

Place of Suing :

Sec. 15 – 21 (A) of CPC

Presentation by:

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Introduction:

Class of Suits

Jurisdiction of Court

Jurisdiction of Court and variety of restrictions

Determination of jurisdiction: Venue of Trial and selection of Forum

Section 15:

Court in which suits to be instituted.—

"Every suit shall be instituted in the Court of the lowest grade competent to try it".



Pecuniary Jurisdiction:

- Nature and Scope of provision-
- Rule laid down in the section is a rule of procedure and does not affect the jurisdiction of court.
- Irregular exercise of jurisdiction and section 99 of the Code

Object:

To see that the courts of higher grades shall not be overburdened with suits; and

To afford convenience to the parties and witnesses who may be examined in such suits.

Mode of Valuation:

Prima facie – plaintiff's valuation determines jurisdiction of court

Not the amount for which ultimately the decree may be passed by the court

Power and Duty of the Court

Usual acceptance of valuation

No liberty to value arbitrarily

Overvalue

Undervalue

Objective standard of valuation

Interference of the Court

Acceptance of valuation- unable to come to a finding regarding correct valuation

Territorial Jurisdiction: *Types of Suits : four class*

1. suits in respect of immovable property
2. suits for movable property
3. Suits for compensation for wrong
4. Other suits

Immovable Property:
Sec. 16 – 18

Sec. 16:

Suits to be instituted where subject-matter situate.—

Subject to the pecuniary or other limitations prescribed by any law, suits—

- (a) for the recovery of immovable property with or without rent or profits,
- (b) for the partition of immovable property,
- (c) for foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property,

Conti...

- (d) or the determination of any other right to or interest in immovable property,
- (e) for compensation for wrong to immovable property,
- (f) for the recovery of movable property actually under distraint or attachment,
- shall be instituted in the Court within the local limits of whose jurisdiction the property is situate:

Cont...

- Provided that a suit to obtain relief respecting, or compensation for wrong to, immovable property held by or on behalf of the defendant may, where the relief sought can be entirely obtained through his personal obedience, be instituted either in the Court within the local limits of whose jurisdiction the property is situate, or in the Court within the local limits of whose jurisdiction the defendant actually and voluntarily resides, or carries on business, or personally works for gain.
- Explanation.—In this section “property” means property situate in [India].

Section – 17: Suits for immovable property situate within jurisdiction of different Courts.—

Where a suit is to obtain relief respecting, or compensation for wrong to, immovable property situate within the jurisdiction of different Courts.

the suit may be instituted in any Court within the local limits of whose jurisdiction any portion of the property is situate :

Provided that, in respect of the value of the subject-matter of the suit, the entire claim is cognizable by such Court.

Section 18: Place of Institution of suit where local limits of jurisdiction of Courts are uncertain.—

(1) Where it is alleged to be uncertain within the local limits of the jurisdiction of which of two or more Courts any immovable property is situate,

any one of those Courts may, if satisfied that there is ground for the alleged uncertainty,

record a statement to that effect and thereupon proceed to entertain and dispose of any suit relating to that property, and

its decree in the suit shall have the same effect as if the property were situate within the local limits of its jurisdiction:

Cont...

- Provided that the suit is one with respect to which the Court is competent as regards the nature and value of the suit to exercise jurisdiction.
- (2) Where a statement has not been recorded under sub-section (1), and an objection is taken before an Appellate or Revisional Court that a decree or order in a suit relating to such property was made by a Court not having jurisdiction where the property is situate, the Appellate or Revisional Court shall not allow the objection unless in its opinion there was, at the time of the institution of the suit, no reasonable ground for uncertainty as to the court having jurisdiction with respect thereto and there has been a consequent failure of justice.

Section –19: Suits for compensation for wrongs to person or movables.

- Where a suit is for compensation for wrong done to the person or to movable property,
- if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides,
- or carries on business,
- or personally works for gain,
- within the local limits of the jurisdiction of another Court,

Conti...

the suit may be instituted at the option of the plaintiff in either of the said Courts.

Illustrations (a) A, residing in Delhi, beats B in Calcutta. B may sue A either in Calcutta or in Delhi. (b) A, residing in Delhi, publishes in Calcutta statements defamatory of B. B may sue A either in Calcutta or in Delhi.

Section – 20: Other suits to be instituted where defendants reside, or cause of action arises.—

- Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction— (
 - a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or
 - (b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided

Conti...

- that in such case either the leave of the Court is given, or the defendants who do not reside, or carry-on business, or personally works for gain, as aforesaid, acquiesce in such institution; or
- (c) The cause of action, wholly or in part, arises.
- [Explanation].—A corporation shall be deemed to carry on business at its sole or principal office in [India] or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Illustrations:

- (a) A is a tradesman in Calcutta, B carries on business in Delhi. B, by his agent in Calcutta, buys goods of A and requests A to deliver them to the East Indian Railway Company. A delivers the goods accordingly in Calcutta. A may sue B for the price of the goods either in Calcutta, where the cause of action has arisen, or in Delhi, where B carries on business.

Illustration:

- (b) A resides at Simla, B at Calcutta and C at Delhi. A, B and C being together at Benaras, B and C make a joint promissory note payable on demand, and deliver it to A. A may sue B and C at Benaras, where the cause of action arose. He may also sue them at Calcutta, where B resides, or at Delhi, where C resides; but in each of these cases, if the non-resident defendant objects, the suit cannot proceed without the leave of the Court.

Section – 21: Objections to jurisdiction. —

- [(1)] No objection as to the place of suing shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice.
- [(2)] No objection as to the competence of a Court with reference to the pecuniary limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity, and, in all cases where issues are settled, at or before such settlement, and unless there has been a consequent failure of justice.
- (3) No objection as to the competence of the executing Court with reference to the local limits of its jurisdiction shall be allowed by any Appellate or Revisional Court unless such objection was taken in the executing Court at the earliest possible opportunity, and unless there has been a consequent failure of justice.]

Section - 21 (A): Bar on suit to set aside decree on objection as to place of suing -

- No suit shall lie challenging the validity of a decree passed in a former suit between the same parties, or between the parties under whom they or any of them claim, litigating under the same title, on any ground based on an objection as to the place of suing.
- Explanation.—The expression “former suit” means a suit which has been decided prior to the decision in the suit in which the validity of the decree is questioned, whether the previously decided suit was instituted prior to the suit in which the validity of such decree is questioned.