

any other law in force for the time being which excuses non-production of such document or thing.

(2) The provisions of the Civil Procedure Code relating to summons and warrants shall apply as nearly as possible to summons and warrants issued under subsection (1) of this section and section 42.

OF DEFAULT OF APPEARANCE

Proceedings on default of appearance of plaintiff.

53. (1) If upon the day specified in the summons for the appearance of the defendant or upon any day fixed for the hearing of the action the plaintiff shall not appear or sufficiently excuse his absence, the plaintiff's action may be dismissed.

Provided that if the defendant appears and when called upon under section 43 shall admit the claim of the plaintiff, the Judge of the Primary Court shall enter judgment for the plaintiff according to law.

On default of appearance of defendant.

(2) If upon the day specified in the summons or upon any day fixed for the hearing of the action the defendant shall not appear or sufficiently excuse his absence, while the plaintiff appears the Judge of the Primary Court, upon due proof of service of the summons, notice, or order requiring such appearance, may enter judgment by default against the defendant.

Judgment by default may be opened up in certain cases.

(3) If the defendant shall within a reasonable time, after such judgment, by affidavit or otherwise, with notice to the plaintiff satisfy the Judge of the Primary Court that he was prevented from appearing in due time by accident, misfortune, or other unavoidable cause, or by not having received sufficient information of the proceedings, and that he did not absent himself for the purpose of avoiding service of the summons or notice, and that he has a good and valid defence on the merits of the case, then the Judge may set aside such judgment and any proceedings had thereon, and may admit the defendant to proceed with his defence upon such terms as the Judge may think fit.

If neither party appears action to be dismissed.

(4) If upon the day specified in the summons or if upon any day fixed for the hearing of the action neither party appears when the case is called the Judge of the Primary Court shall enter judgment dismissing the plaintiff's action, but without costs.

(5) When an action has been dismissed under the provisions of subsection (1) or subsection (4) and the plaintiff has by affidavit or otherwise with notice to the defendant satisfied the Judge of the Primary Court that he was prevented from appearing by accident, misfortune, or other unavoidable cause, the Judge may grant to the plaintiff permission to institute a fresh action upon such terms as may be fixed by the court, and where permission is so granted the action dismissed under subsection (1) or subsection (4) shall not operate as a bar to the institution of a fresh action.

Plaintiff may be granted permission to institute a fresh action.

(6) An appeal shall not lie against any judgment or order entered under this section for default of appearance, anything in this or any other law to the contrary notwithstanding.

An appeal from judgment or order by default not available.

PARTY

APPEALS FROM PRIMARY COURTS TO THE COURT OF APPEAL

54. (1) Subject to subsection (4) every appeal from a judgment, conviction, sentence, decree or final order of a Primary Court shall be by petition and presented to the Judge of the Primary Court, save as otherwise provided in subsection (5), within fourteen days of the date of entering of the judgment, conviction, sentence, decree or final order appealed against.

Appeals.

(2) Such petition of appeal shall be in writing and state shortly the grounds of appeal and be signed by the appellant or his attorney-at-law.

(3) Every such petition of appeal shall bear a stamp to the value of five rupees but where the appellant is the Attorney-General such stamp shall not be necessary.

(4) An appeal shall not lie from an acquittal by a Judge of the Primary Court except at the instance of or with the written sanction of the Attorney-General.

(5) Where the Attorney-General prefers an appeal against any judgment, sentence or final order pronounced by a Primary Court in any criminal case or matter or where the appeal is from an acquittal with the sanction of the Attorney-General, the time within which the petition of appeal must be