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## **DECIPHERING JURISDICTION: AN ANALYTICAL STUDY OF JURISDICTIONAL CONCEPT UNDER THE CPC<sup>i</sup>**

### **INTRODUCTION**

The Code of Civil Procedure does not provide a specific definition of jurisdiction. In basic terms, it refers to the authority of a court to resolve a matter. Drawing from the ancient legal maxim 'Ubi jus Ibi Remedium', which suggests that where there is a right, there is a remedy, the Indian Judiciary underscores the importance of jurisdiction. Essentially, for a judicial forum to address a matter, it must possess the requisite jurisdiction. Typically, jurisdiction is established based on the location where the incident or dispute occurred.

### **Definition of jurisdiction**

Jurisdiction is the boundary of judicial authority or the extent to which a court can exercise its authority over lawsuits, cases, appeals, and so on. In a 1921 judgment by the Calcutta High Court, Hriday Nath Roy Vs Ram Chandra<sup>1</sup>, the term 'jurisdiction' was extensively examined. Various interpretations of jurisdiction have been attempted, all aiming to elucidate its essence. It has been described as the power to hear and decide legal and factual issues, the authority by which a court takes cognizance of facts and renders decisions, or the power to hear and decide legal disputes among parties in a suit. Additionally, it refers to the ability to hear, determine, and declare judgments on court matters, or the authority bestowed upon a court by the government to adjudicate disputes and issue judgments. Ultimately, jurisdiction encompasses the power to inquire into facts, apply the law, pronounce judgments, and enforce them.

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<sup>1</sup> Hriday Nath Vs Ram Chandra 58IND. CAS.806

The word jurisdiction has not been defined in the code. The word jurisdiction is derived from Latin terms juris and dicto which means “I speak by the law” Jurisdiction simply mean the power or authority of a court of law and determine a cause or matter.

If the court has no inherent jurisdiction, neither acquiescence nor waiver nor estoppel can create it. A defect of jurisdiction goes to the root of the matter and strikes at the authority of a court to pass a decree. Such a basic and fundamental defect cannot be cured by consent of parties and the judgement or order pass by a court, however precisely certain and technically correct, is null and void and the validity thereof can be challenged at any stage.

In the case of Kiran Singh v Chaman Paswan<sup>2</sup>, the Supreme Court held that “It is fundamental principle well established that a decree passed by a court without jurisdiction is a nullity, and that its invalidity could be set up whenever and wherever it is sought to be enforced or relied upon even at a stage of execution and even in collateral proceedings”

### **JURISDICTION OF CIVIL COURTS**

Under section 9 of the CPC a civil court has jurisdiction to try all suits of a civil nature unless they are barred. Conditions are

- 1) The suit must be of a civil nature
- 2) The cognizance of such suit should not have been expressly or impliedly barred.

### **Implied barred has been classified into three bodies**

- 1) Public Policy
- 2) Political Purpose
- 3) Religious Purpose

### **Re. Keshav Singh Vs Custodial General**

In this case civil nature has been explained. Civil Procedure is a legal proceeding between two parties for redressal, determination and implementation of private rights.

### **PMA Metropolitan Vs Moran Mar Marthuma<sup>3</sup>**

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<sup>2</sup> Kiran Singh Vs Chaman Pawan 1955 SCR 117

<sup>3</sup> PMA Metropolitan Vs Moran Mar Marthuma 1995 AIR 2001 1995 SCC Supl.

The court observed that section 9 possess an expensive nature which is demonstrated by the use of both positive and negative language. The language is clear and state “an absence of machinery of enforcement of right renders the entire process as nugatory.

### **PLACE OF SUING**

Sections 15 to 20 of the Civil Procedure Code (CPC) discuss various aspects related to the jurisdiction of courts in different types of suits. Section 15 specifically deals with the pecuniary jurisdiction of the court. Sections 16 to 18 focus on suits concerning immovable property, while Section 19 addresses suits related to compensation for wrongs and movable property. Finally, Section 20 pertains to suits concerning matters other than those mentioned in the preceding sections.

### **Section 15: Place of Suing Based on Pecuniary Basis**

Section 15 of the Code of Civil Procedure stipulates that each legal action must commence in the court with the minimal jurisdiction necessary to adjudicate it. This provision aims to distribute cases efficiently across the judicial system. It's essential to note that while decisions from higher-level courts hold weight, any ruling from a court lacking the requisite jurisdiction would be deemed invalid.

#### **Section 15 serves two main functions:**

- 1) Easing the caseload of superior courts.
- 2) Offering convenience to both parties and witnesses engaged in legal proceedings.

Under Section 15, a court's jurisdiction is established according to the valuation set by the plaintiff initiating the lawsuit, rather than the ultimate amount for which the court will issue a decree

In the *Kiran Singh v. Chaman Paswan* (1954) case, a bench including Justices Aiyar and T.L. Venkatarama examined the implications of Section 11 of the Suits Valuation Act, 1887. This provision, along with Sections 21 and 99 of the Code of Civil Procedure, 1908, is rooted in the principle that once a case has been thoroughly heard and a judgment has been rendered, it should not be overturned merely on procedural grounds unless there has been a significant miscarriage of justice.

The case of **Mazhar Husain and Anr. v. Nidhi Lal** <sup>4</sup>(1885), presided over by the Allahabad High Court prior to India's independence, highlights the aims of Section 15 of the Code of Civil Procedure, 1908. These aims, as interpreted in the case, include:

Preventing higher-level courts from being overwhelmed by an influx of lawsuits.

Ensuring convenience for the parties and witnesses engaged in such legal proceedings.

In the case of **Tara Devi v. Sri Thakur Radha Krishna Maharaj** <sup>5</sup>(1987), the defendant contested the valuation of the suit and the jurisdiction of the Court in their written statement. The Trial Court determined that the valuation of the suit fell under Section 7(IV)(c) of the Court Fees Act, 1870, and found the plaintiff's assessment of the leasehold interest to be correct. The Trial Court ruled that the plaintiff had the authority to determine the value of the relief sought, which was deemed neither arbitrary nor unreasonable. Consequently, it was decided that the plaintiff had correctly assessed the claim and paid the appropriate court fees.

The Supreme Court of India, in affirming the trial court's decision, observed that assigning a value to the relief sought without considering objective valuation criteria could be arbitrary and irrational. In such instances, the Court is justified in intervening.

### **Section 16 to 20: Place of Suing Based on Territorial Aspects**

When assessing a court's territorial jurisdiction, it's crucial to address four distinct categories of lawsuits:

- 1) Suits concerning immovable property: These are regulated by Sections 16-18 of the Code of Civil Procedure. These provisions delineate the procedures and principles for initiating legal action regarding disputes involving immovable property.
- 2) Suits concerning movable property: Section 19 of the Code of Civil Procedure addresses disputes involving movable assets, outlining the procedures for initiating such legal actions.

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<sup>4</sup> Mazhar Husain Vs Nidhi Lal (1885)ILR 7ALL230

<sup>5</sup> Tara Devi Vs Shri Thakur Radha Krishna Maharaj AIR1987SC2085

- 3) Suits for compensation for wrongs: Section 19 of the Code of Civil Procedure also encompasses suits seeking compensation for injuries or damages resulting from wrongful acts, providing guidance on filing such claims.
- 4) Other types of suits: Section 20 of the Code of Civil Procedure pertains to suits falling beyond the aforementioned categories, covering matters that do not involve immovable property, movable property, or compensation for wrongs.

Section 21 delineates the conditions under which objections regarding the jurisdiction of a court can be raised. These objections must be raised before the trial court and before the settlement of issues, with a consequential failure of justice required for consideration. The third condition is applicable only if the suit has been decided on merit; otherwise, the question of failure of justice is irrelevant. If the court finds it lacks jurisdiction, instead of dismissing the suit outright, the plaintiff's claim should be directed to the appropriate court for filing, as per Order 7 Rule 10.

The jurisdictional limitations of courts are established by Section 9 of the Civil Procedure Code (CPC), subject to its provisions. Sections 11 and 12 of the CPC outline the principles of res judicata and the bar to further suits, respectively, preventing the retrial of matters already adjudicated upon or precluding further suits on the same cause of action.

Section 21A prevents the challenging of a decree based on jurisdictional grounds through another suit. Section 47(1) mandates that questions regarding the execution, discharge, or satisfaction of a decree be determined by the court executing the decree, rather than through a separate suit.

Order 2 Rule 2 of the CPC stipulates that if part of a claim or relief arising from the same cause of action is not claimed in the initial suit, it cannot be pursued through another suit. Similarly, Order 9 Rule 8 requires the dismissal of a suit if the plaintiff fails to appear after the defendant does, precluding the plaintiff from bringing a fresh suit on the same cause of action.

Order 23 Rule 1(4) prevents the initiation of a fresh suit if the plaintiff abandons or withdraws from a suit or part of a claim without permission, while Rule 3-A of Order 23 prohibits suits aimed at setting aside decrees based on compromised agreements deemed unlawful.

### **LACK OF JURISDICTION AND IRREGULAR EXERCISE OF JURISDICTION**

Determining whether a court has jurisdiction is crucial when a case is brought before it. If the court possesses territorial, pecuniary, and subject matter jurisdiction, it has the authority to handle the case. However, if the court lacks any of these jurisdictions, it is considered a lack of jurisdiction or an irregular exercise of jurisdiction. In such instances, the court's decision may be deemed void or voidable, depending on the circumstances.

Jurisdiction is typically determined based on fiscal value, geographical boundaries, and the subject matter of the court. Therefore, before accepting a case, the court must consider factors such as the monetary value involved, the nature of the case, and the jurisdictional limits.

It's not enough for a court to simply have the right to handle a case or have jurisdiction over the area; it must also have the authority to provide appropriate remedies. In the case of *Official Trustee Vs Sachin Nath*, it was held that a court must not only have jurisdiction to decide a particular matter but also have the ability to issue appropriate orders in relation to it.

## **Types of Jurisdiction**

### **Territorial or Local Jurisdiction:**

Territorial or local jurisdiction refers to the boundaries within which a court has authority. It cannot extend its power beyond these geographical limits. For instance, if a crime occurs in Madhya Pradesh, only courts within that state can hear and decide the case. Section 16 of the Code of Civil Procedure further elucidates territorial jurisdiction concerning the location of immovable property. In the case of *Harshad Chiman Lal Modi Vs D.L.F Universal Ltd*, the court clarified that the court must have jurisdiction over the location of the property in suits related to immovable property. However, if the opposite party agrees, the court may still provide relief, even if it lacks territorial jurisdiction.

### **Pecuniary Jurisdiction:**

Pecuniary jurisdiction pertains to the financial value involved in a case. Courts are authorized to hear cases based on the monetary limits specified by law. Section 15 of the Code of Civil Procedure determines the hierarchy of courts based on pecuniary jurisdiction. The primary purpose of establishing pecuniary jurisdiction is to prevent higher courts from being overloaded and to assist parties. However, the court may intervene if it finds the judgment incorrect. For example, if a case involves a claim of Rs 5000 in Bombay, which falls within the jurisdiction of the Bombay High Court, it should ideally be heard in the small causes court. In the case of *Karan Singh Vs Chaman Paswan*, despite the district court initially rejecting a suit involving

Rs 2950, the Supreme Court upheld the decision of the High Court, confirming that the district court's decision wasn't void.

### **Jurisdiction as to the Subject Matter:**

Subject matter jurisdiction refers to a court's authority to handle cases concerning specific types of subjects. Courts without subject matter jurisdiction cannot decide certain types of cases. For instance, if a resident of Sonipat wants to file a complaint against a company, it should be brought to the Sonipat District forum rather than the District Civil Court of Sonipat.

### **Original and Appellate Jurisdiction:**

Appellate jurisdiction allows higher courts to review cases decided by lower courts. In India, both the High Court and the Supreme Court have appellate jurisdiction over appeals brought before them. Original jurisdiction refers to a court's authority to hear cases initially, without reviewing previous decisions.

### **Exclusive and Concurrent Jurisdiction:**

Exclusive jurisdiction means that only one court has the authority to decide a particular case to the exclusion of all others. Concurrent jurisdiction exists when two or more courts have jurisdiction over the same case simultaneously.

### **General and Special Jurisdiction:**

General jurisdiction allows courts to hear a wide range of cases, including criminal, civil, and family court cases. Special jurisdiction refers to a court's ability to hear specific types of cases within its designated area of expertise.

### **Legal and Equitable Jurisdiction:**

Equitable jurisdiction enables courts to issue orders to achieve fair outcomes, even if those orders are not expressly provided for by law. In the case of *K.K.Velusamy Vs N.Palanisamy*, the Supreme Court clarified that equitable jurisdiction is secondary to the court's authority to enforce the law.

### **Expounding and Expanding Jurisdiction:**

Expounding jurisdiction involves clarifying and explaining jurisdiction, while expanding jurisdiction entails developing and extending jurisdiction. It is the court's duty to clarify its jurisdiction and improper for it to extend its jurisdiction beyond its legal limits.

### **Jurisdiction of Civil Court:**

Section 9 of the Code of Civil Procedure outlines the jurisdiction of civil courts in India, stating that civil courts have jurisdiction over all civil suits unless expressly or impliedly barred.

### **Conditions:**

For a civil court to have jurisdiction, two conditions must be met: the suit must be of a civil nature, and its cognizance must not be expressly or impliedly barred.

#### i) Suit of Civil Nature:

A civil suit involves disputes not of a criminal nature but related to civil rights and obligations. The court's jurisdiction covers issues concerning private rights and obligations of citizens. However, political and religious questions are not considered suits of civil nature unless they involve civil rights.

#### ii) **Cognizance Not Barred:**

A civil court can hear a suit unless its cognizance is expressly or impliedly barred by law.

### **Suits Expressly Barred:**

A suit is expressly barred when a statute prohibits it. Legislatures can restrict civil court jurisdiction by enacting laws, as long as they adhere to constitutional provisions.

### **Suits Impliedly Barred:**

A suit is impliedly barred when general legal principles exclude it. If a statute provides a specific remedy, it may preclude other forms of relief.

### **Presumption as to Jurisdiction:**

Courts should presume jurisdiction unless expressly or impliedly barred by law. The denial of civil court jurisdiction should not be assumed without clear legal provisions or implications.

It's widely accepted that the burden lies on the party seeking to challenge the jurisdiction of a civil court to prove it. The statute curtailing civil court jurisdiction must be interpreted strictly. In cases of doubt regarding jurisdiction, courts should err on the side of assuming jurisdiction. Although a civil court has the original authority to determine its own jurisdiction, it may find, upon examination, that it lacks jurisdiction over the suit.



### **Exclusion of Jurisdiction: Limitations**

There's a common presumption that civil courts have jurisdiction over a case. Parties with civil claims have the inherent right to file suits in civil courts unless expressly or impliedly barred. However, it's not accurate to say that jurisdiction is entirely eliminated. In the case of Secretary of State Vs Mask & Co, it was emphasized that exclusion of civil court jurisdiction should not be readily inferred but rather should be expressly or impliedly stated. It's also established that civil courts have jurisdiction to review cases where fundamental principles of judicial procedure have not been adhered to. In the case of State of A.P. Vs Majeti Laxmi Kanth Rao, the Supreme Court outlined the process for determining the exclusion of civil court jurisdiction. Firstly, the legislative intent to exclude jurisdiction must be determined, either directly or implicitly. The court must then ascertain whether the statute provides an alternative remedy. If no alternative remedy is available, civil court jurisdiction cannot be excluded. However, in Balawwa v. Hasanabi, it was held that civil court jurisdiction is limited concerning tribunals established by statute only to the extent of the support provided by the tribunal. Additionally, the Allahabad High Court has ruled in various judgments that if parts of a suit are excluded from civil court jurisdiction, it doesn't mean the entire suit is barred.

### **Principles of Exclusion of Civil Court Jurisdiction**

#### **Dhulabhai v. State of MP:<sup>6</sup>**

Justice Hidayatullah summarized principles relating to exclusion of civil court jurisdiction:

When a statute gives finality to tribunal orders, civil court jurisdiction is prohibited. However, this doesn't eliminate cases where fundamental judicial principles are violated.

When there's an express bar of jurisdiction, the scheme of the act may be examined, but this is not crucial for maintaining civil court jurisdiction.

Acts deemed ultra vires cannot be challenged before tribunals established under the act.

If a statute provides no method for the return of excessive tax, a civil suit is permissible.

Exclusion of civil court jurisdiction should not be readily inferred.

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<sup>6</sup> Dhulabhai Vs State of MP 969 AIR 78, 1968 SCR (3) 662

### **Premier Automobiles v. K.D Wadke:<sup>7</sup>**

The Supreme Court outlined principles relevant to civil court jurisdiction in industrial disputes:

If a conflict doesn't arise from an industrial conflict or the enforcement of rights under the Industrial Disputes Act, the remedy lies in civil court.

If an industrial dispute relates to rights or liabilities under the act, adjudication under the act is the only remedy.

### **Rajasthan SRTC v. Krishna Kant:<sup>8</sup>**

The Supreme Court summarized principles applicable to industrial disputes:

Disputes arising from common law contracts cannot be brought to civil court.

If a dispute involves the recognition or enforcement of rights under enactments without a forum, the remedy lies in the forum created.

### **Conclusion**

Civil courts have jurisdiction to examine whether tribunals and quasi-judicial bodies acted within their jurisdiction. Section 9 primarily deals with civil court jurisdiction. Civil courts can handle civil suits unless expressly or impliedly barred. They also have jurisdiction to determine their own jurisdiction.

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1. <sup>i</sup> (1959) AIR P&H 58.
  2. Code of Civil Procedure.

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<sup>7</sup> Premier Automobile vs K.D Wadke 1975 AIR 2238 1976 SCR (1) 427 1976 SCC (1) 496

<sup>8</sup> Rajasthan SRTC V Krishna Kant 1994 SCC, SUPL. (1) 268 JT 1993 (5) 454