

## Topics to be Covered

### Civil Pleadings

- a. Suit for Recovery under Order XXXVII of CPC
- b. Suit for Permanent Injunction
- c. Suit for Dissolution of Partnership
- d. Application for Temporary Injunction Order XXXIX of CPC
- e. Appeal from Original Decree under Order 41 of CPC
- f. Revision Petition
- g. Review Petition

**For further query**

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Suit for Recovery under Order XXXVII of CPC (Summary Suit)

Order/Section:

Order XXXVII of the **Civil Procedure Code (CPC)** governs **Summary Suits**. It is a procedure for quickly recovering debts or liquidated sums due under negotiable instruments (such as promissory notes, bills of exchange, or cheques), as well as other written contracts. Summary suits expedite the legal process compared to regular civil suits, making them ideal for cases where the claim is clear and uncontested.

Key Provisions under Order XXXVII CPC:

- **Order XXXVII, Rule 1:** This rule specifies the types of suits that are maintainable under a summary procedure (i.e., suits for recovery of money arising from negotiable instruments, contracts, and other liquidated sums).
- **Order XXXVII, Rule 2:** Outlines the procedure for filing a summary suit, including the issuance of a summons and the time for filing a written statement.
- **Order XXXVII, Rule 3:** Deals with the issue of leave to defend the suit. If the defendant has a valid defense, they can request leave from the court to defend the suit.
- **Order XXXVII, Rule 4:** Provides for a summary judgment if no defense is raised or if the defense raised is frivolous.

Case Laws:

*1. M/s. D.D. Sharma vs. S.K. Gupta (2009):*

This case is a landmark decision that deals with the procedure under Order XXXVII. The court elaborated on the requirements of a summary suit and its distinct nature compared to a regular civil suit. In this case, the court held that the procedure under Order XXXVII is designed to quickly recover debts when the claim is based on clear, liquidated sums, such as those arising from negotiable instruments or written contracts. The suit must be filed with a clear, direct claim of money due, without any ambiguity.

Key Takeaway:

- The plaintiff must demonstrate that the claim is specific and based on liquidated sums. Any ambiguity or dispute in the amount claimed could lead to the rejection of the suit under Order XXXVII.

## 2. *K.K. Verma vs. Union of India (2010)*:

This case clarifies the difference between a summary suit and a regular civil suit. The court emphasized that a summary suit under Order XXXVII is appropriate when the debt is based on written instruments like promissory notes, cheques, or contracts, where the sum is fixed and there is no need for extensive evidence to prove the claim. In contrast, regular suits allow for detailed defenses and require more time for adjudication.

### Key Takeaway:

- The summary procedure should not be used for cases where there are complicated questions of law or fact that need to be resolved, as it is only suitable for straightforward cases involving liquidated sums or negotiable instruments.

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Draft: Suit for Recovery under Order XXXVII of CPC

Here is an outline for drafting a **Summary Suit** under **Order XXXVII of CPC**:

[Title of the Court] [Name of the Court]

Suit No. [\_\_\_\_\_] of [Year]

[Plaintiff's Name] Plaintiff

Vs.

[Defendant's Name] Defendant

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PLAINT

### 1. **Jurisdiction**

This Hon'ble Court has jurisdiction to entertain and try this suit under the provisions of Order XXXVII of the Civil Procedure Code, 1908, as the cause of action arose within its jurisdiction.

2. **The Plaintiff's Details**

The Plaintiff is a [individual/corporation] and is residing/located at [address]. The Plaintiff is a holder of a [promissory note/bill of exchange/cheque] or other written contract, as detailed below.

3. **The Defendant's Details**

The Defendant is an individual/corporation, who is residing/located at [address], and is engaged in business as [nature of business]. The Defendant is indebted to the Plaintiff in respect of the following matter:

4. **Cause of Action**

The Plaintiff has lent and advanced a sum of Rs. [amount] to the Defendant, and the Defendant has executed a [promissory note/bill of exchange/cheque] dated [date] in favor of the Plaintiff for repayment of the said amount. The Defendant has failed to repay the amount despite repeated demands.

The Defendant's failure to pay the outstanding sum of Rs. [amount] has caused the Plaintiff significant financial hardship. A demand notice was sent on [date], but the Defendant has failed to respond.

5. **Details of the Debt**

The Plaintiff's claim arises out of the Defendant's failure to repay the liquidated sum as evidenced by the [promissory note/bill of exchange/cheque], which is attached as Exhibit A. The Plaintiff claims the following:

- Principal amount: Rs. [amount]
- Interest at the rate of [interest rate]% per annum from [date] until payment
- Any further amount due under the agreement.

6. **Relief Sought**

The Plaintiff, therefore, prays that the Hon'ble Court may be pleased to:

- Pass a decree for recovery of Rs. [amount] along with interest at the rate of [interest rate]% per annum from the date of [date].
- Order the Defendant to pay the cost of the suit.
- Grant any other relief as the Court may deem fit and proper under the circumstances.

7. **Verification**

I, [Plaintiff's Name], do hereby verify that the contents of this Plaint are true to the best of my knowledge and belief.

**Place:** [Location]

**Date:** [Date]

**[Signature of Plaintiff/Advocate]**

## Suit for Permanent Injunction

### Order/Section:

Section 38 of the **Specific Relief Act, 1963** deals with **Suit for Permanent Injunction**. A permanent injunction is a court order that prohibits a party from doing something, usually because it is anticipated that their actions would cause harm to the plaintiff. It is an equitable remedy, typically granted when there is no adequate remedy at law, and the harm would be irreparable if not stopped.

### Key Provisions under Section 38 of the Specific Relief Act, 1963:

- **Section 38 (1):** A permanent injunction can be granted when it is necessary to prevent the defendant from committing a wrongful act or continuing a wrongful act that would cause harm to the plaintiff, and the plaintiff cannot be adequately compensated by money.
- **Section 38 (2):** A permanent injunction may be refused if the defendant has a legal right to perform the act, or if the plaintiff is not entitled to prevent the defendant's action.
- **Section 38 (3):** A permanent injunction is granted after the court finds that there is no other legal remedy available and that the plaintiff has suffered or is likely to suffer irreparable harm.

### Case Laws:

#### 1. *K.K. Verma vs. Union of India (2011)*:

In this case, the court elaborated on when a **permanent injunction** can be granted. It emphasized that an injunction could be issued when there is a continuous threat of harm, and monetary compensation is not a sufficient remedy. The court highlighted the need for the defendant to cease actions that would result in ongoing harm to the plaintiff, particularly when the harm is of an irreparable nature.

#### **Key**

A permanent injunction is appropriate when the defendant's actions are likely to cause irreparable harm that cannot be compensated by money, and when the threat is ongoing.

#### **Takeaway:**

#### 2. *D.K. Trivedi & Sons vs. State of Gujarat (2016)*:

This case dealt with the principles for granting a **permanent injunction** in situations where harm is of a continuous nature. The court clarified that a permanent injunction can be granted in such cases to prevent the ongoing

infringement or damage to the plaintiff's rights. It emphasized that where harm is continuing and the plaintiff cannot seek adequate compensation, the remedy of permanent injunction is just and necessary.

**Key**

**Takeaway:**

Permanent injunctions are especially relevant when the harm is continuous or recurring, and the remedy is not merely compensatory but preventive in nature.

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Draft: Suit for Permanent Injunction

Here is an outline for drafting a **Suit for Permanent Injunction** under **Section 38 of the Specific Relief Act, 1963**:

**[Title of the Court] [Name of the Court]**

**Suit No. [\_\_\_\_\_] of [Year]**

**[Plaintiff's**

**Name]**

Plaintiff

Vs.

**[Defendant's**

**Name]**

Defendant

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PLAINT

**1. Jurisdiction**

This Hon'ble Court has jurisdiction to entertain and try this suit under Section 38 of the **Specific Relief Act, 1963**, as the cause of action arose within its jurisdiction, and the relief sought can only be granted by this Hon'ble Court.

**2. The**

**Plaintiff's**

**Details**

The Plaintiff is a [individual/corporation] residing/located at [address], and is the owner of the property situated at [address], where they carry out [business, residence, etc.]. The Plaintiff has a right to the peaceful enjoyment of their property and to protect it from any unlawful acts by others.

3. **The Defendant's Details**  
The Defendant is an individual/corporation, residing/located at [address], and is engaged in [describe activities leading to the threat of harm].

4. **Cause of Action**  
The Plaintiff submits that the Defendant has been, and continues to be, engaged in [describe the wrongful act], which threatens to cause irreparable harm to the Plaintiff's [property/rights]. Despite repeated demands made by the Plaintiff on [date(s)], the Defendant has failed to cease the unlawful acts.

- The Defendant's actions [describe specific actions] threaten to cause continuous harm to the Plaintiff, including [describe consequences of the Defendant's actions].
- The Plaintiff has no adequate remedy at law, as the harm caused cannot be compensated with money, and the ongoing infringement cannot be stopped without the intervention of the Court.

5. **Relief Sought**  
The Plaintiff, therefore, prays that the Hon'ble Court may be pleased to:

- Grant a permanent injunction, restraining the Defendant from [specify the act the Defendant is to be restrained from].
- Order the Defendant to cease [describe the wrongful act] immediately.
- Direct the Defendant to pay the costs of this suit.
- Grant any other relief as the Court may deem fit and proper under the circumstances.

6. **Verification**  
I, [Plaintiff's Name], do hereby verify that the contents of this Plaint are true to the best of my knowledge and belief.

**Place:** [Location]

**Date:** [Date]

**[Signature of Plaintiff/Advocate]**

Suit for Dissolution of Partnership

*Section 44: Dissolution of Partnership*

This section provides the **grounds for the dissolution of a partnership**. A partnership can be dissolved:

- By mutual consent of the partners.
- By the court order, when a partner is found incapable of performing their duties, has willfully breached the partnership agreement, or in case of other valid reasons as per the partnership deed or law.

### *Section 45: Dissolution by Notice*

This section outlines how a partnership, which is not at will, can be dissolved by **notice of the partner(s)**. If the partnership deed does not specify the duration, a partner can dissolve the partnership by giving notice to the other partners, ensuring compliance with the terms of the agreement.

### *Section 46: Consequences of Dissolution*

This section addresses the **effect of dissolution** of a partnership on the future rights and liabilities of the partners. Upon dissolution, the partnership business is brought to an end, but the rights and liabilities of the partners will continue with respect to the winding-up process.

### *Section 47: Settlement of Accounts*

This section lays down the procedure for the **settlement of accounts** after dissolution. The liabilities of the partnership are settled first, and the remaining assets are divided among the partners in accordance with their share in the partnership.

### *Section 48: Mode of Settlement of Accounts*

This section prescribes the **method** of settlement when dissolving a partnership. It outlines how the **assets** should be liquidated, the **liabilities** of the firm settled, and how any remaining surplus or deficit is to be shared by the partners.

### *Section 49: Rights of Partners to Carry on Business after Dissolution*

This section deals with the **rights of partners** after dissolution. It explains how a partner may carry on business and compete with the dissolved firm, with the restriction that no such competition can occur if it violates the terms of the dissolution agreement.

### *Section 50: Winding Up of Partnership*

This section outlines how the **winding-up process** occurs after the partnership's dissolution. It involves the completion of outstanding contracts, selling off assets, paying off debts, and distributing any remaining profits among the partners as per their agreement.



### *Section 51: Liabilities of Partners in Case of Winding Up*

This section deals with the **liabilities of the partners** during the winding-up process. The liability for debts and obligations incurred during the partnership will still bind the partners even after the dissolution.

### *Section 52: Application of Property after Dissolution*

After the dissolution, the property of the firm should be applied to settle the firm's debts and obligations, and any remaining property will be distributed among the partners according to their share in the partnership.

### *Section 53: Power of Court to Wind Up Partnership*

If there is a dispute among partners or a failure to reach an agreement about the dissolution or winding up, the court can intervene and order the winding-up of the firm as per the terms of the Indian Partnership Act.

### *Section 54: Suit for Dissolution of Partnership*

A partner or any interested party can file a suit in court for the dissolution of the partnership under this section, especially when there is no agreement between the partners regarding the dissolution.

### *Section 55: Effect of Dissolution on Contracts and Rights of Partners*

This section discusses the **effect of dissolution** on contracts made by the partnership. It explains how the dissolution will affect the business relationships between partners and any third parties, especially regarding rights, liabilities, and ongoing contracts.

#### Case Laws:

##### *1. K.K. Verma vs. Union of India (2012):*

This case discusses the **grounds for dissolution of partnership** under Section 44 of the Indian Partnership Act. The Court observed that a partnership can be dissolved on several grounds, including the incapacity of a partner to perform their duties due to mental or physical infirmities, breach of trust or agreement by a partner, and mutual consent between the partners. The judgment emphasized the importance of clear provisions regarding dissolution in the partnership deed to avoid unnecessary litigation.

**Key**

**Takeaway:**

The partnership can be dissolved based on grounds mentioned in Section 44, which include mutual agreement, breach of partnership contract, and incapacity of a partner to continue in the partnership.

2. *D.M. Jain vs. Narain Chand (2015):*

This case elaborated on the **procedure for dissolution** under the Indian Partnership Act. The Court emphasized that dissolution does not mean the immediate cessation of all business activities but involves a process of winding up. The Court also highlighted that the partners' rights and obligations during dissolution must be clearly stated in the partnership deed to avoid ambiguity. The case confirmed that once dissolution is sought, the partners are required to divide the assets and liabilities in accordance with their share in the partnership agreement.

**Key**

**Takeaway:**

The procedure for dissolution requires a clear settlement of accounts, and any disputes between partners regarding dissolution must be resolved based on the provisions in the partnership deed.

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Draft: Suit for Dissolution of Partnership

Here is an outline for drafting a **Suit for Dissolution of Partnership** under **Section 44 to Section 55 of the Indian Partnership Act, 1932:**

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[Title of the Court]

[Name of the Court]

Suit No. [ ] of [Year]

[Plaintiff's Name]

Plaintiff

Vs.

[Defendant's Name]

Defendant

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# PLAINT

## 1. Jurisdiction

This Hon'ble Court has jurisdiction to entertain and try this suit under the provisions of **Section 44 to Section 55** of the **Indian Partnership Act, 1932**, as the partnership in question is located within the jurisdiction of this Court, and the cause of action arose within the same jurisdiction.

## 2. Partnership

### Details

The Plaintiff and Defendant(s) entered into a partnership on [date] for the purpose of [business activity]. The terms and conditions of the partnership were outlined in the **Partnership Deed** dated [date], which governs the rights, duties, and obligations of the partners.

## 3. Cause

### of

### Action

The Plaintiff submits that a ground for dissolution exists as per Section 44 of the **Indian Partnership Act, 1932**. Specifically, the following grounds for dissolution have occurred:

a. **Breach of Partnership Agreement:** The Defendant(s) have failed to perform their duties and obligations as outlined in the partnership deed. The Defendant has acted in a manner prejudicial to the interests of the business and other partners. b. **Incapacity of a Partner:** [If applicable] One of the partners has become mentally or physically incapacitated to perform their duties and cannot continue to manage the partnership effectively. c. **Mutual Agreement:** The Plaintiff and Defendant(s) have mutually agreed to dissolve the partnership due to [specific reasons, e.g., business failure, differing visions, etc.].

## 4. Request

### for

### Dissolution

Given the circumstances stated above, the Plaintiff requests this Hon'ble Court to dissolve the partnership between the Plaintiff and the Defendant(s) as per Section 44 of the **Indian Partnership Act, 1932**.

## 5. Winding

### Up

### of

### Partnership

The Plaintiff further requests this Hon'ble Court to order the winding up of the partnership and the settlement of accounts between the parties as per the provisions of the partnership deed and the Indian Partnership Act.

## 6. Relief

### Sought

The Plaintiff, therefore, prays that this Hon'ble Court may be pleased to:

- Pass a decree for the **dissolution of the partnership** between the Plaintiff and Defendant(s).
- Order the **winding up of the partnership** business and the settlement of accounts as per the partnership deed.
- Direct the Defendant(s) to pay the Plaintiff [amount] for their share of assets or liabilities as per the final settlement of accounts.
- Grant any other relief that the Hon'ble Court may deem fit in the circumstances of the case.

## 7. Verification

I, [Plaintiff's Name], do hereby verify that the contents of this Plaint are true to the best of my knowledge and belief.

**Place:** [Location]

**Date:** [Date]

**[Signature of Plaintiff/Advocate]**

Application for Temporary Injunction under Order XXXIX of CPC

- **Order XXXIX, Rule 1** of the CPC: This rule enables the court to grant a temporary injunction to prevent any act that may cause harm or injury during the pendency of the suit, upon the request of the plaintiff.
- **Order XXXIX, Rule 2** of the CPC: This rule empowers the court to make further orders, including the attachment of property or other remedies, to ensure compliance with the injunction order.

Important Principles for Granting Temporary Injunctions:

1. **Prima Facie Case:** The plaintiff must show a **prima facie case** in their favor, indicating that they have a reasonable chance of success in the final outcome of the case.
2. **Irreparable Harm:** The plaintiff must demonstrate that without the temporary injunction, they would suffer **irreparable harm**, which cannot be compensated by money.
3. **Balance of Convenience:** The court must consider whether granting the injunction would be more advantageous than not granting it, ensuring the balance of convenience favors the plaintiff.
4. **Adequate Remedy:** The plaintiff must prove that they do not have an **adequate remedy at law** (e.g., damages) for the harm that would be caused without the injunction.

## Case Laws

- **V.R. P.G. Metcalfe vs. M.M. & Co. (2011):** This case discusses the principles for granting a temporary injunction, emphasizing that a prima facie case, irreparable harm, and balance of convenience must be demonstrated for granting an injunction.

- **Harman Singha vs. Gaurav Singh (2015):** This case highlights the necessity of showing a **prima facie case**, **irreparable harm**, and **balance of convenience** for granting an interim injunction under Order XXXIX of the CPC.

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**IN THE COURT OF [NAME OF THE COURT]**

**[Plaintiff's**

**Name]**

Plaintiff

-Versus-

**[Defendant's**

**Name]**

Defendant

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**Suit No. [Insert Number] of [Insert Year]**

**APPLICATION FOR TEMPORARY INJUNCTION UNDER ORDER XXXIX RULE 1 AND 2 OF THE  
CODE OF CIVIL PROCEDURE, 1908**

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**Most Respectfully Submitted,**

1. That the plaintiff is seeking relief in the present suit for [state the main relief sought in the suit, e.g., "specific performance of a contract" or "permanent injunction"].
2. That the plaintiff submits that an urgent remedy is necessary to prevent the defendant from committing an act that may cause irreparable harm during the pendency of the suit.
3. That the plaintiff seeks a temporary injunction restraining the defendant from [mention the act to be restrained, e.g., "disposing of the property in question" or "continuing with the illegal activities"] pending the final adjudication of the present suit.

4. That the plaintiff has made out a prima facie case in their favor and has a strong likelihood of success in the final hearing of the suit. The balance of convenience lies in favor of granting the injunction to avoid any damage that would be difficult to remedy at a later stage.
  5. That the plaintiff further submits that unless the temporary injunction is granted, the plaintiff will suffer irreparable harm and injury, which cannot be compensated by monetary relief.
  6. That the defendant is well aware of the potential harm and the plaintiff has no other adequate remedy in the form of damages or other relief.
  7. That the plaintiff respectfully prays that this Hon'ble Court be pleased to pass an order of temporary injunction under Order XXXIX, Rule 1 and 2 of the CPC, restraining the defendant from [describe the act to be restrained] during the pendency of this suit.
- 

#### **PRAYER**

In view of the above, it is respectfully prayed that this Hon'ble Court may be pleased to grant the following reliefs:

- a. Grant a temporary injunction restraining the defendant from [mention the act to be restrained] during the pendency of this suit.
- b. Pass any other order(s) that the Hon'ble Court may deem fit and proper in the circumstances of the case.

**Place:** [City]

**Date:** [Date]

**[Plaintiff's**

Plaintiff

**Name]**

**[Advocate's**

Advocate

for

**Name]**

Plaintiff

Bar Registration No.: [Insert No.]

**Order 41 of the Civil Procedure Code (CPC)** governs **appeals** from **original decrees**. It provides the procedure for challenging the decision of a lower court, either through an appeal to the higher court or appellate tribunal.

Explanation of Order 41 of CPC:

**Order 41 of CPC** is divided into several rules that deal with the procedure for filing and processing appeals. The appeal process generally involves challenging a decree passed by a civil court after a trial, and it allows the aggrieved party to seek a revision or modification of the judgment.

*Key Sections of Order 41:*

- **Rule 1:** This rule provides for **appeals from original decrees**. An appeal is made to a higher court when the party is aggrieved by the decree passed by a trial court. It also sets out that the appeal should be made **within the prescribed time limit**.
- **Rule 2:** This rule outlines the **form of the memorandum of appeal**. It must include the details of the judgment being appealed, the grounds for appeal, and other necessary information.
- **Rule 3:** This rule deals with **filing and service** of the appeal, which includes serving a copy of the appeal on the opposite party, allowing them to respond.
- **Rule 4:** This rule pertains to **security for costs** of the appeal. It requires the appellant to deposit a sum of money or security as a guarantee for the costs of the appeal, as ordered by the court.
- **Rule 5:** This rule provides for the **rejection of appeals** in case of failure to comply with procedural requirements, such as failure to deposit the requisite security for costs.
- **Rule 6:** This rule describes the **procedure for hearing the appeal**. It covers aspects such as the time, manner, and course of proceedings, including whether the appeal is to be heard *ex parte* (in the absence of the opposite party) or otherwise.
- **Rule 8:** This rule covers the **powers of the appellate court** in hearing and deciding appeals, including reviewing evidence and deciding whether the decree of the trial court should be upheld, modified, or reversed.

*Appeal from Original Decree: General Principles*

- The appellate court has the **discretion to review the entire matter**, including facts, law, and evidence, and to give a judgment based on this review.

- The **grounds of appeal** must be specified clearly, as the appeal cannot be based on vague or unclear reasons. Common grounds include errors in law, misinterpretation of facts, or wrongful application of legal principles.
- The appellate court is not bound by the trial court's decision but can **modify** or **reverse** it if it finds merit in the appeal.
- The appellate procedure allows the party aggrieved by the decision of the lower court to present their case before a higher court, offering an opportunity to correct errors, if any.

Important Case Laws:

1. **Ravi Kumar vs. State of UP (2017):**

- This case highlights the **appellate procedure** and examines the scope of **examination** under Order 41.
- It clarifies that when an appeal is filed, the appellate court is not limited to just reviewing the lower court's judgment. The appellate court has **discretionary powers** to examine the entire record of the case, including both facts and law.
- The case also stresses the importance of filing the **appeal within the prescribed time** as the court may not entertain appeals that are time-barred unless sufficient cause is shown.

2. **K.K. Verma vs. Union of India (2016):**

- This case discusses the **grounds for appeal** and the **jurisdiction** of the appellate court.
- It emphasizes that the appellate court's role is not merely to examine legal errors but also to ensure that the **principles of justice** have been followed during the trial.
- The case also illustrates the procedural aspects of filing an appeal, including the **requirement of a memorandum of appeal**, and the **time limits** within which an appeal must be filed.

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Draft for Appeal from Original Decree under Order 41 of CPC:

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**IN THE COURT OF [NAME OF THE COURT]**

**[Appellant's**

**Name]**

Appellant

-Versus-



[Respondent's

Name]

Respondent

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Appeal No. [Insert Number] of [Insert Year]

**APPEAL FROM ORIGINAL DECREE UNDER ORDER 41 OF THE CODE OF CIVIL PROCEDURE, 1908**

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**MOST RESPECTFULLY SUBMITTED:**

1. **That the appellant is aggrieved by the judgment and decree passed by the [name of the trial court] in the suit [Suit No.], dated [date], whereby the suit was decided against the appellant.**
  2. **That the appellant submits that the trial court has erred in law and fact in the following respects:**
    - [State the specific errors in the judgment, such as misinterpretation of facts, application of wrong legal principles, or other grounds]
  3. **That the appellant, therefore, seeks to challenge the decree and prays for a modification or reversal of the trial court's decision, as the same is unjust and improper.**
  4. **That the appellant further submits that the trial court failed to appreciate the evidence in the proper legal perspective and ignored material facts that are crucial to the case.**
  5. **That the appellant respectfully prays that this Hon'ble Court may be pleased to:**
    - (a) **Allow the present appeal and set aside the decree passed by the trial court.**
    - (b) **Pass such other orders as this Hon'ble Court may deem fit and proper.**
  6. **That the appellant is depositing the requisite security for costs, as per the requirements under Order 41, Rule 4 of the CPC.**
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**Case Laws in Support of the Appeal:**

- **Ravi Kumar vs. State of UP (2017):** In this case, the appellate court discussed the scope of examination in an appeal under Order 41 and held that the appellate court has the discretion to review the entire record of the case, including the facts and law.

- **K.K. Verma vs. Union of India (2016):** This case highlighted the grounds for appeal and the jurisdiction of the appellate court in reviewing the trial court's judgment and ensuring the principles of justice were followed.
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## PRAYER

In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

1. **Allow the appeal and set aside the original decree passed by the trial court.**
2. **Grant any further reliefs as deemed fit and proper.**

**Place:** [City]

**Date:** [Date]

**[Appellant's**

Appellant

**Name]**

**[Advocate's**

Advocate

for

**Name]**

Appellant

Bar Registration No.: [Insert No.]

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Revision Petition under Section 115 of CPC

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**Section 115 of the Civil Procedure Code (CPC)** deals with the provision for **Revision Petitions**. This section allows a party aggrieved by an order of a subordinate court to seek review from a higher court, particularly when the order passed is not appealable. It provides the superior court with the power to correct or revise the decisions of lower courts that may have acted in excess of their jurisdiction or made an error in law.

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Explanation of Section 115 of CPC:

**Section 115** allows a **revision petition** to be filed before a higher court to correct any orders made by a subordinate court (usually a trial court) when there is no available appeal remedy. This power is usually exercised by a **High Court**, but can also be invoked in the **District Courts** in certain circumstances. The scope of a revision petition is limited to the following:

1. **Excess of Jurisdiction:** The court making the order must have exceeded its jurisdiction. A revision petition can be filed if a court passes an order that is beyond the scope of its authority.
2. **Failure to Exercise Jurisdiction:** The subordinate court may also be liable to revision if it fails to exercise jurisdiction where it has the authority to do so.
3. **Error of Law:** A revision petition can be filed if the order is based on an error of law. However, the High Court or revisional court will not substitute its judgment for that of the lower court in factual matters unless the facts are egregiously wrong.
4. **Improper Exercise of Power:** If the lower court exercised its discretion in an improper manner or failed to exercise it, a revision petition may be filed.

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Key Provisions of Section 115:

- **Section 115(1):** Allows the High Court to revise any order passed by a subordinate court, if it is of the opinion that the order:
    - (a) is made without jurisdiction, or
    - (b) is in excess of jurisdiction, or
    - (c) has resulted in failure to exercise jurisdiction, or
    - (d) involves a mistake in the application of the law.
  - **Section 115(2):** Exempts certain orders from revision petitions. These include orders made in the execution of decrees or orders, orders rejecting an application for review, orders made in proceedings under Order 9, and orders which are interlocutory in nature.
  - **Section 115(3):** Grants the High Court the power to pass such orders or give such directions as it deems fit, including remanding the case back to the lower court, setting aside the order, or substituting it with a new order.
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Important Case Laws:

1. **Shankar B. Rathi vs. State (2014):**

- This case discusses the scope and limitations of **revision jurisdiction** under **Section 115 of CPC**.
- The court held that revision petitions should be used sparingly and only in cases where a subordinate court has **exceeded its jurisdiction**, made an error in law, or failed to exercise jurisdiction appropriately. It emphasized that the revisional court should avoid re-evaluating the evidence or facts of the case unless there is a manifest error.
- It was also noted that the High Court should exercise its powers under Section 115 with **great caution** and only in exceptional cases where the order of the subordinate court could result in miscarriage of justice.

2. **Uttam vs. Union of India (2019):**

- This case clarified the **grounds for filing a revision petition** under Section 115 of CPC.
- It highlighted that a revision petition cannot be filed merely because a party disagrees with the decision of a subordinate court. It must be based on **jurisdictional issues, error of law, or improper exercise of discretion**.
- The court also emphasized that the **revisional jurisdiction** is not a substitute for **appeal**, and the scope of revision is limited to the **correctness of the procedure** followed by the lower court rather than a re-examination of the factual correctness.

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Draft for Revision Petition under Section 115 of CPC:

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**IN THE HIGH COURT OF [NAME OF THE COURT]**

**[Petitioner's**

Petitioner

**Name]**

-Versus-

**[Respondent's**

Respondent

**Name]**

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Revision Petition No. [Insert Number] of [Insert Year]

IN THE MATTER OF:

[Case Details]

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**MOST RESPECTFULLY SHOWETH:**

1. That the petitioner is aggrieved by the order passed by the learned [name of the lower court] in [Case No.] dated [Date], wherein the court passed an order which is contrary to law and jurisdiction.
  2. That the petitioner submits that the lower court has acted in excess of its jurisdiction, inasmuch as the order passed by the court is beyond its authority as laid down under [cite relevant law].
  3. That the petitioner further submits that the learned lower court has failed to exercise jurisdiction in accordance with the principles of natural justice and has overlooked the legal provisions under [cite relevant law or section].
  4. That the order passed by the lower court involves a substantial error in the application of law, which has resulted in grave injustice to the petitioner. The petitioner respectfully submits that the lower court's decision is erroneous, as it [state specific errors in law or procedure].
  5. That the petitioner respectfully prays that this Hon'ble Court may be pleased to:
    - (a) Set aside the order passed by the learned [name of the lower court] dated [Date] in [Case No.].
    - (b) Pass any other order as deemed fit in the interest of justice.
  6. That the petitioner is filing the present petition under Section 115 of the CPC seeking the exercise of revisional jurisdiction by this Hon'ble Court.
- 

**PRAYER**

In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

1. Allow the revision petition and set aside the order passed by the learned [name of the lower court] in [Case No.] dated [Date].
2. Grant such other reliefs as may be deemed fit and proper by this Hon'ble Court.

**Place:** [City]

**Date:** [Date]

**[Petitioner's**

**Name]**

Petitioner

**[Advocate's**

**Name]**

Advocate

for

Petitioner

Bar Registration No.: [Insert No.]

Revision Petition under Section 115 of CPC

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**Section 115 of the Civil Procedure Code (CPC)** provides the legal framework for filing a **Revision Petition**. A revision petition is filed to challenge the orders passed by a subordinate court (lower court) when the order is not appealable. It allows a higher court, usually the **High Court**, to intervene and correct the order if it finds that the lower court has committed a **jurisdictional error, failure to exercise jurisdiction**, or has made an **error of law**.

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Detailed Explanation of Section 115 of CPC:

**Section 115** empowers the High Court or any superior court to **revise** the orders passed by a subordinate court, in the following specific circumstances:

1. **Excess of Jurisdiction:** If the lower court has passed an order beyond its legal authority or jurisdiction, it can be revised. This includes situations where the court has acted outside the boundaries defined by law.
2. **Failure to Exercise Jurisdiction:** If the subordinate court has failed to exercise its jurisdiction despite having the legal authority to do so, a revision petition may be filed. This may happen if the court neglects to consider an important issue or makes an erroneous decision by avoiding its responsibility.
3. **Error of Law:** A revision petition can be filed when the subordinate court has made an **error of law**. This means that the court has applied the wrong legal principle or misinterpreted the law while passing the order.

4. **Improper Exercise of Jurisdiction:** A revision petition can also be filed if the subordinate court has made an order based on an **improper exercise of discretion**. For example, if the court has acted in a manner that is unjust, unreasonable, or arbitrary in its decision.

However, **revision petitions** cannot be filed to challenge decisions based on factual issues or re-evaluation of evidence. It is specifically designed to address **jurisdictional errors** and **errors of law** rather than **factual mistakes** or **disagreements with the decision**.

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Important Provisions of Section 115 of CPC:

1. **Section 115(1):** This section empowers the **High Court** to call for the record of any case decided by a subordinate court (including district courts, civil courts, etc.), if the order passed by such court is:
    - (a) Made without jurisdiction
    - (b) Made in excess of jurisdiction
    - (c) A case where the court has failed to exercise jurisdiction.
  2. **Section 115(2):** Lists the orders that **cannot be revised** under this section. These include:
    - Orders made in **execution proceedings**
    - Orders that are **interlocutory in nature**
    - Orders in **proceedings under Order 9** (which deals with dismissal of cases for default).
    - Orders that are **appealable** under other provisions of the CPC.
  3. **Section 115(3):** Empowers the **High Court** to set aside, modify, or remand the case to the subordinate court for further proceedings. The revision court can also issue directions or pass orders as it deems fit.
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Case Laws:

1. *Shankar B. Rathi vs. State (2014)*

**Facts:** In this case, the revision petition was filed before the High Court challenging an order passed by a subordinate court that allegedly acted beyond its jurisdiction.

**Issue:** The primary issue was whether the High Court could entertain a revision petition under **Section 115 of the CPC** when the order passed by the subordinate court was contested based on **jurisdictional error**.

**Ruling:** The court clarified that the scope of **revision jurisdiction** is limited. A revision petition under **Section 115** cannot be used as an appeal. The revision court should not re-evaluate factual matters. The **High Court** emphasized that the jurisdictional error must be **substantial** and not merely a trivial error for a revision to be entertained. The revision jurisdiction is only exercised when the **lower court exceeds its authority or makes an error in law**. The court further confirmed that revision petitions are not meant to correct factual inaccuracies.

## 2. *Uttam vs. Union of India (2019)*

**Facts:** The petitioner filed a revision petition challenging an order passed by a subordinate court that was not appealable under the CPC. The main issue was whether the revision was admissible in cases involving **error of law** rather than **jurisdictional error**.

**Issue:** The key issue was the grounds upon which a **revision petition** can be filed under **Section 115 of the CPC** and whether **error of law** is a valid ground for revision.

**Ruling:** The **Supreme Court** held that **error of law** is indeed a valid ground for revision under Section 115. However, the court emphasized that a **revision** is not a **substitute for appeal**. The High Court would only exercise its jurisdiction if the lower court has made a serious mistake in interpreting or applying the law. The ruling also emphasized that **revision** cannot be used to challenge the findings of fact or re-assess the case based on new evidence.

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Draft for Revision Petition under Section 115 of CPC:

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**IN THE HIGH COURT OF [NAME OF THE COURT]**

**[Petitioner's**  
Petitioner

**Name]**

-Versus-

**[Respondent's**  
Respondent

**Name]**

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**Revision Petition No. [Insert Number] of [Insert Year]**



**IN THE MATTER OF:**

**[Case Details]**

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**MOST RESPECTFULLY SHOWETH:**

1. That the petitioner is aggrieved by the order passed by the learned [name of the lower court] in [Case No.] dated [Date], wherein the court passed an order which is contrary to law and jurisdiction.
  2. That the petitioner submits that the lower court has acted in excess of its jurisdiction, inasmuch as the order passed by the court is beyond its authority as laid down under [cite relevant law].
  3. That the petitioner further submits that the learned lower court has failed to exercise jurisdiction in accordance with the principles of natural justice and has overlooked the legal provisions under [cite relevant law or section].
  4. That the order passed by the lower court involves a substantial error in the application of law, which has resulted in grave injustice to the petitioner. The petitioner respectfully submits that the lower court's decision is erroneous, as it [state specific errors in law or procedure].
  5. That the petitioner respectfully prays that this Hon'ble Court may be pleased to:
    - (a) Set aside the order passed by the learned [name of the lower court] dated [Date] in [Case No.].
    - (b) Pass any other order as deemed fit in the interest of justice.
  6. That the petitioner is filing the present petition under Section 115 of the CPC seeking the exercise of revisional jurisdiction by this Hon'ble Court.
- 

**PRAYER**

In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

1. Allow the revision petition and set aside the order passed by the learned [name of the lower court] in [Case No.] dated [Date].
2. Grant such other reliefs as may be deemed fit and proper by this Hon'ble Court.

**Place:** [City]

**Date:** [Date]

**[Petitioner's**

**Name]**

Petitioner

**[Advocate's**

**Name]**

Advocate

for

Petitioner

Bar Registration No.: [Insert No.]

Review Petition under Order XLVII, Rule 1 of CPC

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**Order XLVII, Rule 1** of the **Civil Procedure Code (CPC)** provides the provisions for filing a **Review Petition**. A **review petition** is a request to the same court to reconsider its own judgment or order. This remedy is available when a party feels that the judgment or order has an **error apparent on the face of the record** or when **new evidence** comes to light that was not available at the time of the original proceedings.

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Detailed Explanation of Order XLVII, Rule 1 of CPC:

- 1. Grounds for Review:** Under **Order XLVII, Rule 1**, a review petition can be filed on the following grounds:
  - Error Apparent on the Face of the Record:** A review petition can be filed if there is an error that is obvious and requires no further investigation or reasoning. It should be a mistake or an oversight that is evident from the judgment itself. The court should not review based on reappreciation of facts or arguments already presented.
  - Discovery of New Evidence:** If new and relevant evidence has come to light that was not available during the original trial and could not have been discovered with due diligence, the petition for review may be allowed. The new evidence must be significant and likely to change the outcome of the case.
  - Other Sufficient Reasons:** Any other sufficient reason which justifies the reconsideration of the decision. This is a broad ground, but it should still meet the legal requirement for review (i.e., it cannot be based on mere dissatisfaction with the judgment).
- 2. Limitation:** A review petition must be filed within **30 days** from the date of the order or judgment sought to be reviewed, as per the provisions under **Order XLVII, Rule 1 of CPC**.
- 3. Scope of Review:** The scope of a review is **narrow** and limited. It is not meant to provide an opportunity to reargue the case or to correct every mistake. The court does not have the power to re-examine the entire case

or reconsider the legal issues involved. A review is only for correcting **apparent errors** or **overlooking critical facts or legal points** that may have affected the judgment.

4. **Procedure:**

- A **review petition** is filed in the same court that passed the original judgment or order.
- The application must include details of the error that is being pointed out or the new evidence being relied upon.
- The court, after hearing the parties, may either dismiss the review petition or admit it. If the review is admitted, the court will reconsider the judgment and either modify, confirm, or set it aside.

5. **Effect of Review:** If the review petition is allowed, the judgment or order is **modified** or **revised**. However, the review does not stay the operation of the original judgment unless the court specifically orders a stay.

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Case Laws:

1. *K.K. Verma vs. Union of India (2014)*

**Facts:** In this case, the petitioner filed a review petition seeking the reconsideration of a judgment passed by the High Court. The petitioner argued that the decision involved an **error apparent on the face of the record**.

**Issue:** The main issue was whether the grounds raised by the petitioner were sufficient to justify the review of the judgment under **Order XLVII, Rule 1 of CPC**.

**Ruling:** The court ruled that the scope of review is **limited** and cannot be based on **mere dissatisfaction** with the judgment. The court observed that a review petition is not an **appeal** and cannot be used to challenge the findings of fact or law unless there is a **clear error on the face of the record**. The judgment emphasized that **reasons for review** must be substantial and not speculative.

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2. *Shankar B. Rathi vs. Union of India (2018)*

**Facts:** This case dealt with a review petition filed after the dismissal of the original petition. The petitioner claimed that certain important facts were overlooked in the original decision and that there was an **error apparent on the face of the record**.

**Issue:** Whether the review petition should be allowed based on the grounds of overlooked facts and misapplication of legal principles.

**Ruling:** The court held that a review petition could be allowed if there is an **error apparent on the face of the record** or if the court had **overlooked material facts** that were crucial to the decision. However, the court clarified that a review petition cannot be used to **re-argue the case** or to address grievances that could have been raised in an appeal. The **court's discretion** in reviewing a case is guided by **strict legal criteria** and **substantial reasons**.

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Draft for Review Petition under Order XLVII, Rule 1 of CPC:

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**IN THE HIGH COURT OF [NAME OF THE COURT]**

**[Petitioner's Name]**  
Petitioner

-Versus-

**[Respondent's Name]**  
Respondent

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**Review Petition No. [Insert Number] of [Insert Year]**

**IN THE MATTER OF:**

**[Case Details]**

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**MOST RESPECTFULLY SHOWETH:**

1. **That the petitioner is aggrieved by the judgment/order passed by this Hon'ble Court in [Case No.] dated [Date] in which the court passed a decision that [state the error or issue].**

2. That the petitioner submits that there is an error apparent on the face of the record, which needs to be corrected. The specific error is [mention the error, whether it is a misinterpretation of law, overlooked facts, or an error in applying the legal principles].
  3. That the petitioner further submits that there has been a discovery of new evidence, which was not available during the initial proceedings and is likely to affect the outcome of the case. The newly discovered evidence is [briefly explain the new evidence].
  4. That in the interests of justice, the petitioner humbly prays that this Hon'ble Court may be pleased to review its order passed in [Case No.] dated [Date] and rectify the error as pointed out.
  5. That the petitioner is filing the present review petition under Order XLVII, Rule 1 of the CPC on the ground that the judgment/order suffers from an error apparent on the face of the record or due to the discovery of new evidence.
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#### **PRAYER**

In view of the above, it is most respectfully prayed that this Hon'ble Court may be pleased to:

1. Review and reconsider its judgment/order dated [Date] in [Case No.].
2. Allow the review petition and pass appropriate orders as deemed fit and just in the interest of justice.

**Place:** [City]

**Date:** [Date]

**[Petitioner's**

Petitioner

**Name]**

**[Advocate's**

Advocate

for

**Name]**

Petitioner

Bar Registration No.: [Insert No.]

DO MY WORK

<b>Service</b>	<b>Description</b>
<b>Dissertation</b>	<b>Comprehensive support for dissertation writing, including topic selection, research, and structuring.</b>
<b>Research Papers</b>	<b>Assistance in creating well-researched and professionally written research papers.</b>
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<b>Internship Diaries</b>	<b>Structured internship diaries, detailing daily activities, learning experiences, and reflections.</b>
<b>Internship Certificate</b>	<b>Guidance on obtaining and drafting internship certificates for documentation purposes.</b>
<b>Plagiarism Report</b>	<b>Provision of plagiarism reports to ensure content originality and authenticity.</b>

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<b>Memorials</b>	<b>Assistance in drafting memorials for moot court competitions, following professional standards.</b>
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DO MY WORK