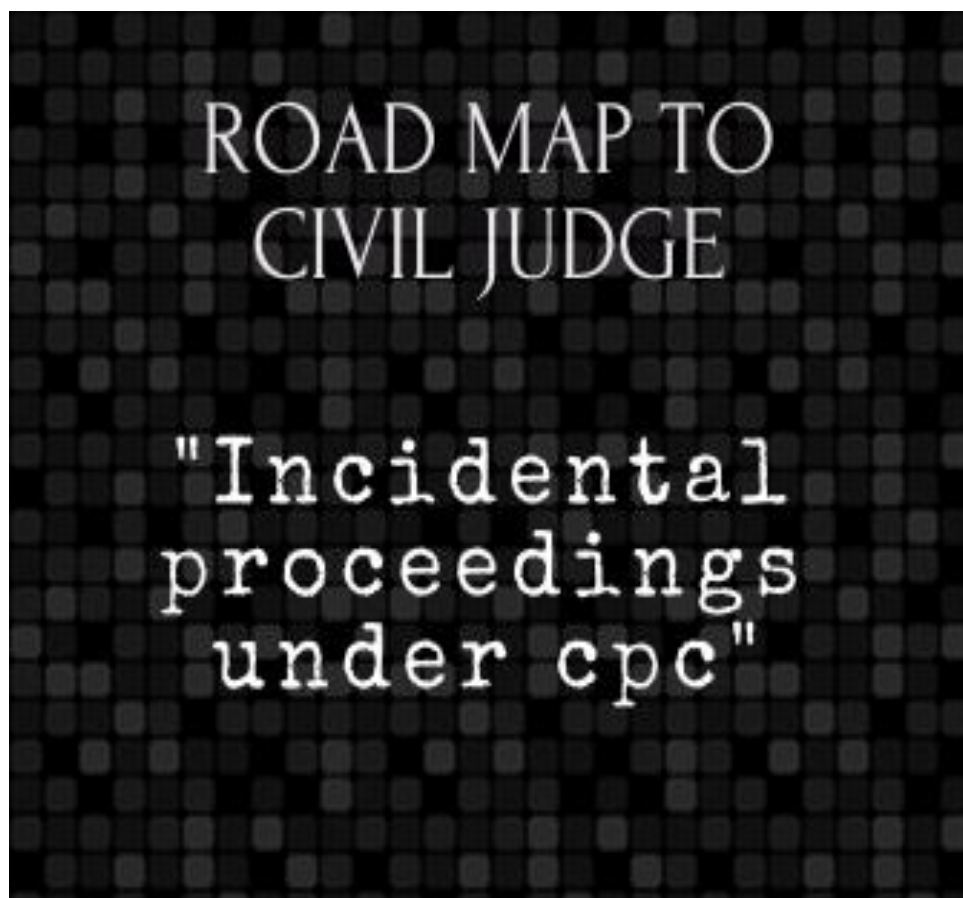


LAWXPERTS.

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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INCIDENTAL PROCEEDINGS UNDER CPC- COMMISSION

Incidental proceedings ? – issuing commission by courts for specific purpose is termed as incidental proceedings.

What are those specific purposes ? ▼

As per sec : 75 – specific purpose for establishing commission

- 1) To examine any person- O XXVI R 1-9
- 2) To make local investigation-O XXVI R 9-10.
- 3) To examine/adjust accounts- OXXVI R 11-12
- 4) To make partition-O XXVI R 13-14
- 5) For scientific/expert/technical investigation- OXXVI R 10 A
- 6) Sale of property- subject to speedy natural decay- in pending suit- OXXVI R 15-18B

When the subject -matter for the above stated purposes is not located within the jurisdiction of court issuing commission- As per sec : 76 - it can issue summon to another court in which the subject-matter resides/ located.

BRAIN TICKLE – Can a civil court in Hyderabad issue commission to Kerala High Court to examine a person in Kerala? No- such commission can be issues to any court in the state except High Courts

Duty of court to which commission is issued:- Sec: 76(2) -it must establish a commission as established by itself- collect evidence- send the report on commission + evidence collected to the court required.- act according to the order if any made by the issuing court.

If the person to examine is not within India ! – as per sec:77 a letter of request may be issued to that effect to any person. # it is discretionary power of court + it is not subject to existence of any reciprocal arrangement between two governments - *Filmistan (pvt) Ltd Bombay vs Bhagwandas*.

The above procedures and powers apply to 1) courts in India – where CPC does not apply ,2) Courts established by central government outside India and Courts of ant state outside Inida.

GENERAL PRINCIPLES

- ✚ Appointment of commission is not legal exercise of power # *Galimella Annapurnayya vs Kota Appalanarasimhamurthy*
- ✚ The power to issue Commission is discretionary # *Filmistan (pvt) Ltd Bombay vs Bhagwandas*.
- ✚ The purpose given U/s 75 is not exhaustive- it can be expanded – r/w sec:151 – and commission can be issued for various purposes# *Galimella Annapurnayya vs Kota Appalanarasimhamurthy*

NOTE : For detailed explanation on each rule with apt case laws access our notes !THE END