

# **Jurisdiction of Civil Courts**

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1. **Bengal, Agra & Assam Civil Courts Act, 1887 & Composition of Civil Courts**--- According to Sec. 3 of the Bengal, Agra & Assam Civil Courts Act, 1887 and Sec. 2(4) of the Code of Civil Procedure, 1908, there are the following classes of Civil Courts in India. As regards the nomenclature of Civil Courts of various levels, a three Judge Bench of the Supreme Court, in the matter of **All India Judges' Association & others vs. Union of India & others, (2002) 4 SCC 247**, by partial modification of the report given by Justice K.J. Shetty, the Chairman of First National Judicial Pay Commission, has held on 21.3.2002 that it would be more appropriate for each State, taking into consideration the local requirements, to adopt appropriate nomenclatures of courts in their States. However in the State of U.P. the Civil Courts of various levels are known with the following nomenclatures----

- (1) High Court
- (2) Court of the District Judge
- (3) Court of the Additional District Judges
- (4) Court of Civil Judge (Senior Division)
- (5) Court of Additional Civil Judges (Senior Division)
- (6) Court of Civil Judge (Junior Division)
- (7) Court of Addl. Civil Judges (Junior Division)

2. **Oudh Courts Act, 1925 (Repealed vide U.P. Act No. 2 of 1956 w.e.f. 11.1.1956)**--- Prior to the amendments and repeal of the provisions under Oudh Courts Act, 1925, the various levels of Civil Courts used to be governed by the provisions contained under the Bengal, Agra & Assam Civil Courts Act, 1887. With the repeal and amendments of the Oudh Courts Act, 1925 now only the

Bengal, Agra & Assam Civil Courts Act, 1887 is applicable to the Civil Courts of various levels in the State of U.P.

**3.1 “Jurisdiction”:** Meaning of?: Jurisdiction generally means an authority of law to entertain, hear and determine a matter. It is the power to decide rightly or wrongly. See: **Nusli Neville Wadia Vs. Ivory Properties, (2020) 6 SCC 557 (Three- Judge Bench)**

**3.2 “District Court” & its jurisdiction (Sec. 2 (4) CPC)---** “District” means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction (hereinafter called a “District Court”), and includes the local limits of the ordinary original civil jurisdiction of a High Court.

**4. Different sorts of jurisdictions of Civil Courts---** The Civil Courts have jurisdictions of the following sorts---

- (i) Local jurisdiction [Sec. 2(4) CPC]
- (ii) Pecuniary jurisdiction (Sec. 6 CPC)
- (iii) Jurisdiction over subject matter (Sec. 16 CPC)
- (iv) Special jurisdiction if conferred (Sec. 4 CPC)
- (v) Statutory bars regarding jurisdictions

**5(A). Extent of jurisdiction of Civil Court u/s. 9 CPC---** A civil court has jurisdiction u/s. 9 CPC to try all suits of civil nature unless expressly or impliedly barred. The jurisdiction of civil court u/s. 9 CPC is very expansive and the statute which excludes such jurisdiction should be strictly interpreted. See---

- 1. Sahebgouda vs. Ogeppa, (2003) 6 SCC 151**
- 2. Dhruv Green Field Ltd. vs. Hukam Singh, (2002) 6 SCC 416**

**5 (B). Relief not claimed in plaint not to be granted:** A relief larger than the one claimed by plaintiff in the suit cannot be granted by court. It is not

open to the court to grant a relief to the plaintiff on a case for which there is no basis in the pleadings. See:

- (i) Meena Chaudhary Vs. Commissioner of Delhi Police, (2015) 2 SCC 156.
- (ii) Rajendra Tewary vs. Basudeo Prasad, 2002 (46) ALR 222 (SC)
- (iii). Om Prakash Vs. Ram Kumar, (1991) 1 SCC 441 (Para 4).
- (iii).Srinivas Ram Kumar Vs. Mahabir Prasad, AIR 1951 SC 177 (Three-Judge Bench)
- (iv). M. Siddiq (Ram Janmabhumi Temple Vs. Suresh Das, (2020) 1 SCC 1 at pages 737 & 738 (Para 1228) ( Five-Judge Bench).
- (v). Venkataramana Devaru Vs. State of Mysore, AIR 1958 SC 255 ( Five-Judge Bench) ( Para 14).

6. **Onus on party seeking ouster of jurisdiction**--- Onus lies on party seeking ouster of civil courts jurisdiction u/s. 9 CPC. See--- **Sahebgouda vs. Ogeppa, (2003) 6 SCC 151**

7. **Test to decide jurisdiction**--- (A) Exclusion of jurisdiction of civil court should not be readily inferred. The tests to be applied to decide whether or not the civil court has jurisdiction are as under---

- (i) Is legislative intention of excluding jurisdiction of civil court explicit or clear by necessary implication
  - (ii) Does the statute provide adequate remedy in case of grievance against the order made under the statute. See--- **State of A.P. vs. Manjeti Laxmi Kantha Rao, (2000) 3 SCC 689**
- (B) Test as to whether the civil court has jurisdiction u/s. 9 CPC is of competence of the civil court to take decision. See--- **Pankaj Bhargava vs. Mohinder Nath, (1991) 1 SCC 556**

**8. Principles governing the exclusion of jurisdiction of civil courts**--- The Supreme Court has laid down following principles for determining the question of ouster of jurisdiction of civil courts---

(1) Where the statute given 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.

(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 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 questions 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. See---

1. **Church of North India vs. Lavajibhai Ratanjibhai, (2005) 10 SCC 760**

2. **Dhulabhai vs. State of M.P., AIR 1969 SC 78**

9. **Alternative remedy & jurisdiction of Civil Court u/s. 9 CPC**--- Bar of jurisdiction of civil court u/s. 9 CPC cannot be inferred unless alternative remedy is provided. Where there is no express bar but statutory provisions imply exclusion of jurisdiction, such exclusion still cannot be inferred unless the statute also provides an adequate and efficacious alternative remedy. See--- **Dhruv Green Field Ltd. vs. Hukam Singh, (2002) 6 SCC 416**

10. **Jurisdiction of Civil Court u/s. 9 CPC vis-à-vis other statutes**--- For ouster of civil court's jurisdiction u/s. 9 CPC, the facts and circumstances necessary for filing action under that statute must have arisen on the date of intended filing of the suit. See--- **Ishar Singh vs. National Fertilizers, 1991 SCC 649 (Three Judge Bench)**

11. **When only part of the reliefs maintainable in civil court**--- If for part of the reliefs, the suit is maintainable in the forum where it has been laid, it is not open to the forum to shut out its doors to the suitor (It was a case of back wages and correction of date of birth and the suit was held maintainable in civil court). See--- **Ishar Singh vs. National Fertilizers, 1991 SCC 649 (Three Judge Bench)**

12. **Civil Court when to have jurisdiction u/s. 9 CPC despite express or implied bar of jurisdiction**--- A civil court would have jurisdiction u/s. 9 CPC despite express or implied bar if the order or action complained of is a nullity. But if the order is

**illegal** but not a **nullity**, jurisdiction of civil court would remain barred. Civil Courts jurisdiction u/s. 9 CPC is open where action taken by the authority is without jurisdiction under any Act. See---

1. **Dhruv Green Field Ltd. vs. Hukam Singh, (2002) 6 SCC 416**

2. **Sardara Singh vs. Sardara Singh, (1990) 4 SCC 90 (Three Judge Bench).**

13. **Stage of raising plea against want of jurisdiction of Civil Court (Sec. 21 CPC)**--- Exclusion of civil courts jurisdiction is not to be readily inferred. Any objection as to exclusion of civil courts jurisdiction should be taken before the trial court and at the earliest otherwise in the absence of proof of prejudice, the higher court may refuse to entertain such a plea. See--- **Ramesh Chand vs. Anil Panjwani, (2003) 7 SCC 350.**

14. **Objection as to jurisdiction at the stage of hearing of the application for interim orders**--- Objection u/s. 9-A CPC regarding want of jurisdiction would not prevent the court from passing interim orders while decision on question of jurisdiction is pending if called for in the facts and circumstances of the case. See---

1. **Tayabhai M. Bhagasarwalla vs. Hind Rubber Industries Pvt. Ltd., (1997) 3 SCC 443**

2. **Prithavi Nath Ram vs. State of Jharkhand, (2004) 7 SCC 261**

3. **1998 (2) JCLR 972 All.**

15. **Violation of interim injunction order & jurisdiction to punish the contemnor u/o. 39, rule 2-A CPC**--- (A) Any violation of interim injunction issued by the court prior to the decision regarding jurisdiction would render the defendant liable to be punished u/o. 39, rule 2-A CPC. See---

1. **Tayabhai M. Bhagasarwalla vs. Hind Rubber Industries Pvt. Ltd., (1997) 3 SCC 443**

2. **Prithavi Nath Ram vs. State of Jharkhand, (2004) 7 SCC 261**

(B) **Merits of the case not to be discussed when court has no jurisdiction**--- It is settled law that once court holds that it has no jurisdiction in the matter, it should not consider the merits of the matter. See--- **Jagraj Singh vs. Birpal Kaur, AIR . SC 2083.**

16. **Pecuniary Jurisdiction of Civil Court in Uttar Pradesh w.e.f. 05.02.2016: Vide Uttar Pradesh Civil Laws (Amendment) Act, 2015 read with Notification No. 35/IVg-27, Allahabad: Dated 05.2.2016 of the Allahabad High Court, different**



Sections of the Bengal, Agra and Assam Civil Courts Act, 1887 have been amended by the State Legislature of Uttar Pradesh. After the said amendments, pecuniary jurisdiction of different Civil Courts of the District Judiciary w.e.f. 05.02.2016 for different types of proceedings is as under:

| Sl. No. | Name of Court   | Nature of Case | Pecuniary Jurisdiction |
|---------|---|----------------|------------------------|
| 1.      | District Judge  | Appeal         | Twenty Five Lakh       |
| 2.      | District Judge  | Revision       | Five Lakh              |
| 3.      | Civil Judge (Senior Division)   | Civil Suit     | Unlimited              |
| 4.      | Civil Judge (Junior Division) – Parent Court having seniority exceeding three years | Civil Suit     | Five Lakh              |
| 5.      | Addl. Civil Judge (Junior Division)   | Civil Suit     | One Lakh               |
| 6.      | Judge, Small Causes Court   | SCC Suit       | One Lakh               |
| 7.      | Judge, Small Causes Court   | Money Suit     | Twenty Five Thousand   |

**17. Relevant C.L./Notification of the Allahabad High Court enhancing the appellate jurisdiction of the District Judges: See below:**

Allahabad High Court Notification  
No. 35/IVg-27, Dated: Allahabad: 05.02.2016

In exercise of the powers conferred by Sub-Section 1(b) of Section 21 of the **Bengal, Agra and Assam Civil Courts Act, 1887** as amended by the Uttar Pradesh Civil Laws (Amendment) Act, 2015 (UP Act No. 14 of 2015), the High Court is pleased to direct that an appeal from a decree or order of a Civil Judge where the value of the original suit in which, or in any proceeding arising out of which the decree or order was or is made, whether instituted or commenced before or after the date of publication of this notification in Official Gazettee did not or does not exceed twenty five lakhs rupees for purposes of filing appeals shall lie to the District Judges.

By order of the Court,  
(Sheo Kumar Singh-I)  
Registrar General

**18. Pecuniary jurisdiction when raised due to amendment---** If the pecuniary jurisdiction of the court is raised because of amendment in valuation clause of the

plaint, the court must return the plaint for presentation to proper court u/o. 7, rule 10 CPC having pecuniary jurisdiction even if higher court fee is paid by the plaintiff. See-- **Devendra Singh vs. Bhole Ram, AIR 1991 All 157**

**19. No implied ouster of jurisdiction of Civil Court**--- A court which would otherwise have jurisdiction in respect of the subject matter concerned, ouster of jurisdiction cannot be implied. Ouster must be express. See---

1. **Bhatia International vs. Bulk Trading S.A., (2002) 4 SCC 105 (Three Judge Bench)**
2. **Church of North India vs. Lavajibhai Ratanjibhai, (2005) 10 SCC 760**

**20(A). Stage of rejection of plaint under Order 7, rule 11 CPC**--- (A) If the suit is barred by some law and is not maintainable, the provisions of Order 7, rule 11 CPC can be exercised both at the threshold of the proceedings, and in the absence of any statutory restriction, at any stage of the subsequent proceedings. However, preliminary objection regarding maintainability of the suit due to want of jurisdiction should be raised at the earliest, though the power of the court to consider the same at a subsequent stage is not taken away. See:

1. **Vithalbai (P) Ltd. vs. Union Bank of India, (2005) 4 SCC 315**
2. **Samar Singh vs. Kedar Nath, 1987 Suppl. SCC 663**

**20(B). Stage of rejecting plaint:** The provision of Order 7, rule 11 CPC is mandatory in nature. If the court finds that plaint does not disclose a cause of action or that the suit is barred by any law, the court has no option but to reject the plaint. The power under Order 7, rule 11 CPC may be exercised by the court at any stage of the suit, either before registering the plaint, or after issuing summons to the defendant, or before conclusion of the trial. The plea that once issues are framed, the suit must go to trial cannot be accepted. See: **Dahiben Vs. Arvindbhai Kalyanji Bhanusali, (2020) 7 SCC 366**

**20(C). Stage of rejecting plaint u/o 7, rule 11 CPC**--- Order 7, rule 11(d) CPC applies only where the statement as made in the plaint without any doubt or dispute shows that the suit is barred by any law in force. It does not apply in

case of any disputed question. Rejection of the plaint u/r. 11 does not preclude the plaintiff from presenting a fresh plaint in terms of rule 13. Or. 7, rule 11 is applicable at any stage of the suit subject to above position of law. Or. 7, rule 11 even casts a duty on the court to perform it's obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of rule 11 to Or. 7 CPC even without the intervention of the defendant. See---

1. **Popat and Kotecha Property vs. State Bank of India Staff Association, (2005) 7 SCC 510**
2. **Sopan Sukhdeo Sable vs. Asstt. Charity Commissioner, (2004) 3 SCC 137**
3. **Saleem Bhai vs. State of Maharashtra, (2003) 1 SCC 557**

**20(D-1).Limitation and rejection of plaint u/o 7, rule 11(d) CPC:** Plaint should be rejected by the court under Order 7, rule 11(d) CPC if it is barred by any law or law of limitation. See: **Dahiben Vs. Arvindbhai Kalyanji Bhanusali, (2020) 7 SCC 366.**

**20(D-2).If the court has no jurisdiction to entertain the suit, it cannot decide the issue of limitation on merits:** Question of limitation in no case can be said to be a question of jurisdiction of the court in the context of Section 9-A CPC. Issue of limitation , therefore, cannot be decided as a preliminary issue of jurisdiction u/s 9-A CPC. If the court has no jurisdiction to entertain the suit, it cannot decide the issue of limitation on merits. See: **Nusli Neville Wadia Vs. Ivory Properties, (2020) 6 SCC 557 (Three- Judge Bench)**

**20(E). Only averments in plaint can be considered for rejecting plaint u/o 7, rule 11 CPC:** Only averments in plaint can be considered for rejecting plaint under Order 7, rule 11 CPC. Any evidence and averments in written statement cannot be considered at this stage. : **Nusli Neville Wadia Vs. Ivory Properties, (2020) 6 SCC 557 (Three- Judge Bench)**

**20(F). Only a pure question of law, and not mixed question of law and fact, can be decided as a preliminary issue:** Under Order 14, rule 2 CPC, issues of law as to jurisdiction and bar to suit created by any law are to be decided as preliminary issues. Only a pure question of law and not mixed question of law and fact can be decided as a preliminary issue both u/s 9-A and Order 14, rule 2 CPC. Recording of evidence at that stage is impermissible. See: **Nusli Neville Wadia Vs. Ivory Properties, (2020) 6 SCC 557 (Three- Judge Bench)**

**20(G). Plea of want of jurisdiction should be raised at the time of obtaining leave u/s 92 of the CPC** to file the suit under Religious and Charitable Endowments Act, 1927. Such plea cannot be raised after leave to file the suit has been granted. The bar of suit u/s. 9 r/w. Or. 7, r. 11(d) CPC in determining jurisdiction of court is as existing on the date of institution of the suit or on the date on which suit comes up for hearing. If the court has jurisdiction to try the suit when it comes for disposal, it then cannot refuse to assume jurisdiction by reason of the fact that it had no jurisdiction to entertain it at the date of institution. See--- **Sudhir G. Angur vs. M. Sanjeev (2006) 1 SCC 141.**

**21. Consent, waiver or acquiescence & jurisdiction of Civil Courts**— No amount of consent, waiver or acquiescence can confer jurisdiction on a court which it inherently lacks or where none exists. See--- **Vithalbhai (P) Ltd. vs. Union Bank of India, (2005) 4 SCC 315.**

**22. Injunction suit in respect of agricultural land & jurisdiction of Civil Court**-- A recorded tenure holder under the provisions of UPZA & LR Act, 1950 having prima facie title over the agricultural land in his favour and being in possession, can file a civil suit seeking cancellation of void document /sale deed brought about through fraud and impersonation. In such a case the plaintiff need not file a suit for declaration of title before the revenue court as his title is not in doubt and the Civil Court could have jurisdiction to decide the suit of such tenure holder for cancellation and injunction. A suit by recorded tenure holder for cancellation of void document is not

barred u/s. 331 of the UPZA & LR Act, 1950 and the suit is maintainable u/s. 9 of the CPC. See---

1. **Shri Ram vs. 1<sup>st</sup> ADJ, (2001) 3 SCC 24**
2. **Chheda Singh vs. Town Area Committee, Akbarpur, (1999) 1 SCC 266 (Three-Judge Bench).**

**23. Sec. 229-B, 229-D, 331 of the UPZA & LR Act, 1950 & The Power of Civil Court to Grant Injunction---**

If the name of the plaintiff is not recorded as tenure holder of the agricultural land in the revenue records and question of declaration of title is involved, the jurisdiction of the civil court to entertain injunction suit and grant interim injunction would be barred u/s. 331 of the U.P. Zamindari Abolition & Land Reforms Act, 1951 as the civil court cannot direct for the expunction or correction of the entries in revenue records and the same can be done only by the revenue courts. The remedy of the plaintiff in respect of the agricultural land under such facts and circumstances would be a suit for declaration of title before the revenue court **u/s. 229-B of the UPZA & LR Act, 1951** and interim injunction can also be granted by the revenue court **u/s. 229-D** of the that Act. But where the name of the plaintiff is recorded in the revenue records as tenure holder of the agricultural land and no question of declaration of title is involved, the plaintiff can institute a suit in civil court for injunction against the defendant for restraining him from transferring the land, interfering with the possession of the plaintiff or demolishing any constructions etc. on such land or cutting trees etc. standing thereon. See---

1. **Kamla Shankar vs. IIIrd ADJ, Mirzapur, 1998(89) R.D. 484 (All)**
2. **Magan Lal Chaturvedi vs. District Judge, Mathura, 1998 ALJ 2323 (All)**
3. **Deokinandan vs. Surajpal, 1996 ALJ 144 (SC)**
4. **Tej Bhan Singh vs. II ADJ, Jaunpur, 1995 ALJ 109 (All)**
5. **Surya Narain Pandey vs. Addl. Civil Judge, Gyanpur, 1995 R.D. (H) 50 (All)**
6. **Jyoti Ram vs. District Judge, Saharanpur, 1995 RD 99 (All)**
7. **Tej Bhan Singh vs. IX ADJ, Jaunpur, 1994 R.D. 476 (All)**
8. **Indra Pal vs. Jagannath, 1993 ALJ 235 (All)**
9. **Bhagwat Prasad vs. Jitendra Narain, 1991 ALJ 971 (All)**
10. **Chandra Deo Pathak vs. Swami Nath Pathak, 1987 R.D. 51 (All)**
11. **Vijai Singh vs. 2<sup>nd</sup> ADJ, Bulandshahr, 1982 ALJ 725 (All)**
12. **1980 R.D. 32 (Summary of Cases-43) (All—L.B.)**
13. **Jai Singh vs. Hanumant Singh, 1979 ALJ 645 (All)**
14. **Kishori Lal vs. Shambhoo Nath, 1978 ALJ 1273 (All)**

15. **Parsottam vs. Narottam, 1970 ALJ 505 (All—D.B.)**

**24. Cancellation of sale deed & jurisdiction of Civil Court**--- A recorded tenure holder under the provisions of UPZA & LR Act, 1950 having prima facie title over the agricultural land in his favour and being in possession, can file a civil suit seeking cancellation of void document /sale deed brought about through fraud and impersonation. In such a case the plaintiff need not file a suit for declaration of title before the revenue court as his title is not in doubt and the Civil Court could have jurisdiction to decide the suit of such tenure holder for cancellation and injunction. A suit by recorded tenure holder for cancellation of void document is not barred u/s. 331 of the UPZA & LR Act, 1950 and the suit is maintainable u/s. 9 of the CPC. See---

1. **Shri Ram vs. 1<sup>st</sup> ADJ, (2001) 3 SCC 24**
2. **Chheda Singh vs. Town Area Committee, Akbarpur, (1999) 1 SCC 266 (Three Judge Bench)**
3. **Ram Padarath vs. 2<sup>nd</sup> ADJ, Sultanpur, 1989 AWC 290 (All—F.B.)**
4. **Kishori Prasad vs. 3<sup>rd</sup> ADJ, Varanasi, AIR 2003 All 58**

**25A. Jurisdiction of Civil Court in respect of incidental issues when the suit is barred u/s. 9 CPC**--- A Civil Court has no jurisdiction u/s. 9 CPC to decide an issue arising incidentally in a civil suit which is to be specifically decided by a competent authority under some Act. The Civil Court in such matter should refer the issue to that authority and dispose of the suit in accordance with the decision of the authority. See--  
- **G.S. Shinde vs. R.B. Joshi, (1979) 2 SCC 495**

**25B. Relief claimed in plaint but not discussed in judgment and not grated in writing must be deemed to have been declined:** Relief claimed in plaint but not discussed in judgment and not grated in writing must be deemed to have been declined. If a decree is silent as regards any relief claimed by the plaintiff in the plaint, Explanation V to Section 11 CPC declares that such relief must be treated as refused. See: **Yashwant Sinha Vs. CBI, (2020) 2 SCC 338( Three-Judge Bench).**

26. **Civil Court competent to decide its jurisdiction**--- A civil court is competent under CPC to decide its own jurisdiction. A civil court has powers to decide the preliminary issues as to the maintainability of the suit or the bar of resjudicata or estoppel. See--- **Thirumala Tirupati Devasthanams vs. Thallappakka Ananthacharyulu, (2003) 8 SCC 134.**

27. **Maintainability of the suit to be decided on the basis of pleadings and the reliefs claimed in the plaint**--- The question of maintainability of a suit can be decided on the basis of the averments contained in the plaint and the stated reliefs claimed in the plaint and not from the effect which the decree may cause. Defence plea taken in the written statement cannot be looked into for the purpose of deciding maintainability of the suit. See---

1. **Ramesh Chand vs. Anil Panjwani, (2003) 7 SCC 350**
2. **Saleem Bhai vs. State of Maharashtra, AIR 2003 SC 759**
3. **Ashok Kumar Srivastav vs. National Insurance Company Ltd., (1998) 4 SCC 361**
4. **M/s. Bharat Petroleum Corp. Ltd. vs. Smt. Parvati Devi, 1998 (32) ALR 149**
5. **T.Arvindandam vs. Satyapal, AIR 1977 SC 2421**

28. **Right to file suit u/s. 9 CPC is inherent right**--- Right of filing suit u/s. 9 CPC is an inherent right of a litigant while the right of appeal u/s. 96 & 100 of the CPC has to be conferred by statute. See--- **Shiv Shakti Coop. Housing Society vs. Swaraj Developers, (2003) 6 SCC 659**

29. **Civil, criminal & departmental proceedings to go on simultaneously**--- Civil liability will not cease merely because statute includes the same event under provisions dealing with criminal liability. See---

1. **State Bank of India vs. R.B. Sharma, (2004) 7 SCC 27**
2. **Kendriya Vidyalaya Sangathan vs. T. Srinivas, (2004) 7 SCC 442**
3. **Jiyajeerao Cotton Mills Ltd. vs. Madhya Pradesh Electricity Board, 1989 Supp (2) SCC 52.**

**30. Execution proceedings & plea of want of jurisdiction**--- In case of a decree being **“nullity” for want of jurisdiction** is patent on the face of the decree, then the executing court may take cognizance of the nullity, else normal rule will prevail that the executing court cannot go behind the decree. A decree suffering from illegality or irregularity of procedure cannot be termed as in-executable by the executing court. The remedy of the person aggrieved by such a decree is to have it set aside in a duly constituted legal proceeding or by a superior court failing which he must obey the command of the decree. See---

1. **Rafique Bibi vs. Sayed Walliuddeen, (2004) 1 SCC 287**

2. **Vasudeo vs. Rajabhai, (1970) 1 SCC 670.**

**31. Suit for cancellation of compromise decree lies before the court which recorded the compromise:** Suit for cancellation of compromise decree can be filed only before the court which passed the compromise decree. See: **Triloki Nath Singh Vs. Anirudh Singh, (2020) 6 SCC 629**

**32. Representative suit u/o 1, rule 8 CPC:** It is essential that there must be numerous persons having the same interest in a suit to be filed as a representative suit under Order 1, rule 8 CPC. Before a person can be allowed either to prosecute or defend a suit on behalf of others interested, specific permission of the court is mandated. Order 1, rule 8(2) CPC requires notice of the institution of the suit to be given to all persons interested, in the manner as directed or by advertisement. A person on whose behalf or for whose benefit the suit has been instituted or is being defended may apply to the court to be impleaded as party to the suit. Under sub-rule 4(4) to rule 8 of Order 1 CPC, no part of the claim in the suit can be abandoned and the suit cannot be withdrawn nor can a compromise, agreement or satisfaction be recorded unless notice has been furnished to all persons interested. See: **M. Siddiq (Ram Janmabhumi Temple) Vs. Suresh Das, (2020) 1 SCC 1( Five-Judge Bench) (Para 580).**



33. **Suit for eviction from wakf property lies in civil court u/s 9 CPC :**  
Suit for eviction from wakf property is tribal by civil court. Wakf Act does not provide determination of dispute of eviction by Wakf Tribunal. Civil Court u/s 9 CPC has jurisdiction to try such suit. See : **Faseela M. Vs. Munnerul Islam Madrasa Committee, 2014 (4) ALJ 22 (SC).**
34. **Civil suit and proceedings before executive Magistrate u/s 145 CrPC:** No party can be allowed to use the provisions of Section 145 CrPC for ulterior purposes or as a substitute for civil remedies. The jurisdiction and power of the civil court cannot in any manner be hampered. An executive Magistrate cannot decide a party's title or right to possession of the land. . See: **M. Siddiq (Ram Janmabhumi Temple) Vs. Suresh Das, (2020) 1 SCC 1( Five-Judge Bench) (Paras 293 to 298).**
35. **Jurisdiction of Civil Courts vis-à-vis Small Causes Court:** Dispute between landlord and tenant falls u/s 41 of the Presidency Small Cause Courts Act, 1882. Such dispute is liable to be decided by the Courts of Small Causes. Civil Court has no jurisdiction to adjudicate matter of counter claim and as such the plea of counter claim by the defendant was not maintainable. See:
1. **Mahadev Vs. Shree Krishna Woolen Mills Pvt. Ltd., AIR 2019 SC 913.**
  2. **Prabhudas Damodar Kotecha Vs. Manhabala Jeram Damodar, AIR 2013 SC 2959.**
  3. **Mansukhlal Dhanraj Jain Vs. Eknath Vithal Ogale, AIR 1995 SC 1102.**
36. **Pre-conditions for grant of permission to institute suit u/s 92 CPC:** Pre-conditions for grant of permission to institute a suit u/s 92 CPC are as under :

- (i). The Trust in question is created for public purposes of a charitable or religious nature
- (ii). There is a breach of Trust or a direction of court is necessary in the administration of such a Trust
- (iii). The relief claimed is one or the other of the reliefs as enumerated in Section 92 CPC. See: **Ashok Kumar Gupta Vs. Sitalaxmi Sahuwala Medical Trust, (2020) 4 SCC 321**

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