 740

When two or more courts have jurisdiction to entertain a suit, an agreement by the parties to submit to the jurisdiction of any one of such courts to the exclusion of other is valid and binding.

Abdulla Bin Ali v. Galappa, AIR 1985 SC 577

The jurisdiction of the court has to be decided on the allegations made by the plaintiff in the plaint and not on the allegations made by the defendant in the written statement.

LIC v. India Automobiles, AIR 1991 SC 884

When a court of limited jurisdiction has jurisdiction to decide only a particular dispute, it has jurisdiction to consider collateral issue only prima facie and the jurisdiction of a civil court to decide such issue finally is not taken away.

Official Trustee v. Sachindra, AIR 1965 SC 823

Court laid down following principle with regard to the determination of jurisdiction:-

1. A court can be held to have jurisdiction to decide a particular matter if the court is competent to try the suit and at the same time it has jurisdiction to pass the order sought.
2. Jurisdiction of a court must include the power to hear and decide the question in issue.

Om Prakash Agrawal v. Vishan Dayal Rajpoot, (2019) 14 SCC 526

The policy underlying Section 21 of the Code of Civil Procedure is that when the case has been tried by a court on merits and the judgement has been rendered, it should not be liable to be reversed purely on technical grounds, unless it has resulted in failure of justice. If the objections as to territorial or pecuniary jurisdictions are not taken at the earliest possible opportunity then it cannot be allowed to be taken at a subsequent stage.

Sneh Lata Goel v. Pushplata, (2019) 3 SCC 594

Section 21 of the Code of Civil Procedure makes it clear that an objection as to the want of territorial jurisdiction does not go to the root of the jurisdiction. It does not constitute an inherent lack of jurisdiction.

Nusli Neville Wadiav. Ivory Properties, (2020) 6 SCC 557

Where the court has jurisdiction to entertain a suit but in exercise of such jurisdiction a mistake has been committed, it would constitute a jurisdictional error but not lack of jurisdiction. Court can proceed with trial by exercising its jurisdiction where adjudicatory facts are missing but not where jurisdictional facts are missing.

Most Rev. P.M.A. Metropolitan v. Moran Mar, AIR 1995 SC 2001

No court can refuse to entertain a suit if it is of the description mentioned in the Section 9. The words ‘civil nature’ are wider than the words ‘civil proceedingsTSeSon 9 would be available in

every case where the dispute has the characteristics of affecting one s rights which are not only.civil but of civil nature.

Shiv Kumar v. Municipal Corporation, (1993) 3 SCC 161

Where statutory enactments only create rights or liabilities without providing for remedies, any person having a grievance, can approach the ordinary civil court on the principle of law that where there is a right there is a remedy.

S. Ramanuja v. Ranga Ramanuja, AIR 1961 SC 1720

The Supreme Court laid down the following guidelines to decide whether a right to religious office would be a right or civil nature.

1. A suit for declaration of religious honours simpliciter will not lie.
2. Suit to establish one's right to an office in a temple and honours, privileges etc. attached to that office will be maintainable.
3. The condition for existence of office is that the holder of the office should be under a legal obligation to discharge the duties attached to the office.

South Delhi Municipal Corporation v. Today Homes and Infrastructure (P) Ltd, (2020) 12 SCC 680

Civil court's jurisdiction is barred by necessary implication where right and liability is created by statute and that statute provides machinery for enforcement of such right and where the statute gives a finality to the orders of the special tribunals the civil courts' jurisdiction must be held to be excluded if there is adequate remedy to do what civil courts would normally do in a suit.

TRANSFER OF SUITS

Shah Newaz Khan v. State of Nagaland

The power under section 24 of the CPC can be exercised by the High Court even for inter-State transfer of a suit, appeal or other proceeding, if it is the common High Court for two or more States under Article 231 of the Constitution and both the Civil Courts (transferor and transferee) are subordinate to it - Section 25 applies to inter-State transfer of a suit, appeal or other proceeding where both States have a High Court in terms of Article 214 of the Constitution and not to a transfer where both States have a common High Court under Article 231 thereof.

Durgesh Shanna v. Jayshree, (2008) 9 SCC 648

The power under Section 24 does not authorise a High Court to transfer any suit, appeal etc from a court subordinate to that High Court to a court not subordinate to that High Court.

Arvee Industries v. Ratan Lal, AIR 1977 SC2429

The power to transfer must be exercised with extreme caution and circumspection and in the interest of justice. The court while deciding the question must bear in mind two conflicting interests: (1) the right of the plaintiff to choose the forum and (2) the power and duty of the court to assure fair trial.

Indian Overseas Bank v. Chemical Construction, AIR 1979 SC 1514

Balance of convenience is prime consideration for transfer of a suit. Balance of convenience is neither convenience of plaintiff alone nor of the defendant alone, but of both. Further, convenience of witnesses required for a proper trial of the suit, and, the convenience of the particular place of trial having regard to the nature of the evidence on main points involved in the suit and doctrine of forum convenience are relevant factors.

Jitendra Singh v. Bhanu Kumari, AIR 2008 SC 2987

Section 24 does not prescribe any ground for ordering the transfer of case. It merely gives a discretionary power on the court. The court is required to issue a notice to the other side before directing the transfer.

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)	
Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

RES SUB JUDICE & RES JUDICATA

State of Meghalaya v. Union of India (2023)

By virtue of Section 10 CPC, a Court is prohibited from proceeding with trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit, of course, subject to other conditions mentioned therein. The object of the prohibition contained in Section 10 CPC is to prevent the Courts of concurrent jurisdiction from simultaneously trying two parallel suits

and to avoid inconsistent findings. However, this rule of procedure is held not affecting the jurisdiction of the Court to entertain and deal with the latter suit and does not create a bar to the institution of the suit. The Courts have also consistently held that Section 10 CPC does not create a bar to the passing of interlocutory orders including those of injunction.

Indian Bank v. Maharashtra State Coop. Marketing Federation, (1998) 5 SCC 69

Since rule under Section 10 applies to the trial of the suit and tot the institution it does not preclude the courts from massing interim orders such as grant of injunction, appointment of receiver etc.

Radha Devi v. Deep Narayan, (2003) 11 SCC 759

The test for applicability of Section 10 is whether the decision in a previously instituted suit would operate as res judicata in the subsequent suit. If it is so, the subsequent suit must be stayed.

Pukhraj D. Jain v. G. Gopal, AIR 2004 SC 3504

The object of Section 10 is to prevent the courts of concurrent jurisdiction from simultaneously trying two parallel suits in respect of the same matter in issue. The decree passed in contravention of this section is not a nullity as it enacts a mere rule of procedure.

National Institute of M.H. &N.S.. v. C Parameshwara, AIR 2005 SC 242

Section 10 would apply only if there is identity of the matter in issue in both the suits. The whole subject matter in both the suits should be identical.

Prem Kishore v. Brahm Prakash (2023)

The general principle of res judicata under Section 11 of the CPC contains rules of conclusiveness of judgement, but for res judicata to apply, the matter directly and substantially in issue in the subsequent suit must be the same matter which was directly and substantially in issue in the former suit. Further, the suit should have been decided on merits and the decision should have attained finality. Where the former suit is dismissed by the trial court for want of jurisdiction, or for default of the plaintiff's appearance, or on the ground of non-joinder or mis-joinder of parties or multifariousness, or on the ground that the suit was badly framed, or on the ground of a technical mistake, or for failure on the part of the plaintiff to produce probate or letter of administration or succession certificate when the same is required by law to entitle the plaintiff to a decree, or for failure to furnish security for costs, or on the ground of improper valuation, or for failure to pay additional court fee on a plaint which was undervalued, or for want of cause of action, or on the ground that it is premature and the dismissal is confirmed in appeal (if any), the decision, not being on the merits, would not be res judicata in a subsequent suit.

Satyadhyan Ghosal v. Deorijin Debi, AIR 1960 SC 941

The principle of res judicata is based on the need of giving finality to judicial decisions. Primarily it applies between past litigation and future litigation.

Daryao v. State ofU.P., AIR 1961 SC 1457

Doctrine of res judicata is of universal application and it is a part of rule of law.



Iftikar Ahmed v. Syed Meharban Ali, AIR 1974 SC 749

A matter may be res judicata between co-plaintiffs and co-defendants also if the following conditions are satisfied :

- There must be a conflict of interest between co-plaintiffs and co-defendants;
- It must be necessary to decide such conflict in order to give relief to the plaintiff
- The questions between co-defendants and co-plaintiffs must be finally decided;
- Co-defendants/plaintiffs were necessary or proper parties in the former suit.

Pandurang v. Shantabai, AIR 1989 SC 2240

A matter in respect of which no relief is claimed cannot become 'directly and substantially' in issue, even if a decree is passed by a competent court.

Sheodhan Singh v. Daryo Kumar, AIR 1966 SC 1332

Decision on the former suit must have been on merits and so matter cannot be said to be finally decided when the former suit was dismissed by trial court for want of jurisdiction or for default of plaintiff s appearance, or on the ground of non-joinder or mis-joinder of parties etc.

Forward Construction Co. v. Prabhat Mandal, AIR 1986 SC 391

The words 'might and ought' have a wide amplitude. The word 'might' conveys the idea of possibility of joining all grounds of attack or defence and 'ought' carries the idea of propriety of joining. The test is whether the parties had the opportunity of raising the plea and if they had, the matter will be treated as actually raised and decided.

State of U.P. v. Nawab Hussain, AIR 1977 SC 1680

The general principles of ns judicata and constructive res judiciata will be applicable to writ petitions.

Gulam Abbas v. State of Uttar Pradesh, AIR 1981 SC 2198

Section 11 is not exhaustive. Rules of res judicata enacted in Section 11 have some technical aspects. The general doctrine is founded on considerations of high public policy to achieve objectives i.e. there must be finality to litigation and that individuals should not be harassed twice over with the same cause.

Canara Bank v. N.G. Subbaraya Setty, (2018) 16 SCC 228

General rule qua res judicata is that all issues that arise directly and substantially in a former suit or proceedings between the same parties are res judicata in a subsequent suit or proceedings between the same parties. To this general rule there are certain exceptions when it comes to the issue of law:-

1. When the issue of law decided between the same parties in a former suit or proceedings relates to the jurisdiction of the court, an erroneous decision in former proceedings is not res judicata in a subsequent suit.
2. An issue of law which arises between the same parties in a subsequent suit is not res judicata if, by an erroneous decision given on a statutory prohibition in a former suit or proceedings, the statutory prohibition is not given effect to.
3. When the law is altered by a competent authority since the earlier decision.

Nand Ram v. Jagdish Prasad, (2020) 9 SCC 393

If the issue was necessary to be decided for adjudicating on the principal issue and was decided, it would have to be treated as directly and substantially in issue and if it is clear that judgement was in fact based upon that decision then it would be *res judicata* in the latter case. One has to examine the plaint, the written statement, the issues and the judgement to find out if the matter was directly and substantially in issue.

FOREIGN JUDGMENTS

Sardar Maloji, Nar Singh Rao v. Shankar Saran, AIR 1962 SC 1767

Rules laid down in Section 13 are rules of substantive law and not merely procedural law.

Vishwanathan v. Abdul Wajid, AIR 1963 SC 21

Judgement pronounced must be by a competent foreign court both by law of the State which constituted it and in international sense. It must also directly adjudicate upon the matter which is pleaded as res judidata.

Natsimha Rao v. Venkata Lakshmi, (1991) 3 SCC 451

Foreign judgments in matrimonial matters will be recognized by Indian courts, if the jurisdiction assumed by the foreign court as well as the grounds on which the relief is granted is in accordance with the matrimonial law under which the parties are married.

Satya v. Teja Singh, AIR 1975 SC 105

The rules of private international law of each State vary on different things in different sense but by the comity of nations certain rules are recognized as common to civilised jurisdiction. Such recognition is accorded on the considerations of justice, equity and good conscience. It is well established principle of Public International Law that if a foreign judgement is obtained by fraud, it will not operate as res judiciata. Fraud vitiates all judicial acts.

PARTIES TO SUIT

Globe Ground (India) Employees Union v. Lufthansa German Airlines, (2019) 15 SCC 273

Necessary party is a person whose presence is necessary in order to effectually and completely adjudicate upon and settle all issues raised in a dispute. It is a party in absence of whom no effective order can be made. A proper party is one in whose absence effective order can be made, but whose presence is necessary for complete and final decision.

Kasturi v. Iyyamperumal, AIR 2005 SC 2813

Supreme Court laid down following two tests to determine whether a party is necessary party:-

1. There must be right to some relief against such party in respect of the matter involved in the proceeding in question; and
2. It should not be possible to pass effective decree in absence of such a party.

Anil Kumar v. Shivnath, (1995) 3 SCC147

The Supreme Court has observed that the object of rule of the necessary party is to bring on record all persons who are parties to the dispute relating to the subject-matter so as to avoid multiplicity of proceedings and inconvenience.

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)	
Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

Kalyan Singh v. Chhoti, AIR 1990 SC 397

The principal consideration that should weigh with the court in granting permission for representative suit is whether it is satisfied that there is community of interest to justify the adoption of procedure laid down in Order 1. Rule 8.

Pankajbhai Rameshbhai Zalavadiya v. Jethabhai Kalabhai Zalavadiya, (2017) 9 SCC 700

The expression 'to settle all questions involved' in Order 1 Rule 10 is susceptible of liberal and wide interpretation so as to adjudicate all questions pertaining to the subject-matter thereof. The court is clothed with power to secure the aforesaid result with judicious discretion. The party impleaded must have direct interest in subject-matter of litigation.

ORDER 2 RULE 2

Pramod Kumar v. Zalak Singh, (2019) 6 SCC 621

Embargo in Order 2 Rule 2 will arise only if the claim, which is omitted or relinquished and the reliefs which are omitted and not claimed, arise from one cause of action. If there is more than one cause of action then Order 2 Rule 2 will not apply.

Kewal Singh v. Lajwanti, AIR 1980 SC 161

Before the bar of Order 2. Rule 2 is invoked the following three questions are to be asked:-

1. Whether the cause of action in the previous suit and subsequent suit is identical?
2. Whether the relief claimed in the subsequent suit could have been given in a previous suit on the basis of pleadings made in a plaint?
3. Whether the plaintiff omitted to sue for a particular relief on the cause of action which was disclosed in the previous suit?

PLEADINGS

UdhavSingh v. MadhavRao Scindia, AIR 1976 SC 744

All primary facts which must be proved at the trial by a party to establish the existence of a cause of action or defence are material facts.

Ponnayal v. Karuppannan, (2019) 11SCC 800

Civil suits are decided on the basis of pleadings and issues framed. Parties to suit cannot be permitted to travel beyond pleadings.

Harish Chandra v, Triloki Singh, AIR 1957 SC 444

Pleadings should not be construed very strictly. They have to be interpreted liberally and regard must be had to the substance of the matter.



Sathi Vijay Kumar v. Tota Singh, (2006) 13 SCC 353

The power to strike out pleadings is extraordinary in nature and must be exercised by the court sparingly and with extreme caution.

M. Revanna v. Anjanamma (2019) 4 SCC 332

The Supreme Court held that while considering the amendment application after commencement of trial the courts have to consider whether it is bonafide or mala fide and whether it causes such prejudice to the other side which cannot be compensated adequately in terms of money.

Usha Devi v.Rijwan Ahmad, (2008) 3 SCC717

The merits of the amendment sought to be incorporated by way of amendment are not to be judged at the stage of allowing prayer for amendment.

iJai Ram Manoharlal v. National Building Co., AIR 1969 SC 1267

The power to grant amendment is not governed by technical limitations. An amendment of plaint for the purpose of rectification of the mis-description of the name of the party is allowable.

Shivashankara v. H.P. Vedavyasa Char (2023)

In dealing with prayers for amendment of the pleadings the Courts should avoid hyper technical approach. But at the same time, we should keep reminded of the position that the same cannot be granted on the mere request through an application for amendment of the written statement, especially at the appellate stage.

Ganesh Prasad v. Rajeshwar Prasad (2023)

Inconsistent and contradictory allegations in negation to the admitted position of facts or mutually destructive allegations of facts should not be allowed to be incorporated by means of amendment to the pleadings.

Ajay Arun Singh v. Sharadendu Tiwari, (2016) 15 SCC 219

While entertaining the application for striking out pleadings the court must presume that all averments/allegations made in the pleadings are factually correct. The court is supposed to decide the application by scrutinising whether the allegations are relevant in context of relief sought.

ONGC v. Modem Construction Co., (2014)1 SCC 648

When the plaint is filed in the proper court after getting returned from the wrong court, it cannot be said to be a continuation of suit. The suit must be deemed to commence when a plaint is filed in the proper court.

Madhav Prasad Aggarwal vs. Ans Bank, (2019) 7 SCC 158

Supreme Court held that plaint can either be rejected as a whole or not at all. It is not permissible to reject plaint qua any particular portion of a plaint including against some of the defendant(s) and continue the same against the others.

Raghwendra Sharan Singh v. Ram Prasanna Singh (D) through Lrs, AIR 2019 SC 1430

The Supreme Court has observed that a plaint can be rejected under Order 7 Rule 11(d) of the Code of Civil Procedure, if by considering the averments, it is found that the suit is clearly barred by law of limitation.

Roop Lal Sathi v. Nachhatter Singh Gill, AIR 1982 SC 1559

Only a part of the plaint cannot be rejected and if no cause of action is disclosed, the plaint as a whole must be rejected.

M. Siddiq v. Suresh Das, (2020) 1 SCC 1

Order 7 Rule 7 of CPC requires a plaintiff to specifically claim either simply or in alternative the relief which is sought. However, it clarifies that it is not necessary to ask for general or other reliefs which may always be given in the discretion of the court. This provision does not entitle the court in a civil trial to embark upon the exercise of recasting virtually the frame of the suit.

Dahiben v. Arvindbhai Kalyanji Bhanusali, (2020) 7 SCC 366

Under Order 7 Rule 11 it is a duty cast on the court to determine whether the plaint discloses a cause of action by scrutinising the averments in the plaint, read in conjunction with the documents relied upon or whether the suit is barred by any law. Having regard to Order 7 Rule 14, the documents filed along with the plaint are required to be taken into consideration for deciding application under Order 7 Rule 11(a).

Vaish Aggarwal Panchayat v. Inder Kumar, (2020) 12 SCC 809

Plaint cannot be rejected on the ground that it is barred by res judicata. On perusal of plaint alone it cannot be said that suit was barred by the principle of res judicata. This issue has to be determined at trial.

Dahiben v. Arvindbhai Kalyanji Bhanusali, 2020 SCC OnLine SC 562

The remedy under Order VII Rule 11 is an independent and special remedy, wherein the court is empowered to summarily dismiss a suit at the threshold, without proceeding to record evidence, and conducting a trial, on the basis of the evidence adduced, if it is satisfied that the action should be terminated on any of the grounds contained in this provision. The underlying object of Order VII Rule 11 (a) is that if in a suit, no cause of action is disclosed, or the suit is barred by limitation under Rule 11 (d), the court would not permit the plaintiff to unnecessarily protract the proceedings in the suit In such a case, it would be necessary to put an end to the sham litigation, so that further judicial time is not wasted.

Salem Advocate Bar Association (2) v. Union of India, (2005) 6 SCC 344

Outer time limit of 90 days for filing the written statement is not mandatory. Court can extend the time for filing written statement beyond 90 days but it should only be done in exceptional circumstances and routine orders cannot be passed. The court harmoniously constructed 0.8 R. 1,9 and 10.

SCG Contracts (India) (P) Ltd. v. K.S. Chamankar Infrastructure (P) Ltd., (2019) 12 SCC 210

Clear, definite and mandatory provisions of Order 5 Rule 1 r/w Order 8 Rule 1 and 10 CPC [as amended for suits relating to commercial disputes of specified value by Act 4 of 2016] cannot be circumvented by recourse to inherent power under Section 151 CPC. The Supreme Court observed that proviso added to the Code of Civil Procedure by Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, is mandatory and no written statement can be taken on record in commercial suits, if it is not filed within 120 days from the date of service of summons of the suit.

Ashok Kumar Kalra v. Surendra Agnihotri, (2020) 2 SCC 394

Even if a counterclaim is filed within the limitation period, the trial court has to exercise discretion to balance between the right to speedy trial and right to file counterclaim so that substantive justice is not defeated.

APPEARANCE & NON-APPEARANCE OF PARTIES

G.P. Srivastava V.R.K. Raizada, AIR 2000 SC 1221

The words 'sufficient cause' must be liberally construed to enable the court to exercise powers *exdebito justitae.* 'Sufficient cause' for the purpose of O.9 R. 13 has to be construed as elastic expression for which no hard or fast rule can be laid down. The material date for deciding the 'sufficient cause' for non-appearance by the defendant is the date on which ex parte decree was passed and not his previous negligence or past defaults.

Arjun Singh v. Mohinder Kumar, AIR 1964 SC 993

There is no material difference between facts established for satisfying the two tests of good cause' under 0.9 R. 7 and 'sufficient cause' under 0.9 R 13. There cannot be a 'good cause' which is not 'sufficient'.

Sangram Singh v. Election Tribunal, Kotah, AIR 1955 SC 425.

Ex parte proceedings do not mean that defendant cannot be allowed to appear at all in subsequent proceedings of the suit. It only relates to the particular day of hearing on which the defendant remains absent.

Vijay Singh v. Shanti Devi, (2017) 8 SCC 837

Ex parte decree is also a valid decree. It has same force as a decree passed in a contest As long as the decree is not recalled or set aside it is legal and binding upon the parties concerned.

EXECUTION

Jini Dhanrajgir v. Shibu Mathew (2023)

Questions to be determined by the Court executing decree - Section 47 of CPC confers exclusive jurisdiction on the Executing Court to prevent unnecessary litigation and to achieve speedy disposal of the questions arising in relation to the execution, discharge or satisfaction of the decree.

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)	
Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

Bhaskaran v. Sebastian, (2019) 9 SCC 161

Executing court cannot travel beyond the scope of decree or order. Any order passed by the executing court by travelling beyond the decree or order is without jurisdiction.

Sneh Latha Goel v. Pushplata, (2019) 3 SCC 594

The Supreme Court observed that an executing court has no jurisdiction to decide whether the court which passed the decree had territorial jurisdiction. An objection to the want of territorial jurisdiction does not travel to the root of or to the inherent lack of jurisdiction of a civil court to entertain the suit.

Meria Ramanna v. Nallaparaju, AIR 1956 SC 87

The court which actually passed the decree does not lose its jurisdiction to execute it by reason of the subject matter being transferred to another court's jurisdiction.

Kiran Singh v. Chaman Paswan, AIR 1954 SC 340

A court executing a decree cannot go behind the decree and must execute it as it stands. It has no power to entertain any objection as to the validity, legality or correctness of the decree. In case of inherent lack of jurisdiction the decree of the court is a nullity and its invalidity can be enforced, whether in execution or collateral proceedings.

Ghantesher v. Madan Mohan, AIR 1997 SC 471

It is the duty of the court which passed the decree to get it executed with the view to see that rights and obligations flowing from such decree is finally complied with. Till that stage is reached, the court which passed the decree does,not become functus officio.

State of Punjab v. Dina Nath, AIR 1984 SC 352

The proviso to Section 60(1) is in the nature of exception to the general rule laid down in the main provision.

SPECIAL SUITS

Raghunath Das v. Union of India, AIR 1969 SC

The primary object of the notice under Section 80 is to afford an opportunity to the Government or public officer to settle the claim put forward by the prospective plaintiff and to avoid unnecessary litigation.

Y. Savarimuthu v. State of Tamil Nadu, (2019) 13 SCC 142

Notice under Section 80(1) of Civil Procedure Code does not have to state the section in which it is made so long as the ingredients of Section 80(3) are met.

Pukhraj v. State of Rajasthan, AIR 1973 SC 2591

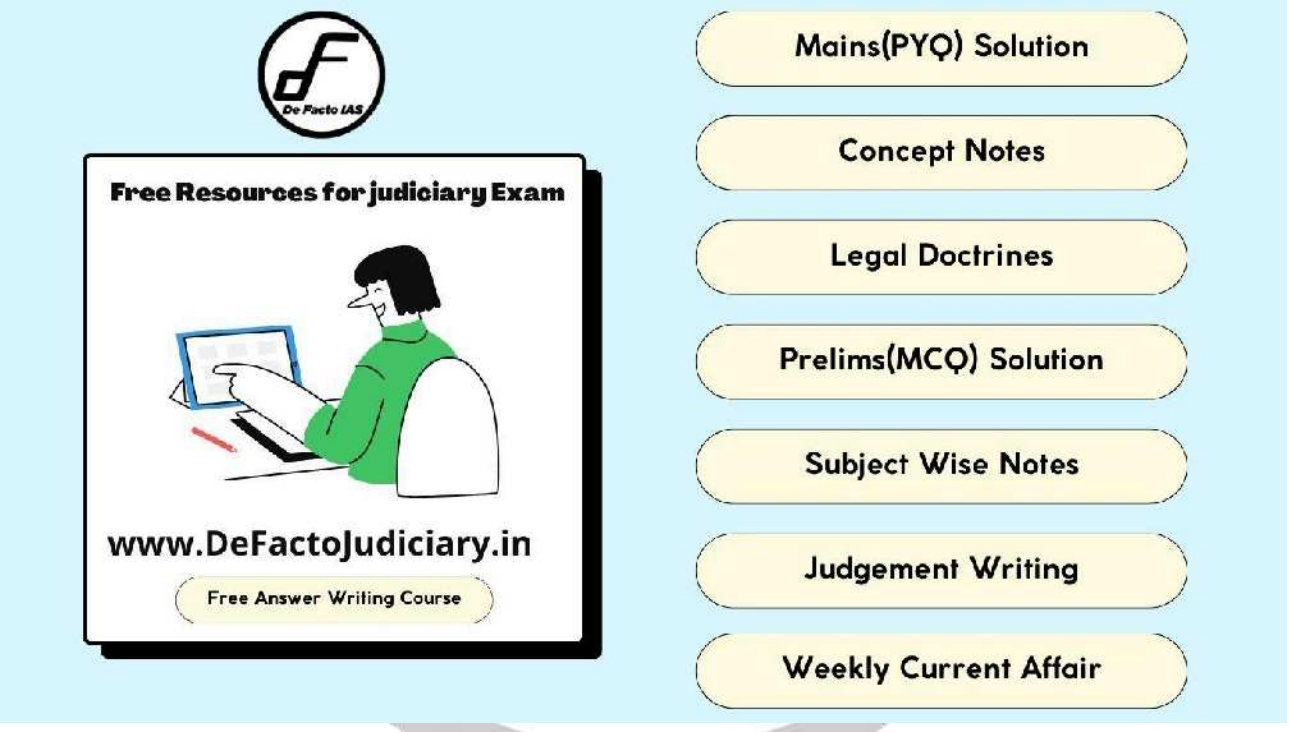
The expression 'act' also includes illegal omissions. If the suit relates to the act done by public officer in his individual capacity, no notice is required.

Ram Chandra Arya v. Man Singh and others, AIR 1968 SC 954

If a decree is passed against a minor without appointing a guardian the decree is nullity.

Union Bank of India v. Khader International Constructions, (2001) 5 SCC 22

The word 'persons' mentioned in Order 33 R. 1 should be given liberal interpretation. It must refer to natural persons as well as legal persons. A public limited company can very well maintain the application under this provision.



TEMPORARY INJUNCTIONS

Manohar Lal Chopra v. Seth Hiralal, AIR 1962 SC 527

Supreme Court held that even if the case is not covered under the grounds mentioned in Order 39 interim injunction can be granted by the court in exercise of inherent powers under Section 151 of the Code.

Morgan Stanley Mutual Fund v. KartickDas, (1994) 4 SCC 225

Supreme Court laid down following factors which must guide the court before granting ex parte interim injunction:

(a) Whether the refusal of ex parte interim injunction would involve a greater injustice than the grant of it would involve;

(b) The court would expect utmost good faith from the party applying for grant of ex parte interim injunction;

(c) Whether irreparable and serious mischief will ensue to the plaintiff.

(d) General principles like prima facie case, balance of convenience and irreparable loss would also be considered by the court;

(e) Even if ex parte interim injunction is granted it would be for a limited period.

Samir Narayan Bhojwani v. Aurora Properties and Investment, (2018) 17 SCC 203

Interim mandatory injunction can only be granted in circumstances which are clear and the prima fade material clearly justify a finding that the status quo has been altered by one of the parties and the interest of the justice demands that the status quo ante be restored.
The moulding of relief can be considered at the time of consideration of final relief and not at the interlocutory stage.

Modi Entertainment Network v. W.S.G. Cricket, 2003

When a court restrains a party to a suit or proceedings before it from instituting or prosecuting a case in another court including a foreign court it is called anti-suit injunction.

APPEALS, REVIEW & REVISION

Gujarat Agro Industries Ltd. v. Municipal Corporation, AIR 1999 SC 1818

Appeal is a creature of statute and it is not an inherent right.

Bhivchandra Shankar More vs. Balu Gangaram, (2019) 6 SCC 387

The Supreme Court held that the right of appeal under Section 96(2) CPC is a statutory right and the defendant cannot be deprived of the statutory right of appeal merely on the ground that the application filed by him under Order IX Rule 13 CPC has been dismissed.

R.S. Anjayya Gupta v. Thippaiah Setty, (2019) 7 SCC 300

In the first appeal the parties have the right to be heard on both question of law as well as on facts. The court is required to address itself to all the aspects and decide the case by ascribing reasons.

Thulasidhara v. Narayanappa, (2019) 6 SCC 409

Formulation of substantial question of law is sine qua non for exercising jurisdiction in Second Appeal.

Gurnam Singh v. Lehna Singh, (2019) 7 SCC 641

In Second Appeal the High Court cannot substitute its own opinion for that of the first appellate court, unless it finds that the conclusions drawn by the lower court were erroneous being:-

(1) Contrary to the mandatory provisions of the law.
(2) Contrary to the law as pronounced by the Supreme Court
(3) Based on inadmissible evidence or no evidence.

Narayana Gramani v. Mariammal, (2018) 18 SCC 645

Exercise of power by High Court in Second Appeal: Principles summarised:-

(1) Second appeal can be entertained only when the High Court is satisfied that the case involves 'substantial question of law'.

(2) Once the High Court is satisfied that there is 'substantial question of law', it shall frame it and then issue notice to the respondents.

(3) Jurisdiction of the High Court is restricted only to decision on such 'substantial question of law'.

(4) Any finding on issue without framing the substantial question of law on that issue would render it without jurisdiction.

(5) Generally the 'substantial question of law' is framed in the absence of the respondent. He is given the liberty to urge that the case does not involve substantial question of law.

Chunnilal Mehta v. Century Spinning and Mfg. Co. Ltd, AIR 1962 SC 1314

Supreme Court laid down the following principles regarding 'substantial question of law'-

1. If the question is of general public importance, or it directly and substantially affects the rights of the parties.

2. It is an open question, that is to say it is not finally settled by Supreme Court or Privy Council or Federal Court.

Manohar Shankar Male v. Jaipalsing Shivlalsing Rajput, (2008)1 SCC 520

Where a review petition is dismissed, the doctrine of merger will have no application whatsoever. It is one thing to say that the judgement debtor was entitled to file an application for review in terms of S. 114 read with 0.47, R. 1 of C.P.C. but another thing to say that the decree passed in favour of the decree holder merged with the order dismissing the review application.

Perry Kansagra v. Smriti Madan Kansagra, (2019) 20 SCC 753

Review court does not sit in appeal over its own order. It constitutes an exception to the general rule that once the judgement is signed it should not be altered. Power of review can be exercised for correction of mistake and not to substitute a view. Under Order 47 Rule 1 a judgement may be open to review if there is a mistake or an error apparent on face of record. An error which is not self evident and has to be detected by a process of reasoning can hardly be said to be error apparent on face of record.

Seethamal v. Narayanasamy (2023)

A first appeal and a second appeal arising out of two proceedings cannot be clubbed and disposed of by a common judgement even though the parties are essentially the same and the property in dispute is common.

Revision

Tek Singh v. Shashi Verma, (2019) 16 SCC 678

The Supreme Court reiterated that revision petitions filed under Section 115 are not maintainable against interlocutory orders.

Pandurang Ramchandra Mandli v. Maruti Ramachandra Ghatge, AIR 1966 SC 153

An erroneous decision on a question of law reached by the subordinate court which has no relation to the question of jurisdiction of that court, cannot be corrected by High Court under Section 115. Inspector General of Registration v. K. Baskaran, (2020) 14 SCC 345.

The essence of revisional jurisdiction lies in the duty of the superior tribunal or officer to ensure that the subordinate tribunal or officers remain within the bounds prescribed by law and discharge their functions in accordance with law.

Varadarajan v. Kanakavalli, (2020) 11 SCC 598

An order passed by subordinate court can only be interfered in revision if it exercises its jurisdiction not vested in law or fails to exercise the jurisdiction vested in law or has acted in exercise of its jurisdiction illegally or with material irregularity. Mere fact that High Court has different view on same facts would not confer the jurisdiction to interfere with order passed by subordinate court.

Ambadas Khanduji Shinde v. Ashok Sadashiv Mamurkar, (2017) 14 SCC132

In exercising revisional jurisdiction it is not open to High Court to correct errors of fact or law unless they go to the issue of jurisdiction. Revisional jurisdiction is restricted to cases of illegal or irregular exercise of jurisdiction.

Rahimal Bathu v. Ashiyal Beevi (2023)

Where an appealable decree has been passed in a suit, no revision should be entertained under Section 115 of the CPC against an order rejecting on merits a review of that decree. The proper remedy for the party whose application for review of an appealable decree has been rejected on merits is to file an appeal against that decree and if, in the meantime, the appeal is rendered barred by time, the time spent in diligently pursuing the review application can be condoned by the Court to which an appeal is filed.

Important Links for Judiciary Free Resources (Click on Each to Open Respective Pages)	
Subject Wise Mains PYQ Solution	Essay for Judiciary
Subject Wise Notes	Legal Doctrines
Landmark Judgements	GS Notes
Weekly Current Affair	Subject Wise Prelims PYQ Solution
Free Answer Writing Course	Judgement Writing
Telegram Link	Youtube Link

Others

Banwari Lai v.Chando Devi, AIR 1993 SC 1139

A court passing a compromise decree performs a judicial act and not a ministerial act. Therefore, the court must satisfy itself that the agreement is lawful and it can pass a decree in accordance with it and that such decree can be enforced against all the parties to the compromise.

Shankar v. Balakrishna, AIR 1954 SC 325

A compromise decree is not a decision on merits and it cannot be said that the case was 'heard and finally decided'. It is based on consent and therefore, will operate as 'estoppel'.

R. Dhanasundari v. A.N. Umakanth, (2020) 14 SCC 1

Order 23 Rule 1-A confers wide powers to be exercised for effectual and comprehensive adjudication. Basic requirement for applicability of this provision is that defendant seeking transposition must have a substantial question to be adjudicated against other defendants.

Vardarajan v. Kanakavalli, (2020) 11 SCC 598

According to Order 22 Rule 12, Order 22 rules 3,4 and 8 do not apply to execution proceedings i.e. there is no abatement of proceedings. Order 22 Rule 12 engrafts an exemption which provides that when a party to execution proceedings dies during the pendency, provisions as to abatement do not apply. Order 22 Rule 12 is for the benefit of decree holder for his heirs need not take steps for execution but may apply immediately or at any time during the pendency of proceeding. Conflicting claims of legal representatives can be decided in execution proceedings in view of principles contained in Order 22 Rule 5.



Vardarajan v. Kanakavalli, (2020) 11SCC 598

Determination as to who is legal representative under Order 22 Rule 5 will be for the limited purpose of representation of the estate of the deceased for adjudication of the case. Such determination for limited purpose will not confer on the person held to be legal representative any right to the property which is subject matter of the suit. According to Order 22 Rule 5, the jurisdiction to determine who is a legal heir is summary in nature.

Indian Bank v. Maharashtra State Coop. Marketing Federation Ltd, AIR 1998 SC 1952

A court has inherent power to 'consolidate' different suits between the same parties in which the matter in issue is substantially the same.

Tushar Kanti v. Savitri Devi, AIR 1996 SC 2752

The report of the Commissioner would furnish prima facie evidence of the facts and data collected by the Commissioner. It will constitute an important piece of evidence and cannot be rejected except on sufficient ground. It would be open to the court to consider what weight is to be attached to the data collected by the Commissioner.

Sardar Govindrao v. Devi Sahai, AIR 1982 SC 989

The sole object behind the order of attachment before judgement is to give assurance to the plaintiff that his decree if made would be satisfied. It is a sort of guarantee against the decree becoming infructuous for want of property available from which the plaintiff can satisfy the decree.

Menka Gupta v. Umashree Devi (2019)

Supreme Court held that a transferee pendent lite has locus standi to file an application seeking substitution of the original defendant who filed a petition to set aside ex parte decree under Order 9 Rule 13.

Afcons Infrastructure Ltd. v. Cherian Varkey Constructions Co. (P) Ltd., (2010) 8 SCC 24

Court enumerated the case in which ADR processes can be resorted to:-

1. All cases relating to trade, commerce and contracts.
2. All cases arising from strained relationship, such as matrimonial cases.
3. All cases where there is need for continuance of pre-existing relationships.
4. All cases relating to tortious liability, including motor accidents claims.
5. All consumer disputes.

Civil courts should invariably refer cases falling in above category to ADR processes. Only in certain recognized excluded categories the court need not refer to ADR process.

Ashok Kumar Gupta v. Sitalaxmi Sahuwala Medical Trust, (2020) 4 SCC 321

Three conditions are required to be satisfied in order to invoke Section 92 of the Code of Civil Procedure:-

1. The trust in question is created for public purposes of a charitable or religious nature;

2. There is a breach of trust or direction of court is necessary in administration of such trust;
3. The relief claimed is one or the other of the reliefs as enumerated in Section 92.

Indore Development Authority v. Manoharlal, (2020) 8 SCC 129

The principle of restitution is founded on the idea of doing complete justice at the end of litigation. It is a remedy against unjust enrichment or unjust benefit. Section 144 CPC is not the fountain source of restitution. It is rather a statutory recognition of justice, equity and fair play. Court has inherent jurisdiction to order restitution so as to do complete justice.

Hari Steel and General Industries Ltd. v. Daijit Singh, (2019) 20 SCC 425

Order 12 Rule 6 is an enabling provision. It is not mandatory and cannot be claimed as a matter of right. The court has to exercise its judicial discretion keeping in mind the judgement on admission is a judgement without trial which permanently denies any remedy to the defendant. Therefore, unless admission is clear, unambiguous and unconditional the discretion of the court should not be exercised to deny the valuable right of the defendant to contest the claim.