

CHAPTER 2

Jurisdiction

Part A

JURISDICTION OF CIVIL COURTS

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 of Civil Procedure the 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 District Judge and Subordinate Judge of the 1st class have jurisdiction to hear suits without any limits as to their value. In the case of Subordinate Judges of a power 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 thereunder.

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.)

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 Causes Courts Act—When a Court of Small Causes under the Provincial Small Causes 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 Causes 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 such 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.

Part B
JURISDICTION OF CIVIL AND REVENUE COURTS

1. Matter raised in defence which is solely triable by Revenue Court—If in a suit which, as framed, is within jurisdiction of a Civil Court, a defendant raises a plea with respect to a matter which can be taken cognizance of only by a Revenue Court the procedure laid down in the proviso to sub-section (3) of Section 77 of the Punjab Tenancy Act must be followed and the plaint returned for presentation to the Collector.

2. Suit for correction of entries in Revenue records—A civil suit will not lie for the correction of an entry in a Record of Rights, or Annual Record under Section 158(2)(vi). Any person, however, considering himself aggrieved as to any right of which he is in possession by such an entry may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877 (*Vide* Section 45 of Punjab Land Revenue Act).

3. Question of title arising in land partition proceedings before Revenue Officers—A Civil Court can only entertain a suit relating to a dispute as to title in revenue-assessed land arising in partition proceedings when a Revenue Officer declines to determine the question himself as though he were a Civil Court and refuses to proceed to partition until the question is determined by a competent Court. The plaint should therefore, refer to the order of the Revenue Officer, made under Section 117, sub-section (1), of the Punjab Land Revenue Act, 1887, and the Civil Court should satisfy itself that an order giving it jurisdiction has been so made. A copy of such order accompany to plaint.

4. Reference to Civil Court by Revenue Court—Section 98 of the Punjab Tenancy Act, 1887, contains a provision empowering a Revenue Court to refer any party to a Civil suit for settlement of any question which the Revenue Court considers proper for decision by a Civil Court. Such reference must be by an order in writing, and such order must have the previous sanction of the Controlling Revenue Court, if any.

5. Reference to High Court in cases of doubt as to jurisdiction of Civil or Revenue Court—Provision has been made for the disposal by reference to the High Court of cases in which doubts may arise as to whether the Civil or Revenue Courts have jurisdiction, and for the registration in

the proper Court of decrees passed under a misapprehension as to jurisdiction by either a Revenue or a Civil Court. These provisions will be found in Sections 99 and 100 of the Punjab Tenancy Act. The rules under this head will be found in Chapter 15, References to the High Court.

6. Succession to occupancy holding—Suits relating to succession to occupancy holdings, under Section 59 of the Punjab Tenancy Act, lie in the Civil Courts.

7. Hadd-Shikni cases—Hadd-Shikni cases are triable by Civil Courts. Section 158, sub-section 2(1) of Punjab Land Revenue Act of 1887 does not apply to such cases. That section merely means that a Civil Court is not competent to question the decision of a Revenue Officer as to the delimitation, for the purposes of the Punjab Land Revenue Act, of land which is occupied as the site of a town or village and is not assessed to land revenue.