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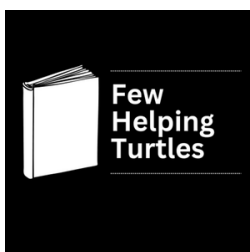
All In One Books

3YDC- 5th Sem

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For each subject we will cover following things for easy exam preparation in this all in one book

1. Unit Syllabus Wise- Short Notes
2. Model Answers to Case Law Questions
3. Last Minute Revision Notes

CPC & Limitation Law Unit-1

By Few Helping Turtles

Unit-1 Syllabus

Codification of Civil Procedure and Introduction to CPC — Principal features of the Civil Procedure Code — Suits — Parties to Suit — Framing of Suit — Institution of Suits — Bars of Suit — Doctrines of Sub Judice and Res Judicata — Place of Suing — Transfer of suits — Territorial Jurisdiction — ‘Cause of Action’ and Jurisdictional Bars — Summons — Service of Foreign summons.

1.1. The Concept of Procedural Law vs. Substantive Law

A. Substantive Law Substantive law is the body of legal rules that creates, defines, and regulates the rights, duties, and obligations of individuals and the state. It is the part of the law that determines the legal rights and responsibilities of parties in a given situation. It outlines what conduct is permissible and what is prohibited, and it establishes the legal consequences of actions.

The primary function of substantive law is to govern the relationships between individuals, or between individuals and the state, thereby maintaining social order. Examples of substantive law in India include the Indian Contract Act, 1872, which defines the elements of a valid contract, and the Indian Penal Code, 1860, which defines various crimes and prescribes punishments for them.

B. Procedural Law Procedural law, also known as adjective law, prescribes the methods, machinery, and practice for the enforcement and protection of the rights and duties established by substantive law. It does not create rights but provides the mechanism for realizing them. It governs the process of litigation, from the filing of a suit to its final execution.

The purpose of procedural law is to ensure the fair and orderly administration of justice. It ensures that legal proceedings are conducted in a consistent and predictable manner. The Code of Civil Procedure, 1908, and the Code of Criminal Procedure, 1973, are primary examples of procedural law in India. They lay down the detailed procedure to be followed by civil and criminal courts, respectively.

★ 1.2 The Core Distinction: Rights vs. Remedies

A. Creation of Rights and Obligations The fundamental difference lies in their function. Substantive law is concerned with the ends which the administration of justice seeks. It deals with the substance of the matter, such as the right to property, the right to personal liberty, or the obligation to perform a contract. It is the law that parties invoke to claim a right or allege a wrong.

B. Enforcement of Rights and Obligations Procedural law is concerned with the means and instruments by which those ends are to be attained. It provides the framework for seeking a remedy when a substantive right is violated. For example, substantive law gives a person the right to recover a debt. Procedural law, through the Code of Civil Procedure, dictates how that person must file a suit, serve summons on the debtor, present evidence, and execute the decree to recover the money.

Case Law Model Answer- CPC & Limitation Law

**** These are model answers, so read these to get an idea on how can we attempt these case law questions in the semester exams, then write your own answers by including what we read from above subject notes**

Q. A suit was instituted by the Plaintiff Company alleging infringement by the Defendant Company for using the trade name of the medicine and similar wrapper and carton of identical design with the same color combination, etc., as that of Plaintiff Company. A subsequent suit was instituted in a different Court by the Defendant Company against the Plaintiff Company with similar allegations. In such a situation, defend the Plaintiff Company on the procedure adopted by the Courts.

1. Issue

The central legal issue is whether the court hearing the subsequent suit, filed by the Defendant Company, is required to suspend its proceedings in light of the previously instituted suit by the Plaintiff Company, which involves the same parties and the same subject matter. The question is what procedural remedy is available to the Plaintiff Company to prevent simultaneous litigation on the same cause of action.

2. Rule

The governing procedural principle is the doctrine of *res sub judice*, which is codified in **Section 10 of the Code of Civil Procedure, 1908 (CPC)**.

Section 10 of the CPC states that no Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title, where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed.

The object of this section is to prevent courts of concurrent jurisdiction from simultaneously trying two parallel suits over the same matter. This avoids the possibility of two contradictory verdicts from different courts and prevents the defendant from being harassed by multiplicity of proceedings.

For Section 10 to apply, the following conditions must be met:

- There must be two suits, one previously instituted and one subsequently instituted.
- The matter in issue in the subsequent suit must be directly and substantially the same as in the previous suit.

Revision Notes- CPC & Limitation Law

By Few Helping Turtles

6 Mark Questions Revision Notes

S. No	Topic	Revision Points
1	Mesne Profits	Profits received by a person in wrongful possession of property. Includes interest on such profits but excludes profits due to improvements made by the person in wrongful possession. (Sec. 2(12) CPC).
2	Legal Disability	A condition like minority, insanity, or idiocy that prevents a person from suing. The Limitation Act provides for the extension of the limitation period in such cases. (Sec. 6, Limitation Act).
3	Cause of Action	The bundle of essential facts which a plaintiff must prove to get a judgment from the court. It is the fundamental reason for which a suit is filed.
4	Condonation of Delay	The court's discretion to admit a suit, appeal, or application after the prescribed time has expired, provided the party shows "sufficient cause" for the delay. (Sec. 5, Limitation Act).
5	Judgment Debtor	Any person against whom a decree has been passed or an order capable of execution has been made. (Sec. 2(10) CPC).
6	Acknowledgment	A written admission of liability by a debtor before the expiry of the limitation period. It gives a fresh period of limitation from the date of acknowledgment. (Sec. 18, Limitation Act).
7	Pecuniary Jurisdiction	The jurisdiction of a court based on the monetary value of the suit. Courts are graded to hear suits up to a certain financial limit.
8	Execution	The process of enforcing or giving effect to a court's decree or order. It is the final stage of a civil suit where the successful party realizes the fruits of the decree. (Part II, Order XXI CPC).

S. No	Topic	Revision Points
9	Territorial Jurisdiction	The geographical limits of a court's authority. A suit must be filed in the court within whose local limits the defendant resides, or the cause of action arises, or the immovable property
10	Essentials of Plaint	A plaint is the statement of claim filed by the plaintiff. It must contain the court's name, parties' details, facts constituting the cause of action, valuation of the suit, and the relief
11	Written Statement	The defendant's reply to the plaintiff's plaint. It contains admissions or denials of the allegations, and may include new facts, set-off, or a counterclaim. (Order VIII CPC).