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Commercial Courts: Contours of Jurisdiction

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2

CONTOURS OF JURISDICTION

- **Section 6 - Jurisdiction of Commercial Court**

The Commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.

Explanation.-- For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908).

COMMERCIAL DISPUTE

- A 'Commercial Dispute' has been defined in an wide manner in Section 2(c) of the Act. The list is exhaustive.
- Further, a Commercial Dispute would not cease to be one merely because:
 - It involves action for recovery of immovable property, or for realization of monies out of immovable property given as security, or any other relief involving immovable property;
 - One of the contracting parties is the State or its agencies or instrumentalities, or a private body carrying out public functions.

SPECIFIED VALUE – UNIFORMITY ACROSS ALL STATES

- The Act stipulates a uniform pecuniary value of Rupees One (1) Crore.
- Recognizing the need to bring consonance between the pecuniary jurisdiction of various High Courts having original jurisdiction, the Law Commission of India, in its 253rd Report had recommended that:

"....Pecuniary jurisdiction of the High Courts having original jurisdiction to be raised uniformly to rupees one crore and commercial divisions should be set up only when the pecuniary jurisdiction has been so raised. Consequently, commercial divisions may be set up in Delhi, Himachal Pradesh, and Madras High Courts once the pecuniary jurisdiction is raised to rupees one crore...."

DETERMINATION OF SPECIFIED VALUE

- The Specified Value shall be determined in the following manner:
 - In cases for recovery of money: the money sought to be recovered, including the interest, if any, computed up to the date of filing
 - In cases relating to moveable property: the market value of the moveable property as on date of filing
 - In cases relating to immovable property: the market value of the immovable property as on date of filing
 - In cases of any other tangible right: the market value of the said right as estimated by the Plaintiff
 - In cases of a Counter-Claim: the value of the subject matter of the Counter-Claim

JURISDICTION OF COMMERCIAL DIVISIONS OF HIGH COURTS

- Suits and applications relating to commercial disputes of a specified value filed before High Courts having ordinary original civil jurisdiction shall be heard and disposed of by the commercial division of that High Court.
- Provided that all suits and applications relating to commercial disputes, stipulated by an Act to lie in a court not inferior to a District Court, and filed or pending on the original side of the High Court, shall be heard and disposed of by the Commercial Division of the High Court.
- Further, all suits and applications transferred to the High Court by virtue of Section 22(4) of the Designs Act, 2000 or Section 104 of the Patents Act, 1970 shall be heard and disposed of by the Commercial Division of the High Court.

BAR AGAINST REVISION APPLICATIONS OR PETITIONS AGAINST INTERLOCUTORY ORDERS

- No civil revision application or petition shall be entertained against any interlocutory order of a Commercial Court, including an order on the issue of jurisdiction, and any such challenge.
- Such grievance shall be raised only in an appeal against the decree of the Commercial Court under Section 13 of the Act.
- As per the 253rd Law Commission Report, the purpose here is to prevent the time frames stipulated for case management hearing from becoming redundant by the frequent filing of civil revision applications and petitions against every interlocutory order. By removing a potential source of bottleneck of cases, the Act seeks to ensure expedited disposal of cases.

TRANSFER OF SUITS IF COUNTERCLAIM IN A COMMERCIAL DISPUTE IS OF SPECIFIED VALUE

- In the event a Counter Claim is filed in a suit before a civil court relating to a commercial dispute, the same shall be transferred to the commercial division or Commercial Court having territorial jurisdiction over the suit.
- In an event the suit is not transferred, the Commercial Appellate Division exercising supervisory jurisdiction over the Civil Court in question may, on an application by any one of the parties, withdraw such suit pending before the Civil Court and transfer the same to a Commercial Court or Commercial Division. Such order of transfer shall be final and binding.

JURISDICTION IN RESPECT OF ARBITRATION MATTERS

- Where the subject matter of an arbitration is a commercial dispute of a Specified Value, then:
 - If such arbitration is an international commercial arbitration: all applications or appeals arising out of such arbitration that have been filed in a High Court shall be heard and disposed of by the Commercial Division.

JURISDICTION IN RESPECT OF ARBITRATION MATTERS

- If such arbitration is other than an international commercial arbitration: all applications or appeals arising out of such arbitration that have been filed on the original side of the High Court shall be heard and disposed of by the Commercial Division where a Commercial Division is constituted; or before any principal Civil Court of original jurisdiction in a district (not being a High Court) and shall be filed, heard and disposed of by the Commercial Court exercising territorial jurisdiction over such arbitration where such Commercial Court has been constituted.
- Additionally, the aggregate value of the claim and counter-claim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court.

BAR OF JURISDICTION

- A Commercial Court or a Commercial Division shall not entertain or decide any suit, application or proceedings relating to any commercial dispute in respect of which the jurisdiction of the Civil Court is either expressly or impliedly barred under any other law for the time being in force.

THANK YOU

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