

UNIT – 4

Special Suits Interim Orders Appeals Inherent Powers

Government Suits • Minors • Interpleader • Injunctions • Appeals • Review • Revision • Caveat • Inherent Powers

Civil Procedure Code & Limitation Act – Expanded

Unit Overview

This expanded unit covers suits in particular cases (Government, aliens, public matters, firms, minors, indigent persons, interpleader), interim orders (arrest/attachment before judgment, temporary injunctions, receivers, commissions), the law of appeals, reference, review and revision, caveat under s.148A, and the inherent powers of the court under ss.148, 149 and 151. Key principles and practical guidance are included.

LEARNING OBJECTIVES

What You Will Learn

01 Special Suits

Handle suits by/against Government, minors, firms, indigents

02 Interim Orders

Apply injunctions, attachment before judgment and receivers

03 Appeals

Navigate the appellate hierarchy and grounds

04 Review Revision

Distinguish and apply review and revision

05 Caveat

Use caveat to prevent ex-parte interim orders

06 Inherent Powers

Invoke ss.148, 149, 151 appropriately

GOVT SUITS

Suits by or against Government – Sections 79-82, O.27

Notice under s.80	Two months' prior notice is mandatory; it is a condition precedent
Contents of Notice	Name, description, place of residence, cause of action, relief claimed
Object	Give Government opportunity to reconsider and settle
O.27	Special rules for appearance, plaint and procedure

OTHER SPECIAL 1

Suits involving Aliens, Foreign Rulers, Public Matters

Aliens & Foreign Rulers (Ss.85-87)

Require consent of Central Government in certain cases

Public Nuisance (s.91)

Advocate General or two or more persons with leave can sue

Public Charities (s.92)

Suit relating to public trusts of a charitable or religious nature

Suits by or against Firms, Minors, Indigents

Firms (O.30)

Partners can sue or be sued in the firm name

Minors (O.32)

Suit by next friend; defence by guardian ad litem; court controls

Indigent Persons (O.33)

Permission to sue without paying court fee; inquiry into means

Interpleader (s.88, O.35)

Where plaintiff has no interest and rival claimants claim the same subject-matter

ARREST ATTACHMENT

Arrest and Attachment before Judgment – O.38

Object	Prevent defendant from defeating the decree by absconding or disposing of property
Arrest before Judgment	When defendant is about to leave the jurisdiction with intent to delay or obstruct
Attachment before Judgment	When defendant is about to dispose of or remove property with similar intent
Security	Defendant can avoid by furnishing security

INJUNCTION

Temporary Injunctions – Order 39

Temporary injunction is granted to preserve the status quo and prevent irreparable injury until the final disposal of the suit.

Three Pillars

(1) Prima facie case (2) Balance of convenience (3) Irreparable injury

Types

Prohibitory and mandatory temporary injunctions

Notice

Normally after notice; ex-parte only in exceptional urgency

Breach

Consequences under O.39 R.2A

RECEIVER COMMISSION

Receivers and Commissions

Receiver (O.40)

Appointed when it is just and convenient; takes possession and manages property

Commission (s.75, O.26)

For examination of witnesses, local investigation, examination of accounts, scientific investigation, etc.

Object

Assist the court in arriving at a just decision

APPEALS 1

Appeals – Hierarchy and First Appeal

First Appeal (s.96)	From every original decree; lies on questions of fact and law
Who can Appeal	Any party aggrieved by the decree
Forum	Depends on the value and the court that passed the decree
Powers of Appellate Court	Same as the original court; can re-appreciate evidence

Second Appeal and Appeals from Orders

Second Appeal (s.100)

Only on a substantial question of law

Substantial Question

A question that is of general public importance or that directly affects the rights of the parties

Appeals from Orders

Only those orders listed in the Code or that amount to a decree

Supreme Court

Under Arts.132-134A and s.109 CPC

REFERENCE

Reference – Section 113 & Order 46

When	Subordinate court can refer a question of law to the High Court
Conditions	Question of law arises, court trying the suit has doubt, and the decision depends on that question
Effect	High Court decides the question and sends a copy of its judgment

REVIEW

Review – Section 114 & Order 47

Grounds	(1) Discovery of new and important matter or evidence (2) Mistake or error apparent on the face of the record (3) Any other sufficient reason
Who can Apply	Any person aggrieved by the decree or order
Same Court	Review is by the same court that passed the decree/order
Limitation	30 days (generally)

REVISION

Revision – Section 115

Scope	High Court may call for the record of any case decided by a subordinate court
Grounds	Jurisdictional error – exercised jurisdiction not vested, failed to exercise vested jurisdiction, or acted illegally or with material irregularity
Discretionary	High Court is not bound to interfere even if conditions are satisfied
Difference from Appeal	Revision is supervisory; appeal is a continuation of the suit

CAVEAT

Caveat – Section 148A

Meaning	A notice filed by a person claiming a right to be heard before any interim order is passed against him
Object	Prevent ex-parte interim orders
Duration	Valid for 90 days from the date of filing
Duty of Court	Court shall serve notice on the caveator and give him an opportunity of being heard

INHERENT 1

Inherent Powers – Sections 148 & 149

Section 148

Court may enlarge time fixed by it for doing any act

Section 149

Court may allow a party to make up deficiency in court fee even after the limitation period

Object

Prevent injustice arising from rigid application of time limits

INHERENT 2

Inherent Powers – Section 151

Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.

Scope	Wide but not unlimited
Limits	Cannot be exercised in conflict with express provisions of the Code
Examples	Stay of suit, consolidation, correction of clerical errors, restoration in appropriate cases
Leading Principle	Ends of justice and prevention of abuse

PRACTICAL

Practical Tips – Unit 4

s.80 Notice

Strictly comply; otherwise suit is not maintainable

Injunction

Always address the three pillars in the application and affidavit

Second Appeal

Formulate substantial questions of law clearly

Caveat

File promptly when you anticipate an adverse interim application

s.151

Use only when no specific provision is available

SUMMARY POINTS

Must-Remember Points

- Special procedures protect Government, minors, indigents and public interests.
- Temporary injunctions rest on prima facie case, balance of convenience and irreparable injury.
- First appeal is on fact and law; second appeal is only on substantial question of law.
- Review is by the same court; revision is the High Court's supervisory jurisdiction.
- Caveat prevents ex-parte interim orders for 90 days.
- Inherent powers under s.151 are residual and cannot override express provisions.
- Strict compliance with notice, limitation and procedural requirements is essential.