

CPC Law Judgments



A Monthly Wrap | **August 2026** ↘

Title and Case details	Case Brief
Supreme Court: Order XVIII Rule 17 CPC Cannot Be Used to Fill Gaps in Evidence K. Bharathamma Vs. Bandaru Sakku Bai and Ors. (MANU/SC/0800/2026; 2026 INSC 795)	The Supreme Court held that Order XVIII Rule 17 of the Code of Civil Procedure (CPC) is a discretionary power vested in the court and is meant primarily to clarify doubts regarding evidence already on record. The Court ruled that the provision cannot be used routinely to recall witnesses, reopen evidence, introduce additional material, or fill gaps, omissions or lacunae in a party's case. It further held that the mere absence of prejudice to the opposite party is not a valid ground for invoking the provision, and set aside the Telangana High Court's order permitting recall of PW-1 and reopening of evidence.
Supreme Court: Composite Appeal Maintainable Against Suit and Counterclaim Under CPC Basudev and Ors. Vs. Sanjay Kumar and Ors. (MANU/SC/0841/2026; 2026 INSC 831)	The Supreme Court held that where a suit and counterclaim are decided by a common judgment, a composite appeal is maintainable under the Code of Civil Procedure (CPC). The Court clarified that it is not mandatory to file two separate appeals, even where separate decrees are drawn up. However, the composite appeal must set out separate grounds challenging the decree in respect of the suit and the counterclaim and must be separately valued, with the requisite court fees paid for each appeal. The ruling aims to prevent procedural technicalities, including objections based on estoppel or res judicata, from defeating the appellate remedy and to avoid multiplicity of litigation.

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Supreme Court Restores Interim Injunction, Reiterates Limits of Appellate Interference Under CPC Shruti Manav Sharma and Ors. Vs. Sunanina Singh and Ors. (MANU/SC/0862/2026; 2026 INSC 843)	The Supreme Court held that appellate courts exercising jurisdiction under Order XLIII Rule 1(r) CPC should not ordinarily substitute their discretion for that of the trial court in matters of temporary injunctions under Order XXXIX CPC. Reiterating the settled tests of prima facie case, balance of convenience and irreparable injury, the Court cautioned against conducting a “mini-trial” at the interlocutory stage by deciding disputed questions of title, fraud or undue influence. Finding that the Single Judge had properly exercised discretion to preserve the disputed properties and shareholding pending trial, the Supreme Court restored the interim injunction and set aside the Delhi High Court Division Bench’s contrary order.
Supreme Court: Composite Appeal Against Common Judgment Maintainable Under CPC Bassanna Since Deceased by L.Rs. and Ors. Vs. Bhimanna and Ors. (MANU/SC/0868/2026; 2026 INSC 838)	The Supreme Court held that a composite appeal under Section 96 read with Order XLI Rule 1 CPC is maintainable where two suits filed by the same plaintiff are clubbed, tried together and decided by a common judgment. The Court held that where the appellant files certified copies of both decrees, pays the requisite court fees for both matters and specifically challenges the common judgment and decrees, failure to file separate memoranda of appeal is a curable procedural defect, not a ground to reject the appeal. Emphasising that procedural rules are the handmaid of justice, the Court held that form should not prevail over substance and restored the second appeals before the High Court for adjudication on merits.
Supreme Court Reinforces Limits on Second Appeals Under CPC Jamnabai and Ors. Vs. Vasudev and Ors. (MANU/SC/0927/2026; 2026 INSC 900)	The Supreme Court held that a High Court exercising jurisdiction under Section 100 of the Code of Civil Procedure, 1908 (CPC) cannot disturb concurrent findings of fact unless there is perversity or a substantial error of law. The Court clarified that Section 100 CPC confers a restricted jurisdiction: a second appeal lies only on a substantial question of law, and mere disagreement with the factual appreciation of the trial and first appellate courts is insufficient. The Supreme Court also held that revenue mutation entries do not, by themselves, extinguish title, and restored the concurrent findings granting the appellants co-ownership and partition relief.

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Supreme Court: Court Fee Question Under Order VII Rule 11 CPC May Be Decided After Evidence Neelam Sharma and Ors. Vs. Amita Passan and Ors. (MANU/SC/0938/2026; 2026 INSC 913)	The Supreme Court held that a plaint cannot be rejected under Order VII Rule 11 CPC for non-payment of ad valorem court fee where the plaint specifically pleads joint possession and co-ownership. Relying on <i>Suhrid Singh v. Randhir Singh</i> (MANU/SC/0210/2010), the Court reiterated that the question of court fee must be determined from the plaint averments and cannot be decided on disputed facts raised by the defendant. Accordingly, where the applicable court fee depends on facts requiring evidence, the issue cannot be decided at the threshold under Order VII Rule 11 CPC.
Supreme Court: Plaint Can Be Rejected Under Order VII Rule 11 CPC When Limitation Bar Is Apparent N. Asha Devi Vs. R. Aravind Kumar and Ors. (MANU/SC/0937/2026; 2026 INSC 908)	The Supreme Court held that a plaint can be rejected under Order VII Rule 11 CPC where the suit is clearly barred by limitation from the plaint itself. The Court reiterated that, while deciding an application under Order VII Rule 11 CPC, the court must examine the averments in the plaint and documents relied upon by the plaintiff, and ordinarily limitation is a mixed question of fact and law; however, where the plaint itself discloses an unmistakable and hopeless delay, the court is not required to defer the issue to trial. In the present case, the cause of action arose from the cancellation of the Joint Venture Agreements on 20.04.2016, whereas the suit was filed only in October 2022. Subsequent communications and a public notice issued in 2022 did not create a fresh cause of action. The Supreme Court accordingly set aside the orders of the Trial Court and High Court and rejected the plaint under Order VII Rule 11 CPC as being barred by limitation.

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Supreme Court Reiterates Importance of Order I Rule 8 CPC in Representative Suits Suraj Bhan and Ors. Vs. Ashvarya Estate Pvt. Ltd. and Ors. (MANU/SC/0791/2026; 2026 INSC 786)	The Supreme Court, while examining a dispute over <i>shamilat deh</i> land in Gurugram, has underscored the significance of Order I Rule 8 CPC, which permits persons having the same interest in a suit to sue or defend in a representative capacity. The Court noted that the original suit was instituted under Section 13A of the Haryana Common Lands (Regulation) Act, 1961 read with Order I Rule 8 CPC, with four plaintiffs claiming to represent 524 persons; however, their representative capacity and the genealogy or title through which those claimants derived rights were never properly verified. The judgment highlights that compliance with Order I Rule 8 CPC is not merely procedural: where plaintiffs seek to represent a large body of persons, their authority and common interest must be duly established before the representative suit can be sustained.
Delhi High Court: Order XXXIX Rule 2A Proceedings Survive Final Decree for Pre-Decree Breach Nilesh Dhanukar Vs. Siemens Industry Software Inc and Ors. (MANU/DE/5773/2026; 2026: DHC: 6623-DB)	The Delhi High Court held that proceedings under Order XXXIX Rule 2A CPC for wilful disobedience of an interim injunction do not become infructuous merely because the underlying suit is subsequently decreed. The Court clarified that breaches committed during the subsistence of the interim order can continue to be adjudicated under Order XXXIX Rule 2A, while disobedience of the final decree must be enforced under Order XXI Rule 32 CPC. Finding that the appellant had wilfully obstructed the Local Commissioner appointed to inspect alleged software infringement, the Court upheld the contempt finding but reduced the civil imprisonment from two months to one month.

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Delhi High Court: NAREDCO Election Suit Cannot Be Rejected Under Order VII Rule 11 CPC at Threshold Binoy Thomas and Ors. Vs. National Real Estate Development Council and Ors. (MANU/DE/5726/2026; 2026: DHC: 6558)	The Delhi High Court addressed the issue of whether the suit filed by Binoy Thomas and others against the National Real Estate Development Council (NAREDCO) should be rejected for lack of cause of action and locus standi under Order VII Rule 11 of the CPC. The plaintiffs challenged the validity of NAREDCO's elections, alleging procedural violations. The court found that the suit disclosed a sufficient cause of action and that the plaintiffs, as representatives of NAREDCO state chapters, had the standing to file the suit. The court dismissed the application for rejection of the plaint, allowing the suit to proceed, and noted that the objections could be raised in the written statements.
Delhi HC Sets Aside Ex-Parte Money Decree for Want of Proof D.B. Project Engineers Vs. Malik Enterprises (MANU/DE/5713/2026; 2026: DHC: 6526)	The Delhi High Court has set aside an ex-parte money decree after finding that the plaintiff failed to prove its recovery claim through cogent evidence. The Court clarified that a Regular First Appeal under Section 96 CPC against an ex-parte decree is independently maintainable, even where an application under Order IX Rule 13 CPC has been dismissed. On merits, the Court held that the plaintiff's electronically generated statements of account were unproved, as they were neither corroborated by bank records nor accompanied by the requisite Section 65B Evidence Act, 1872 certificate, and no underlying contract, bills, invoices or purchase orders were produced. Holding that the ex-parte status of the defendant did not dispense with the plaintiff's burden to prove its claim, the Court allowed the appeal and dismissed the suit.

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Delhi High Court: Commercial Courts Act Can Restrict CPC Appeal Rights in Pre-2015 Suits Yes Bank Ltd. Vs. Modi Rubber Ltd. and Ors. (MANU/DE/5823/2026; 2026: DHC: 6650-FB)	The Delhi High Court held that the Commercial Courts Act, 2015 applies to commercial suits instituted before 23 October 2015, and mere subsequent re-numbering does not preserve appeal rights under the CPC. In particular, an order under Order VI Rule 17 CPC allowing amendment of a plaint is not appealable under Order XLIII CPC and, therefore, cannot be challenged under Section 13 of the Commercial Courts Act once the matter falls within the commercial jurisdiction. The Court accordingly overruled <i>Brahmos Aerospace (MANU/DE/0740/2019)</i> to the extent it held otherwise and affirmed <i>Samsung Leasing (MANU/DE/2107/2017)</i>, while the separate opinion clarified that the position may differ where the order was passed by an ordinary civil court before transfer to a Commercial Court.
Bombay High Court: Plaint Cannot Be Rejected Under Order VII Rule 11 CPC for Mediation Authority's Lapse Jivaraj Ravaji Gandhi Vs. Solapur Jilha Dudh Utpadak Va Prakriya Sangh Maryadit Solapur and Ors. (MANU/MH/5502/2026; COMMERCIAL FIRST APPEAL NO. 23 OF 2025)	The Bombay High Court held that a plaint cannot be rejected under Order VII Rule 11 CPC merely because the Legal Services Authority failed to issue the mandatory final notice under Rule 3(3) of the Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018, where the plaintiff had duly initiated pre-institution mediation and complied with its statutory obligations. The Court set aside the trial court's order rejecting the plaint and restored the commercial suit, observing that a litigant cannot be prejudiced for a procedural lapse attributable to the statutory authority.

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J&K High Court: Order IX Rule 13 Relief Denied; Article 227 Cannot Be Used to Reappreciate Evidence Tarsem Lal and Ors. Vs. Learned Additional District Judge, Kathua and Ors. (MANU/JK/0606/2026; 2026: JKLHC-JMU:240)	The Jammu & Kashmir and Ladakh High Court has dismissed a petition challenging concurrent orders refusing to set aside an ex parte decree under Order IX Rule 13 CPC. The Court held that the petitioners failed to establish sufficient cause for their non-appearance and could not substantiate their claim that their counsel's non-appearance had led to the ex parte proceedings. The Court emphasised that Article 227 of the Constitution is supervisory, not appellate, and cannot be invoked merely to reappreciate evidence or substitute findings of fact recorded by the subordinate courts. Since no jurisdictional error, patent perversity or manifest miscarriage of justice was demonstrated, the Court declined to interfere with the orders of the Trial Court and Appellate Court and dismissed the petition.
Allahabad High Court: Section 47 CPC Cannot Be Used to Reopen Issues Already Decided at Trial Ravi Srivastava Vs. Ajay Sharma (MANU/UP/2121/2026; 2026: AHC:166320)	The Allahabad High Court held that an executing court cannot go beyond the decree or use Section 47 CPC to re-examine factual issues that could have been raised during the original trial. The Court reiterated that objections to execution are maintainable only where the decree is void or inexecutable on the face of the record; alleged non-joinder of parties or disputes regarding the landlord-tenant relationship, which require factual examination, cannot be reopened in execution proceedings. Relying on <i>Dhurandhra Prasad Singh v. Jai Prakash University</i> (MANU/SC/0381/2001), the Court dismissed the revision and upheld rejection of the judgment-debtor's Section 47 CPC objections.
J&K High Court Clarifies When 120-Day CPC Limit for Written Statement Begins Pritam Chand Vs. Sukh Ram and Ors. (MANU/JK/0680/2026; 2026: JKLHC-JMU:261)	The Jammu & Kashmir and Ladakh High Court has held that the limitation period for filing a written statement under Order VIII Rule 1 CPC begins only upon valid service of summons accompanied by a copy of the plaint as required under Order V Rules 1 and 2 CPC. The Court found that the defendants had initially been served only with an interim order and received the plaint later through counsel and therefore upheld the trial court's decision permitting the written statement, holding that the 120-day period could not be computed from incomplete service.

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Calcutta High Court: Delay in Substitution Can Be Condoned Under Order XXII CPC for Belated Knowledge of Death Mun Mun Roy Vs. Fiona Angeela Roy (Das) (MANU/WB/1786/2026; IA NO. GA/7/2026 In EOS/3/2008)	The Calcutta High Court held that abatement under Order XXII CPC is a procedural consequence and may be set aside where sufficient cause is shown for delay in bringing the legal representatives of a deceased party on record. The Court found that the plaintiff had acquired definite knowledge of the defendant's death only through a court-appointed Special Officer and, therefore, condoned the delay, set aside the abatement under Order XXII Rule 9 CPC, permitted substitution of the legal heirs and allowed consequential amendment of the plaint under Order VI Rule 17 CPC.
J&K High Court: Temporary Injunction Under Order 39 CPC Requires Prima Facie Case, Balance of Convenience and Irreparable Injury IBM Associates Vs. Eswar Therapeutics Pvt. Ltd. (MANU/JK/0634/2026; 2026: JKLHC-SGR:270)	The Jammu & Kashmir and Ladakh High Court has reiterated that while considering temporary injunction under Order XXXIX Rules 1 and 2 CPC, the court must examine whether the plaintiff has a prima facie case, balance of convenience, and likelihood of irreparable loss. It further held that an appellate court should not ordinarily interfere with the trial court's discretionary order on injunction unless such discretion is based on irrelevant considerations or ignores relevant material. Finding no prima facie case and holding that the alleged loss was compensable in monetary terms, the Court upheld the refusal of interim injunction and dismissed the appeal.
Uttarakhand High Court: 120-Day Limit for Written Statement in Commercial Suits Is Mandatory Under Order VIII Rule 1 CPC Ritu Kukreti Jain Vs. New Wood Industries and Ors. (MANU/UC/0394/2026; 2026: UHC:7155-DB)	The Uttarakhand High Court has held that in commercial suits, the 120-day outer limit under Order VIII Rule 1 CPC, as amended by the Commercial Courts Act 2015, is mandatory and cannot be extended by the court. Once the period expires from the date of service of summons, the defendant forfeits the right to file the written statement. The Court therefore upheld the Commercial Court's refusal to take on record a written statement filed nearly eight months after service of summons.

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Gauhati High Court: Order IX Rule 13 CPC Can Be Invoked to Set Aside Ex Parte Succession Certificate Punam Kashyap Sarmah & Anr. Vs. Smt. Karabika Kashyap Sarma (MANU/GH/0907/2026; 2026: GAU-AS:11991)	The Gauhati High Court held that an application under Order IX Rule 13 CPC is maintainable to set aside an ex parte order granting a succession certificate where a legal heir of the deceased was not impleaded in the succession proceedings. The Court upheld the revocation of the succession certificate and dismissed the revision petition under Section 115 CPC, holding that the omitted daughter ought to have been made a party to the proceedings.