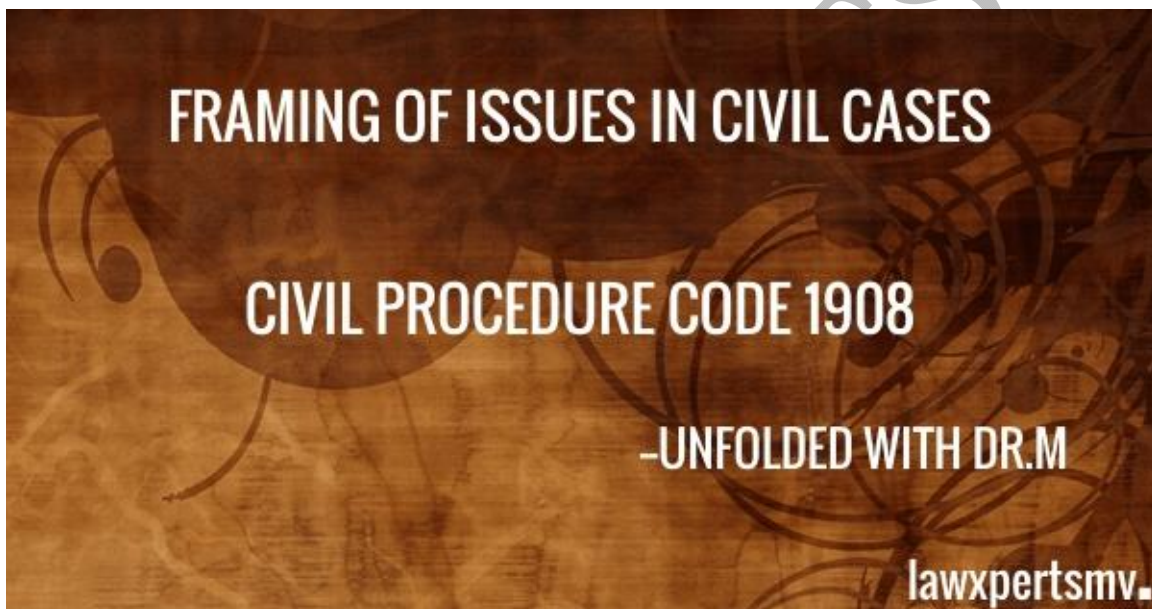


# LAWXPERTS.

## WHY YOU SHOULD STUDY THIS ?

1. HIGH QUALITY.
2. BASED ON STANDARD SOURCES
3. POSSIBILITY OF DIRECT QUESTIONS
4. COMPLETELY SYLLABUS-ORIENTED.



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## FRAMING OF ISSUES IN CIVIL CASES

**Relevant statutory provisions:** Order XIV, ORDER XV of SCHEDULE I of CIVIL PROCEDURE CODE

**What is an issue :** (issues are crux of a civil case) when a **material proposition** of fact or law is affirmed by one party and denied by the other – it forms issue - Rule 1 (1) of Order XIV of C.P.C

**Issues when arise-** material proposition of law or fact – affirmed by one party denied by other . Rule 1 (1) Order XIV

**What is material propositions of law or fact-** plaintiff allegation showing right to sue – defendants allegation constituting his defense. Rule 1(2) Order XIV

**Kinds of issues :** Rule 1(4) Order XIV

Issues of fact

Issues of law

**Materials for framing issues:** (Rule 3 Order XIV)

- Affidavits by parties/ pleader (allegations on oath )
- Pleadings and interrogatories in the suit
- Documents produced by either party

Court can examine witnesses or documents before framing issues if its perusal inevitable to frame issues ( Rule 4 Order XIV)

( QUICK BITS! Whether the Court can adjourn the framing of issues? If yes ! Is there any statutory time limit for the same ? Yes! Court can adjourn but not more than 7 days- CPC Amendment Act 1999 w.e.f 2002)

**When issues not necessary :** Rule 1(6) Order XIV - When defendant at first hearing makes no defense no issues shall be framed. Issues need not be framed when there is no dispute with regard to material averments in the plaint- **Desi Kedri vs. Huzurabad Co-Operative Marketing Society Ltd.**

**Vague pleadings-** pleadings are vague + do not fall within the parameters of CPC = then issues may not be framed. See! **2008(6) BomCR. 788; AIR 1979 Bom 52; 2000(4) BomCR 508.**

Rule 5 empowers the court to amend issues and frame additional issues at any stage of the case.

(**QUICK BITS** ! Can court strike out any issues after framing them ? Off course! When they are wrongly framed or introduced they can be struck at anytime before passing decree)

**Disposal of case on preliminary issue** : Issues on Jurisdiction and issues on any statutory bar on suit are preliminary issues – these issues may be decided at threshold / postpone all other issues until this issue is decided (*rule 2 (2) Order XIV*) – and dispose the case, however judgment must be pronounced on all issues. (*Rule 2 (1) order XIV*). Refer following cases to know more about preliminary issue -

- O.N. Bhatnagar vs. Smt. Rukibai Narsindas and others (1982) 2 SCC 244 (para 9)
- Roop Lal Sathi vs. Nachhattar Singh Gill (1982) 3 SCC 487 (para 24)
- Abdulla Bin Ali and others vs. Galappa and others (1985) 2 SCC 54,
- Indian Mineral & Chemicals Co. and others vs. Deutsche Bank (2004) 12 SCC 376

Disposal of suit at first hearing discussed in Order XV

### **Landmark Judgments:**

**#1 Makhan Lal Bangal Vs. Manas Bhunia (AIR 2001 SC490)**- Framing of issue is an important stage at which scope of the trial is determined by laying the path on which the trial shall proceed. The duty of framing proper issue rests with the judge himself, however the parties and their counsels are bound to assist the court in process of framing issues

**#2 Board of Trustees of the Port of Mormugao Vs. V.M. Salgaokar & Brothers** it has been laid down: Duty of Court—mechanical adoption of issues by court condemned – application of judicial mind mandatory.

**#3 Madaa Sai Lakshmi v. Medisetti Lakshmi Narasamma (2006 (3) ALT 708)**,- Before commencement of trial, suit be posted to a specific date for hearing both sides on the issues already framed to see if they have been properly framed or if any reframing of issues is needed on the core issues in dispute. Trial be commenced only after such exercise.

Importance of this Answer / Area in Judicial services trend :

- 1) WHAT ARE THE DIFFERENT KINDS OF ISSUES AND HOW ISSUES ARE FRAMED AND ON WHAT BASIS (CJ 1998)
- 2) DESCRIBE THE RELATIONSHIP OF ISSUES WITH JUDGMENT ? (CJ 1998)
- 3) ON WHAT POINTS PRELIMINARY ISSUES ARE FRAMED AND HOW ARE THEY DECIDED? (CJ 1998)
- 4) UNDER WHAT CIRCUMSTANCES A JUDGMENT CAN BE PRONOUNCED WITHOUT FRAMING ISSUES ? (CJ 1998)
- 5) IN A SUIT, ISSUES WERE ALREADY FRAMED AND EVIDENCES WAS ALSO CLOSED BY BOTH PARTIES. IN SUCH CIRCUMSTANCES, WHETHER COURT CAN STRIKE OUT ANY ISSUES APPEAR TO IT TO BE WRONGLY FRAMED, BEFORE PASSING DECREE? (CJ 2002)
- 6) WHETHER PRELIMINARY ISSUE CAN BE DECIDED BY COURTS, WHEN THERE IS NO SUCH PLEADING BY PARTIES?( CJ 2002)
- 7) WHETHER TERRITORIAL JURISDICTION CAN BE PRELIMINARY ISSUE ? (CJ 2002)

**THE END.**