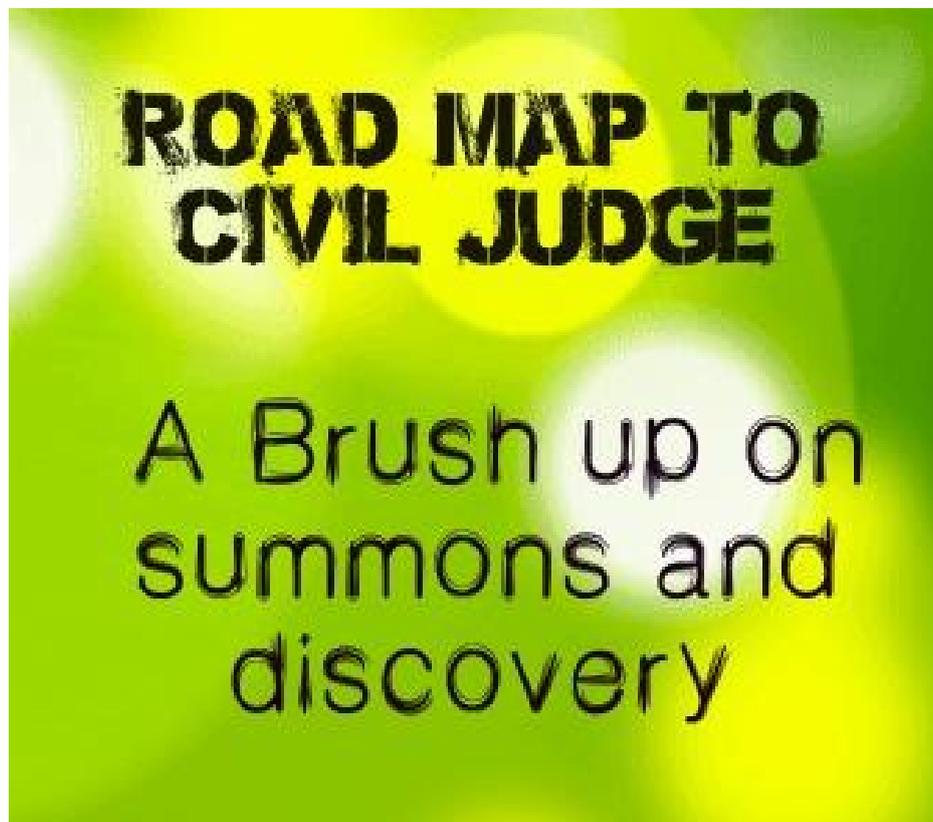


# LAWXPERTS.

## WHY YOU SHOULD STUDY THIS ?

1. HIGH QUALITY.
2. BASED ON STANDARD SOURCES
3. POSSIBILITY OF DIRECT QUESTIONS
4. COMPLETELY SYLLABUS-ORIENTED.



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## A BRUSH UP ON SUMMONS AND DISCOVERY

**Relevant Provisions of law – Sec: 27 to 32 CPC , Order V - DETAILED ANALYSIS IS AVAILABLE IN NOTES.**

**WHAT IS A SUMMON ?** Plaintiff files a suit against defendant. **Now how would the defendant would know that plaintiff has instituted a case ?** Remember Audi ?

Not the German car manufacturer. We are talking about the Principles of Natural Justice = Audi Alteram Partem = no one can be condemned unheard. Therefore the intimation which is sent to the defendant by the court technically = summons.

**Sec: 27- summons to defendant** – When ?- after institution of suit- but within 30 days of institution – 1999 Amendment – challenged in *Salem Advocate Bar Association vs Union of India (2003) 1 SCC 49*- amendment declared valid- amendment does not have retrospective effect. Essentials of Summon – Date + Place of hearing, order to state the claim along with evidence

**BRAIN TICKLE !** A suit was instituted on 23/2/2000- specify the time limit for issuing summon ? Astonishingly there is no time limit – since the amendment prescribing 30 days limit is made in 1999 w.e.f 1/7/2002.

**Sec: 28 – Service of summons where defendant resides in other state-** Remember Hutch Ad ? Wherever you go, it will follow you. Process= Summon will be sent to the competent Court of where the defendant resides – that Court will in turn issue summon to party concerned as if issued by itself. Summon to contain Plaint # *AIR 1977 Raj 180* + other records + translation of record ( Hindi

**Sec:29. Service of foreign summons-** Civil/ Revenue Court within India where CPC does not apply + Civil / revenue courts outside India + Civil n revenue court outside India :where CPC applies – can issue summon to courts in India where CPC apply ( ordinary civil court)- in turn these courts issue summons to the concerned parties.

**Sec: 30** – Court can order for the following in its own motion# *Gobinda vs. Mgniram*, or by application by the parties (1) Production of documents or interrogatories -a series of question administered to adversary-(2) issue summon to produce documents (3) order for proof affidavit. # no time limit prescribed for filling such application *Naren Advertising Marketing vs. Saste Bank Of Saurashtra*. When order under sec: 30 violated penalty may be imposed under sec:31.