18 Stages Of Civil Suit In India Under The Civil Procedure Code, 1908

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

1. Presentation of plaint.
2. Service of summons on defendant.
3. Appearance of parties
4. Ex-parte Decree
5. Interlocutory Proceedings
6. Filing of written statement by defendant
7. Production of documents by parties (plaintiff and defendant)
8. Examination of parties
9. Discovery and Inspection
10. Admission
11. Framing of issues by the court.
12. Summoning And Attendance Of Witnesses
13. Hearing Of Suits And Examination Of Witnesses
14. Argument
15. Judgment
16. Preparation of Decree
17. Appeal, Review, Revision
18. Execution of Decree

The detailed discussion of all the stages are given below

1.Plaint (Order 7) :- The entire legal machinery under the Civil Law is set in motion by filing of plaint and hence plaint is the actual starting point of all pleadings in a case.

The plaint shall contain the following particulars

(i) Name of the court in which suit is to be filed.
(ii) Name, description and place of residence of the plaintiff.
(iii) Name, description and place of residence of the defendant so far it can be ascertained.
(iv) Where the plaintiff or defendant is a minor or person of unsound mind
statement to that effect.
(v) Facts constituting the cause of action and when it arose.
(vi) Fact showing that the court has jurisdiction.
(vii) Relief which the plaintiff claims.
(viii) Where plaintiff has allowed a set off or relinquishes a portion of his claim, the amount so

allowed for relinquishment.
(ix) Statement of the value of the subject matter of the suit for purpose of jurisdiction and court fees.

If after submitting the plaint the court finds that it should be submitted before some other court the plaint could be returned, and intimation thereof can be given to the plaintiff.

The court has power to reject the plaint on following grounds:

1.Where it does not disclose the cause of action
2.Where the relief claimed is under valued and plaintiff fails to correct the valuation within the time fixed.
3. If the relief is properly valued but insufficient court fee stamp is paid and the plaintiff fails to make good such amount.
4. Where the suit appears to be time barred, from the statements in the plaint.
5. When the plaint does not disclose any cause of action.

In ROOPLAL SATHI V/s. SINGH 1982 3SCC 487 it was held that the whole plaint should be rejected and not a portion of it.

However the rejection of plaint on aforesaid grounds does not bar the plaintiff from presenting a fresh plaint. (ORDER 7 RULE 13 OF CPC)

2. Service of Summons :- Summons is an instrument used by the court to commence a civil action or proceedings and is a means to acquire jurisdiction over party. It is a process directed to a proper officer requiring him to notify the person named, that an action has been commenced against him, in the court from where process is issued and that he is required to appear, on a day named and answer the claim in such action.When the suit is duly instituted summons may be issued to defendant to appear and answer the claim.

Defendant to whom a summons has been issued may appear in person or by a pleader duly instructed or by a pleader accompanied by some person who is able to answer all questions.

To expedite the filing of reply and adjudication of claim, the court may direct filing of written statement on date of appearance and issue suitable summons for that purpose. Failure to do so may result in Ex-parte judgment under order 8, rule 10.

The provisions of substituted service have to be resorted when the summons is not served by normal process through the court bailiff. Where the court is satisfied that there is reason to believe that the defendant is keeping out of the way for purpose of avoiding service or that for any others reason the summons can not be served in ordinary way the court shall order summons to be served by affixing copy thereof in conspicuous part of the house. (ORDER 5, RULE 20 OF CIVIL PROCEDURE CODE.)

To expedite service of summons one more provision is relating to substituted service under which the court orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the defendant last resided or carried on business or personally worked for gain (ORDER 20 RULE - 1A)

3. Appearance of parties :- On the day fixed in the summons the defendant is required to appear and answer and the parties shall attend the court unless the hearing is adjourned to a future day fixed by the court, if the defendant is absent court may proceed exparte. Where on the day so fixed it is found that summons has not been served upon defendant is consequence of failure of plaintiff to pay the court fee or postal charges the court may dismiss the suit. Where neither the plaintiff nor the defendant appears the court may dismiss the suit. Such dismissal does not bar fresh suit in respect of same cause of action.

4. Ex-parte Decree :- A decree against the Defendant without hearing him or in his absence or in absence of his defense can be passed under the following circumstances

1.Where any party from whom a written statement is required fails to present the same within the time permitted or fixed by the court, as the case may be the court shall pronounce judgment against him, or make such order in relation to the suit as it thinks fit and on pronouncement of such judgment a decree shall be drawn up.(ORDER 8, RULE 10 CIVIL PROCEDURE CODE.)

2. Where defendant has not filed a pleading, it shall be lawful for the court to pronounce judgment on the basis of facts contained in the plaint, except against person with disability.(ORDER 8, RULE 5(2), CIVIL PROCEDURE CODE.)

3. Where the plaintiff appears and defendant does not appear when suit is called up for hearing and summons is property served the court may make an order that suit will be heard ex parte (ORDER 9, RULE 6(1)(a) OF CIVIL PROCEDURE CODE)

If an exparte decree is passed and the defendant satisfies that he was prevented by sufficient

cause then he has the following remedies open

1. Prefer appeal against decree.
2. Apply for Review.
3. Apply for setting aside the Exparte Decree.

In UCO BANK V/S. IYENGER CONSULTANCY SERVICES, 1994 (SCC) 399 (SUPPLE.) it was observed that the words “Sufficient Cause” has not been defined and it will depend on facts and circumstances of each case.“

5. Interlocutory Proceedings :- The period involved between initiation and disposal of litigation is substantially long. The intervention of the court may sometimes be required to maintain the position as it prevailed on the date of litigation. In legal parlance it is known as "status quo”. It means preserving existing state of things on a given day.

In that context interlocutory orders are provisional, interim, temporary as compare to final. It does not finally determine cause of action but only decides some intervening matter pertaining to the cause.

1.Arrest and attachment before judgment Order 38

2.Temporary injunctions and interlocutory orders Order 39

3.Appointment of receiver Order 40

4. Appointment of commissioner Order 26

6. Written Statement (Order 8) :- The defendant is required to fiie written statement of his defense at or before the first hearing or such time as may be allowed

If defendant disputes maintainability of the suit or takes the plea that the transaction is void it must be specifically stated. A general denial of grounds alleged in the plaint is not sufficient and denial has to be specific. The denial should not be an evasive denial but it must be on point of substance. Every allegation of fact in the plaint if not denied specifically or by necessary implication or stated to be not admitted in the pleading shall be deemed to be admitted. (ORDER 8 RULE 5 OF CPC)

Before amendment 2002 in C.P.C. there was no time limit to file written statement by defendant. By amendment 2002 under order 8 rule 1 of C.P.C. defendant has to present written statement within 90 days from the date of service of summons on him. Under this rule discretion is given to

court that if defendant fails to file written statement within a period of 30 days he shall be allowed to file the same on such other day which may be specified by the court but such period shall not be later than 90 days from the date of service of summons.

By Amendment 1999 in rule 1-A of order 8 duty is casts upon the defendant to produce documents on which he bases his defense or other documents which are in his possession along with a list.Such list of documents is he supplied with frie written statement.

7. Production of Documents :- After filing written statement by defendant the next stage of the suit is documents. On this stage both parties have to file documents in court which are in their possession or power. If parties relay on some documents which are not in their possession in that case they have to apply to court for issue of summons to authority or persons in whose possession these documents are. The parties have to deposit in court cost of such production of documents. (Process fees and bhatta).

8. Examination of parties (Order 10) :-Examination of parties is an important stage after appearance. At first hearing of the suit the court shall ascertain from each party or his pleader whether he admits or denies such allegations of fact as are made in the plaint or written statement. Such admissions and denials shall be recorded. The examination may be an oral examination. When a party, if the pleader of the party who appears, refuses or is unable to answer any material question court may direct the concerned party should remain present in the court. If the party does not remain present court may pass such orders as deemed fit (ORDER 10 OF CPC.)

9. Discovery and Inspection (Order 11) :- The purpose of discovery and inspection of document and facts is to enable the parties to ascertain the facts to be proved. With the leave of the court the plaintiff or defendant may deliver interrogatories in writing for examination of opposite parties which are required to be answered and which are related to the matter.

10. Admission (Order 12) :- Either party may call upon the other party to admit within seven days from the date of service of the notice, any document saving all just exception. In case of refusal or neglect to admit after such notice, the cost of proving such document shall be paid by the party, so neglecting or refusing whatever be the result of the suit may be, unless the court otherwise directs and no cost of proving any such document shall be allowed unless such notice is given, except where the omission to give the notice is in the opinion of the court a saving of expenses. The above procedure is rarely followed by the advocates of parties.

11.Framing of Issue (Order 14):- The next stage is framing issues. The job of framing issues is exclusively assigned to a judge. Issues are framed considering provisions of order 14 rule 1 of C.P.C.

Rule 1 sub rule (1) states, "Issues arise when a material proposition of fact or law is affirmed by one party and denied by the other."

Sub rule (2) states, "Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defense,"

Sub rule (3) States "Each material proposition affirmed by one party denied by other shall form subject of distinct issues."
• Issues of fact
• Issues of law.

12. Summoning And Attendance Of Witnesses (Order 16) :- On the date appointed by the court and not later than 15 days after the date on which issues are settled parties shall present in court a list of witnesses whom they propose to call either to give evidence or to produce documents.

13. Hearing Of Suits And Examination Of Witnesses (Order 18) :- The plaintiff is entitled to have first right to begin unless the defendant admits the facts alleged by the plaintiff and contends that either in point of law or on some additional facts alleged by the defendant the plaintiff is not entitled to any part of relief. In such case defendant has the right to begin.

The plaintiff has to state his case in front of the judge. The plaintiff has to submit the evidence that was earlier marked. If any evidence was not marked earlier then it will not be considered by the court. Then the plaintiff will be cross-examined by the defendant's Advocate. The witnesses from plaintiff's side also have to appear in the court, who are also cross-examined by the defendant's lawyer.

The defendant also presents his side of the story supported by his witnesses and evidence from his side. The evidence needs to be be marked earlier by the court, otherwise it will not be considered by the court. The plaintiff's lawyer will then cross-examine the defendant.

14. Argument :- As soon as evidence of both side is over then the suit is kept for argument. Once the evidence has been submitted and cross-examination is conducted by the plaintiff and defendant, both sides are allowed to present a summary of their case and evidence to the judge in the Final argument session.

15. Judgment (Order 20) :-Judgment means the statement given by the judge on ground of which a decree is passed.

The court after the case has been heard shall pronounce judgment in open court either within one month of completion of arguments or as soon thereafter as may be practicable, and when the judgment is to be pronounced judge shall fix a day in advance for that purpose.

16. Preparation of Decree (Order 20 rule 6, 6A) :- Once the judgment is delivered by a judge a decree is to be prepared by concerned clerk.

The decree shall agree with the judgment; it shall contain the number of the suit, the names and descriptions of the parties, their registered addresses, and particulars of the claim, and shall specify clearly the relief granted or other determination of the suit.

17. Appeal, Review, Revision :-

A. Appeal :- An appeal may be an appeal from order or an appeal from decree. All orders are not appealable and complete discretion of the appealable order has been given in order 43 of the code of Civil Procedure Code. The appeal has to be preferred within prescribed limitation period before the appellate court. The limitation period for appeal to High Court is 90 days and appeal to District Court is 30 days. If the period of limitation is expired, then application for condonation of delay also is required to be moved.

B.Review :- The right of review is having very limited scope under the Civil Procedure Code

A review application is maintainable only when the following conditions are satisfied,

1. If involves a decree or order from which no appeal is allowed or if allowed it is not preferred.

2. The appellant was aggrieved, on the ground, that because of the discovery
of a new and important matter of evidence, which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time of decree or on account of some mistake, apparently on the face of the record, or for any sufficient reason, desires to obtain a review of such decree. The other side will be granted an opportunity to be heard, when any review application has been granted.

C. Revision :- The High Court in its revision jurisdiction can interfere in any case decided by subordinate court under certain circumstances.

The High Court may call for the record of any case which has been decided
by subordinate court and in which no appeal lies, if such subordinate court appears -

1. To have exercised, a jurisdiction not vested in it by law, or

2. To have failed to exercise a jurisdiction so vested, or
3. To have acted in exercise of its jurisdiction illegally; or with material irregularity.

18. Execution of Decree (Order 21) :- Execution is the medium by which a decree- holder compels the judgment-debtor to carry out the mandate of the decree or order as the case may be. It enables the decree-holder to recover the fruits of the judgment. The execution is complete when the judgment-creditor or decree-holder gets money or other thing awarded to him by judgment, decree or order.

R.J.