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Important Definitions under the Civil Procedure Code, 1908

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Read this post to learn important definitions under the Civil Procedure Code.

Decree (Section 2(2))

A decree is the formal expression of an adjudication that conclusively determines the rights of the parties in a civil suit. The essential elements of a decree include:

- It must be a formal expression of an adjudication.
- It must conclusively determine the rights of the parties.
- The determination must be given by a competent court.
- It must pertain to any or all matters in controversy.

A decree is classified into three types:

- Preliminary Decree: Declares the rights of parties but requires further proceedings before a final determination.
- Final Decree: Completely disposes of the suit.
- Partly Preliminary and Partly Final Decree: Contains both elements of a preliminary and final decree.

A decree differs from an order as it conclusively determines the substantive rights of the parties, whereas an order may deal with procedural matters.

Judgment (Section 2(9))

A judgment is the statement given by a judge regarding the grounds for a decree or order. It contains:

- A concise statement of facts.

- The points for determination.
- The decision on each point.
- The reasons for such a decision.

The judgment must be clear, precise, and include a summary of evidence and reasoning for the decision.

Order (Section 2(14))

An order is a formal expression of any decision of a civil court that is not a decree.

While a decree determines substantive rights, an order primarily deals with procedural aspects. Orders can be final or interlocutory, meaning they may either conclude an issue or merely regulate proceedings until a final determination is made

The key distinctions between a decree and an order are:

- An order does not conclusively determine the rights of the parties.
- It may be passed in the course of proceedings.
- Unlike a decree, an order does not necessarily result in an appealable judgment.

Pleader (Section 2(15))

A pleader refers to a person who is authorized to appear and plead for a party in a suit before the court. This term includes:

- Advocates.
- Attorneys.
- Any other person permitted to represent a party.

Foreign Court (Section 2(5))

A foreign court is defined as a court situated outside India that is not established under Indian law. A judgment delivered by a foreign court is subject to enforcement under Section 13 of the CPC, provided it meets certain conditions such as:

- It must be passed by a competent court.

- It should be based on the merits of the case.
- It must not violate the principles of natural justice.

Foreign Judgment (Section 2(6))

A foreign judgment refers to a judgment delivered by a foreign court. Under Section 13, such judgments are not conclusive if they:

- Are not pronounced by a competent court.
- Were not given on the merits of the case.
- Violate principles of natural justice.
- Are obtained by fraud.
- Contravene Indian laws.

Only foreign judgments that fulfill these criteria can be executed in India under Section 44A of the CPC.

Legal Representative (Section 2(11))

A legal representative is a person who, in law, represents the estate of a deceased person. Legal representatives are responsible for fulfilling the legal obligations and rights of the deceased and ensuring the proper distribution of assets.

It includes:

- Executors and administrators.
- Heirs and legal representatives of the deceased.
- Persons who intermeddle with the estate of the deceased.

Public Officer (Section 2(17))

A public officer is an individual holding a position in government service and performing official duties. A public officer includes various categories of government officials such as:

- Judges.
- Military officers.

- Officers of the government performing public duties.

Mesne Profits (Section 2(12))

Mesne profits refer to the profits received by a person in wrongful possession of another's property.

These profits include the actual income generated from the property, reasonable interest on such income, and any unlawful gains derived by the wrongful possessor. The rightful owner of the property is entitled to claim mesne profits as compensation for the unlawful deprivation of their property rights.

These include:

- The actual benefits derived.
- Interest on such profits.
- Deductions for lawful expenses incurred.

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