

Civil Procedure Code, 1908 (V of 1908), Section 96 – That apart from the substantive suit challenging the Consent Decree to which they were not a party, appeal filed under section 96 [CPC](#) seeking restoration of the Suit disposed on basis of consent decree – Plea that their substantive right of appeal filed under Section 96 of the Code could not have been stultified merely on the premise that a substantive Suit had been preferred at their instance, is pending adjudication – The submission is of no substance since in the first instance, Suit was disposed of by the Court on the consent terms arrived between the parties to the proceedings – Even though the Appellants who were later impleaded, have a right of appeal under Section 96 of the CPC, however, since the Appellants were not a party to the Consent Orders, it was not open for the Court to examine the legal effect of the Consent Orders to which the Appellants were not a party – Once the substantive suit has been filed at their instance questioning the Consent Orders the same is indeed open to be examined independently on its own merits in the pending proceedings initiated at their instance – Order of high court in Appeal, holding an order of restoration of the Suit cannot be passed – Upheld.

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