

# Jurisdiction of Civil Courts vis-a-vis Court of Small Causes

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# Meaning of Jurisdiction

**CPC do not define jurisdiction. Jurisdiction means the practical authority granted to a formally constituted legal body to make pronouncements on legal matters and, by implication, to administer justice within a defined area of responsibility.**

# Types

## **Jurisdiction-**

- 1. Pecuniary Jurisdiction.**
- 2. Territorial Jurisdiction.**
- 3. Subject matter Jurisdiction.**

# Relevant provisions

**9. Courts to try all civil suits unless barred.**—The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

- [Explanation-I.....
- [Explanation II.—.....

**Section 6. Pecuniary jurisdiction.**—Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of **which exceeds the pecuniary limits** (if any) of its ordinary jurisdiction.

# PLACE OF SUING

**15. Court in which suits to be instituted.**—Every suit shall be instituted in the Court of the lowest grade competent to try it.

**16. Suits to be instituted where subject-matter situate.**

**17. Suits for immovable property situate within jurisdiction of different Courts.**

**18. Place of Institution of suit where local limits of jurisdiction of Courts are uncertain.**

**19. Suits for compensation for wrongs to person or movables.**

**20. Other suits to be instituted where defendants reside or cause of action arises.**

**Most. Rev. P.M.A. Metropolitan and Ors. vs. Moran Mar Marthoma, 1995 SCC  
Supl. (4) 286.**

- 1. The expansive nature of the Section is demonstrated by use of pharalogy both positive and negative. The earlier part opens the door widely and the latter debars entry to only those which expressly or impliedly barred.**
- 2. The two expansions one existing from inception and later added in 1976 bring out clearly the legislative intention of extending opertaion of the Section to such religious matters where right to property or office is involved irrespective of whether any fee ai attached to office or not.**
- 3. The language used is simple but explicit and clear.**
- 4. It is structured on the basic principle of a civilised jurisprudence that absence of machinery for enforcement of right it nugatory.**
- 5. The heading which is normally key to the Section brings out unequivocably that all civil suits are cognizable ununless barred.**
- 6. What is meant by this is explained further by widening the ambit of the Section by use of the word 'Shall' and the expression, all the suits of a civil nature, unless expressly or impliedly barred.**
- 7. Each word and expression casts an obligation on the court to exercise jurisdiction for enforcement of right. The word 'Shall' makes it mandatory. No court can refuse to entertain a suit if it is of descscription mentioned in the Section. That is amplefied by use of expression 'All suits of civil nature'.**

## **Source of Courts of Small Causes. The Bengal, Agra, Assam Civil Courts**

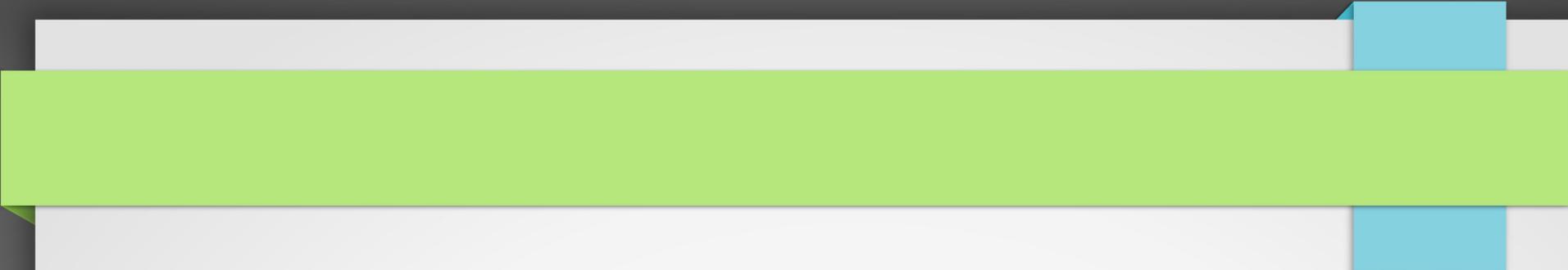
**Act, 1887.**

**25. Power to invest Subordinate Judges and Munsifs with Small Cause Court Jurisdiction.** (1) The High Court may by notification in the official Gazette, confer within such local limits as it thinks fit, upon any Civil Judge or Munsif the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 for the trial of suits cognizable by such Courts up to such value not exceeding five thousand rupees as it thinks fit and may withdraw any jurisdiction so conferred:

Provided that in relation to suits of the nature referred to in the proviso to sub-section (2) of section 15 of the said Act, the reference in this sub-section to five thousand rupees shall be construed as reference to twenty five thousand rupees.";

(2) The High Court may by notification in the official Gazette, confer upon any District Judge or Additional District Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of all suits (irrespective of their value), by the lesser for the eviction of a lessee from a building after the determination of his lease, or for the recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease or of compensation for the use and occupation thereof after such determination of lease, and may withdraw any jurisdiction so conferred.

Explanation— For the purposes of this sub-section, the expression 'building' has the same meaning as in Article (4) in the Second Schedule to the said Act.



(3) *Omitted.*

(4) Where the jurisdiction of a judge of a Court of Small Causes is conferred upon any District Judge or Additional District Judge by notification under this Section, then notwithstanding anything contained in Section 15 of Provincial Small Causes Courts Act, 1887, all suits referred to in subsection (2) shall be cognizable by Courts of Small Causes.

# Small Causes Courts how is it different.

Section 7 of the CPC

**7. Provincial Small Cause Courts.**—The following provisions shall not extend to Courts constituted under the Provincial Small Cause Courts Act, 1887(9 of 1887) [or under the Berar Small Cause Courts Law, 1905], or to Courts exercising the jurisdiction of a Court of Small Causes [under the said Act or Law], [or to Courts in [any part of India to which the said Act does not extend] exercising a corresponding jurisdiction that is to say.—

(a) so much of the body of the Code as relates to—

(i) suits excepted from the cognizance of a Court of Small Causes;

(ii) the execution of decrees in such suits;

(iii) the execution of decrees against immovable property; and

(b) the following sections, that is to say,—

section 9,

sections 91 and 92,

sections 94 and 95 [so far as they authorize or relate to]—

(i) orders for the attachment of immovable property,

(ii) injunctions,

(iii) the appointment of a receiver of immovable property, or

(iv) the interlocutory orders to in clause (e) of section 94], and sections 96 to 112 and 115. (i) suits excepted from the cognizance of a Court of Small Causes;

(ii) the execution of decrees in such suits;

(iii) the execution of decrees against immovable property; and

(b) the following sections, that is to say,—

section 9,

sections 91 and 92,

sections 94 and 95 [so far as they authorize or relate to]—

(i) orders for the attachment of immovable property,

(ii) injunctions,

(iii) the appointment of a receiver of immovable property, or

(iv) the interlocutory orders to in clause (e) of section 94], and sections 96 to 112 and 115.

## JURISDICTION OF COURTS OF SMALL CAUSES

**Sec. 15. Cognizance of suits by Courts of Small Causes.**—(1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

Provided that in relation to suits by the lessor for the eviction of a lessee from a building after determination of his lease or for recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease, or of compensation for use or occupation thereof after the determination of the lease, the reference in this sub-section five thousand shall be construed as a reference to twenty-five thousand rupees.

**Section 16. Exclusive jurisdiction of Courts of Small Causes.**—Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

**17. Application of the Code of Civil Procedure.—**(1) [The procedure prescribed in the Code of Civil Procedure, 1908 (5 of 1908), shall, save in so far as is otherwise provided by that Code or by this Act,] be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed ex parte or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give [such security for the performance of the decree or compliance with the judgment as the Court may, on a previous application made by him in this behalf, have directed].

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by Section 18 [145] of the Code of Civil Procedure, 19 [1908 (5 of 1908)].

Retrospective applicability of Amendment Act, 2015 to pending suits.—

**Om Prakash Agarwal v. Vishan Dayal Rajpoot, (2019) 14 SCC 526.**

Combined effect of all the provisions i.e. Section 15(2) & (3), 17 and 25 [as amended vide U.P. Civil Laws (Amendment) Act, 2015 w.e.f. 7-12-2015] r/w Section 25 [as amended and applicable to U.P.] of Bengal, Agra and Assam Civil Courts Act, 1887 r/w Section 15 CPC as amended w.e.f. 7-12-2015, held, is that all small cause cases with valuation up to Rs 1 lakh are to be tried by Civil Judge-presided-Small Cause Courts, and small cause cases with valuation above Rs 1 lakh are to be tried by Additional District Judge/District Judge-presided-Small Cause Courts. This applies equally to all lessor-lessee disputes covered by Section 25 of BAAC Courts Act, 1887. Said Amendment of 2015, further held, is retrospective. Thus, all pending small cause suits to be transferred to court of

competent jurisdiction, **Om Prakash Agarwal v. Vishan Dayal Rajpoot, (2019) 14 SCC 526.**