## **Contents**

		PAGE
Abou	ut the author	I-5
Abou	About the Book	
Prefa	ace	1-9
Chap	oter-heads	I-11
	1	
	HISTORY	
1.1	History of the Code	1
1.2	Extent and Applicability	2
1.3	Scope	2
1.4	Object of the Code	3
REVIE	EW QUESTIONS	4
	2	
	DEFINITIONS	
2.1	"Code" includes rules [S. 2(1)]	5
2.2	Decree [S. 2(2)]	5
2.3	Decree Holder [S. 2(3)]	8
2.4	District [S. 2(4)]	9
2.5	Foreign Court [S. 2(5)]	9
2.6	Foreign Judgment [S. 2(6)]	9
2.7	Government Pleader [S. 2(7)]	9
2.8	High Court [S. 2(7A)]	10
2.9	India [S. 2(7B)]	10
2 10	Judge [S. 2(8)]	10

	CONTENTS	I-14
		PAGE
2.11	Judgment [S. 2(9)]	10
2.12	Judgment-debtor [S. 2(10)]	11
2.13	Legal Representative [S. 2(11)]	11
2.14	Mesne Profits [S. 2(12)]	11
2.15	Movable property [S. 2(13)] includes growing crops	12
2.16	Order [S. 2(14)]	12
2.17	Pleader [S. 2(15)]	14
2.18	Prescribed [S. 2(16)]	14
2.19	Public officer [S. 2(17)]	14
2.20	Rules [S. 2(18)]	14
2.21	Share in a Corporation [S. 2(19)]	14
2.22	Signed [S. 2(20)]	14
REVIE	W QUESTIONS	15
	3	
	FOREIGN JUDGMENT	
3.1	Foreign Court	16
3.2	Foreign judgment	17
3.3	Submitting to the Jurisdiction of the Foreign Court	21
3.4	Anti-suit injunction	21
3.5	Matrimonial Cases	23
3.6	Execution of decrees passed by Courts in reciprocating territory	24
3.7	Suits on Foreign Judgment	24
REVIE	W QUESTIONS	24
	4	
	JURISDICTION	
4.1	Jurisdiction of Court	25
4.2	Irregular exercise of jurisdiction/Lack of jurisdiction	26
4.3	Does Consent Confer jurisdiction	26
4.4	Courts to try suits of Civil nature	26
4.5	Express and Implied bar	27
4.6	Explanation I	28
4.7	Explanation II	28
4.8	Place where a suit can be instituted	28

I-15 CONTENTS

		PAGE
4.9	Section 15	29
4.10	Section 16	29
4.11	Proviso to Section 16	30
4.12	Section 17	31
4.13	Section 18	31
4.14	Section 19	32
4.15	Section 20	33
4.16	Choice of Forum	34
4.17	Ouster of jurisdiction	35
4.18	Explanation to Section 20	35
4.19	Section 21	36
4.20	Transfer of suit	36
4.21	Appeal	37
REVIE	W QUESTIONS	37
	5 RES SUB-JUDICE, RES-JUDICATA AND INHERENT POWERS OF THE COURT	
5.1	Res Sub-Judice	38
5.2	Essentials of Res Sub-Judice	39
5.3	Whether Stay of suit is possible under Inherent powers of the Court	42
5.4	Res-judicata	42
5.5	Explanation V	48
5.6	Does Ex parte decision amount to Res-Judicata	48
5.7	Explanation VII	48
5.8	Application of Res-judicata to Writ proceedings and Applications in a pending suit	49
5.9	Res-judicata between Co-Plaintiff and Co-Defendants	49
5.10	Difference between Res-Judicata and Estoppel	49
5.11	Res-judicata and Order II Rule 2 CPC	50
5.12	Restitution (Section 144)	50
5.13	Caveat (Section 148A)	52
5.14	Enlargement of time (Section 148)	52
5.15	Power to make up Deficiency of Court fees (Section 149)	53
5.16	Transfer of Business (Section 150)	54

	CONTENTS	I-16
		PAGE
5.17	Saving of Inherent powers of the Court (Section 151)	54
5.18	Amendment of judgments, decrees or orders (Section 152)	55
5.19	General power to amend (Section 153)	56
5.20	Power to amend decree or order where appeal is summarily dismissed (Section 153A)	56
5.21	Place of trial to be deemed to be open Court (Section 153B)	56
REVIEV	N QUESTIONS	56
	6	
	INTEREST & COSTS	
6.1	What is interest	<i>57</i>
6.2	Kinds of interest	58
6.3	Costs	59
6.4	Kinds of Costs	60
REVIEV	N QUESTIONS	63
	7	
	PARTIES TO SUIT, CAUSE OF ACTION, INSTITUTION OF SUIT, RECOGNIZED AGENTS AND SERVICE OF SUMMONS	
7.1	Parties to Suit	64
7.2	Necessary and Proper Parties	64
7.3	Representative Suit	68
7.4	Order II Rule 2	72
7.5	Order II Rule 3	<i>75</i>
7.6	Institution of Suit	77
7.7	Order III: Recognized Agents	<i>78</i>
7.8	Issue of summons	79
7.9	Substituted service	82
7.10	Service of summons on defendant in special cases	83
REVIEV	N QUESTIONS	86
	8	
PLEADINGS		
8.1	What is Pleading?	87
8.2	Object of Pleadings	87

I-17 CONTENTS

		PAGE
8.3	Rules of Pleadings	88
8.4	General Principles of Pleadings	90
8.5	Verification of Pleadings	92
8.6	Striking off Pleadings	92
8.7	Principles governing amendment of Pleadings	93
8.8	Amendment in Plaint/Written Statement: Difference	96
REVIE	W QUESTIONS	96
	9	
	PLAINT AND WRITTEN STATEMENT	
9.1	Plaint	97
9.2	What should a plaint contain?	97
9.3	Filing of documents along with plaint	102
9.4	Return of plaint	102
9.5	Rejection of plaint	104
9.6	Effect of rejection of plaint	108
9.7	Order VIII, Written Statement	109
9.8	Effect of not filing Written Statement in prescribed time	110
9.9	Set off	113
9.10	Counter-Claim	115
REVIE	W QUESTIONS	117
	10	
	APPEARANCE OF PARTIES AND CONSEQUENCE OF NON-APPEARANCE	
10.1	Scope of Order IX	118
10.2	Dismissal of the suit on account of failure on the part of the Plaintiff	118
10.3	Dismissal of suit when Plaintiff does not appear	119
10.4	Procedure when defendant does not appear for reasons of non-service of summons	120
10.5	Procedure when defendant does not appear for reasons despite service of summons	120
10.6	Ex Parte Order	121
10.7	Ex Parte Decree	121
10.8	Sufficient cause	123
REVIE	W QUESTIONS	125

CONTENTS	I-18
CONTENTS	I-1

158

	CONTENTS	1-18
		PAGE
	11 HEARING & DISPOSAL, FRAMING OF ISSUES AND TRIAL	
11.1	Examination of parties: Order X	126
11.2	Framing of issues (Order XV)	128
11.3	Trial (Order XVI)	131
11.4	Summoning and Attendance of Witnesses	131
11.5	Attendance of Witnesses confined or detained in Prison (Order XVIA)	134
11.6	Adjournments (Order XVII)	134
11.7	Hearing of the Suit and Examination of witnesses (Order XVIII)	137
11.8	Affidavits (Order XIX)	141
11.9	Judgment (Order XX)	141
11.10	Decree [Order XX]	142
REVIEV	N QUESTIONS	145
	12 DISCOVERY, INSPECTION, PRODUCTION, IMPOUNDING AND RETURN OF DOCUMENTS	
12.1	Discovery, Inspection and Production of documents: Order XI	146
12.2	Interrogatories	147
12.3	Discovery by documents	149
12.4	Production, Impounding and Return of documents: Order XIII	152
12.5	Admission of documents	152
12.6	Return of documents	153
12.7	Impounding of documents	153
REVIEV	N QUESTIONS	154
	13 ADMISSIONS	
13.1	Admissions: Order XII	155
13.2	Procedure	156
13.3	Judgment on Admissions: Order XII Rule 6	156

**REVIEW QUESTIONS** 

I-19 CONTENTS

		PAGE
	14 DEATH, MARRIAGE AND INSOLVENCY OF PARTIES	
14.1	Death of Parties	159
14.2	Abatement	161
14.3	Right to Sue survives	162
14.4	Marriage of Parties	162
14.5	Insolvency of Parties	162
REVIE	W QUESTIONS	163
	15 WITHDRAWAL AND ADJUSTMENT OF SUITS: ORDER XXIII	
15.1	Withdrawal of suit	164
15.2	Compromise of suits: Order XXIII, Rule 3	166
REVIE	W QUESTIONS	167
	16 SECURITY FOR COSTS AND PAYMENT INTO COURT	
16.1	Security for Costs: Order XXV	168
16.2	Payment into Court: Order XXIV	169
REVIE	W QUESTIONS	170
	17 INTERIM ORDERS	
17.1	Scope	171
17.1	Appointment of Commissions under Order 26	171
17.2	Order 38 Arrest and Attachment before Judgment	178
17.4	Temporary Injunctions under Order 39	182
17.5	Appointment of Receiver under Order 40	186
	W QUESTIONS	188
	18	
	SPECIAL SUITS	
18.1	Suits by or against Government	190
18.2	Suits by Aliens: Section 83	194

	CONTENTS	I-20
		PAGE
18.3	Suits by or against foreign Rulers, Ambassadors and Envoys: Ss. 84-87A	194
18.4	Suits by or against Rulers of former Indian States: Section 87B	195
18.5	Suits by or against Military or Naval Men or Airmen: Order XXVIII	195
18.6	Suits by or against Corporations: Order XXIX	196
18.7	Suits by or against Firms and Persons carrying on business in names other than their own: Order 30	196
18.8	Suits by or against Trustee, Executors or Administrators: Order XXXI	198
18.9	Public nuisance and Other wrongful acts affecting the Public	198
18.10	Suits relating to Public Trusts: Section 92	199
18.11	Suits concerning family matters: Order XXXII-A	201
18.12	Friendly suits Section 90: Order XXXVI	202
18.13	Suits relating to constitutional validity of statutory instruments: Order XX-VII-A	202
18.14	Interpleader Suit: S. 88, Order XXXV	203
18.15	Suits by or against minor and persons of unsound mind: Order XXXIII	205
18.16	Suits based on Mortgage: Order XXXIV	208
18.17	Suits by Indigent Persons [Order XXXIII]	211
18.18	Summary Suits	217
REVIEV	N QUESTIONS	222
	<i>19</i> EXECUTION	
19.1	Scope	224
19.2	Courts which can execute decrees	225
19.3	Application for execution	227
19.4	Who may apply for execution	228
19.5	Stay of execution	229
19.6	Simultaneous execution	230
19.7	Modes of Execution	230
19.8	Questions to be determined by the Executing Court	243
19.9	Distribution of Assets	245
19.10	Appeal	246
REVIEV	N QUESTIONS	246

I-21 CONTENTS

		PAGE
	20	
	FIRST APPEAL AGAINST DECREE	
20.1	Scope	247
20.2	Right of appeal	248
20.3	Form of appeal	252
20.4	Procedure in appeal	254
20.5	Powers of the Appellate Court	255
20.6	Modification of decree: Rule 33	262
20.7	Other Powers of the Appellate Court	264
20.8	Judgment: Section 98, Rules 30-34	265
20.9	Decree: Rules 35-37	265
REVIE	W QUESTIONS	265
	21	
	SECOND APPEAL, APPEAL FROM ORDERS	
	AND APPEAL TO SUPREME COURT	
21.1	Second Appeal	266
21.2	Appeals to Supreme Court	273
21.3	Section 100A	276
21.4	Appeals from Orders	276
21.5	Order XVIII and Letter Patent Appeal	277
21.6	Appeal by indigent persons	279
REVIE	W QUESTIONS	280
	22	
	REFERENCE, REVISION AND REVIEW	
22.1	Reference	282
22.2	Revision	284
22.3	Revision and Art. 227	287
22.4	Reference and Revision	287
22.5	Review of Judgment: Section 114 and Order XLVII	287
22.6	Distinction between Reference, Review and Revision	293
REVIE	W QUESTIONS	293

CONTENTS I-22

PAGE

## 23

## THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMER-CIAL APPELLATE DIVISION OF HIGH COURTS ACT, 2015

◆ THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL 294 APPELLATE DIVISION OF HIGH COURTS ACT, 2015