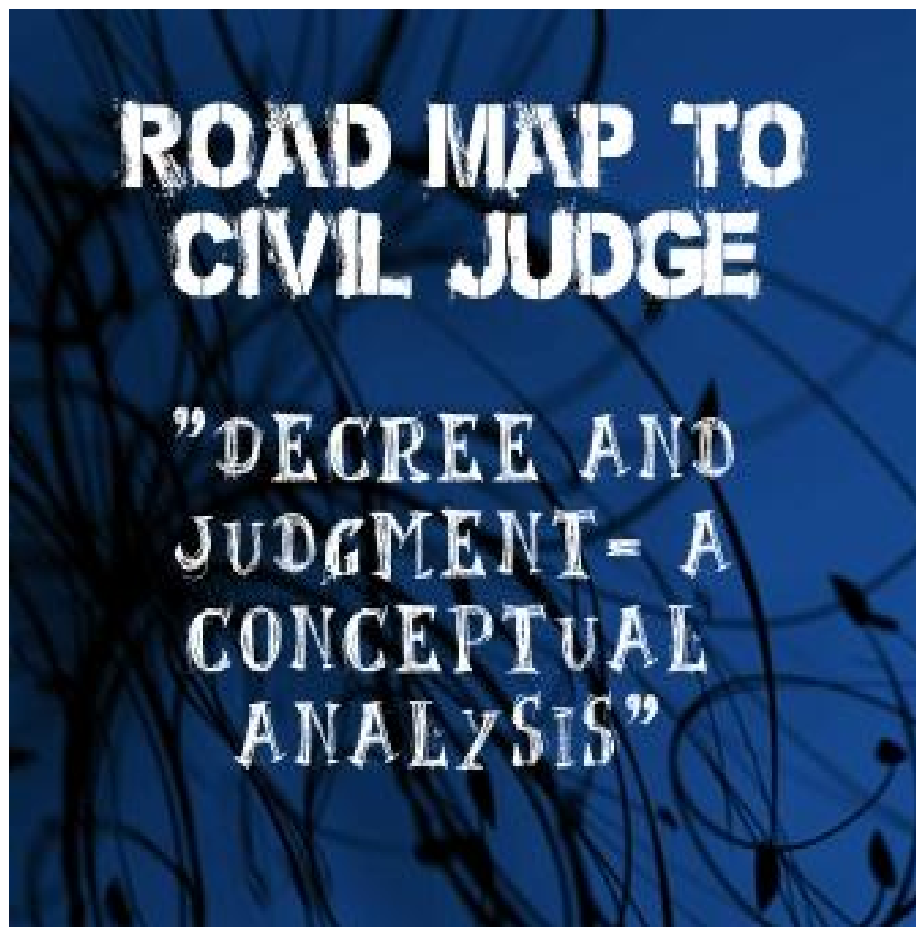


# LAWXPERTS.

## 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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## DECREE AND JUDGMENT – A CONCEPTUAL ANALYSIS

### DECREE :

WHAT IS ? It's simply a *formal expression of court*.

a) *Expression about* ? An adjudication.

- **Adjudication : Judicial** determination of the matter in dispute .
- A order of administrative nature is not Decree. SATNAM SINGH V. SURENDHAR KAUR.
- Order passed by an person who is not court is not a Decree. DEEP CHAND V. LAND ACQUISITION OFFICER.

b) **Expression on ! conclusive** determination of **rights** of the **parties** – the determination can be on all controversy or any part of it. It can be preliminary or final.

- **Conclusive Determination** = *it must be final and conclusive in essence & substance - as regards the court passing it. SUKHDEO V. GOVINDA HARI*
- **Rights** = *both substantive + procedural.*
- **Parties to the suit** = *Plaintiff + defendants.*  
Whether an order on an application of 3rd party, who is stranger to the suit, can it be called as "decree"? *NO* says SC in *VENKATA REDDY V. PATHA REDDY*.
- **Shankar vs Chandrakant SCC 1995**, SC - *a preliminary decree is one which declares the rights and liabilities of the parties leaving the actual result to be worked out in further proceedings.*
- Matter in controversy = *subject matter with reference to which some relief is sought.*

( **Brain tickle !** Whether the rejection of plaint under Order VII rule 11 of CPC is a decree ?  
Yes! As per sec:2(2) of CPC it is included under decree)

c) **What are not decrees!** – An order of dismissal for default and an appeal from an order.

{**Quick Recap:** *Thus for a decree – there must be a suit<sup>1</sup> ! an adjudication between the parties in which a controversy must be involved , upon which the court must formally express the right or liability of parties conclusively either in whole or in parts }*

**Decree Holder** – person in whose favour / capable of execution the decree is passed

( **Brain tickle !** what is the name by which the person against whom the decree is passed is referred to as ? Decree debtor ? NOPE ! JUDGMENT DEBTOR as per sec : 2(10) Of CPC)

<sup>1</sup> **Hansraj vs Dehradun Mussoorie Tramways Co. Ltd. AIR 1933**, the Privy Council defined the term suit as "a civil proceeding instituted by the presentation of a plaint".

**Judgment:** statement of a **judge** ( *Any judge ? Magistrate?* It refers only to a presiding officer of civil court – sec 2(8) of CPC ) – (*statement on?*) the grounds of a decree/ order (*simply the reason for such conclusion in the decree/ order*)

**Relevant provisions of law :**

Section:2(2) , 2(3), 2(6),2(9),2(10) and ORDER XX of CPC

**Decree V. Order**

Decree - S. 2(2)	Order S. 2(14)
Can only be passed in a suit originated by the presentation of a plaint.	Can be passed in a suit originated by the presentation of a plaint, application, or petition.
Contains Conclusive Determination of a right	May or may not finally determine a right.
May be final, preliminary, or partly preliminary - partly final.	Cannot be a preliminary order.
In general, there can only be one decree or at the most one preliminary and one final decree in a suit.	There can be any number of orders in a suit.
Every decree is appealable unless an appeal is expressly barred.	Only those orders which are specified as appealable in the code are appealable.
A second appeal may lie against a decree to a High Court on certain grounds.	There is no second appeal for orders. <sup>2</sup>

**Judgment when pronounced:** pronounced in open court after hearing the case / as soon as practicable ( *court must fix a day for such pronouncement and notice must be given to parties* ) . Rule 1 Order XX CPC.

( **Brian Tickle !** is there any time limit prescribed for the court for pronouncing the judgment ? Yes as per rule 1 order XX CPC – it must be produced in 30 days ordinarily if not in extraordinary circumstances it may extend to 60 days. Regarding guidelines for time limit refer *Anil Rani's case* )

<sup>2</sup> Hanumant.com for more information on this table

**Form of Judgment :** It must be in written format / typed – addressing finding of court on all issues . The judgment must be signed in open court by the judge while pronouncing it. ***Sangam Lal v. Rent Control and Eviction Officer-*** a judgment dictated in an open court can be changed, even completely, before it is signed provided notice is given to all parties concerned and they are heard before the change is made.

( **Brain Tickle !** After signing the judgment is it open for the judge to alter it later ? Alteration only allowed under section 152 CPC ( Review ) not otherwise)

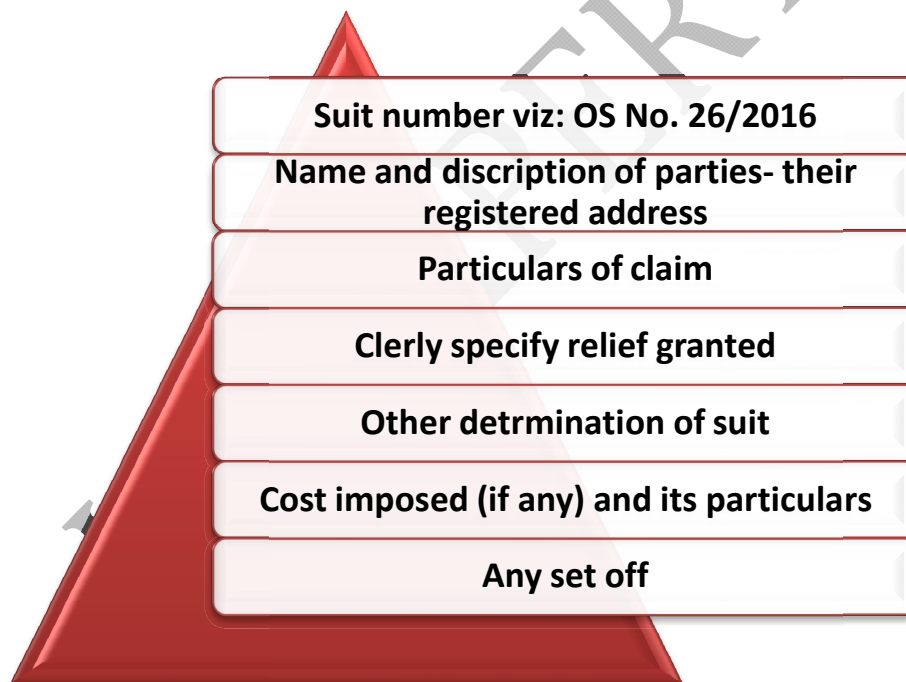
**Contents of Judgment :**

Judgment of small causes court – points for determination + decision

Other Courts- Concise statement of case + points for determination + decision.

***Balraj Taneja vs Sunil Madan, AIR 1999, SC*** held that a Judge cannot merely say "Suit decreed" or "Suit dismissed"

**Contents of decree:** Most important character – decree must agree with the judgement.



Decree shall be drawn by the court within 15 days from date of judgment.- Rule 6-A Order XX. However the decree shall bear the date of judgment – Rule 7 Order XX

Rule 9 to 18 explains about contents of decree of different suit depending on relief sought ( detailed analysis in notes )

**IMPORTANCE OF THIS CHAPTER:**

- 1) DEFINE JUDGMENT AND DISTINGUISH IT FROM DECREE - 12 MARK
- 2) HOW JUDGMENT IS PRONOUNCED ?
- 3) HOW FAR JUDGMENT IS HELPFUL IN DRAFTING DECREE ?
- 4) WHAT IS OBJECT OF JUDGMENT ?
- 5) HELPFUL IN JUDGMENT WRITING.

**NOTE : Injunction is most important area in CJ examination, the above material is meant to be a primer , for detail explanation kindly wait for our notes !**

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