BLOGS

Institution of a Suit under Civil Procedure Code

Ruchika Mohapatra · 07 Jun 2026

The civil justice system in India is governed primarily by the Code of Civil Procedure, 1908 (CPC). At the heart of this legal framework lies the concept of a civil suit, which is the formal process by which an individual seeks remedy through the courts for the violation or infringement of a legal right. Understanding the institution of a suit is foundational to navigating civil litigation in India.

In this post, we explore what it means to institute a suit, the legal requirements, the procedural steps involved, and the judicial interpretation that shapes this fundamental aspect of civil law.

What is a Suit?

A “suit” refers to any legal proceeding initiated by a plaintiff against a defendant in a civil court, seeking enforcement of a right, redress of a grievance, or recovery of property or compensation. It begins when a party approaches the court by presenting a plaint.

The CPC does not explicitly define the term “suit,” but it forms the bedrock of civil litigation and includes every legal action initiated by a private person for enforcement of a right.

Legal Provision: Section 26 and Order IV of CPC

The **institution of a suit** is primarily governed by:

- Section 26 of the CPC: “Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.”
- Order IV: Lays down the procedural aspects for instituting a suit.

These provisions together frame the groundwork for initiating a civil case.

Steps for Institution of a Suit

1. Presentation of the Plaint

A civil suit formally begins with the **presentation of a plaint**, a document that contains the facts of the case, the relief sought, and the legal grounds on which the relief is claimed. The plaint must:

- Be in writing,
- State the name of the court and the parties involved,
- Include a concise statement of facts,
- Specify the relief claimed,
- Be signed and verified by the plaintiff.

The plaint is presented to the appropriate civil court having jurisdiction—territorial, pecuniary, and subject-matter.

2. Payment of Court Fees

The plaintiff is required to pay court fees as per the Court Fees Act applicable in the respective state. The amount depends on the nature and value of the claim. Insufficient payment can lead to the rejection of the plaint under Order VII Rule 11.

3. Registration and Numbering of the Suit

Once the plaint is accepted, the court registers the suit and assigns a suit number. This step formally recognizes the beginning of the judicial process.

4. Issue of Summons

After registering the suit, the court issues summons to the defendant(s), directing them to appear before the court and respond to the plaint. This is governed by Order V of the CPC.

Conditions Precedent to Institution

1. Cause of Action

A civil suit must be based on a valid cause of action, a bundle of essential facts which gives the plaintiff the right to sue.

2. Jurisdiction

The plaintiff must file the suit in a court that has:

- Territorial jurisdiction – where the cause of action arose or where the defendant resides.
- Pecuniary jurisdiction – the monetary value of the claim should fall within the court's authority.
- Subject-matter jurisdiction – the nature of the dispute should fall under the category the court can adjudicate.

3. Limitation

The suit must be instituted within the limitation period as prescribed by the Limitation Act, 1963. Filing a suit after the limitation period generally leads to its dismissal.

Judicial Interpretation

The courts in India have consistently held that presentation of the plaint is the formal commencement of a suit. In *Maya Devi v. Raj Kumari Batra (2010)*, the Supreme Court reaffirmed that institution takes place on the date the plaint is presented before the competent court.

Furthermore, in *Lachhman Dass v. Jagat Ram (2007)*, it was held that non-compliance with mandatory procedural requirements, such as non-payment of requisite court fees or filing in a court lacking jurisdiction, can invalidate the institution of the suit.

E-filing and Modern Developments

In recent years, many High Courts have introduced e-filing systems to simplify and digitize the process of instituting a suit. This is a welcome step towards reducing procedural delays and increasing transparency.

However, even in the digital age, the core requirements of a valid plaint, proper jurisdiction, and timely filing remain unchanged.

Conclusion

The institution of a suit is the first and perhaps most crucial step in a civil litigation process. A well-drafted plaint, correct court jurisdiction, timely filing, and procedural compliance are essential for a suit to proceed effectively.

While the CPC provides the framework, judicial interpretations and practical implementation continue to evolve, especially with digital advancements.