

# Non-Adherence to the relevant provisions of C.P.C relating to the service of process of the court

Presented By

Nasrullah Khan Gandapur

(Additional District & Sessions Judge)

# Non adherence of the relevant provisions relating to the service of the processes of the court.

## 1. The particulars of the parties :-

- The name, description and place of residence of the parties. {O. VII, Rule 1 (b), (c)}.
- Where the plaintiff or the defended is a minor or a person of un sound mind, a statement to that effect. {O. VII, Rule 1 (d)}.
- Suit by or against minors and person of un-sound mind. O. XXXII.

## **2. Documents annexed to the summons:-**

- The summon shall be accompanied by a copy of plaint. (O. V. Rule 2).

### **3. Requirement of service of summon:-**

The serving officer in his report will, give time, the manner in which the summon was served, the name and address of the person identifying the person served. (O. V, Rule 18).

## **4. Refusal of summon**

- a.** Where the defendant or his agent or such person empowered in this behalf refuses to sign the acknowledgement or the serving officer after using all due and reasonable diligence can not find any of them, the serving officer shall affix a copy of the summon on the outer door or some other conspicuous part of the usual place of residence of the defendant, or the place where he carries business or personally works for gain and shall then return the original with his report (O. V. Rule 17).

contd.

**a. Examination of serving officer.**

The court must examine the serving officer when he returns the summon with his report that defendant refused to accept service from him or he could not find the defendant. (O. V, Rule 19)

## 5. Substituted service:-

When the court is satisfied that the defendant evades service, or cannot be served in the ordinary way or refuses to accept the service or has not been heard of for a long time and the service cannot be effected in the ordinary manner, the court can order for substituted service under O.V, R.20 C.P.C.

## **6. Other defendants.**

**a. Service of defendant in prison.  
(O.V.R.29)**

**b. Service on soldiers, sailors and airmen.  
(O.XX Rule 28.).**

**c. Death of defendant.**