
THE FUTURE OF E-SUMMONS IN INDIA: RECONCILING TECHNOLOGICAL INNOVATION WITH PROCEDURAL FAIRNESS

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ABSTRACT

This paper looks at the growing role of electronic summons or e-summons in India's civil justice system and asks a simple but important question: can we make the process faster and more efficient without sacrificing fairness? With courts already moving toward e-filing, virtual hearings, and digital recordkeeping under initiatives like the eCourts Project and NSTEP, it makes sense to rethink how we serve summons too.

Traditionally, summons have been delivered in person or by post, methods that are tried and tested, but also slow, costly, and sometimes unreliable. In recent years, especially during the COVID-19 pandemic, courts have begun to accept digital service through email and WhatsApp, opening the door to new possibilities. The Supreme Court and several High Courts have cautiously supported these changes in specific situations where conventional service methods weren't working.

That said, this shift comes with its own set of challenges. What happens if the recipient doesn't have access to email or a smartphone? Can courts be sure the summons was actually seen by the right person? These concerns around the digital divide, proof of service, data privacy and the risk of unfair ex parte orders need careful thought.

Looking at how the UK has tackled some of these issues, the paper suggests a few ways forward: adopting a hybrid model of service, creating court-monitored platforms, ensuring privacy protections, and rolling things out in phases. The goal is to modernise civil procedure without losing sight of constitutional values like fairness and access to justice.

By bringing together legal analysis, policy efforts, and international experience, this paper hopes to contribute meaningfully to the ongoing conversation around reforming summons in India, making the system not just faster, but also fairer.

INTRODUCTION

So let us start with the basics: How does Indian law currently deal with the service of summons? Under the Code of Civil Procedure, 1908, the starting point is personal delivery. **Order V Rule 9(1)**¹ specifically mandates that the court will issue summons to be delivered or tendered directly to the defendant. This is seen as the most direct and effective way to ensure that a person is properly informed about proceedings against them.

However, recognizing that personal service may not always be possible, **Order V Rule 9(3)**² gives courts the power to order service through registered post, speed post, courier services, or even “any other means of transmission of documents” which includes fax and email, provided such alternatives are permitted under High Court rules. In essence, it opens the door to more flexible forms of service, as long as the court supervises and sanctions it.

Now here’s where it gets even more interesting. If a defendant deliberately refuses to accept postal service or avoids being served, **Rule 9(5)**³ allows the court to treat that summons as duly served. This is known as the doctrine of deemed service i.e. if someone’s refusal is evident, the court can presume they were properly notified.

In parallel, **Order V Rule 9-A**⁴ allows the plaintiff themselves to carry out service of summons, provided the court permits it. This clause is typically used when the court’s usual method has failed or been delayed. However, such service by the plaintiff must be followed by the court’s judicial endorsement to be valid.

Collectively, these provisions show a shift from rigid, one-size-fits-all procedures to more pragmatic and flexible approaches. At the same time, the rules embed important safeguards like affidavits of service, return of service reports, and even substituted service orders, to make sure no one is blindsided by an ex parte decree.

The key takeaway is this: **the goal of the CPC’s service provisions is not just to serve documents but to serve notice.** And that distinction will become critical when we start looking at how courts are interpreting these rules in light of digital technology.

¹ The Code of Civil Procedure 1908, o5 r9(1).

² The Code of Civil Procedure 1908, o5 r9(3).

³ The Code of Civil Procedure 1908, o5 r9(5).

⁴ The Code of Civil Procedure 1908, o5 r9-A.

JUDICIAL PRECEDENTS ON E-SUMMONS IN INDIA

While the CPC does give courts the discretion to allow service by “other means of transmission,” it doesn’t exactly spell out what those methods might look like in practice. Over time, the judiciary has filled in that gap, especially as digital technology has become central to how we communicate. And if there’s one trend that stands out, it’s this: **Indian courts are increasingly open to electronic service, but only when it’s done responsibly and under judicial oversight.**

Let’s begin with a key precedent. In *Central Electricity Regulatory Commission v. NHPC Ltd.*,⁵ the Supreme Court gave a clear nod to email as a legitimate method of service in suitable cases. This wasn’t just a casual mention, it was a strong endorsement of the idea that if email can effectively serve the purpose of notice, it should be allowed.

That line of thinking continued in *Indian Bank Association v. Union of India*,⁶ a case under the Negotiable Instruments Act but still relevant to civil procedure. Here, the Court directed that in addition to regular postal service, complainants must also provide the accused’s official email address and that summons should be sent by email too. What’s important here is the tone: the Court didn’t treat email as just an added convenience. It saw it as a necessary supplement to ensure notice was actually received.

Things moved even faster during the pandemic. In March 2020, when the Supreme Court took suo motu cognizance of COVID-related delays, it passed a sweeping order saying that summons, notices, and pleadings could be served through **email, fax, and popular messaging platforms like WhatsApp, Telegram, and Signal**.⁷ This wasn’t just a pandemic workaround, it signalled the Court’s recognition that everyday communication had gone digital and the justice system needed to keep pace.

The High Courts were quick to pick up on this shift. One often-cited case is *Kross Television India Pvt. Ltd. v. Vikhayat Chitra Production*,⁸ where Justice G.S. Patel held that service via WhatsApp and email could be considered valid. He even remarked that the judiciary must remain “flexible enough” to adapt to evolving modes of communication. In other words, if the public relies on WhatsApp for important communication, courts can’t afford to ignore it.

⁵ *Central Electricity Regulatory Commission v NHPC Ltd* (2010) 10 SCC 280.

⁶ *Indian Bank Association v Union of India* (2014) 5 SCC 590.

⁷ *Suo Moto* (C) No. 3 of 2020.

⁸ *Kross Television India Pvt. Ltd. v Vikhayat Chitra Production* 2017 SCC OnLine Bom 1433.

Justice Patel reaffirmed this idea in *SBI Cards & Payment Services Ltd. v. Rohidas Jadhav*,⁹ where he accepted WhatsApp's double-blue tick showing the message was delivered and read as prima facie evidence of service. Of course, the defendant could challenge it, but unless they did, the court was willing to treat that message as served.

This thinking hasn't been limited to the higher judiciary. In a 2017 ruling, a Fast Track Court in Haryana allowed WhatsApp service after an attempt at personal service failed. The court observed, quite practically, that email and mobile numbers have become the modern-day equivalents of postal addresses.¹⁰ It was a simple but powerful statement about how service norms need to evolve with how people actually live and communicate.

Some courts have even taken it a step further by formalising the process. The Commercial Division of the Bombay High Court, for example, laid down specific rules in 2017 that explicitly allow service of summons via email in commercial cases.¹¹ That kind of structural change reflects not just judicial discretion but institutional acceptance.

What all of this shows is that Indian courts are evolving. They understand that **rigid procedural rules shouldn't come in the way of real notice**, and that sometimes, sending a WhatsApp message might reach a person faster and more reliably than a registered letter. But the courts have also been clear on this point: **electronic service is not a one-size-fits-all solution**. It works only when it actually achieves the purpose of informing the party and it must always be backed by proof, fairness and judicial supervision.

POLICY-LEVEL DIGITISATION: E-COURTS, NSTEP AND BEYOND

At an institutional level, India has been steadily building the digital backbone needed to support e-summons, even if not always directly. A big part of this transformation is happening through the **e-Courts Mission Mode Project**, now in its third phase (2023–2027). This initiative is focused on digitising nearly every aspect of court functioning including e-filing, virtual hearings, and digital case records.¹² One of its more thoughtful features is the creation of e-

⁹ *SBI Cards & Payment Services Ltd. v. Rohidas Jadhav* 2018 SCC OnLine Bom 1262.

¹⁰ Ajay Sura, 'In a first, court to send summons via WhatsApp' *The Times of India* (Chandigarh, 8 April 2017) <<https://timesofindia.indiatimes.com/city/chandigarh/in-a-first-court-to-send-summons-via-whatsapp/articleshow/58074835.cms>> accessed on 4 July 2025.

¹¹ Preeti Motiani, 'Is a legal notice sent through WhatsApp, email valid?' *The Economic Times* (5 December 2023) <<https://economictimes.indiatimes.com/wealth/legal/will/is-a-legal-notice-sent-through-whatsapp-email-valid/articleshow/105744303.cms?from=mdr>> accessed on 4 July 2025.

¹², 'Cabinet approves eCourts Phase III for 4 years' (*Department of Justice*) <<https://doj.gov.in/phaseiii/#:~:text=In%20line%20with%20the%20vision,philosophy%20of%20%E2%80%9Caccess%20and%20inclusion%E2%80%9D>> accessed on 4 July 2025.

Seva Kendras which are digital helpdesks inside court complexes aimed at assisting those who don't have easy access to technology. It's a clear recognition that not everyone is online, and the system needs to remain accessible to all.

'Alongside this is **NSTEP i.e. the National Service and Tracking of Electronic Processes**. This system equips court process servers with GPS-enabled devices and a mobile app that logs each step of the service process in real time. So whether a notice is delivered by hand or sent electronically, NSTEP records when, where and how it was done. That means no more relying solely on affidavits or paper returns, it's all digitally tracked.'¹³

The real game-changer, though, is that NSTEP is also designed to support e-service. By building in features that allow for electronic delivery and live tracking, the system is helping courts move away from outdated, manual methods. And it's already up and running in most states and union territories.

Add to this the **National e-Summons Portal**, which is being developed to let courts and litigants send, track, and confirm summons through a single online platform, and you can see where things are headed. Even though e-summons may not yet be the formal default, these tools are clearly laying the groundwork for a future where digital service is the norm, not the exception

RISKS AND CHALLENGES OF EXCLUSIVE DIGITAL SERVICE

There's no doubt that e-summons make the legal process faster, cheaper, and a whole lot more efficient. But if we're thinking about going fully digital, we also need to pause and ask some tough questions like who might get left out in the process?

One of the biggest concerns is the digital divide. Sure, smartphone use is on the rise, and more people are getting online every day. But the reality is, internet access in India is still far from universal. According to recent data, **only about 24% of rural households have internet access**, compared to 66% in urban areas.¹⁴ This gap becomes a major barrier when courts rely

¹³ 'NSTEP' (*e-committee Supreme Court of India*)

<<https://ecommitteesci.gov.in/nstep/#:~:text=,platform%20developed%20by%20ISRO>> accessed on 4 July 2025.

¹⁴ 'Bridging the Digital Divide: Empowering Rural India' (*NIIT Foundation*, 12 June 2024)

<<https://niitfoundation.org/bridging-the-digital-divide-empowering-rural-india/#:~:text=The%20Problem%3A%20A%20Stark%20Urban,employment%20opportunities%2C%20and%20economic%20growth>> accessed on 4 July 2024.

solely on digital methods to serve summons. Vulnerable groups, especially those in rural areas, the elderly, or those without digital literacy may never receive notice at all. If courts treat a WhatsApp message or email as sufficient service, people without access to those tools could end up being shut out of the judicial process entirely.

That brings us to a core principle of civil procedure: **effective service is about giving a fair chance to respond**. The whole point of a summons is to ensure the other side knows about the case and can appear to defend themselves. If a person doesn't see that WhatsApp message or never checks their email then any decree passed in their absence risks violating the right to be heard. This touches directly on **Article 21 of the Constitution**, which guarantees that no one shall be deprived of liberty except through a fair legal process.

Then there's the question of **proof and evidentiary reliability**. Messaging apps like WhatsApp show double ticks or read receipts but they're not infallible. Just because a message was opened doesn't guarantee the intended recipient actually read it. Someone else in the household could have tapped it or the person may have dismissed it without understanding its contents. Unlike physical service where a process server files a sworn affidavit **electronic delivery often lacks formal proof that notice was genuinely received and understood**.

Courts have tried to address this. As noted earlier, some High Courts have accepted a WhatsApp double-blue tick as **prima facie evidence of service**. But even then, it's still open to challenge. Without a clear standard for how digital proof should be assessed and how a recipient might rebut that presumption, the risk of unfair ex parte judgments remains very real.

Privacy and data protection add another layer of complexity. A summons typically includes personal and often sensitive information: the names of parties, the nature of the claim, and sometimes even financial or family details. Sending legal documents through email or apps might seem like a no-brainer in today's digital age but it's not without its complications, especially when you look at it through the lens of data privacy. With the **Digital Personal Data Protection Act, 2023** now in place, there are serious questions about how personal legal information is handled. How long is the data stored? Who has access to it? What's in place to stop it from being leaked or misused?

Plus, let's not forget that **most messaging platforms, like WhatsApp or Telegram, are run by private companies, many of which are based outside India**. This creates a whole new

layer of jurisdictional confusion. If something goes wrong—say, a data breach or an undelivered summons: who’s responsible? And can our courts even compel these companies to cooperate?

Then there’s the issue of **legal consistency**. Right now, courts decide on e-summons largely on a case-by-case basis. That means one judge might accept a screenshot of a WhatsApp message as valid proof of service, while another might not. This kind of unpredictability makes things harder, especially for litigants who don’t have lawyers guiding them through the process.

So, while e-summons clearly hold a lot of promise, diving in without clear rules and safeguards could backfire. What we really need is a balanced approach, one that takes advantage of digital efficiency but doesn’t leave fairness behind. After all, access to justice shouldn’t depend on whether someone has a smartphone or checks their inbox regularly.

CONSTITUTIONAL SAFEGUARDS AND DUE PROCESS CONSIDERATIONS

Serving summons might seem like just another step in the legal process but it’s much more than that. At its core, it’s a constitutional safeguard, grounded in Article 21 of the Indian Constitution, which guarantees every individual the right to a fair hearing. So, when we talk about digitising summons, we’re not just talking about speeding things up, we’re talking about ensuring due process is upheld.

The Supreme Court has made it clear over the years: Article 21 doesn’t just cover life and liberty; it also includes the right to a fair trial.¹⁵ And a fair trial starts with proper notice. If someone isn’t properly informed that a case has been filed against them because of a faulty WhatsApp delivery or an unread email, that’s not just a technical slip-up. It could completely undermine their right to defend themselves.

That’s why courts have been cautious, even as they embrace technology. In cases like *NHPC*,¹⁶ and *Indian Bank Association*,¹⁷ it wasn’t enough that the summons was sent electronically. The real test was whether it actually reached the person. Courts have looked for read receipts,

¹⁵ Mani Kumar Meena & Abhishek Meena, ‘Fair trial in the context of Article 21 of the Constitution of India’ (2024) 73 Journal of the Oriental Institute 791, 797 <<https://doi.org/10.8224/journaloi.v73i2.626>> accessed on 4 July 2025.

¹⁶ *NHPC* (n 5).

¹⁷ *Indian Bank Association* (n 6).

follow-ups and other proof to make sure the party had a real chance to respond.

Now add the digital divide to the mix. Not everyone has a smartphone or internet access. If e-summons becomes the only way to serve people, we risk shutting out those who are already disadvantaged. That's where Article 14, the guarantee of equality before the law, comes in. The law can't assume everyone is digitally connected or tech-savvy.

Even the CPC reflects this concern. Order V Rule 9 insists that courts verify service before proceeding. In *SV Edusports v. Gopal P.* (2019),¹⁸ the court questioned whether service was truly completed even though it had been sent via email and WhatsApp. That tells us the judiciary is moving carefully and rightly so.

Bottom line? **Technology should help uphold justice, not replace it.** E-summons are a step forward, but only if they're used thoughtfully, with checks and fallback options in place. The goal is not just efficiency, but fairness.

RECOMMENDATIONS FOR A BALANCED E-SUMMONS REGIME

Given how promising e-summons are and the very real challenges they pose, it's clear that we can't just toss out traditional service methods and go fully digital. What we really need is a thoughtful, **hybrid model**- one that brings in the speed and convenience of technology but still holds on to the safeguards that protect fairness.

1. Hybrid Service Model

Think of it like having a backup parachute. Courts should treat electronic service as an *additional* method, not the only one. So if the defendant's email or WhatsApp number is available, sure, send the summons digitally. But at the same time, also send a physical copy through registered post or courier. That way, even if the digital message is missed, the physical one has a shot at reaching them. It's a simple fix that creates a safety net and ensures nobody loses their chance to respond just because of a tech glitch or lack of access.

2. Rebuttable Presumptions and Proof Standards

To give electronic delivery some legal certainty, the law should create presumptions of service

¹⁸ *SV Edusports Private Limited v. Gopal P.* O.S.NO.1698/2019.

based on reliable indicators like WhatsApp's double-blue tick or an email read receipt. But these must be rebuttable, with a defined procedure for defendants to contest service. Courts should lay down clear evidentiary standards: for instance, screenshots, server logs and timestamps can be filed along with affidavits of service to show that e-notice was not only sent but received and accessed.

3. Centralised Court-Monitored E-Service Portals

Rather than leaving e-service to individual litigants or counsel, courts can use secure platforms like an upgraded version of the NSTEP app or the National e-Summons Portal to send notices directly. These systems could generate official digital logs of service, much like speed post tracking today. That way, service becomes not just fast but also verifiable, and litigants aren't burdened with proving delivery on their own.

4. Privacy and Data Protection Safeguards

As courts move online, they must also guard against data leaks and unauthorised use of sensitive information. Summons and legal documents often contain personal details. These must be protected under the principles of India's Digital Personal Data Protection Act, 2023. Courts should issue SOPs ensuring that e-service channels are encrypted, access is restricted, and personal data is not retained longer than necessary. Ideally, official channels (such as secure government messaging apps or digital court portals) should be preferred over private platforms.

5. Pilot Projects and Gradual Roll-Out

Rather than enforce sweeping changes across all jurisdictions, courts can begin with pilot programs in certain areas such as commercial courts, arbitration centres, or urban district courts where parties are more likely to be digitally accessible. Success rates, user feedback, and technical issues can then be assessed before broader implementation. Meanwhile, conventional modes of service should continue as an option.

6. Training and Standard Operating Procedures (SOPs)

Judges, registry staff, and lawyers need to be trained in how e-service works i.e. how to approve it, verify delivery, and handle failures. Courts should issue SOPs outlining how to seek

permission for electronic service, what evidence to attach, and what steps to follow if service fails or is disputed. This helps ensure uniformity and avoids confusion, especially in lower courts.

By adopting this phased and thoughtful approach, India can gradually bring e-summons into the mainstream of civil procedure without compromising on fairness or accessibility. The goal isn't to make litigation high-tech for the sake of it, but to make justice more efficient, more transparent, and more inclusive.

CONCLUSION

To wrap up, e-summons are clearly the way forward but only if we're careful about how we use them. They can make the system quicker and more efficient, sure, but that should never come at the cost of fairness. If we keep checks in place and make the process inclusive, e-summons could genuinely improve access to justice for everyone