

SYNOPSIS

1. Appeals from orders

1A. Right to challenge non-appealable orders in appeal against decrees

2. Procedure

1. Appeals from orders

An appeal shall lie from the following orders under the provisions of section 104, namely: —

(a) an order under rule 10 of Order VII returning a plaint to be presented to the proper Court except where the procedure specified in rule 10A of Order VII has been followed;

(c). an order under rule 9 of order IX rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;

(d) an order under rule 13 of Order IX rejecting an application (in a case open to appeal) for an order to set aside a decree passed ex parte;

(f) an order under rule 21 of Order XI;

(i) an order under rule 34 of Order XXI on an objection to the draft of a document or of an endorsement;

(j) an order under rule 72 or rule 92 of Order XXI setting aside or refusing to set aside a sale;

ja) an order rejecting an application made under sub-rule (1) of rule 106 of Order XXI, provided that an order on the original application, that is to say, the application referred to in sub-rule (1) of rule 105 of that Order is appealable;

(k) an order under rule 9 of Order XXII refusing to set aside the abatement or dismissal of a suit;

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- (l) an order under rule 10 of Order XXII giving or refusing to give leave;
- (n) an order under rule 2 of Order XXV rejecting an application (in a case open to appeal) for an order to set aside the dismissal of a suit;
- (na) an order under rule 5 or rule 7 of Order XXXIII rejecting an application for permission to sue as an indigent person;
- (p) orders in interpleader-suits under rule 3, rule 4 or rule 6 of Order XXXV;
- (q) an order under rule 2, rule 3 or rule 6 of order (XXVIII);
- (r) an order under rule 1, rule 2 rule 2A, rule 4 or rule 10 of Order XXXIX;
- (s) an order under rule 1, or rule 4 of Order XL;
- (t) an order of refusal under rule 19 of Order XLI to re-admit, or under rule 21 of Order XLI to re-hear, an appeal;
- (u) an order under rule 23 or rule 23A of Order XLI remanding a case, where an appeal would lie from the decree of the Appellate Court;
- (w) an order under rule 4 of Order XLVII granting an application for review.

**1A. Right to challenge non-appealable orders in appeal against decrees**

- (1) Where any order is made under this Code against a party and thereupon any judgment is pronounced against such party and a decree is drawn up, such party may, in an appeal against the decree, contend that such order should not have been made and the judgment should not have been pronounced.

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(2) In an appeal against a decree passed in a suit after recording a compromise or refusing to record a compromise, it shall be open to the appellant to contest the decree on the ground that the compromise should, or should not, have been recorded.

## **2. Procedure**

The rules of Order XLI shall apply, so far as may be, to appeals from orders.