Section 9 CPC with reference to Jurisdiction under various Special Enactments

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Section 9 of Civil Procedure Code (hereinafter referred to as 'CPC') plays a pivotal role in defining the jurisdiction of civil courts in India. It establishes that civil courts have the authority to adjudicate all suits of civil nature unless their cognisance is either expressly or impliedly barred. This section while providing broad jurisdiction to civil courts reads as follows: "The Court shall have jurisdiction to try all suits of a civil nature excepting suits of which their cognisance is either expressly or impliedly barred." Civil courts are the default forum for resolving suits of civil nature, unless specific laws dictate otherwise.

To exert jurisdiction on a suit for a civil court, two conditions must be satisfied:

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

The term 'civil suit' has not been defined anywhere in any legislation. Any suit that pertains to determination and implementation of civil rights may be defined as a civil suit. While dealing with the question of civil proceedings, the Punjab and Haryana High Court in ***Kehar Singh Nihal Singh vs. Custodian General reported in AIR 1959 P&H 58*** held in para 5 that "The word "criminal" is used in contradistinction to civil proceedings or actions. The former includes proceedings taken in the name of the State the end and design of which is the punishment of the criminal; while the latter signifies actions for enforcement of civil rights. Bouvier's Law Dictionary defines the legal or technical meaning of the word "civil" to be "in contradistinction to criminal, to indicate the private rights and remedies of men as members of the community, in contrast to those which are public and relate to the Government". The court further held that "But what a civil proceeding is may be defined as judicial process to enforce a right and includes any remedy employed to vindicate that right. A civil action may be described as a proceeding between two parties for implementation or redressal of private rights.[1]

1 https://blog.ipleaders.in/jurisdiction-of-civil-courts-2/

Suit of Civil Nature

Suit of civil nature covers the private rights and obligations of the citizens and political and religious question is not covered under suit of civil nature. A suit in which principal question is related to caste or religion is not a suit of civil nature but if the main question in a suit of civil nature involves the decision relating to caste question or religious rites and ceremonies, it does not terminate to be a suit of civil nature. The court has jurisdiction to decide those questions also in order to decide the important question which is of civil nature.[2] while examining the scope of section 9 CPC, the apex court in ***PMA Metropolitan vs. Marthoma reported in AIR 1995 2001*** held that *"One of the basic principles of law is that every right has a remedy. Ubi jus ibi remediem is the well known maxim. Every civil suit is cognisable unless it is barred, 'there is an inherent right in every person to bring a suit of a civil nature and unless the suit is barred by statute one may, at one's peril, bring a suit of one's choice. It is no answer to a suit, howsoever frivolous the claim, that the law confers no such right to sue'* Smt. Ganga Bai vs. Vijay Kumar & Ors., *AIR 1974 SC 1126. The expansive nature of the Section is demonstrated by use of phraseology both positive and negative. The earlier part opens the door widely and latter debars entry to only those which are expressly or impliedly barred. The two explanations, one existing from inception and latter added in 1976 bring out clearly the legislative intention of extending operation of the Section to such religious matters where right to property or office is involved irrespective of whether any fee is attached to the office or not. The language used is simple but explicit and clear. It is structured on the basic principle of a civilised jurisprudence that absence of machinery for enforcement of right renders it nugatory. The heading which is normally key to the Section brings out unequivocally that all civil suits are cognizable unless barred. What is meant by it is explained further by widening the ambit of the Section by use of the word `shall' and the expression, `all suits of a civil nature' unless `expressly of impliedly barred'. 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 description mentioned in the Section. That is amplified by use of `expression, `all suits of civil nature'. The word*

2 https://blog.ipleaders.in/jurisdiction-of-civil-courts-2/

`civil' according to dictionary means, `relating to the citizen as an individual; civil rights'. In Black's Legal Dictionary it is defined as, `relating to provide rights and remedies sought by civil actions as contrasted with criminal proceedings'. In law it is understood as an antonym of criminal. Historically the two broad classifications were civil and criminal. Revenue, tax and company etc, were added to it later. But they too pertain to the larger family of `civil'. There is thus no doubt about the width of the word `civil'. Its width has been stretched further by using the word `nature' along with it. That is even those suits are cognisable which are not only civil but are even of civil nature"

Jurisdiction

Jurisdiction means authority to decide. It is the power or authority of a court to hear and determine a cause, to adjudicate ad exercise any judicial power in relation to it. It means the extent of authority of a court to administer justice prescribed with reference to subject matter, pecuniary value and territorial limits.[3]

Express or Implied bar on Jurisdiction

The normal rule is that civil courts have jurisdiction to try all suits of a civil nature except those of which cognizance by them is either expressly or impliedly excluded. However, where a statute impliedly bars the jurisdiction a civil court and confers on a statutory authority, if such authority travels beyond the jurisdiction, the civil court has power to entertain the suit in respect thereto. Jurisdiction means and includes any authority conferred by the law upon the court, tribunal or judge to decide any dispute between the parties or pass judgement or order. Exclusion of jurisdiction means prevention or prohibition to the court not to entertain or try any matter though the dispute is civil in nature. The exclusion of jurisdiction of a civil court is to be clear and not inferred. Also, even when the jurisdiction is either expressly or impliedly barred, it cannot be said that it is barred altogether. A court has jurisdiction to examine whether the provisions of the Act have been complied with, or whether the order is contrary to law, *mala fide*, *ultra vires*, arbitrary etc. In all these cases, the order cannot be said to be "under the Act" but is *de hors* the Act

3 https://vidhijudicial.com/cpc-sec9-detailed-.html

and the jurisdiction of a civil court is not ousted.[4] The jurisdiction is excluded in two ways:[5]

Suits expressly barred – A suit is said to be expressly barred when it is barred by any enactment for the time being in force. In the development of adjudication of civil disputes, statutes provided alternative mode of resolution of civil disputes with less expensive but expeditious disposal.

Suits impliedly barred – A suit is said to be impliedly barred when it is barred by general principles of law. Where, both right and remedy having been created *uno flatu* then, even if there is no express provision excluding the jurisdiction of civil courts, its jurisdiction stands impliedly barred. It is also established that where an Act creates an obligation, and enforces its performance in a specified manner, that performance cannot be enforced in any other manner. Similarly, certain civil matters are barred from civil courts on the principles of public policy and public weal"

A competent legislature may bar jurisdiction of civil courts with respect to a particular class of suits of a civil nature, only if by doing so, it keeps itself within the legislative field conferred on it and does not contravene any provision of the Constitution. If there is any doubt about the ousting of jurisdiction of a civil court, the court will assume the jurisdiction. Suit based simply on Directive Principles of State Policy as incorporated in the Constitution of India, are not maintainable. Likewise, political questions relating to policies are not covered under the expression "civil rights". However, a suit for correction in the date of birth in service record relates to civil right and is maintainable in Civil Court.

Presumption as to Jurisdiction

In dealing with the subject matter as to whether a civil court's jurisdiction to analyze a suit is barred or not, it is necessary to bear in mind that every opinion should be made in support of the jurisdiction of a civil court. The rejection of the jurisdiction of a civil court to entertain civil causes should not be easily inferred unless the appropriate law contains express terms to that effect or points to a significant and inevitable implication of nature.[6]

Burden of Proof

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4 https://lawwire.in/section-9-of-the-civil-procedure-code/
5 https://lawwire.in/section-9-of-the-civil-procedure-code/
6 https://blog.ipleaders.in/jurisdiction-of-civil-courts-2/

It is well proved that it is for the party who tries to dismiss the jurisdiction of the civil court to establish it. It is uniformly well established that the statue dismissing the jurisdiction of a civil court must be strictly explained. In case of doubt as to jurisdiction, the court should lean towards the theory of jurisdiction. A civil court has original authority to determine the issue of it's own jurisdiction although as a consequence of such query it may become that it has no jurisdiction to consider the suit.[7]

Jurisdiction and Consent

It is well settled that consent cannot confer not take away jurisdiction of a court. If the court has no inherent jurisdiction, neither acquiescence nor waiver nor estoppel can create it. In the landmark case of ***A.R. Antulay Vs. R.S. Nayak reported in AIR 1988 SC 1531,*** it was held that the power to create or enlarge jurisdiction is legislative in character, so also the power to confer a right of appeal. Parliament alone can do it by law and no court, whether superior or inferior or both combined can enlarge the jurisdiction of a court or divest a person of his rights of revision and appeal.[8]

In the case of ***Chief Engineer, Hydel Project Vs. Ravinder Nath reported in (2008) 2 SCC 350,*** it was held that a decree passed without jurisdiction is a nullity and it's validity can be set up whenever it is sought to be enforced as a foundation for a right, even at the stage of execution for it's decision. In short, a decree passed by a court without jurisdiction is a coram non judice.[9]

Irregular Exercise of Jurisdiction

Once it is held that a court has jurisdiction to entertain and decide a matter, the correctness of the decision given cannot be said to be without jurisdiction inasmuch as the power to decide necessarily carries with it the power to decide wrongly as well as rightly. In the words of Lord Hobhouse, "A court has jurisdiction to decide wrong as well as right. If it decides wrong, the wronged party can only take the course prescribed by law for setting matters right and if that course is not taken, the decision however wrong cannot be disturbed. If a court has jurisdiction

7 https://blog.ipleaders.in/jurisdiction-of-civil-courts-2/
8 https://vidhijudicial.com/cpc-sec9-detailed-.html
9 https://vidhijudicial.com/cpc-sec9-detailed-.html

but it is irregularly exercised, the defect does not go to the root of the matter and the error if any, in exercising the jurisdiction can be remedied in appeal or revision and when there is no such remedy or is not availed of, the decision is final. [10]

In ***Ittyavira Mathai Vs. Varkey reported in AIR 1964 SC 907,*** it was contended that the decree passed by the court was a nullity since the suit was time barred. The apex court while rejecting the said contention held that if the suit was barred by time and yet the court decreed it, the court would be committing an illegality and therefore, the aggrieved party would be entitled to have the decree set aside by preferring an appeal against it. But it is well settled that a court having jurisdiction over the subject matter of the suit and over the parties thereto though bound to decide right may decide wrong and even though it decided wrong, it would not be doing something which it had no jurisdiction to do. If the party aggrieved does not take appropriate steps to have that error corrected, they erroneous decree will hold good and will not be open to challenge on the basis of being a nullity.[11]

Basis to determine Jurisdiction

"The jurisdiction of a court should normally be decided on the basis of the case put forward by the plaintiff in his plaint and not by the defendant in his written statement. In ***Abdulla Vs. Galappa reported in AIR 1985 SC 577***, the plaintiff filed a suit in the civil court for declaration of title and for possession and mesne profits treating the defendants as trespassers. The defendants contended that the civil court had no jurisdiction since he was a tenant. Rejecting the said plea, the apex court held that there is no denying the fact that the allegations made in plaint decide the forum. The jurisdiction does not depend upon the defence taken by the defendants in the written statement. The plaintiff, however, cannot by drafting this plaint cleverly circumvent the provisions of law in order to invest jurisdiction in civil court which it does not possess. It is also well established that in deciding the question of jurisdiction, what is important is the substance of the matter and not the form."[12]

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10 https://vidhijudicial.com/cpc-sec9-detailed-.html, also refer to **Ujjam Bai Vs. State of UP reported in AIR 1962 SC 1621**
11 https://vidhijudicial.com/cpc-sec9-detailed-.html
12 https://vidhijudicial.com/cpc-sec9-detailed-.html

If it is found on a trial on the merits so far as issue of jurisdiction goes, the facts alleged by the plaintiff are not true and the facts alleged by the defendants are true and that the case is not cognizable by the court, there will be tow kinds of orders to be passed. If the jurisdiction is only one relating to territorial limits or pecuniary limits, the plaint will be ordered to be returned for presentation to the proper court. If on the other hand, it is found having regard to the nature of the suit, it is not cognizable by the class of court to which the court belongs, the plaintiff's suit will have to be dismissed in it's entirety.[13]

Exclusion of Jurisdiction of Civil Courts

With regard to exclusion of jurisdiction of civil courts under section 9 CPC, the apex court in ***State of AP Vs. Majeti Lakshmikant Rao,*** held that "The normal rule of law is that civil courts have jurisdiction to try all suits of civil nature except those of which cognizance by them is either expressly or impliedly excluded as provided under Section 9 of the Code of Civil Procedure but such exclusion is not readily inferred and the presumption to be drawn must be in favour of the existence rather than exclusion of jurisdiction of the civil courts to try civil suit. The test adopted in examining such a question is (i) whether the legislative intent to exclude arises explicitly or by necessary implication, and (ii) whether the statute in question provides for adequate and satisfactory alternative remedy to a party aggrieved by an order made under it."

The Hon'ble Supreme Court in the landmark case of ***Dhulabhai Vs. State of MP reported in AIR 1969 SC 78*** laid down certain principles regarding exclusion of jurisdiction of civil courts as follows:

> (1) Where the statute gives a finality to the orders of the special tribunals the Civil Courts' jurisdiction must be held to be excluded if there is adequate remedy to do what the Civil Courts would normally do in a suit. Such provision, however, does not exclude those cases where the provisions of the particular Act have not been complied with or the statutory tribunal has not acted in conformity with the fundamental principles of judicial procedure.
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> (2) Where there is an express bar of the jurisdiction of the court, an examination of the scheme of the particular Act to find the adequacy or the sufficiency of the remedies

13 https://vidhijudicial.com/cpc-sec9-detailed-.html

provided may be relevant but is not decisive to sustain the jurisdiction of the civil court. Where there is no express exclusion the examination of the remedies and the scheme of the particular Act to find out the intendment becomes necessary and the result of the inquiry may be decisive. In the latter case it is necessary to see if the statute creates a special right or a liability and provides for the determination of the right or liability and further lays down that all ques- tions about the said right and liability shall be determined by the tribunals so constituted, and whether remedies normally associated with actions in Civil Courts are prescribed by the said statute or not.

(3) Challenge to the provisions of the particular Act as ultra vires cannot be brought before Tribunals constituted under that Act. Even the High Court cannot go into that question on a revision or reference from the decision of the Tribunals.

(4) When a provision is already declared unconstitutional. or the constitutionality of any provision is to be challenged, a suit is open. A writ of certiorari may include a direction for refund if the claim is clearly within the time prescribed by the Limitation Act but it is not a compulsory remedy to replace a suit.

(5) Where the particular Act contains no machinery for refund' of tax collected in excess of constitutional limits or illegally collected a suit lies.

(6) Questions of the correctness of the assessment apart from its constitutionality are for. the decision of the authorities and a civil suit does not lie if the orders of the authorities are declared to be final or there is an express prohibition in the particular Act. In either case the scheme of the particular Act must be examined because it is a relevant enquiry.

(7) An exclusion of the jurisdiction of the Civil Court is not readily to be inferred unless the conditions above set down apply.

Acts with express bar on civil court's jurisdiction

Recovery of Debts Due to Banks and Financial Institutions Act, 1993:-

It is evident from Sections 17 and 18 of the Act that civil court's jurisdiction is barred only in regard to applications by a bank or a financial institution for recovery of its debts. Also, after formation of the DRT, every suit and other proceedings pending before any civil court in which the claim is in excess of Rs. 20 lakhs shall stand transferred to DRT.[14]

14 https://lawwire.in/section-9-of-the-civil-procedure-code/#_ftn25

Indian Electricity Act, 2003:-

The scheme of the Act is complete in itself and thereby the jurisdiction of the civil court to take cognizance of the cases under the Act stood barred. However, it was laid down that where provisions of law are not complied with or the forum or tribunal does not act according to the fundamental principles of judicial procedure, the jurisdiction of civil court is clearly implied.[15]

***Arbitration and Conciliation Act, 1996*:-**

Where the parties have submitted their disputes to the Arbitral Tribunal, the same disputes cannot be permitted to be agitated simultaneously in a civil suit and the bar laid down under Section 5 of the Arbitration and Conciliation Act, 1996 and Section 9 of the Code comes into play. [16]

Copyright Act, 1957:-

The Act creates a statutory right and remedy under Section 31(1)(b). It provides forum for enforcement of the remedy too. Where the Plaintiff has availed of that remedy and also seeks to avail same remedy from the civil court, the jurisdiction of the Civil Court would be barred.[17]

Payment of Wages Act, 1936:-

A civil court has no jurisdiction to entertain a suit by an employee against his employer for recovery of wages, after the expiry of the period of limitation prescribed by Section 15(2) of the Act for making an application to the Authority appointed under the Act, or after the Authority has refused to condone the delay in making such an application.[18]

***Consumer Protection Act, 1986*:-**

It was held in ***CCI Chambers Coop. HSG. Society Ltd. v. Development Credit Bank Ltd. Reported in (2003) 7 SCC 233*** that jurisdiction of consumer

15 https://lawwire.in/section-9-of-the-civil-procedure-code/#_ftn25
16 https://lawwire.in/section-9-of-the-civil-procedure-code/#_ftn25
17 https://lawwire.in/section-9-of-the-civil-procedure-code/#_ftn25
18 https://lawwire.in/section-9-of-the-civil-procedure-code/#_ftn25

dispute redressal forum cannot be relegated to civil court on the ground that the case involves detailed investigation. Hence, jurisdiction cannot be assumed merely because questions of fact and law need to be decided, especially in view of exclusive jurisdiction under the Act.[19]

Essential Commodities Act, 1955:-

Section 6E of the Act, 1955, specifically bars the jurisdiction of the Civil Court.

Motor Vehicles Act, 1988:-

Section 175 of the Act bars the jurisdiction of the civil courts in respect of claims for compensation on account of motor accident if the claims Tribunal is constituted in the area. The jurisdiction of the State Government is exclusive in character and it is not open to civil courts to issue an order of injunction restraining the hearing authority from proceeding with the hearing of the case.[20]

Constitution of India:-

In view of Article 329, civil courts have no power to entertain a suit which challenges the elections to Parliament or the State Assemblies.

Industrial Disputes Act, 1947:-

The Hon'ble Supreme Court in the landmark case of ***Premier Automobiles Ltd Vs. Kamlekar Shantaram Wadke reported in AIR 1975 SC 2238*** laid down the principles applicable to the jurisdiction of the Civil Court in relation to an industrial dispute. The case relates to Section 18(1) of the Industrial Disputes Act concerning the dispute between employer and employee and whether such a dispute can be decided by a civil court. The principles are:

(1) If the dispute is not an industrial dispute, nor does it relate to enforcement of any other right under the Act the remedy lies only in the civil court.

(2) If the dispute is an industrial dispute arising out of a right or liability under the general or common law and not under the Act, the jurisdiction of the Civil Court is

19 https://lawwire.in/section-9-of-the-civil-procedure-code/#_ftn25
20 https://lawwire.in/section-9-of-the-civil-procedure-code/#_ftn25

alternative, leaving it to the election of the suitor concerned to choose his remedy for the relief which is competent to be granted in particular remedy.

(3) If the industrial dispute relates to the enforcement of a right or an obligation created under the Act, then the only remedy available to the suitor is to get an adjudication under the Act.

(4) If the right which is sought to be enforced is a right created under the Act such as Chapter VA then the remedy for its enforcement is either section 33C or the raising of an industrial dispute, as the case may be.

Hon'ble Justice B.P. Jeevan Reddy referred to a catena of leading decisions on the subject of applicability of jurisdiction of civil courts to industrial disputes in the landmark decision of ***Rajasthan State Road Transport Corporation Vs. Krishna Kant reported in AIR 1995 SC 1715.*** The facts of the case are that the respondents are employees of Rajasthan State Road Transport Corporation and their services were discontinued on charges of misconduct under disciplinary proceedings. The respondents challenged their termination of service as illegal by way of civil suits and also claimed all benefits contending that they continued working for the corporation, which was challenged by the corporation on the ground that civil court lacks jurisdiction to entertain the suit. His Lordhsip while deciding the issue laid down the following principles:

(1) Where the dispute arises from general law of contract, i.e., where reliefs are claimed on the basis of the general law of contract, a suit filed in civil court cannot be said to be not maintainable, even though such a dispute may also constitute an "industrial dispute" within the meaning of Section 2(k) or Section 2-A of the Industrial Disputes Act, 1947.

(2) Where, however, the dispute involves recognition, observance or enforcement of any of the rights or obligations created by the Industrial Disputes Act, the only remedy is to approach the forums created by the said Act.

*(**3)** Similarly, where the dispute involves the recognition, observance or enforcement of rights and obligations created by enactments like Industrial Employment (Standing Orders) Act, 1946 - which can be called 'sister enactments' to Industrial Disputes Act - and which do not provide a forum for resolution of such disputes, the only remedy shall be to approach the forums created by the Industrial Disputes Act provided they constitute industrial disputes within the meaning of Section 2(k) and Section 2-A of Industrial Disputes Act or where such enactment says that such dispute shall be either treated as an industrial dispute or says that it shall be adjudicated by any of the forums created by the Industrial Disputes Act. Otherwise, recourse to Civil Court is open.*

(4) It is not correct to say that the remedies provided by the Industrial Disputes Act are not equally effective for the reason that access to the forum depends upon a reference being made by the appropriate government. The power to make a reference conferred upon the government is to be exercised to effectuate the object of the enactment and hence not unguided. The rule is to make a reference unless, of course, the dispute raised is a totally frivolous one ex-facie. The power conferred is the power to refer and not the power to decide, though it may be that the government is entitled to examine whether the dispute is ex-facie frivolous, not meriting an adjudication.

(5) Consistent with the policy of law aforesaid, we commend to the Parliament and the State Legislatures to make a provision enabling a workman to approach the Labour Court/Industrial Tribunal directly - i.e., without the requirement of a reference by the government - in case of industrial disputes covered by Section 2-A of the Industrial Disputes Act. This would go a long way in removing the misgivings with respect to the effectiveness of the remedies provided by the Industrial Disputes Act.

(6) The certified Standing Orders framed under and in accordance with the Industrial Employment (Standing Order) Act, 1946 are statutorily imposed conditions of service and are binding both upon the employers and employees, though they do not amount to "statutory provisions". Any violation of these Standing Orders entitles an employee to appropriate relief either before the forums created by the Industrial Disputes Act or the Civil Court where recourse to Civil Court is open according to the principles indicated herein.

(7) The policy of law emerging from Industrial Disputes Act and its sister enactments is to provide an alternative dispute resolution mechanism to the workmen, a mechanism which is speedy, inexpensive, informal and un-encumbered by the plethora of procedural laws and appeals upon appeals and revisions applicable to civil courts. Indeed, the powers of the Courts and Tribunals under the Industrial Disputes Act are far more extensive in the sense that they can grant such relief as they think appropriate in the circumstances for putting an end to an industrial dispute.

The Hon'ble High Court of A.P. at Hyderabad while dealing with a suit filed by the plaintiffs for injunction simplicitor also examined the scheme of A.P. Charitable and Hindu Religious Institutions and Endowment Act, 1987 in ***Attada Gangu Naidu and Anr Vs. Deepala Chandramouli and Ors reported in (2011) 5 ALD 770.*** The court while deciding the above issue held that the authorities under the above Act are empowered to remove any encroachments or unauthorised occupations of endowment lands. Section 151 of the Act lays down that no suit or legal proceeding for redressal of a dispute shall be instituted in any court of law except under and in conformity with the provisions of the Act. Section 84(2) contemplates a situation where a party aggrieved by a direction of removal of encroachment can file a suit. It

provides for filing the suit by a person aggrieved only on the ground that the charitable and religious institution or endowment has no title to the property in dispute. If the plaintiffs assert that the property is that of their own and file a suit against the archakas or authorities of the temple, they have to necessarily make a mention in their plaint as to why the authorities of the temple or the archakas as the case may be, are interfering with their possession. If their case is that such interference is on the footing that the suit land belongs to the temple, they have to invariably seek the relief of declaration of title.

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 :-

There is an express bar on jurisdiction of civil court under this enactment by virtue of section 13 and 34. The apex court in ***Authorized Officer, State Bank of India Vs. Allwyn Alloys Pvt Ltd and Others reported in (2018) 8 SCC 120*** held that no civil suit is maintainable in respect of a matter which the DRT or DRAT is empowered to determine and further held that mandate of section 13 and in particular section 34 bars filing of a civil suit and no civil court can exercise jurisdiction to entertain any suit or proceeding in respect of any matter which DRT or DRAT is empowered by or under the 2002 Act to determine and further no injunction can be granted by any court or authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the 2002 Act.

The Supreme Court in ***Electrosteel Castings Ltd Vs. UV Asset Reconstruction Company Ltd and Others reported in (2022) 2 SCC 573*** dealt with a civil suit challenging possession notice given by assignee of secured debt in question claiming to be secured creditor vis-a-vis appellant – plaintiff guarantor of loan in question. The court held that suit is not maintainable on the mere allegation of fraud without material particulars of fraud as required in terms of O.6 R4 CPC. The court further held that proper forum for challenging the proceedings under section 13 of SARFAESI Act is DRT under section 17 of the Act as opposed to by a civil suit. It was further held that DRT has sufficient jurisdiction under section 17 to consider whether respondent was a secured creditor so far as the appellant is

concerned and whether there was no amount due and payable by the plaintiff-appellant to the respondent.

In light of the above mentioned decisions regarding the aspect of bar of jurisdiction of civil courts, the following general conclusions arise:[21]

- A civil court has the authority to hear any civil lawsuits unless its recognition is openly or implausibly denied.
- Consent cannot grant or revoke a court's jurisdiction.
- The court's judgement may be contested at any point during the procedures.
- Each court has the inherent authority to determine the issue of its own jurisdiction.
- A court's jurisdiction is determined by the allegations presented in a plaint, not by the defense in a written statement.
- The substance of a matter, not its form, will determine the court's jurisdiction.
- Every presumption should be in favour of a civil court's jurisdiction.
- A statute removing a court's jurisdiction must be carefully drafted.
- The burden of proof for denying a court's jurisdiction rests with the party making the claim.
- Even in cases when a civil court's jurisdiction is denied, it can nonetheless determine whether an Act's requirements have been followed or whether an order was made beyond the bounds of the law.

CONCLUSION

The basic principle underlying section 9 CPC that civil courts have jurisdiction over all suits of civil nature, unless barred, will remain a crucial aspect in the legal landscape of our country. The practical application of Section 9 of CPC can often be tricky, especially when there is ambiguity regarding whether a particular suit is of a civil nature or whether it falls under an expressly or impliedly barred category. Section 9 of the CPC serves as a cornerstone for the Indian legal system. It ensures that individuals have a clear and accessible legal avenue for the resolution of civil disputes. The section also promotes judicial efficiency by clarifying which matters are under the jurisdiction of civil courts and which may fall outside their scope. When determining whether a particular suit falls within the jurisdiction of a civil court under Section 9 of CPC, the factors that must be considered are two fold,

21 https://www.juscorpus.com/critical-analysis-of-section-9-of-civil-procedure-code-1908/

firstly is the dispute civil in nature, involving legal rights that a civil court can enforce and secondly, does any specific law bar civil court jurisdiction for this matter. Understanding these factors is critical for both litigants and lawyers, as filing a case in the wrong forum can lead to delays, unnecessary costs, and procedural complications. Civil court has jurisdiction to examine whether tribunal or quasi-judicial bodies or statutory authority acted within their jurisdiction. Also, if there arises a question pertaining to jurisdiction of a civil court in entertaining a matter, every presumption has to be made in favour of the jurisdiction of a civil court unless the relevant statute expressly provides to that effect. The burden of proof lays on the party who seeks to oust the jurisdiction of a civil court. Where such a contention is raised, it has to be determined in the light of words of the statute, scheme of provisions as well as the object and purpose of the enactment.