

**CHAPTER 2**

## Jurisdiction

## PART A.—JURISDICTION OF CIVIL COURTS.

*General*

1. **General:-** The first question which a Court in which a suit or other proceeding is instituted has to consider, is whether it has jurisdiction to hear and decide it. In view of section 9 of the Code the Civil Courts have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred. But this general rule is subject to various limitations, depending upon the nature, value, or the locality of the subject-matter the residence of the defendant and so forth.
2. **Pecuniary Limits:-** The District Judge, Additional Judge and Subordinate Judge of the 1st class have jurisdiction to hear suits without any limit as to their value. In the case of Subordinate Judges of a lower class, however, jurisdiction depends, *inter alia*, on the value of the suit. The value of a suit for purposes of jurisdiction has to be calculated in accordance with the provisions of the Suits Valuation Act and the rules there under. (see Chapter 3, Valuation of Suits.)
3. **Special Jurisdiction:-** Under certain enactments, Courts of Subordinate Judges have no jurisdiction at all to take cognizance of proceedings under those enactments (e.g., under the Companies Act, 1956 the Indian Divorce Act, 1869, etc.). There are proceedings under certain other enactments of which Subordinate Judges can take cognizance only if specifically empowered in that behalf (see e. g., Section 4-A of the Guardians and Wards Act, 1890, Section 388 of the Indian Succession Act, etc.) See Chapter 20 of this volume for powers conferred on various judicial officers.
4. **Other matters governing jurisdiction:-** Section 15 of the Civil Procedure Code lays down that every suit must be instituted in the Court of the lowest grade having jurisdiction to hear it. Sections 16 and 17 lay down certain restrictions as to the locality where certain suits affecting immoveable property can be instituted. Section 20 lays down a further restriction that a suit must be instituted where one or more of the defendants actually and voluntarily reside or carry on business or personally work for gain or where the cause of action arises, "Wholly or in part".
5. **Jurisdiction barred by Small Cause Court Act:-** When a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, has jurisdiction in any locality, ordinary Civil Courts cannot try suits, which are cognizable by that Court unless it is expressly provided otherwise by the aforesaid Act or any other enactment (see Section 16 of the Provincial Small Cause Courts Act, 1887).
6. **Jurisdiction where defendant sets up a claim which is beyond pecuniary jurisdiction of the Court:-** It sometimes happens that though a suit is prima facie within the jurisdiction of a Court, it becomes necessary to order the payment of an amount which is more than the limits of the pecuniary jurisdiction of the Court. In suits for pre-emption of land or suits challenging alienations under custom the value for purposes of jurisdiction may be much less than the amount for which the alienation has taken place. In such cases where the court has to order the payment of a higher amount than its pecuniary jurisdiction it should report the case to the District Judge for its transfer to a court of competent jurisdiction. The Senior Sub-Judge should also keep the scale and mortgage amount in view at the time of distribution of such cases to various courts.
7. **Jurisdiction in respect of persons amenable to Military law:-** For the jurisdiction of Civil Courts in respect of persons amenable to Military Law, see Chapter 6, regarding suits by or against persons in Military Service.

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