



PART XI

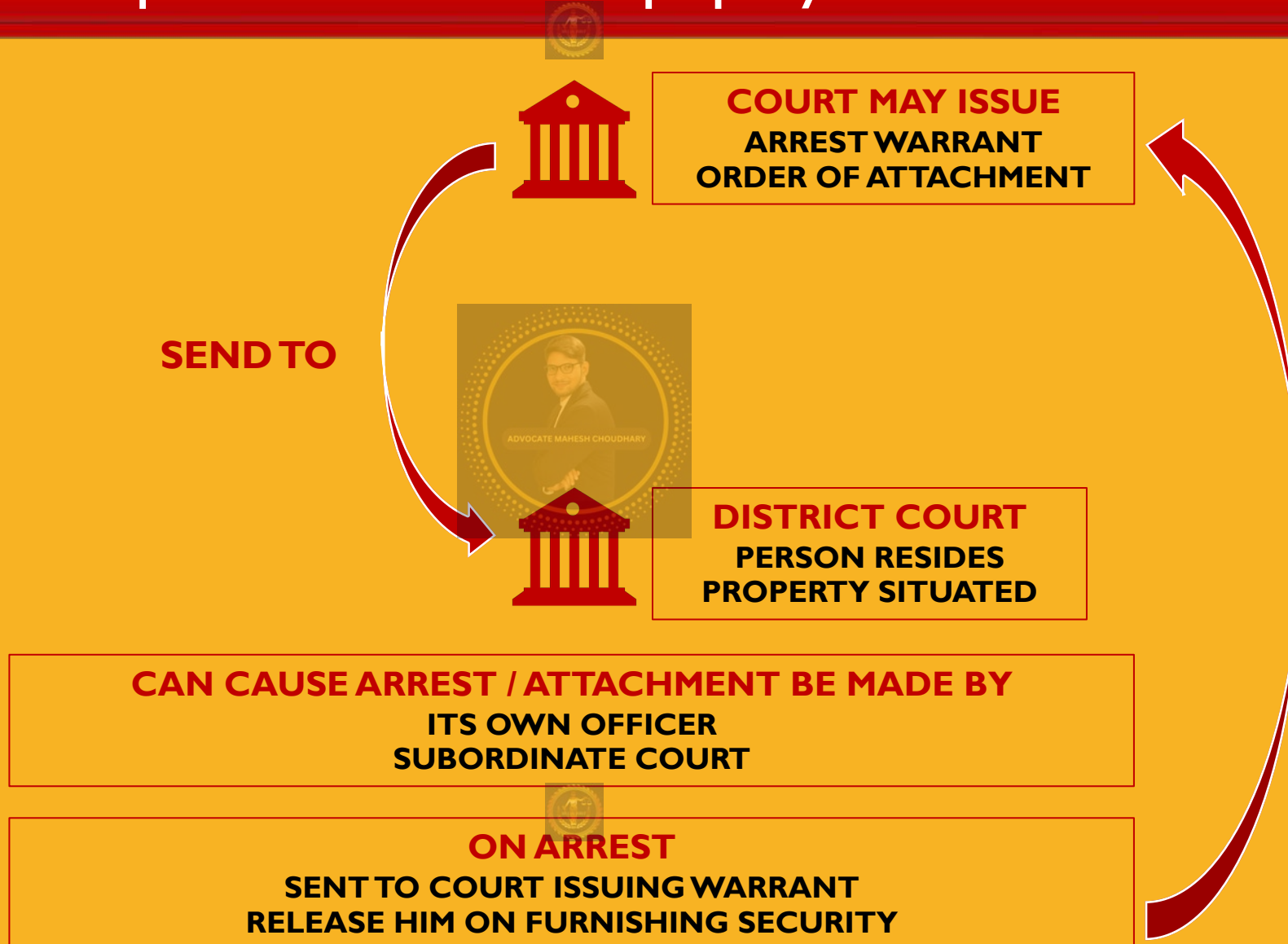
ADVOCATE MAHESH CHOUDHARY

MISCELLANEOUS



Section 136.

Procedure where person to be arrested or property to be attached is outside district.



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Procedure where person to be arrested or property to be attached is outside district.

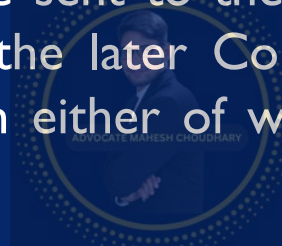
- (1) Where an application is made that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or such property is situate outside the local limits of the jurisdiction of the Court to which the application is made, the Court may, in its discretion, issue, a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.
- (2) The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment.

Section 136.

Procedure where person to be arrested or property to be attached is outside district.



(3) The Court making an arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he shows cause to the satisfaction of the former Court why he should not be sent to the later Court, or unless he furnishes sufficient security for his appearance before the later Court or for satisfying any decree that may be passed against him by that Court, in either of which cases the Court making the arrest shall release him.



(4) Where a person to be arrested or movable property to be attached under this section is within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal or at Madras or at Bombay, the copy of the warrant of arrest or of the order of attachment, and the probable amount of the costs of the arrest or attachment, shall be sent to the Court of Small Causes of Calcutta, Madras or Bombay, as the case may be, and that Court, on receipt of the copy and amount, shall proceed as if it were the District Court

Section 137. Language of subordinate Courts.—



SAME
BEFORE – COMMENCEMENT – AFTER
UNTIL STATE GOVT DIRECTS

If allows ENGLISH (except record of evidence)
– translation - costs

- (1) The language which, on the commencement of this Code, is the language of any Court subordinate to a High Court shall continue to be the language of such subordinate Court until the State Government otherwise directs.
- (2) The State Government may declare what shall be the language of any such Court and in what character applications to and proceedings in such Courts shall be written.
- (3) Where this Court requires or allows anything other than the recording of evidence to be done in writing in any such Court, such writing may be in English; but if any party or his pleader is unacquainted with English a translation into the language of the Court shall, at his request, be supplied to him; and the Court shall make such order as it thinks fit in respect of the payment of the costs of such translation.

Section 138.

Power of High Court to require evidence to be recorded in English.—

IN CASES – BY WHICH "APPEAL IS ALLOWED"

IF UNABLE TO FOLLOW – REASONS –
EVIDENCE – IN WRITING – DICTATION IN OPEN COURT

- (1) The High Court may, by notification in the Official Gazette, direct with respect to any Judge specified in the notification, or falling under a description set forth therein, that evidence in cases in which an appeal is allowed shall be taken down by him in the English language and in manner prescribed.
- (2) Where a Judge is prevented by any sufficient reason from complying with a direction under sub-section (1), he shall record the reason and cause the evidence to be taken down in writing from his dictation in open Court.

Section 139.

Oath on affidavit by whom to be administered.—



(I) In the case of any affidavit under this Code—

(a) any **Court or Magistrate**, or

(aa) any **notary** appointed under the Notaries Act, 1952 (53 of 1952); or

(b) any **officer** or other person whom a **High Court may appoint** in this behalf, or

(c) any **officer** appointed by any **other Court** which the **State Government** has generally or specially empowered in this behalf, may administer the oath to the deponent.

Section 140.
Assessors in causes of salvage, etc.



NONSENSE - SECTION



Section 141. Miscellaneous proceedings.—



PROCEDURE



- (1) The **procedure provided in this Code** in regard to suits shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction.



Explanation.— In this section, the expression “proceedings” includes proceedings under Order IX, but **does not include any proceedings under article 226 of the Constitution.**

2017

The Expression “proceedings” in Section 141  does not include.

a) Proceedings under Order IX

b) Proceedings under Article 226



c) Proceedings in Execution

d) a and b



Section 142.
Orders and notices to be in writing.—



ORDERS & NOTICES



GIVEN TO ANY PERSON



IN WRITING

All orders and notices served on or given to any person under the provisions of this Code shall be in writing.



Section 143. Postage.—



NOTICE, SUMMONS OR LETTER –
PAMPINCHALA –AITE DABBUL KATTU)



STATE GOVT MINHAINPU ICHINDA
AITE KATTAKU

Postage, where chargeable on a notice, summons or letter issued under this Code and forwarded by post, and the fee for registering the same, shall be paid within a time to be fixed before the communication is made:

Provided that the State Government may remit such postage, or fee, or both, or may prescribe a scale of court-fees to be levied in lieu thereof.

Section 144.
Application for restitution.—

NO SUIT ONLY APPLICATION

IF DECREE/ORDER – VARIED, REVERSED, SET-ASIDE, MODIFIED – IN APPEAL / REVISION

ANY PARTY MAY GIVE APPLICATION FOR “RESTITUTION” BE MADE

WHERE???? -- IN COURT WHERE DECREE / ORDER IS PASSED

FOR ORDER OF
PUT PARTY IN POSITION IN WHICH IT WOULD HAVE BEEN
REFUND OF COST
PAYMENT OF INTEREST, DAMAGES, COMPENSATION, MESNE PROFITS

Section 144. Application for restitution.—



(1) Where and in so far as a decree or an order is varied or reversed in any appeal, revision or other proceeding or is set aside or modified in any suit instituted for the purpose, the Court which passed the decree or order shall, on the application of any party entitled to any benefit by way of restitution or otherwise, cause such restitution to be made as will, so far as may be, place the parties in the position which they would have occupied but for such decree or order or such part thereof as has been varied, reversed, set aside or modified; and for this purpose, the Court may make any orders, including orders for the refund of costs and for the payment of interest, damages, compensation and mesne profits, which are properly consequential on such variation, reversal, setting aside or modification of the decree or order.

Explanation.—For the purposes of sub-section (1), the expression “Court which passed the decree or order” shall be deemed to include,—



Section 144.
Application for restitution.—



- (a) where the decree or order has been varied or reversed in exercise of appellate or revisional jurisdiction, the Court of first instance;
- (b) where the decree or order has been set aside by a separate suit, the court of first instance which passed such decree or order.
- (c) where the Court of first instance has ceased to exist or has ceased to have jurisdiction to execute, it, the Court which, if the suit wherein the decree or order was passed were instituted at the time of making the application for restitution under this section, would have jurisdiction to try such suit.



(2) No suit shall be instituted for the purpose of obtaining any restitution or other relief which could be obtained by application under sub-section (1).



26.06.2011

What is the meaning of restitution? (Section  144 C.P.C)

a) Dispossessing a person in occupation of suit property

b) Re-adjudication of the claim

c) Restoration of suit

d) Restoring to a party on the modification,  variation or reversal or decree

01.10.2023

'A' obtained decree ex parte against 'B' and in the execution of decree brought the properties of 'B' to sale and he himself became the purchaser. On appeal by 'B' the Appellate court set aside the decree and remanded the suit for re-hearing. Then 'B' applied for restitution. While the application was pending, the suit was heard and again decreed. 'A' then contended that as the suit has been decreed, no restitution could be granted. Is 'B' entitled to restitution? Decide giving reasons. (10 marks)

Section 145.

Enforcement of liability of surety.—

**SECURITY OR
GUARANTEE**

NOTICE

**PERSONALLY LIABLE
PROPERTY – SALE / ATTACH**

DEEMED PARTY – S. 47

Where any person has furnished security or given a guarantee—

- (a) for the performance of any decree or any part thereof, or
- (b) for the restitution of any property taken in execution of a decree, or
- (c) for the payment of any money, or for the fulfilment of any condition imposed on any person, under an order of the Court in any suit or in any proceeding consequent thereon,

the decree or order may be executed in the manner therein provided for the execution of decrees, namely:—

- (i) if he has rendered himself personally liable, against him to that extent;
- (ii) if he has furnished any property as security, by sale of such property to the extent of the security;
- (iii) if the case falls both under clauses (i) and (ii) then to the extent specified in those clauses,

and such person shall, be deemed to be a party within the meaning of section 47:

Provided that such notice as the Court in each case thinks sufficient has been given to the surety.

Section 146.

Proceedings by or against representatives.—



ALLOWED UNLESS EXPRESSLY MENTIONED BY CODE OR ANY LAW



Save as otherwise provided by this Code or by any law for the time being in force, where any proceeding may be taken or application made by or against any person then the proceeding may be taken or the application may be made by or against any person claiming under him.



Section 147.

Consent or agreement by persons under disability.—

**WITH LEAVE OF COURT BY NEXT FRIEND OR GUARDIAN
SAME EFFECT – AS IF NO DISABILITY**

In all suits to which any person under disability is a party, any consent or agreement, as to any proceeding shall, if given or made with the express leave of the Court by the next friend or guardian for the suit, have the same force and effect as if such person, were under no disability and had given such consent or made such agreement.

Section 148.

Enlargement of time.—



**NOT
EXCEEDING
30 DAYS**

ADVOCATE MAHESH CHOUDHARY

Where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code, the Court may, in its discretion, from time to time, enlarge such period, not exceeding thirty days in total, even though the period originally fixed or granted may have expired.



2016

Whether the court has power to extend the time granted for the performance of any act after the time granted by it had expired under Section 148, CPC?

a) Yes

b) No

c) Depends

d) None of the above



12.07.2015

A files a suit against B for recovery of money before the competent court of law. The said suit is returned with certain office objections, to be complied and resubmitted within fifteen days. Due to certain reasons, A forgets to represent the same within the 15 days. Under which provision of CPC can a petitioner seek extension of time?

a) 148

b) 148-A

c) 142

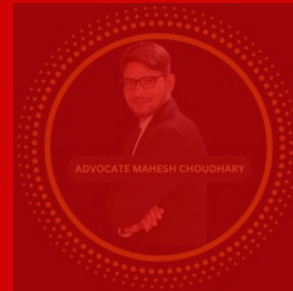
d) 146



29.06.2008



Enlargement of time. (2 marks)



Section 148A.

Right to lodge a caveat (BE AWARE – RIGHT OF HEARING)

WHEN ??

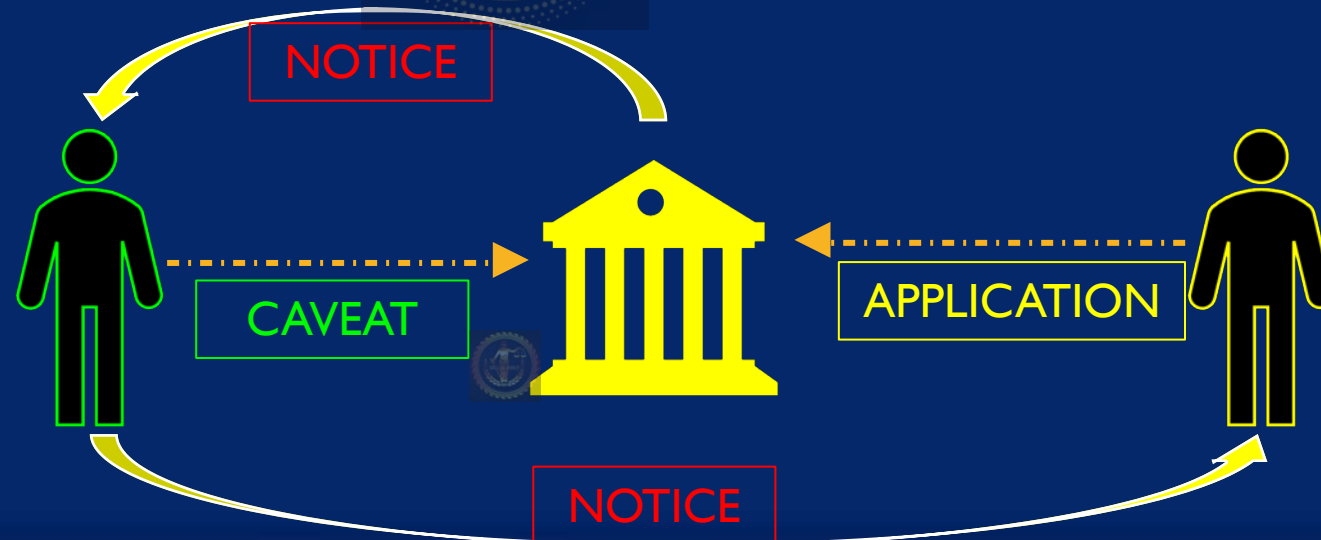
APPLICATION IS EXPECTED - TO BE MADE OR HAS MADE IN SUIT

BY WHOM ??

ANY PERSON CLAIMING “RIGHT TO APPEAR” BEFORE COURT ON HEARING SUCH APPLICATION – “MAY LODGE CAVEAT”

VALIDITY ??

“90 DAYS” FROM DATE ON WHICH IT WAS LODGED

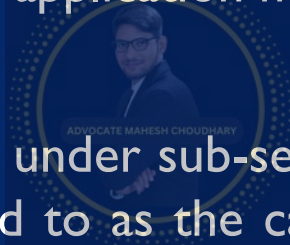


Section 148A.

Right to lodge a caveat.—



- (1) Where an application is expected to be made, or has been made, in a suit or proceeding instituted, or about to be instituted, in a Court, any person claiming a right to appear before the Court on the hearing of such application may lodge a caveat in respect thereof.
- (2) Where a caveat has been lodged under sub-section (1), the person by whom the caveat has been lodged (hereinafter referred to as the caveator) shall serve a notice of the caveat by registered post, acknowledgement due, on the person by whom the application has been, or is expected to be, made, under sub-section (1).
- (3) Where, after a caveat has been lodged under sub-section (1), any application is filed in any suit or proceeding, the Court, shall serve a notice of the application on the caveator.

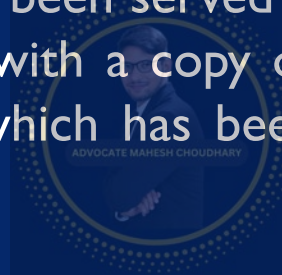


Section 148A.

Right to lodge a caveat.—



(4) Where a notice of any caveat has been served on the applicant, he shall forthwith furnish the caveator at the caveator's expense, with a copy of the application made by him and also with copies of any paper or document which has been, or may be, filed by him in support of the application.



(5) Where a caveat has been lodged under sub-section (1), such caveat shall not remain in force after the expiry of ninety days from the date on which it was lodged unless the application referred to in sub-section (1) has been made before the expiry of the said period.



13.08.2022

Where one seeks right of hearing on an application expected to be filed, he or she can file:

a) caveat

b) Suit

c) Complaint

d) None of the above

23.04.2023

Section 148A of Code of Civil Procedure, 1908, provides for

a) Enlargement of time

b) Filing of caveat



c) Review application

d) Filing First Appeal



23.04.2023

The Period prescribed under Section 148-A of CPC –

a) 30 days

b) 90 days

c) 60 days

d) 120 days



03.04.2021



What is a Caveat? Under what provisions of law is it filed? What is the effect of filing a caveat? (2^{1/2} marks)

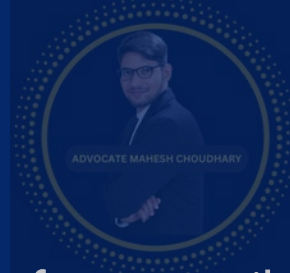


Section 149.

Power to make up deficiency of **court-fees**.—



**AT ANY STAGE – ALLOW TO PAY
EFFECT – AS IF PAID AT 1ST INSTANCE**



Where the whole or any part of any fee prescribed for any document by the law for the time being in force relating to court-fees has not been paid, the Court may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the whole or part, as the case may be, of such court-fee; and upon such payment the document, in respect of which fee is payable, shall have the same force and effect as if such fee had been paid in the first instance.



Section 150.
Transfer of business.—



**BUSINESS TRANSFERRED
SAME POWERS & DUTIES**



Save as otherwise provided, where the business of any Court is transferred to any other Court, the Court to which the business is so transferred shall have the same powers and shall perform the same duties as those respectively conferred and imposed by or under this Code upon the Court from which the business was so transferred.

Section 151.

Saving of inherent powers of Court.—



CODE WILL NOT LIMIT



ADVOCATE MAHESH CHOUDHARY

INHERENT POWERS OF COURT
ORDERS NECESSARY

FOR END OF JUSTICE
PREVENT ABUSE OF PROCESS OF COURT

Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.



29.06.2008



Inherent power of the court. (2 marks)

14.03.2004



Has the Court any inherent jurisdiction to grant injunction? If so, when can such inherent jurisdiction be exercised?



Section 152.

Amendment of judgments, decrees or orders.—



Clerical or arithmetical mistakes

in **judgments, decrees or orders or errors** arising therein from any
accidental slip or omission

may at any time be corrected by the Court

either of its own motion or on the application of any of the parties.



26.04.2012

The power of a court to correct clerical or arithmetical mistakes in judgements, decrees or orders:

- a) May at any time be exercised by Court of its own motion
- b) May at any time be exercised on an application by any of the parties
- c) Either (a) or (b)
- d) None of the these

08.03.2015

After pronouncing judgement, the court found that there are some clerical and arithmetical mistakes

a) It cannot correct them and they can be corrected by appellate court only

b) It can correct if both parties agree for such correction

c) It can correct on its own without notice to the parties

d) None of the above

2016

Can a plaint be amended after the suit has been disposed of, by invoking Section 152 and 153, CPC?

a) Yes

b) No

c) None of the above

d) Partly yes

23.04.2023

 Correction of judgement or final order is permissible

a) to correct a clerical error

b) to correct arithmetical error

c) Both (a) and (b)

d) None of the above



23.04.2023

 Under the provisions of the Code of Civil Procedure, 1908, an Executing court has the power to

a) **Modify the terms of the decree**

b) **Modify and vary the terms of the decree**



c) **Cannot either modify or vary the decree**

d) **Modify the judgement and terms of the decree**

29.06.2008



Amendment of Judgments, Decrees or Orders (2 marks)



Section 153.
General power to amend.—



**AMEND DEFECT OR ERROR IN ANY PROCEEDING
FOR PURPOSE OF DETERMINING REAL QUESTION OR ISSUE RAISED**



The Court may at any time, and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any proceeding in a suit; and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on such proceeding.



2016

Limitation for filing an application u/s 152 and 153 of CPC?

a) One year

b) Two years

c) Three years

d) None of the above



2017

The difference between Sections 152 and 153 CPC is

a) The power under Section 152 relates to decrees and orders while the power under Section 153 relates to any proceeding.

b) The former is suo motu, but the latter is not.

c) The latter is suo motu, but the former is not.

d) At the state at which they are exercisable

17.08.2019



What is a judgement? What is a decree? Whether. the judgment, decree or order be reviewed, amended or corrected by the same Court? (5 marks)



08.01.2012

In what circumstances can a judgment, decree or order be amended by the Court? (2 marks)



Section 153A.

Power to amend decree or order where appeal is summarily dismissed.—



APPEAL IS SUMMARILY DISMISSED
RULE 11 ORDER XLI



AMEND DECREE / ORDER
BY COURT PASSED DECREE
COURT OF 1ST INSTANCE

Where an Appellate Court dismisses an appeal under rule 11 of Order XLI, the power of the Court to amend, under section 152, the decree or order appealed against may be exercised by the Court which had passed the decree or order in the first instance, notwithstanding that the dismissal of the appeal has the effect of confirming the decree or order, as the case may be, passed by the Court of first instance.

Section 153B.

Place of trial to be deemed to be open Court.—



PLACE OF TRIAL
OPEN COURT
OTHERWISE DECIDED BY PRESIDING JUDGE



The place in which any Civil Court is held for the purpose of trying any suit shall be deemed to be an open Court, to which the public generally may have access so far as the same can conveniently contain them:

Provided that the presiding Judge may, if he thinks fit, order at any stage of any inquiry into or trial of any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

Section 157.

Continuance of orders under repealed enactments.—



SAME EFFECT AS THEY HAVE MADE UNDER CPC 1908



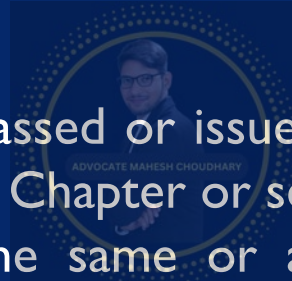
Notifications published, declarations and rules made, places appointed, agreements filed, scales prescribed, forms framed, appointments made and powers conferred under Act VIII of 1859 or under any Code of Civil Procedure or any Act amending the same or under any other enactment hereby repealed shall, so far as they are consistent with this Code, have the same force and effect as if they had been respectively published, made, appointed, filed, prescribed, framed and conferred under this Code and by the authority empowered thereby in such behalf.

Section 158.

Reference to Code of Civil Procedure and other repealed enactments.—



HOMEWORK



In every enactment or notification passed or issued before the commencement of this Code in which reference is made to or to any Chapter or section of Act VIII of 1859 or any Code of Civil Procedure or any Act amending the same or any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding Part, Order, section or rule.





ORDER XLVIII
(Miscellaneous)



ORDER XLVIII (Miscellaneous)



Rule 1. Process to be served at expense of party issuing.

Costs of service.

Rule 2. Orders and notices how served.

Rule 3. Use of forms in appendices.

