

# UNDERSTANDING ORDER, DECREE AND JUDGMENT

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## ORDER AND DECREE WITH ESSENTIALS OF JUDGMENT

This particular project focuses on the study of order and decree, what these terms mean, rules given in the Code of Civil Procedure regarding decree, order and judgment, difference between these 3 and some major elements of CPC that are important to be known to all.

### INTRODUCTION

Before knowing the difference between decree, order and judgment; we need to understand the meaning of these terms.

As per section 2(2) of CPC a decree is:

- Formal expression of adjudication.
- Expressed by court
- Conclusively determines all or any right of the parties related to the matters in controversy in the suit
- Decree can be final or preliminary.

Ex – suit between A and B. A claims a property P. Court rules in the favor of either A or B. Final decision of the court regarding this claim is a decree.

Also as interpreted from section 33, only after the hearing of the case can a court pronounce judgment<sup>1</sup> and on such a judgment a decree shall follow.

**Contents of decree** -According to **O20 R6**, a decree must contain:

1. The number of suit.
2. The date on which judgment has been pronounced as stated in **O20 R7**.

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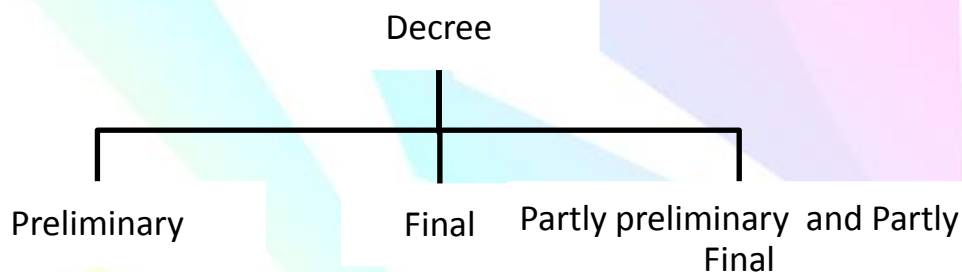
<sup>1</sup> Section 2(9)- statement given by the judge on the grounds of a decree or order( will be discussed later in the project)

3. Sign of the judge.<sup>2</sup>
4. The name and description of the parties
5. Their registered address
6. Particulars of the claim
7. Amount of cost incurred in the suit and from where are the costs to be paid.

### IMPORTANT ELEMENTS OF DECREE

- There must be adjudication i.e. judicial determination of matter in disputes.
- There must be a suit.<sup>3</sup>
- Must be a formal expression. A mere comment of the judge cannot be a decree

### DIFFERENT KINDS OF DECREE<sup>4</sup>



**Preliminary Decree-** Where the adjudication decides the rights of the parties' w.r.t. all the matters in controversy in a suit but does not completely dispose of the suit.

<sup>2</sup> If judge has vacated the office before signing the decree, his successor or if not so, any judge from the subordinate court can sign the decree.

<sup>3</sup> (Suit term not defined in CPC, **Hansraj v Dehradun Mussoorie Tremways co. ltd.** AIR 1933 suit term is defined.)

<sup>4</sup> There is one more decree called deemed decree in which a thing is assumed to be something that it is ordinarily not. In this case adjudication does not fulfill the requisites of S2 (2) and hence cannot be called a decree.

SC stated that it is one which declares right and liabilities of the parties leaving the actual result to be worked out in later proceedings<sup>5</sup>.

**Final Decree-** when decree disposes a suit completely then that decree is called final decree.

It settles all the issues and controversies in a suit.

**Partly prelim and partly final** – When a decree resolves some issues and leaves other to be resolved later, these are called partly preliminary and partly final decree.

## ORDER

As per section 2(14), an Order is:

- Formal expression of the decision of any civil court which is not a decree
- Decision taken by the court in the matter related to the suit which fall short of a decree are orders.

There are several common elements in order and decree:

1. Both are passed when there is some controversy.
2. Both are decisions given by the court.
3. Both are the adjudications
4. Both are formal expression

Similarly there are substantial difference between these 2:

DECREE S.2(2)	ORDER S.2(14)
Can only be passed in a suit originated by the presentation of a plaint.	Can be passed in a suit originated by the presentation of plaint, application or petition.

<sup>5</sup> Shankar v Chandrakant SCC 1995

Contains conclusive determination of right.	May or may not determine the final right.
May be preliminary, final or partly preliminary or partly final.	Preliminary Order not possible.
There can be only one decree. <sup>6</sup>	There can be n number of orders in a suit.
A second appeal may lie for a decree	There is no second appeal for orders.

## JUDGEMENT

Most important thing that should be remembered about judgment is it always comes before the decree:

1. Section 2(9) defines judgment as: statement given by judge on the grounds of a decree or order.
2. Judgment contains:
  - a) Concise statement of the case,
  - b) Points that led to the determination,
  - c) The decision
  - d) Reason for the decision
  - e) Relief granted (**Rule 6 A or Order 20**)<sup>7</sup>
3. SC held that judges can't just say "suit decreed" or "suit dismissed", the whole process of reasoning has to be set out for deciding the case one way or the other.<sup>8</sup>

<sup>6</sup> If there is a preliminary decree as well then 2.

<sup>7</sup> Last part of the judgment should precisely state the relief granted

<sup>8</sup> **Balraj Taneja v Sunil Madan, AIR 1999**

4. Only after pronouncement of a judgment, a decree shall follow.<sup>9</sup>

## JUDGEMENT ACCORDING TO CrPC:

### 1. Section 353

- There is no such definition of judgment mentioned in the CrPC as is there in **Section 2(9)** of the CPC but **S. 353** of the CrPC deals with the matters related to the judgments. Though it can be inferred from English law that judgment in criminal proceedings is intended to indicate the final order which terminates the trial. **S. 353** provides the manner in which judgment is to be delivered and **S. 354** declares what a judgment should contain
- It should be noted here that in criminal proceedings the judgment should be written before the sentence is passed unlike in civil cases where judgment comes after the decree.
- According to CrPC, where the case is posted for judgment, trial of the case stands terminated within the meaning of **section 353** of the CrPC and the witnessed cannot be examined under **section 311**, CrPC and delivery of the judgment should always be in an open court. Also it must be done by the judge himself. It cannot be delegated.
- It is also inferred from **S. 353** that one judgment is duly signed, it cannot be altered

### 2. Section 354

- **Section 354** deals with the language and content of a judgment, what all should a judgment contain and states that every judgment else stated otherwise shall be written in the language of the court, shall contain the points for determination, the decision thereon and the reason for the decision<sup>10</sup>, shall specify the offence (if any) of which, and the section of the IPC or other law under which the accused is convicted and the punishment to which he is sentenced.
- It is also mentioned in the section that if a person can be convicted for **two alternative punishments** namely life imprisonment and death punishment, if the

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<sup>9</sup> If the judgment is pronounced by dictation in open court, the transcript of the judgment so pronounced shall after making such correction, be signed by the judge, bear the date on which it was pronounced, and from a part of the record.

<sup>10</sup> Same as CPC

court chooses death punishment there must be a proper reasoning of choosing so giving the special reasons for such sentence<sup>11</sup>.

- It can also be inferred from this section that the language of the court must be **temperate and sober**. Criticism can be made but there should be **no libelous remarks** made upon any person who has no opportunity of defending himself and who has not appeared as a witness.<sup>12</sup>

### 3. Section 360:

- This section deals with order to release on probation of good conduct or after admonition.
- **S. 360** empowers the court to deal leniently with person who has committed an offence first time in his lifetime by releasing him on probation of good conduct instead of giving punishment, in order to give him a chance to reform himself and to protect him from being corrupted and turned into a regular criminal by association with hardened criminals in jail.
- The section applies to **2 classes**:
  - (a) women and all persons under the age of 21 years
  - (b) Persons over that age who have been convicted of a punishment not more than **7 years**.
- It should also be noted here that if an accused is being tried for 2 different offences in two different courts then **S. 360** does not apply.

## EXPLAINING ORDER AND DECREE WITH THE HELP OF RULES AND ORDERS OF THE CPC:

- **Section 33 of the CPC** states that the court after the case has been heard shall pronounce judgment, and on such judgment a decree shall follow, it becomes very clear that without hearing both the parties, a decree cannot be passed.
- **Section 142 of the CPC** makes it very clear that all the orders and notices served to any person by the court under the provision of the CPC shall be in writing.

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<sup>11</sup> S. 354(3)

<sup>12</sup> AIR 1938 SC 103

- **Section 152** makes it clear than any arithmetic or clerical mistake in the decrees or orders can be corrected at any time by the court either by its own motion or by the application submitted by any of the party.
- **Pronouncing judgment** becomes simple if the parties are not at issue or controversy on any question of law as stated in **O XV (R1)** of the CPC. Also according to **R 2(2)** of the same Order if a judgment is pronounced when the parties are not at issue or if one defendant is not at issue with the plaintiff, a **Decree** shall be drawn up in accordance with such judgment and it shall bear the date of pronouncement of judgment. In this order it is also stated that if parties are at issue and the findings related to the issue are sufficient for the pronouncement of judgment then the court may pronounce judgment.<sup>13</sup>
- **Ex Parte Decree-** As per **Rule 6 of Order 9**, if the defendant fails to appear in the court in spite of the proper service of summons, the court may proceed ex parte and may pass a decree in the favor of the plaintiff. This is Ex parte Decree. As explained in the case of **Hochest company V V.S. Chemical Company**, it is such a decree in which defendant does not appear before the court and the case is heard in his absence from the very beginning.<sup>14</sup> It is also stated in **O XVII R (2)** that if on any day to which the hearing of the suit is adjourned, the parties or any one of them fail to appear, the court may proceed to dispose the case in one of the modes directed in O 9.
- **Section 47 and Section 99** are somewhat related and they explain the concept of questions arising out of the decree and non-reversal or non- modification of the judgment or order if the prejudice of the case is undisturbed and does not affect the decision of the case.
- **Order 20 and 21** specifically deals with judgment and decree and execution of such judgment and decree. As discussed above, a judgment can only be pronounced after the sufficient findings on each issue or controversy between the parties.<sup>15</sup> It should always be in writing and the court shall pronounce it either at once or

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<sup>13</sup> O XV R(3)

<sup>14</sup> If the Ex parte Decree is set aside by the remedy available, a new trial commences de novo and the evidence that had been recorded in ex parte should not be taken into account. For more information regarding the appeal against decrees read section 96 of the CPC.

<sup>15</sup> O XX R1

within thirty days from the date on which the hearing of the case was conducted (at max 60 days).

It should always be kept in mind that the decree shall agree with the judgment<sup>16</sup>. Also as stated in **O 20 R6-A (1)** the decree should be drawn as quickly as possible and within 15 days from the date on which the judgment is pronounced.

Other rules are there in relation to decree in different kinds of suits. For ex. – **O20 R10** explains the suit for a movable property and states that in a suit for delivery of movable property, the amount of money to be paid as an alternative if delivery cannot be held should also be there.

**O 20 R12-A** deals with decree for special performance of a contract for the sale or lease of immovable property where there is an amount that is to be paid by the purchaser or lessee, it shall specify the period within which the payment shall be made.

**O 20 R13 (1)** states that if a suit is for an account of administration of a property, the court shall pass a preliminary decree, ordering inquiries to be taken and make for such accounts or administration.

**O 20 R14** deals with decree in pre-emption suit stating that decree with specify a day on or before which the purchase money shall be paid.

**Rule 15 of the same Order** deals with decree in suit for dissolution of partnership in which a preliminary decree is passed stating the partnership shares of the parties, fixing a day on which partnership shall stand dissolved.

**O 20 R 19** talks about decree when the set off<sup>17</sup> or counter claim<sup>18</sup> is allowed.

According to O20 R 20, the copies of the judgment and decree shall be furnished to the parties on application to the court, at their own expenses.

- **Order 21 R 32-36,46-B,50,53,64,82,98,99,100,103,104,106** talks about various kinds of decrees to be executed in different suits. Specifically R103 explains when can order be treated as decrees as states that where any application has been adjudicated upon under rule 98 or rule 100, the order made thereon shall have the same force and be subjected to the same conditions as to an appeal or otherwise as if it were a decree.
- **Order 34 R 3(1)** states that if the defendant has paid all the amount due for the mortgaged land, then the court shall, on the application of defendant, pass a final decree:

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<sup>16</sup> OXX R6(1)

<sup>17</sup> CPC( Amendment Act,1976)S.70

<sup>18</sup> S.71, CPC Amendment Act



- ordering the plaintiff to deliver up the document referred to in the preliminary decree
- ordering him to retransfer at the cost of the defendant the mortgaged property as directed in the said decree.
- ordering him to put the defendant in possession of the property.

Also **R4 and 7** deals with preliminary decree in a suit for sale and redemption suit, whereas **R5 and R8** deals with the final decree in the same suits stated above.

**R9** states that if it appears that nothing is due to the defendant and he has been over paid then the court shall pass a decree directing him to re transfer the property and to pay to the defendant the amount which is due.

- **Order 37 R 4** talks about the power to set aside decree and conveys that after decree the court may, in special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to the defendant to appear to the summons and to defend the suit, if it seems reasonable to the court to do so.
- **Order 39 R6-8** talk about **Interlocutory Orders**<sup>19</sup>( **O39 R6**-power to order interim sale of the property attached to the case or being the subject matter of the suit which is subject to speedy and natural decay)
- **Please note:-Provision of appeal from original decree, appellate decree and orders are given in O41, O42 and O43 respectively.**

### LINKING NATURAL JUSTICE WITH CONSTITUTION AND CRIMINAL PROCEDURE CODE

#### PRINCIPLE OF NATURAL JUSTICE OR PROCEDURAL FAIRNESS:

- The principle of **Natural Justice** is a safe guard for all the individuals against the action of the state. These principles stipulate that whenever a person's rights, privileges or interests are at stake, there is a duty to act in a procedurally fair

<sup>19</sup> Interlocutor means provisional, interim, temporary. These are issued where property is about to be sold or forfeited and the law suit has been filed seeking to stop this action.

manner.

- It essentially is a guideline according to which a decision in a court should be made and doesn't concern the correctness of the decision.
- It helps to ensure that the decision maker followed a proper procedure while making a decision.
- **Procedural fairness** mainly applies to the decision that negatively affect the existing interest of a person or corporation. For ex- It applies to the decision to cancel a license or benefit, to discipline an employee, to impose a penalty etc.<sup>20</sup> The most common rules are<sup>21</sup>:
  1. **NOTICE**: The defendant must be given adequate notice of the nature of the proceeding and of the issue to be decided.
  2. **DISCLOSURE**: All the evidences to be used against the defendant must be disclosed.
  3. **OPPORTUNITY TO PRESENT ONES CASE**: The defendant must be given an opportunity to present whatever evidence they think can be helpful in his case.
  4. **OPPORTUNITY TO RESPOND**: When the decision maker is in possession of certain evidence that the defendant has no knowledge about, the defendant should be allowed an opportunity to know and respond to that evidence.
  5. **DUTY TO CONSIDER ALL EVIDENCE**: The decision maker can't pass a decree just on the basis of a single evidence for he must consider all the evidences and then make a decision.

### PRINCIPLE OF NATURAL JUSTICE AND CONSTITUTION OF INDIA

- It should always be kept in mind that the expression **Natural justice is nowhere mentioned or used in the Constitution of India**. However the preamble

<sup>20</sup> Ombudsman Law journal (Australia)

<sup>21</sup> Taken from Canadian Law journal

includes words like ' **Justice Social, Economic and political**' **liberty of thought, belief, worship and equity of status and of opportunity**, which not only ensures fairness in social and economic activities but also acts as a shield to the individual against injustice and arbitrary actions which is the base of principle of **Natural Justice**.

- This will be clear with the help of the below mentioned articles:  
**Article 14** talks about equality before law and equal protection before law to the citizens of India. It impliedly bars discrimination and favoritism, providing a bulwark against arbitrary or discriminatory actions of the state.
- The horizon of **Article 14** has been expanding due to judicial pronouncements of the cases. In some cases the courts have insisted that the person adversely affected by the administrative actions be given the right of being heard before the body to stop the arbitrary actions that might take place against him if not done so. This **right to be heard** or in the legal terminology **Audi Alteram Partem** is **one of the basic concept of the Principle of Natural justice**.
- **AUDI ALTERAM PARTEM: Hear the Other Side**

This doctrine ensures that no one should be condemned unheard and is essentially applied just to make a procedure fair and so that no innocent gets punished due to some arbitrary action. This principle simply applies that **a person must be given an opportunity to defend himself**.<sup>22</sup>It covers every stage through which an administrative adjudication is passed, starting from notice to final decree. Digging deeper into this maxim we can derive certain rights that are vested upon us through this maxim and the constitution:

1. **Right to Notice**: It is indeed the starting of any hearing. Unless a person knows the matter on which the suit has been filed there cannot be a fair trial and the person won't be able to defend himself. A notice must contain:
  - (a) the time, place and nature of the hearing
  - (b) legal authority under which hearing is to be held
  - (c) grounds on which the suit has been filed and the proposed action<sup>23</sup>.

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<sup>22</sup> **Union of India v Tulsiram Patel AIR 1985 SC**

<sup>23</sup> It should be noted here that the statement should be very specific in nature. A notice is vague if it merely mentions the charges without mentioning the action proposed to be taken.

2. **Right to Know the Evidence against Him and Right to Present Case and Evidence** (this can be done orally or in writing): It should be noted here that oral pleading is not always necessary and it's done when a person cannot produce an effective case without oral pleading<sup>24</sup>.
3. **The Right to Rebut Adverse Evidence:** This essentially involves consideration of two facts :
  - (a) **Cross Examination-** considered the most powerful weapon to elicit and establish truth. However in externment proceedings and proceedings before custom authorities to determine whether goods are smuggled or not the right to cross examination was held not to be a part of principle of natural justice. In principles of practicality also cross examination may be disallowed<sup>25</sup>.
  - (b) **Legal Representation-** This is not considered an indispensable part of rule of natural justice as oral hearing is also not considered in the minima of fair hearing. This denial also is justified as representation through a lawyer of choice may give the party with deeper pockets an upper edge over the other party who might not be that rich.

Though it is very important to note here that the supreme court in the case of **M.H. Hoskot V State of Maharashtra**, while taking in account the essence of **Article 21** of the Indian Constitution and importing the concept of fair procedure held that the right to personal liberty allows the state to provide free legal aid to the prisoner who is disabled from securing legal assistance.<sup>26</sup>
4. **No Evidence Should be taken at the Back of the Other Party:** The **ex parte** evidence taken and produced before the court **violates** the principle of **Natural Justice and fair procedure** reason being the other party had no knowledge of the evidence taken and had no time to prepare his own case. This doesn't imply that the administrative agencies cannot obtain in the manner they consider best. The main concept is that the other party must

<sup>24</sup> **Union Of India V J.P. Mitter** – the court refused to quash the order of president of India in a dispute relating to the age of the high court judge on the ground that the oral pleading was not allowed even on request.

<sup>25</sup> Read the case of **Hira Nath Mishra V Principal, Rajendra Medical College:** for the safety of girls outside the college, the cross examination was disallowed.

<sup>26</sup> Also read case of **Nalini Satpathy V P.L. Dani**

be informed about the information that was collected against them.<sup>27</sup>

5. **One Who Hears must decide:** This expression is popular in common law jurisdiction and is known as Institutional decision in general. **Gullupalli Nageshwara Rao V Apsrtc** is a case where an administrative action was challenged on the ground that one who hears must decide as the secretary of the Transportation department sat in the hearings and then the decision was taken by the chief minister. The supreme court held the divided responsibility being against the concept of fair hearing as one who doesn't get to hear the arguments of the parties won't in reasonable skills be able to decide as he didn't get any opportunity to clear any doubt from his head about the case.
- **Article 22** guarantees Natural Justice and fair trial to the arrested person. It gives protection to the person who is arrested and detained except those who for the time being are alien enemies of the state and those who are arrested under any law providing for preventive measures<sup>28</sup>. **Article 22(1)** and **(2)** essentially confer **4 fundamental rights** upon a person who has been arrested.
    - (a) Right to be informed of the grounds of the arrest.
    - (b) Right to be consulted and defended by the lawyer of his own choice<sup>29</sup>
    - (c) Right to be produced before the court within 24 hours of the arrest excluding the time taken in the travel from the place of arrest to the court of magistrate.<sup>30</sup>
    - (d) A person is not to be detained for more than 24 hours without the authority of the court.

In point (a) it should also be noted that while making an arrest a police officer must have a reasonable satisfaction regarding the genuineness of the statement of complaint made against the accused and he must investigate the case reasonably before the arrest<sup>31</sup>.

<sup>27</sup> Concluded from the case of **Errington V minister of Health and Hira Nath Mishra V Principal, Rajendra Medical College**

<sup>28</sup> **Article 22(4)** states that no law providing for preventive detention shall authorize the detention of a person for more than three months. Read pg.181-182 VN SHUKLA CONSTITUTION OF INDIA (Tenth Edition). Article 22 (4-7) talks about preventive detention

<sup>29</sup> As long as it can be a fair trial for the parties with deeper pocket try to get an upper edge by throwing hefty sums and hiring the best lawyers.

<sup>30</sup> **Article 22(2)**

<sup>31</sup> **Joginder Kumar V State of U.P.**

The **Criminal Procedure code contains analogous provisions in Section 56 and 303**, but the constitution-makers were anxious to make this an integral part of the **fundamental rights**<sup>32</sup>.

- **Article 32 and 226** of the constitution of India provides for constitutional remedies for violation of fundamental rights and other legal rights respectively remedies. These articles can be expressly exercised by issuing writs and directions and orders. There are **five writs** and those are **Mandamus, Quo Warranto, Prohibition, Habeas corpus, Prohibition and Certiorari**.
  - (a) Writ of habeas corpus is invoked to prevent unlawful detention.
  - (b) Mandamus to compel public officials to perform their legal duties.
  - (c) Prohibition and certiorari are used to prevent judicial and quasi-judicial bodies to act under their jurisdiction.
  
- **Article 311** talks about the dismissal, removal or reduction in rank of persons employed in civil **capacities under the Union or a State**. It states that
  - (1) no member of a civil service union or an all- India service or a civil service of a State or hold a civil post in the union or state shall be dismissed or removed by an authority subordinate to that by which he was appointed.
  - Clause (2)** declares that an enquiry is must if a person (those persons aforesaid in article **311(1)**) is to be removed or demoted from his post and in that enquiry the person against whom the charges have been framed should be informed of the charges against him and must be given a reasonable amount of time and opportunity of being heard which includes the basic principle of **Natural Justice** which is **Audi Ateram Partem**.

(X) It should also be noted here that the person who has a bias against the charged person cannot be a witness or judge in the case. Hence the inquiring officer can't be a witness in the case against the person about whom he has done the inquiry. Such a procedure denotes a biased state of mind against the person concerned.<sup>33</sup>
  
- **Article 311(2)** gives invaluable safeguards to the civil servants but there are certain cases where the right to be heard is not considered essential to civil servants under Union of India or State. Also not always is the inquiry necessary for the demotion or termination of the service of a civil servant. There are certain exceptions and these are.

<sup>32</sup> Quoted from The book by V.N. Shukla's Constitution of India (tenth edition)

<sup>33</sup> Kuldeep Singh V Commissioner of Police

- (a) When a criminal charge is instigated.
- (b) When a full departmental inquiry has taken place under Article 311<sup>34</sup>.

It should be noted here that merely because the salaries and wages are paid from the state fund does not make them a person holding a civil post.<sup>35</sup>

For further explanation of **Article 311(1)**, the reference to a case becomes a must.

In **Suraj Narayan Anand V North-West Frontier Province**<sup>36</sup>, a case under **Government of India Act, 1935**<sup>37</sup>, the plaintiff was appointed a sub inspector by the Inspector-general of Police of the NWFP and then was dismissed by Deputy Inspector-General of the same province. His appeals to the Inspector General of the police of that province failed and hence he instituted a suit against the provincial government claiming the order of dismissal being illegal and void. The federal court held that the dismissal of the sub- inspector was done by the subordinate authority and was under **section 240** of the **constitution act** not competent to do so.<sup>38</sup>

- **Rule of compulsory retirement-** It should be noted here that **Article 311** doesn't vest any right in the person who has been compulsorily retired as the retirement is not by the way of punishment.<sup>39</sup> It was further made clear with the case of **Shyam Lal V State of U.P.** as the courts held that removal as like dismissal does in no doubt bring about termination to the services but not every termination is a dismissal or removal.

Note:

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<sup>34</sup> That is an inquiry officer appointed, a charge sheet submitted, explanation called for and considered and then order being passed

<sup>35</sup> In Military **article 311(2)** nor necessarily applicable.

<sup>36</sup> **1941 FCR 37: AIR 1942 FC 3**

<sup>37</sup> The act contained provisions similar to **Article 311** of the present constitution.

<sup>38</sup> This doesn't mean that the dismissing authority must always be the one who appointed and must always be superior. Even the same rank authority justifies the action.

<sup>39</sup> **Saish Chandra Anand V U.O.I.**

Appended on the last page is the sample of a decree for the foreclosure of the sale of a mortgaged property

**SAMPLE OF A DECREE AND HOW TO WRITE IT.**

We now know what the elements that constitute a decree are. Let us assume that there is a mortgaged property and we have to write a **Decree for the Foreclosure (O34, R3)**. **This decree comes after the preliminary decree:**

(Title)

Upon reading the preliminary decree passed in this suit on the ..... day of ..... and further orders (if any) dated the .... Day of ..... and the application of the plaintiff dated the ..... day of .... For a final decree and after hearing the parties and it appearing that the payment directed by the said decree and orders has not been made by the defendant or any person on the behalf of the defendant or any other person entitled to redeem the said mortgage:

It is hereby ordered and decreed that the defendant and all persons claiming through or under him be and they are hereby absolutely debarred and foreclosed of and from all right of redemption of and in the property in the aforesaid preliminary decree mentioned;(if the defendant is in possession then) and that defendant shall deliver to the plaintiff quiet and peaceable possession of the said mortgaged property.

And it is hereby stated that the whole liability whatsoever of the defendant from the said mortgaged property up to this day from the suit is hereby discharged or extinguished.

X

\_\_\_\_\_  
Singnature of the judge



