

CODE OF CIVIL PROCEDURE

By: Dr. Justice B.S. Chauhan

Judge

Supreme Court of India

As it is evident from its name, it mainly lays down the procedure to be adopted in civil courts, and its principles may be applicable in other courts, like writ courts, and Tribunals to the extent the enactments establishing the Tribunals provide for it. It provides for a fair procedure for redressal of disputes. The other party may know what is the dispute about, what defence it can take, and how both the parties may proceed to prove their respective cases. Some of its provisions are substantive in nature and not procedural at all, like Sections 96, 100, 114 and 115 providing for a right of appeal, review and revision. The other provisions are generally procedural in nature. The purpose of the Civil Procedure Code, 1908 (hereinafter referred to as 'Code') is to provide a litigant a fair trial in accordance with the accepted principles of natural justice. The Code is mainly divided into two parts, namely, Sections and Orders. While the main principles are contained in the Sections, the detailed procedures with regard to the matters dealt with by the Sections have been specified in the Orders. Section 122 of the Code empowers the High Court to amend the Rules, i.e., the procedure laid down in the Orders and every High Court had amended the procedure from time to time making the amendments in the said Orders.

The Code is a codification of the principles of natural justice. Natural justice means 'justice to be done naturally' which is adopted naturally by the habits of every individual. It does not mean godly-justice or justice of nature. It simply means an inbuilt-habit of a person to do justice. For example, if a child of 1,1/2 years breaks the saucer, the mother of the child may slap him being furious, but at the time of slapping, she would repeatedly ask him why he has broken the saucer, though she knows that the child has not started speaking. As these principles are inbuilt-habit of everyone to ask others for furnishing the explanation of anything done by them, the same are known as 'principles of natural justice'. In Garden of Eden God did not punish Adam and Eve without giving them opportunity to show cause as to why they had eaten the prohibited fruit. The first reported case of principles of natural justice in Dr. Bentley's case, i.e., **R. V. University of Cambridge**, (1723) 1 STR 757, wherein reference of the incident of Garden of Eden was made.

The two words are repeated everyday in the courts- 'justice' and 'law'. Justice is an illusion as the meaning and definition of 'justice' varies from person to person and party to party. Parties feel that they have got justice only and only if the case succeeds before the court, though it may not have a justifiable claim. (Vide: **Delhi Administration V. Gurudeep Singh Uban**, AIR 2000 SC 3737).

For paucity of time it would not be possible for us to deal with every provision in the Code. Thus, we will discuss the scope and application of the provisions which we have to deal with every day in the Court.

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The Pearson Guide to the LLB Entrance Examinations Edgar Thorpe, 2008-09 **Annals of the American Academy of Political and Social Science** ,1917 *European judicial systems - Edition 2014 (2012 data) - Efficiency and quality of justice* Council of Europe, 2014-12-01 The new Edition of the report of the European Commission for the Efficiency of Justice CEPEJ which evaluates the functioning of the judicial systems in 45 Council of Europe's member states and an observer state to the CEPEJ Israel remains in line with the process carried out since 2002 Relying on a methodology which is already a reference for collecting and processing a wide number of quantitative and qualitative judicial data this unique study has been conceived above all as a tool for public policy aimed at improving the efficiency and the quality of justice To have the knowledge in order to be able to understand analyse and reform such is the objective of the CEPEJ which has prepared this report intended for policy makers legal practitioners researchers as well as for those who are interested in the functioning of justice in Europe *Initial Report Submitted by India Under Article 35 of the Convention* United Nations. Committee on the Rights of Persons with Disabilities, 2017 *Japan's ODA ...* ,2007 *Yearbook* International Court of Justice, 2011 *India, a Reference Annual* ,2011 *Biographical Register of the Officers and Graduates of the U. S. Military Academy, from 1802 to 1867* George Washington Cullum, 1910 Second Strategic Plan of the Nepali Judiciary ,2012 Biographical Register of the Officers and Graduates of the U.S. Military Academy at West Point, N.Y. George Washington Cullum, 1910

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Table of Contents Code Of Civil Procedure National Judicial Academy

1. Understanding the eBook Code Of Civil Procedure National Judicial Academy
 - The Rise of Digital Reading Code Of Civil Procedure National Judicial Academy
 - Advantages of eBooks Over Traditional Books
2. Identifying Code Of Civil Procedure National Judicial Academy
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Code Of Civil Procedure National Judicial Academy
 - User-Friendly Interface
4. Exploring eBook Recommendations from Code Of Civil Procedure National Judicial Academy
 - Personalized Recommendations
 - Code Of Civil Procedure National Judicial Academy User Reviews and Ratings
 - Code Of Civil Procedure National Judicial Academy and Bestseller Lists
5. Accessing Code Of Civil Procedure National Judicial Academy Free and Paid eBooks
 - Code Of Civil Procedure National Judicial Academy Public Domain eBooks
 - Code Of Civil Procedure National Judicial Academy eBook Subscription Services
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6. Navigating Code Of Civil Procedure National Judicial Academy eBook Formats
 - ePub, PDF, MOBI, and More
 - Code Of Civil Procedure National Judicial Academy Compatibility with Devices
 - Code Of Civil Procedure National Judicial Academy Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Code Of Civil Procedure National Judicial Academy
 - Highlighting and Note-Taking Code Of Civil Procedure National Judicial Academy
 - Interactive Elements Code Of Civil Procedure National Judicial Academy

8. Staying Engaged with Code Of Civil Procedure National Judicial Academy
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Code Of Civil Procedure National Judicial Academy
9. Balancing eBooks and Physical Books Code Of Civil Procedure National Judicial Academy
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Code Of Civil Procedure National Judicial Academy
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Code Of Civil Procedure National Judicial Academy
 - Setting Reading Goals Code Of Civil Procedure National Judicial Academy
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Code Of Civil Procedure National Judicial Academy
 - Fact-Checking eBook Content of Code Of Civil Procedure National Judicial Academy
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
 - Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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