

Civil Procedure Code: Execution of Decrees & Appeals

Civil Law · Code of Civil Procedure, 1908

1. Execution of Decrees — Order XXI

Execution is the process by which a decree-holder enforces the judgment of the court. Order XXI, the longest Order in the CPC, sets out the modes of execution, including:

- Delivery of possession of immovable property.
- Attachment and sale of the judgment-debtor's property, movable or immovable.
- Arrest and detention in civil prison, subject to statutory safeguards and exemptions.
- Appointment of a receiver.

Section 51 CPC sets out the powers of the court in execution, and Section 47 provides that all questions arising between the parties to the suit relating to the execution, discharge or satisfaction of the decree must be determined by the executing court itself, not by a separate suit.

2. Limitation for Execution

An application for execution of a decree must generally be filed within 12 years from the date the decree becomes enforceable, as provided under the Limitation Act, 1963.

3. Appeals — Sections 96–112 and Orders XLI–XLV

- **First appeal** (Section 96) — lies from every decree passed by a court exercising original jurisdiction, on both questions of fact and law, except where expressly barred.
- **Second appeal** (Section 100) — lies to the High Court only on a 'substantial question of law', which must be formulated at the time of admission.
- **Appeal from orders** (Section 104, Order XLIII) — a limited category of orders (as opposed to decrees) is separately made appealable.
- **Cross-objections** (Order XLI Rule 22) — a respondent who has not appealed may still challenge a finding against them by filing cross-objections in the pending appeal.

4. Revision — Section 115

The High Court's revisional jurisdiction under Section 115 allows it to satisfy itself that a subordinate court has not exercised jurisdiction not vested in it, failed to exercise jurisdiction vested in it, or acted illegally or with material irregularity in the exercise of jurisdiction. Revision is not a substitute for an appeal and does not extend to a re-examination of findings of fact.

5. Landmark Cases (for quick revision)

Ghanshyam Das v. Anant Kumar Sinha (1991) — execution proceedings are a continuation of the suit; the executing court cannot go behind the decree.

Santosh Hazari v. Purushottam Tiwari (2001) — explained the scope of a first appeal under Section 96 as a rehearing on both facts and law.

Hero Vinoth v. Seshammal (2006) — clarified what constitutes a 'substantial question of law' for the purposes of a second appeal under Section 100.

6. Exam-Focused Summary

- Distinguish a first appeal (Section 96) from a second appeal (Section 100) and state the test for each.
- Explain why Section 47 bars a separate suit on questions relating to execution.
- State the limitation period for filing an execution application.
- Know the narrow grounds available in revision under Section 115, as opposed to appeal.