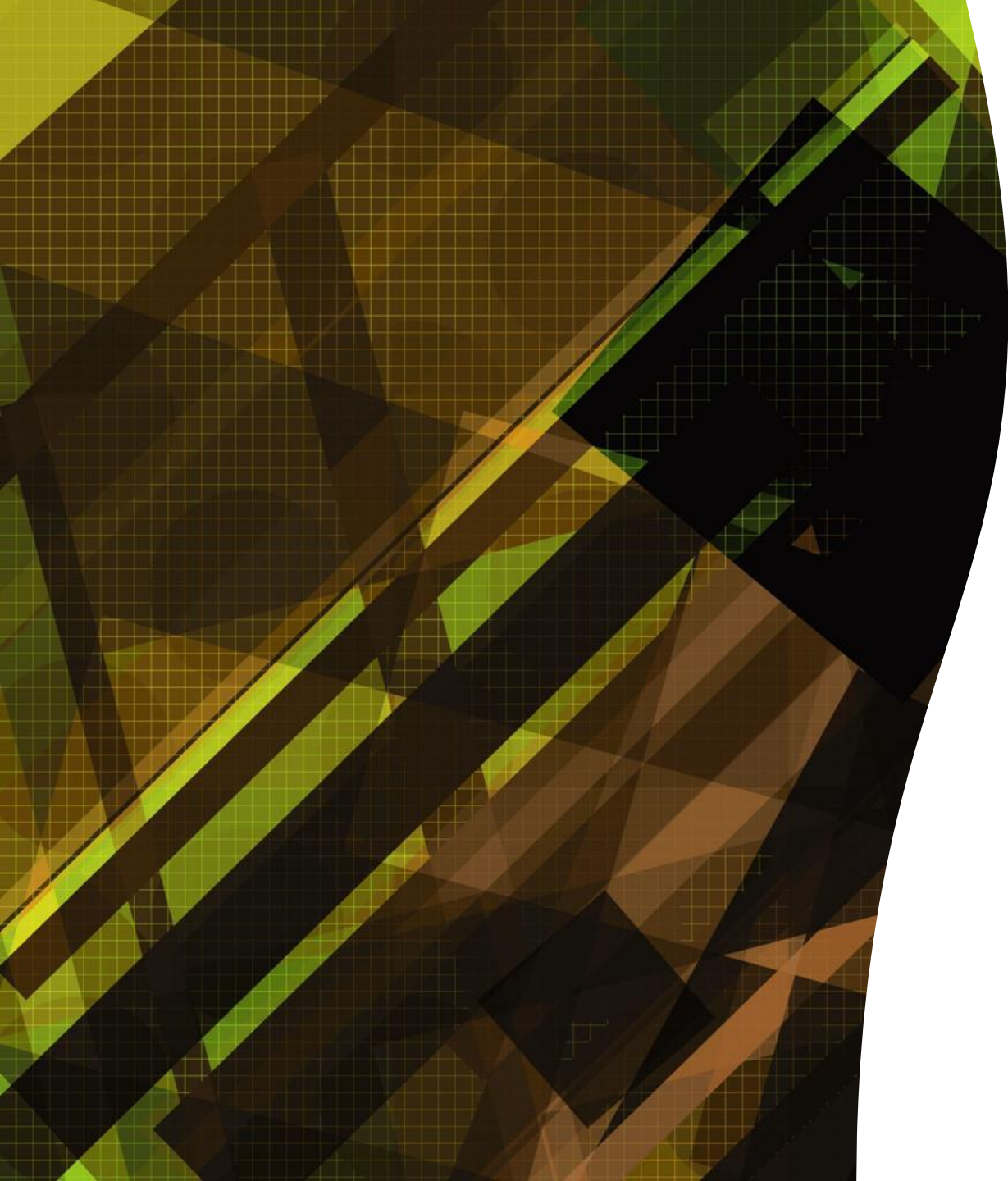




Jurisdiction of Civil Court

U/S 9 of Code of Civil Procedure

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Synopsis:

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 - Basis of jurisdiction
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 4. Jurisdiction as to subject matter
 5. Concurrent and exclusive jurisdiction

Synopsis:

- Jurisdiction of Civil Court
 - Section 9
 - Conditions
 - Suit of Civil nature
 - Cognizance not barred
 - Who may decide
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- Presumption as to jurisdiction
 - Burden of proof
 - Objections
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Introduction:

Fundamental principle of English law : where there is a right there is a remedy

Ubi jus ibi remedium

Two sides of same coin

Meaning of jurisdiction: juris and dicto – mean I speak by the law,

Power or authority of court to hear and determine the cause

Mean extent of authority which a court has to decide matters that are litigated before it.

Jurisdiction and consent:

- Inherent jurisdiction: pros and cons
- Consent cannot confer nor take away jurisdiction of court
- Role of legislature
- Acquiescence, waiver, estoppel.
- Agreement to oust jurisdiction is null and void and against public policy
- *(ex dolo malo non oritur actio)*
- Concurrent jurisdiction and role of parties : agreement of parties to select forum

Lack of jurisdiction and irregular exercise of jurisdiction

A court has jurisdiction to decide wrong as well as right – Lord Hobhouse said

Inherent lack of jurisdiction – nullity

Irregular exercise of jurisdiction – can be remedied in appeal or revision and when there is no such remedy, decision is final.



Basis to determine jurisdiction:

- Well settled law
- Normally, averment made in the plaint are material, and
- Not by the defendant in his written statement
- *Abdulla Bin Ali v. Galappa, 1985 SC 577*
- Suit for declaration of title and for possession and mesne profit treating the defendant as trespasser. Defendant contended that the civil court has no jurisdiction since he was a tenant.

Decision as to jurisdiction:



Whether a court has jurisdiction or not has to be decided with reference to the initial assumption of jurisdiction by that court.



Court not depend on truth or falsehood of the facts - Court has to enquire in to the facts



Upon their nature and it is determinable at the commencement, not at the conclusion.

Kinds of jurisdiction:

- Civil and criminal
- Territorial or local
- Pecuniary
- Jurisdiction as to subject matter
- Exclusive and concurrent
- Original and appellate, etc.

Jurisdiction of Civil Court : Sec. 9 of CPC

- Under the Code of Civil Procedure, a civil court has jurisdiction to try all suits of a civil nature unless they are barred.
- Sec. 9 of the Code read as under;
- **Section–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 1.—As suit in which the right to property or to an office is contested is a suit of a civil nature, notwithstanding that such right may depend entirely on the decision of questions as to religious rites or ceremonies.

Explanation II—For the purposes of this section, it is immaterial whether or not any fees are attached to the office referred to in Explanation I or whether or not such office is attached to a particular place.

2) Notwithstanding anything contained in Sub-section (1), at the hearing of any such application, the Court may grant such interim relief as it may consider necessary, pending determination by it of the preliminary issue as to be jurisdiction.” – Maharashtra Act (65 of 1977) (wet. 19-12-1977).

Conditions:

- Two conditions are fulfilled-
 1. the suit must be of a civil nature; and
 2. the cognizance of such a suit should not have been expressly or impliedly barred.



Thank You