

**PART B –
PREPARATION OF DECREES**

1. **Points to be borne in mind:** - The decree should be framed by the Judge with the most careful attention. It must agree with the judgment, and be not only complete in itself but also precise and definite in its terms. It should specify clearly and distinctly the nature and extent of the relief granted, and what each party, affected by it, is ordered to do or forbear from doing. Every declaration of right made by it must be concise, yet accurate; every injunction, simple and plain. {In suits relating to delivery of possession of a property, before passing the decree, the Court must ensure that the decree is unambiguous so as to not only contain clear description of the property, but also having regard to the status of the property.}
{Rule 1 amended vide C.S. No. 84 Rules/II.D4 dated 21.11.2022}
2. **Directions:-** The following directions relate to the preparation of decrees: -
 - (i) **Date for delivery, of possession of land:-** In decrees for possession of agricultural land, it should be stated whether possession is to be given at once, or after the removal of any crop that may be standing on the land at the time, when the decree is executed, or on or after any specified date.
 - (ii) **Appellate decrees:-** In Appellate Courts, the language used in filling in the decretal order, shall conform to the action recognized by the law, and shall direct that the decree of the lower Courts be either "affirmed", "varied", "set aside" or "re-versed". In each case in which a decree is affirmed, the terms thereof shall be recited, so as to make the appellate decretal order complete in itself. In varying a decree, the relief granted, in lieu of that originally granted shall be fully and accurately set out. Where a decree is reversed on appeal, the consequential relief granted to the successful party shall similarly be stated. Every decretal order shall be so worded as to be capable of execution without reference to any other document, and so as to create no difficulty of interpretation.
3. **Preliminary decrees:-** Under Section 2 of the Code of Civil Procedure a decree may be either "Preliminary" or "final". A preliminary decree should be based on a preliminary judgment.
4. **Mesne Profits:-** In cases where mesne profits are asked for in the plaint, the question as to the amount thereof(if any), which should be paid to the plaintiff, in respect to the period of dispossession before and up to the date of filing the plaint, must be determined at the hearing of the suit, and decree must specify clearly the portion of this amount which each defendant is to pay, either severally or jointly with others, to the plaintiff (Order XX, Rule, 12).
5. **Decree in case of compromise:-**
 - (1) When a decree is to be passed on the basis of a compromise, the Court should order the terms of the compromise to be recorded in accordance with the provision of Order XXIII, rule 3, Civil Procedure Code, and then pass a decree in accordance with the terms. When, however, the compromise goes beyond the subject-matter of the suit, a decree can be passed only in so far as it relates to the suit. As regards the proper form of decree in the latter class of cases, the directions of their Lordships of the Privy Council in "Hemant Kumari Devi *versus* Midnapur Zamindari Company" (46 I. A. 240 and 244), should be followed.
 - (2) **Compensation by minors:-** When any of the parties to the case are minors care should be taken to see whether the compromise is for the minors benefit and to record a finding to that effect if compromise is sanctioned and made the basis of the decree.
6. **Addition or substitution of parties:-** When any parties are added or substituted in the course of the suit, care should be taken to see that their names are properly shown in the decree-sheet.

- 7. Decree in certain cases:-** As regards the proper form of decree in certain classes of suits, the provisions of Order XX and Order XXIV, Civil Procedure Code, should be consulted.
The Provisions of Order XX, Rule 14, Code of Civil Procedure, relating to the contents of the decree in a pre-emption suit, should be carefully studied. Sub-rule (2) relating to the adjudication of rival claims to pre-emption is new and requires special attention.
- 8. Decrees in suits to set aside alienation:-** In a suit by reversioners under the Punjab Customary Law, when a portion only of the consideration for an alienation is proved to be for valid necessity and the alienation is not upheld, the decree should be in the following form: -
(i) That the alienation shall not take effect as against the reversioners on the death of the alienor;
(ii) that on the death of the alienor the reversioners shall not be entitled to possession until they have paid the sum found for necessity (92 P.R.1909).
- 9. Powers of Court to be set forth:-** Every decree must set forth the powers of the Officer deciding the suit.
- 10. Pauper suits:-** In suits by paupers, when an order is passed under rules 10, 11 or 12 of Order XXXIII a copy of the decree should be forthwith forwarded to the Collector.
- 11. Review and amendment:-** For review and amendments of decree see Chapter I-L (d) and (e) of this volume.
