

# **Procedural Differences: Suit under Commercial Courts Act and under Civil Procedure Code**

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[ashish@intellectlp.com](mailto:ashish@intellectlp.com)

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## I. INTRODUCTION

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (“the Act”) which has made amendments to the Civil Procedure Code, 1908 (“CPC”) was enacted to provide speedy disposal of high value commercial disputes to invite investor confidence.

The Act is an effort on behalf of the Government to streamline the process of ease of doing business in this country. It is an endeavour to provide strict timelines for completion of processes so that the adjudicatory process is not rendered a protracted affair.

## II. NATURE OF DISPUTE

“*Commercial Dispute*” has been defined under **Section 2(1)(c)** of the Act. The definition of is exhaustive in nature and covers a wide variety of disputes arising out of the specified transactions from (i) to (xxii).

Whereas **Section 9** of the CPC provides the jurisdiction of Civil Courts to try all suits of civil nature except those expressly or impliedly barred. “*Suit of Civil Nature*” was defined by the Hon’ble Supreme Court in *Most Rev. P.M.A. Metropolitan v. Moran Mar Marthoma*<sup>1</sup> as being wider than the word ‘civil proceeding’. The expression ‘civil’ has been defined by the *Black’s Law Dictionary* as “relating to private rights and remedies that are sought by action or suit, as distinct from criminal proceedings”. It was observed that the width of ‘civil’ has been stretched further by using the word ‘nature’ along with it.

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<sup>1</sup> 1995 Supp (4) SCC 286.

### III. DIFFERENCES BETWEEN A COMMERCIAL AND AN ORDINARY SUIT

Step	Suits of Civil Nature		Commercial Courts	
	Provision	Excerpt	Provision	Excerpt
Court of First Instance	Section 15 “Court in which suits to be instituted”	Every suit shall be instituted in the Court of the lowest grade competent to try it.	Section 3, Commercial Courts Act  Section 2(1)(i), Commercial Courts Act	The Act envisages the constitution of Commercial Courts at District Levels by the State Government  The Specified value should not less than Rs. Three-lakhs.
Pre-Institution Mediation and Settlement		No Corresponding Provision	Sec 12A Commercial Courts Act	<b>“12A. Pre-Institution Mediation and Settlement.--</b> (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government. (2) The Central Government may, by notification, authorize the Authorities constituted under the Legal Services

			<p>Authorities Act, 1987 (39 of 1987), for the purposes of pre-institution mediation.</p> <p>(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987 (39 of 1987), the Authority authorized by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):</p> <p>Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:</p> <p>Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963 (36 of 1963).</p> <p>(4) If the parties to the commercial dispute arrive at a settlement, the</p>
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				<p>same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.</p> <p>(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996 (26 of 1996).”</p>
Documents to be filed with the plaintiff	Order VII Rule 14	<p><b>“14. Production of document on which plaintiff sues or relies. – (1)</b> Where a plaintiff sues upon a document or relies upon document in his possession or power in support of his claim, he shall enter such documents in a list, and shall produce it in Court when the plaint is presented by him and shall, at the same time deliver the document and a copy thereof, to be filed with the plaint. (2) Where any</p>	Order XI Rule 1 Check Rule 2- Discovery by interrogatories Rule 3- Inspection	<p><b>“1. Disclosure and discovery of documents. – (1)</b> Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including: –</p> <p>(a) documents referred to and relied on by the plaintiff in the plaint;</p> <p>(b) documents relating to any matter in question in the proceedings, in the power, possession, control or custody</p>

		<p>such document is not in the possession or power of the plaintiff, he shall, wherever possible, state in whose possession or power it is.</p> <p>(3) A document which ought to be produced in Court by the plaintiff when the plaint is presented, or to be entered in the list to be added or annexed to the plaint but is not produced or entered accordingly, shall not, without the leave of the Court, be received in evidence on his behalf at the hearing of the suit.</p> <p>(4) Nothing in this rule shall apply to document produced for the cross-examination of the plaintiff's witnesses, or handed over to a witness merely to refresh his memory."</p>	<p>Rule 4- Admission and Denial of Documents</p> <p>Rule 5 - Production of Documents</p>	<p>of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiff's case;</p> <p>(c) nothing in this Rule shall apply to documents produced by plaintiffs and relevant only--</p> <p>(i) for the cross-examination of the defendant's witnesses, or</p> <p>(ii) in answer to any case set up by the defendant subsequent to the filing of the plaint, or</p> <p>(iii) handed over to a witness merely to refresh his memory.</p> <p>(2) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies and the list shall also set out in brief,</p>
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				<p>details of parties to each document, mode of execution, issuance or receipt and line of custody of each document.</p> <p>(3) The plaintiff shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody.</p> <p>Explanation.--A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix.</p>
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			<p>(4) In case of urgent filings, the plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by Court, the plaintiff shall file such additional documents in Court, within thirty days of filing the suit, along with a declaration on oath that the plaintiff has produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.</p> <p>(5) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession,</p>
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			<p>control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of Court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.</p> <p>(6) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon and seek leave for production thereof by the said defendant.</p> <p>(7) The defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the</p>
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				<p>suit, along with the written statement or with its counterclaim if any, including –</p> <p>(a) the documents referred to and relied on by the defendant in the written statement;</p> <p>(b) the documents relating to any matter in question in the proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant’s defence;</p> <p>(c) nothing in this Rule shall apply to documents produced by the defendants and relevant only--</p> <p>(i) for the cross-examination of the plaintiff’s witnesses,</p> <p>(ii) in answer to any case set up by the plaintiff subsequent to the filing of the</p>
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			<p>plaint, or (iii) handed over to a witness merely to refresh his memory.</p> <p>(8) The list of documents filed with the written statement or counterclaim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document.</p> <p>(9) The written statement or counterclaim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule (7) (c) (iii)</p>
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			<p>pertaining to the facts and circumstances of the proceedings initiated by the plaintiff or in the counterclaim, have been disclosed and copies thereof annexed with the written statement or counterclaim and that the defendant does not have in its power, possession, control or custody, any other documents.</p> <p>(10) Save and except for sub-rule (7) (c) (iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counterclaim, save and except by leave of Court and such leave shall be granted only upon the defendant establishing reasonable cause for non-</p>
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			<p>disclosure along with the written statement or counterclaim.</p> <p>(11) The written statement or counterclaim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same.</p> <p>(12) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.”</p> <p><i>Nitin Gupta v. Texmaco Infrastructure and Holding Limited, MANU/DE/1554/2019</i></p>
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				No Plaintiff will be allowed to rely on documents which were not disclosed with the plaint, save and except by leave of court as granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.
Written Statement/ Counterclaim	Order V Rule 1	<p><b>1. Summons. –</b></p> <p>(1) When a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and to file the written statement of his defence, if any, within thirty days from the date of service of summons on that defendant: Provided that no such summons shall be issued when a defendant has appeared at the presentation of plaint and admitted the plaintiff's claim</p>	Order V Rule 1	<p><b>"1. Summons. –</b></p> <p>(1) When a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and to file the written statement of his defence, if any, within thirty days from the date of service of summons on that defendant: Provided that no such summons shall be issued when a defendant has appeared at the presentation of plaint and admitted the plaintiff's claim:</p>

		<p>(2) A defendant to whom a summons has been issued under sub-rule (1) may appear—</p> <p>(a) in person, or</p> <p>(b) by a pleader duly instructed and able to answer all material questions relating to the suit, or</p> <p>(c) by a pleader accompanied by some person able to answer all such questions.</p> <p>(3) Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court.”</p> <p>1. <b>Written Statement.</b>— The Defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:</p>	<p>[Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record of one hundred twenty days from the date of service of summons, the defendant shall</p>
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	<p>Order VIII Rule 1</p>	<p>Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons”</p> <p>Atcom Technologies Ltd. v. Y.A. <i>Chunawala and Co. (2018) 6 SCC 639; Desh Raj v. Balkishan (2020) 2 SCC 708</i></p> <p>This provision continues to be directory and does not do away with the inherent discretion of Courts to condone certain delays.</p>	<p>forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.</p> <p>(2) A defendant to whom a summons has been issued under sub-rule (1) may appear –</p> <p>(a) in person, or</p> <p>(b) by a pleader duly instructed and able to answer all material questions relating to the suit, or</p> <p>(c) by a pleader accompanied by some person able to answer all such questions.</p> <p>(3) Every such summons shall be signed by the Judge or such officer as he appoints, and shall be sealed with the seal of the Court.”</p>
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			<p>Order VIII Rule 1</p>	<p><b>1. Written Statement.</b>— The Defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:</p> <p>[Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to</p>
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				<p>file the written statement and the Court shall not allow the written statement to be taken on record”</p> <p><i>SCG Contracts India Pvt. Ltd. v. KS Chamankar Infrastructure Pvt. Ltd., AIR 2019 SC 2691; Oku Tech Pvt Ltd v. Sangeet Agarwal and Ors., MANU/DE/2036/2016.</i></p> <p>There is no discretion with courts to extend the time for filing the written statement beyond 120 days after service of summons.</p>
Inspection of Documents	Order XI Rule 15	“15. <b>Inspection of documents referred to in pleadings or affidavits.</b> —Every party to a suit shall be entitled 1 [at or before the settlement of issues] to give notice to any other party, in whose pleadings or affidavits reference is made to any document, 2 [or who	Order XI Rule 3 (as applicable to Commercial Disputes)	“3. <b>Inspection.</b> — (1) All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement or written statement to the counterclaim, whichever is later. The Court may extend this time limit upon

		<p>has entered any document in any list annexed to his pleadings,] to produce such document for the inspection of the party giving such notice, or of his pleader, and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such suit unless he shall satisfy the Court that such document relates only to his own title, he being a defendant to the suit, or that he had some other cause or excuse which the Court shall deem sufficient for not complying with such notice, in which case the Court may allow the same to be put in evidence on</p>	<p>application at its discretion, but not beyond thirty days in any event.</p> <p>(2) Any party to the proceedings may seek directions from the Court, at any stage of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.</p> <p>(3) Order in such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by Court) and hearing.</p> <p>(4) If the above application is allowed, inspection and copies thereof shall be furnished to the party seeking it, within five days of such order.</p>
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		such terms as to costs and otherwise as the Court shall think fit.”		<p>(5) No party shall be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of Court.</p> <p>(6) The Court may impose exemplary costs against a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to a suit or essential for a decision therein and which are in their power, possession, control or custody or where a Court holds that inspection or copies of any documents had been wrongfully or unreasonably withheld or refused.”</p>
Case Management hearing		No Corresponding Provision	Order XV (As applicable to	“1. <b>First Case Management Hearing.</b> —The court shall hold the first Case Management Hearing, not later than four weeks’s from the date

			<p>Commercial Disputes)</p> <p>Also See</p> <p>Rule 7 -</p> <p>Adjournment of Case Management Hearing</p> <p>Rule 8 -</p> <p>Consequences of non-compliance with orders</p>	<p>of filing of affidavit of admission or denial of documents by all parties to the suit.</p> <p><b>2. Orders to be passed in a Case Management Hearing.</b>—In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the court may pass an order—</p> <p>(a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 (5 of 1908) after examining pleadings, documents and documents produced before it, and on examination conducted by the court under Rule 2 of Order X, if required;</p>
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			<p>(b) listing witnesses to be examined by the parties;</p> <p>(c) fixing the date by which affidavit of evidence to be filed by parties;</p> <p>(d) fixing the date on which evidence of the witnesses of the parties to be recorded;</p> <p>(e) fixing the date by which written arguments are to be filed before the court by the parties;</p> <p>(f) fixing the date on which oral arguments are to be heard by the court; and</p> <p>(g) setting time limits for parties and their advocates to address oral arguments.</p> <p><b>3. Time limit for the completion of a trial.</b> – In fixing dates or setting time limits for the purposes of Rule 2 of this</p>
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			<p>order, the court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing.</p> <p><b>4. Recording of oral evidence on a day-to-day basis.</b> – The court shall, as far as possible, ensure that the record of evidence shall be carried on, on a day-to-day basis until the cross examination of all the witnesses is complete.</p> <p><b>5. Case Management hearings during trial.</b> – The court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under</p>
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				<p>Rule 2 and facilitate speedy disposal of the suit.</p> <p><b>6. Powers of the court in a Case Management Hearing.</b>—(1) In any Case Management Hearing held under this order, the court shall have the power to -</p> <p>(a) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII-A;</p> <p>(b) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;</p> <p>(c) extend or shorten the time for compliance with any practice, direction or court order if it finds sufficient reason to do so;</p>
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				<p>(d) adjourn or bring forward a hearing if it finds sufficient reason to do so;</p> <p>(e) direct a party to attend the court for the purposes of examination under Rule 2 of Order X;</p> <p>(f) consolidate proceedings;</p> <p>(g) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;</p> <p>(h) direct a separate trial of any issue;</p> <p>(i) decide the order in which issues are to be tried;</p> <p>(j) exclude an issue from consideration;</p> <p>(k) dismiss or give judgment on a claim after a decision on a preliminary issue;</p> <p>(l) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;</p>
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				<p>(m) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;</p> <p>(n) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;</p> <p>(o) delegate the recording of evidence to such authority appointed by the court for this purpose;</p> <p>(p) pass any order relating to the monitoring of recording the evidence by a commission or any other authority</p> <p>(q) order any party to file land exchange a costs budget;</p> <p>(r) issue directions or pass any order for the purpose of managing the case and furthering the overriding</p>
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				<p>objective of ensuring the efficient disposal of the suit.</p> <p>(2) When the court passes an order in exercise of its powers under this order, it may-</p> <p>(a) make it subject to conditions, including a condition to pay a sum of money into court; and</p> <p>(b) specify the consequence of failure to comply with the order or a condition.</p> <p>(3) While fixing the date for a Case Management Hearing, the court may direct that the parties also be present for such Case Management Hearing, if it is of the view that there is a possibility of settlement between the parties.”</p>
Summary Judgment		No Corresponding Provision	Order XIII-A Also See	<b>“1. Scope of and classes of suits to which this Order applies. – (1) This</b>

			<p>Rule 7 - Conditional Order</p> <p>Rule 8 - Power to impose costs</p>	<p>Order sets out the procedure by which Courts may decide a claim pertaining to any Commercial Dispute without recording oral evidence.</p> <p>(2) For the purposes of this Order, the word "claim" shall include –</p> <p>(a) part of a claim;</p> <p>(b) any particular question on which the claim (whether in whole or in part) depends; or (c) a counterclaim, as the case may be.</p> <p>(3) Notwithstanding anything to the contrary, an application for summary judgment under this Order shall not be made in a suit in respect of any Commercial Dispute that is originally filed as a summary suit under Order XXXVII.</p>
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			<p><b>2. Stage for application for summary judgment.</b>— An applicant may apply for summary judgment at any time after summons has been served on the defendant:</p> <p>Provided that, no application for summary judgment may be made by such applicant after the Court has framed the issues in respect of the suit.</p> <p><b>3. Grounds for summary judgment.</b>— The Court may give a summary judgment against a plaintiff or defendant on a claim if it considers that--</p> <p>(a) the plaintiff has no real prospect of succeeding on the claim or the defendant has no real prospect of</p>
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			<p>successfully defending the claim, as the case may be; and</p> <p>(b) there is no other compelling reason why the claim should not be disposed of before recording of oral evidence.</p> <p><b>4. Procedure.</b>—(1) An application for summary judgment to a Court shall, in addition to any other matters the applicant may deem relevant, include the matters set forth in sub-clauses (a) to (f) mentioned hereunder:—</p> <p>(a) the application must contain a statement that it is an application for summary judgment made under this Order;</p> <p>(b) the application must precisely disclose all material facts and identify the point of law, if any;</p>
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				<p>(c) in the event the applicant seeks to rely upon any documentary evidence, the applicant must,--</p> <p>(i) include such documentary evidence in its application, and</p> <p>(ii) identify the relevant content of such documentary evidence on which the applicant relies;</p> <p>(d) the application must state the reason why there are no real prospects of succeeding on the claim or defending the claim, as the case may be;</p> <p>(e) the application must state what relief the applicant is seeking and briefly state the grounds for seeking such relief.</p> <p>(2) Where a hearing for summary judgment is fixed, the respondent</p>
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				<p>must be given at least thirty days' notice of:—</p> <p>(a) the date fixed for the hearing; and</p> <p>(b) the claim that is proposed to be decided by the Court at such hearing.</p> <p>(3) The respondent may, within thirty days of the receipt of notice of application of summary judgment or notice of hearing (whichever is earlier), file a reply addressing the matters set forth in clauses (a) to (f) mentioned hereunder in addition to any other matters that the respondent may deem relevant:—</p> <p>(a) the reply must precisely--</p> <p>(i) disclose all material facts;</p> <p>(ii) identify the point of law, if any;</p> <p>and</p>
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				<p>(iii) state the reasons why the relief sought by the applicant should not be granted;</p> <p>(b) in the event the respondent seeks to rely upon any documentary evidence in its reply, the respondent must –</p> <p>(i) include such documentary evidence in its reply; and</p> <p>(ii) identify the relevant content of such documentary evidence on which the respondent relies;</p> <p>(c) the reply must state the reason why there are real prospects of succeeding on the claim or defending the claim, as the case may be;</p> <p>(d) the reply must concisely state the issues that should be framed for trial;</p> <p>(e) the reply must identify what further evidence shall be brought on</p>
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			<p>record at trial that could not be brought on record at the stage of summary judgment; and</p> <p>(f) the reply must state why, in light of the evidence or material on record if any, the Court should not proceed to summary judgment.</p> <p><b>5. Evidence for hearing of summary judgment. –</b>(1) Notwithstanding anything in this Order, if the respondent in an application for summary judgment wishes to rely on additional documentary evidence during the hearing, the respondent must: –</p> <p>(a) file such documentary evidence; and</p> <p>(b) serve copies of such documentary evidence on every other party to the</p>
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				<p>application at least fifteen days prior to the date of the hearing.</p> <p>(2) Notwithstanding anything in this Order, if the applicant for summary judgment wishes to rely on documentary evidence in reply to the defendant's documentary evidence, the applicant must: –</p> <p>(a) file such documentary evidence in reply; and</p> <p>(b) serve a copy of such documentary evidence on the respondent at least five days prior to the date of the hearing.</p> <p>(3) Notwithstanding anything to the contrary, sub-rules (1) and (2) shall not require documentary evidence to be: –</p> <p>(a) filed if such documentary evidence has already been filed; or</p>
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			<p>(b) served on a party on whom it has already been served.</p> <p><b>6. Orders that may be made by Court.</b>—(1) On an application made under this Order, the Court may make such orders that it may deem fit in its discretion including the following:—</p> <ul style="list-style-type: none"> <li>(a) judgment on the claim;</li> <li>(b) conditional order in accordance with Rule 7 mentioned hereunder;</li> <li>(c) dismissing the application;</li> <li>(d) dismissing part of the claim and a judgment on part of the claim that is not dismissed;</li> <li>(e) striking out the pleadings (whether in whole or in part); or</li> <li>(f) further directions to proceed for case management under Order XV-A.</li> </ul>
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			<p>(2) Where the Court makes any of the orders as set forth in sub-rule (1) (a) to (f), the Court shall record its reasons for making such order.”</p> <p><i>Bright Enterprises Private Ltd. v. MJ Bizcraft LLP, MANU/DE/0017/2017; Ahuja Radios v. A. Karim in CS(COMM) 35/2017(Delhi High Court); Christian Louboutin Sas v. Abubaker &amp; Ors. MANU/DE/1983/2018</i></p> <p>The rationale being that the Court, after hearing both parties to an application for summary judgment, is of the view that there are no material propositions of fact or law on which further evidence needs to be led since the respective rights of the parties are well-established as per the merits of the dispute.</p>
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Framing of issues	Order XV Rule 1	<p><b>“1. Framing of issues.—</b>(1) Issues arise when a material proposition of fact or law is affirmed by the one party and denied by the other. (2) Material propositions are those propositions of law or fact which a plaintiff must allege in order to show a right to sue or a defendant must allege in order to constitute his defence. (3) Each material proposition affirmed by one party and denied by the other shall form the subject of distinct issue. (4) Issues are of two kinds: (a) issues of fact, (b) issues of law. (5) At the first hearing of the suit the Court shall, after reading the plaint and the written statements if any, and 1 [after examination under rule 2 of Order X and after hearing the</p>	Order XV-A Rule 2	<p><b>“2. Orders to be passed in a Case Management Hearing.—</b>In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the Court may pass an order--</p> <p>(a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 (5 of 1908), after examining pleadings, documents and documents produced before it, and on examination conducted by the Court under Rule 2 of Order X, if required...”</p>
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		<p>parties or their pleaders], ascertain upon what material propositions of fact or of law the parties are at variance, and shall thereupon proceed to frame and record the issues on which the right decision of the case appears to depend. (6) Nothing is this rule requires the Court to frame and record issued where the defendant at the first hearing of the suit makes no defence.”</p>		
Oral Evidence	Order XVIII Rule 2	<p>“2. <b>Statement and production of evidence.</b>—(1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues</p>	Order XVIII Rule 2  (As applicable to Commercial Disputes)	<p>““2. <b>Statement and production of evidence.</b>—(1) On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issues which he is bound to</p>

		<p>which he is bound to prove.</p> <p>(2) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case.</p> <p>(3) The party beginning may then reply generally on the whole case.”</p>		<p>prove.</p> <p>(2) The other party shall then state his case and produce his evidence (if any) and may then address the Court generally on the whole case. The party beginning may then reply generally on the whole case.”</p>
Written Arguments	Order XVIII Rule 2	<p>“2. <b>Statement and production of evidence.</b>—</p> <p>(3) The party beginning may then reply generally on the whole case.</p> <p>(3A) Any party may address oral arguments in a case, and shall, before he concludes the oral arguments, if any, submit if the Court so permits concisely and under distinct headings written</p>	Order XVIII Rule 2	<p>“2. <b>Statement and production of evidence.</b>—</p> <p>(3) The party beginning may then reply generally on the whole case.</p> <p>(3A) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to</p>



		<p>arguments in support of his case to the Court and such written arguments shall form part of the record.</p> <p>(3B) A copy of such written arguments shall be simultaneously furnished to the opposite party.</p> <p>(3C) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.</p> <p>(3D) The Court shall fix such time-limits for the oral arguments by either of the parties in a case, as it thinks fit”</p>	<p>the Court and such written arguments shall form part of the record.</p> <p>(3B) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies of such judgments being relied upon by the party.</p> <p>(3C) A copy of such written arguments shall be furnished simultaneously to the opposite party.</p> <p>(3D) The Court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.</p>
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				<p>(3E) No adjournment shall be granted for the purpose of filing the written arguments unless the Court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.</p> <p>(3F) It shall be open for the Court to limit the time for oral submissions having regard to the nature and complexity of the matter.”</p>
Judgment	Order XX Rule 1	<p><b>“1. Judgment when pronounced.—</b> (1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall</p>	Order XX Rule 1  (As applicable to Commercial Disputes)	<p><b>“1. Judgment when pronounced.—</b> (1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:</p>

		<p>be given to the parties or their pleaders:</p> <p>Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed</p>	<p>(1) The Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.</p> <p>(2) Where a written judgment is to be pronounced, it shall be sufficient if the findings of the Court on each issue and the final order passed in the case are read out and it shall not be necessary for the Court to read out the whole judgment.</p> <p>(3) The judgment may be pronounced by dictation in open Court to a shorthand writer if the Judge is specially empowered by the High</p>
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		shall be given to the parties or their pleaders.”		Court in this behalf: Provided that, where the judgment is pronounced by dictation in open Court, the transcript of the judgment so pronounced shall, after making such correction therein as may be necessary, be signed by the judge, bear the date on which it was pronounced, and form a part of the record.”
Cost of Hearing	Section 35	35. <b>Costs.</b> —(1) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of an incident to all suits shall be in the discretion of the Court, and the Court shall have full power to determine by whom or out of what property and to what extent such costs are to be paid, and to give all	Section 35 (As applicable to Commercial Disputes)  Also See Illustration	[35. <b>Costs.</b> —(1) In relation to any Commercial dispute, the Court, notwithstanding anything contained in any other law for the time being in force or Rule, has the discretion to determine: (a) whether costs are payable by one party to another; (b) the quantum of those costs; and (c) when they are to be paid.

		necessary directions for the purposes aforesaid. The fact that the Court has no jurisdiction to try the suit shall be no bar to the exercise of such powers. (2) Where the Court directs that any costs shall not follow the event, the Court shall state its reasons in writing		<p><i>Explanation.</i>—For the purpose of clause (a), the expression “costs” shall mean reasonable costs relating to—</p> <p>(i) the fees and expenses of the witnesses incurred;</p> <p>(ii) legal fees and expenses incurred;</p> <p>(iii) any other expenses incurred in connection with the proceedings.</p> <p>(2) If the Court decides to make an order for payment of costs, the general rule is that the unsuccessful party shall be ordered to pay the costs of the successful party: Provided that the Court may make an order deviating from the general rule for reasons to be recorded in writing.</p>
Appeal	Section 3 “Subordination of Courts”	The Hierarchy of Indian Judicial System has Supreme Court as the Apex Court. The District Court is subordinate to the High Court, and every Civil Court of a grade inferior to that of a District Court and every Court of Small Causes	Section 13, Commercial Courts Act	<p>Section 13. <b>Appeals from decrees of Commercial Courts and Commercial Divisions.</b></p> <p>(1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial</p>

	<p>Second Division, Schedules, Limitation Act, 1963</p>	<p>is subordinate to the High Court and District Court.</p> <p><b>“116. Under the Code of Civil Procedure, 1908 (5 of 1908) –</b></p> <p>(a) to a High Court from any decree or order. - Ninety days. - The date of the decree or order.</p> <p>(b) to any other court from any decree or order. - Thirty days. - The date of the decree or order.</p> <p><b>117. From a decree or order of any High Court to the same Court. - Thirty days. - The date of the decree or order”</b></p> <p>i.e.</p> <p>For appeal, in case of a decree or order of a lower court in a civil suit, the limitation is-</p>	<p>Appellate Court within a period of sixty days from the date of judgment or order.</p> <p>(1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:</p> <p>Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of</p>
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		<p>i. Appeal to High Court, 90 days from the date of decree or order.</p> <p>ii. Appeal to any other court, 30 days from the date of Decree or order.</p> <p>For appeal in case of a decree or order of a High Court to the same Court, the limitation is 30 days from the date of Decree or order.</p>		<p>the Arbitration and Conciliation Act, 1996 (26 of 1996).</p> <p>(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.</p>
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#### IV. CONCLUSION

It is essential to identify the nature of the dispute to determine the right forum. This distinction becomes essential in the backdrop of distinct and separate procedure to be followed by the Courts in a suit of civil nature and a commercial suit.

Stringent rules have been laid down to ensure that parties do not abuse the process of law and the Act further envisages imposition of cost where the court finds that the claim put forward by any of the party is frivolous and vexatious.

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Ashish Aggarwal (D-455/89)  
Gurkamal Hora Arora (D-1617/95)  
Amit Bhatnagar (D-1554/02)  
Subodh K Pandey (D-3860/12)  
Ajay Kumar Arora (D-2400/15)  
Gurcharan Singh (D-2073/17)  
Garima Malik (D-4332/17)  
Vaijayant Khanna (D-2446/18)  
Advocates

**Intellect Law Partners  
Legal Consultants**

**1, Link Road, Jangpura Extension,  
New Delhi-110014  
Tel: +91 011 43103330  
E-mail: [ashish@intellectlp.com](mailto:ashish@intellectlp.com)**