

UNIT – 1

Introduction Jurisdiction Res Judicata

Procedural Law • Jurisdiction • Sec 9 • Res Sub Judice • Res Judicata • Foreign Judgment • Place of Suits
• Transfer

Civil Procedure Code & Limitation Act – Expanded

Unit Overview

This expanded unit provides a detailed study of the Civil Procedure Code – its nature as procedural law, history, extent and application, the concept and kinds of jurisdiction, Section 9 (suits of civil nature), the doctrines of Res sub judice and Res judicata with conditions and exceptions, foreign judgments, place of suing, and transfer of cases. Landmark cases and practical points are included for exam and practice readiness.

LEARNING OBJECTIVES

What You Will Learn

01 Nature of CPC

Distinguish procedural and substantive law clearly

02 Jurisdiction

Master territorial, pecuniary and subject-matter jurisdiction

03 Section 9

Apply the test of civil nature and bars on suits

04 Res Judicata

Apply s.10 and s.11 with conditions and constructive res judicata

05 Foreign Judgment

Know when a foreign judgment is conclusive

06 Place & Transfer

Determine proper court and grounds for transfer

INTRODUCTION

Nature and Object of the Civil Procedure Code

Procedural Law	CPC does not create rights; it provides the machinery to enforce rights created by substantive law
Object	To ensure fair, orderly, efficient and inexpensive administration of justice
Handmaid of Justice	Procedure is the handmaid and not the mistress of justice (State of Punjab v. Shamlal Murari)
Flexibility	Courts interpret procedural provisions liberally to advance justice

Procedural Law vs Substantive Law – Detailed Distinction

Substantive	Defines rights, duties, liabilities (Contract Act, TPA, IPC, Personal laws)
Procedural	Prescribes the method of enforcement (CPC, CrPC, Evidence Act, Limitation Act)
Effect of Change	Change in procedural law is retrospective; change in substantive law is prospective
Example	Right to claim damages is substantive; the suit and decree are procedural

HISTORY

Historical Development of CPC

Pre-1859	Different systems in Bengal, Madras and Bombay Presidencies
1859	First Code of Civil Procedure – attempt at uniformity
1877 & 1882	Further consolidations and improvements
1908	Present Code enacted; came into force on 1 January 1909
Major Amendments	1976 (extensive), 1999 & 2002 (case management, time limits), later amendments

EXTENT

Extent and Application of the Code

Extent	Extends to the whole of India (originally exceptions for certain areas)
Application	Applies to all civil proceedings in courts of civil jurisdiction
Exceptions	Does not apply where a special statute provides a complete procedure (e.g., certain tribunal matters)
Section 4	Code not to limit or affect special or local laws unless expressly provided

JURISDICTION MEANING

Jurisdiction – Meaning and Importance

Jurisdiction means the authority of a court to hear and decide a case and to pronounce a binding judgment.

Three Pillars

Territorial, Pecuniary and Subject-matter jurisdiction

Consequence of Lack

Decree passed without jurisdiction is a nullity

Objection

Should be raised at the earliest opportunity (s.21)

KINDS OF JURISDICTION

Kinds of Jurisdiction Explained

Territorial	Power over a defined geographical area
Pecuniary	Power limited by the monetary value of the suit
Subject-matter	Power to try particular classes of suits (e.g., family courts, commercial courts)
Original vs Appellate	Whether the court can try a case at first instance or only on appeal
Exclusive vs Concurrent	Whether only one court or more than one court has power

SECTION 9

Section 9 – Courts to Try All Civil Suits Unless Barred

The courts shall have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.

Civil Nature

Suit in which the principal question relates to a civil right

Examples

Property disputes, contract, tort, status, religious office with property

Express Bar

Statute expressly ousts civil court jurisdiction

Implied Bar

Special tribunal with complete machinery indicates implied ouster

SEC 9 CASES

Important Cases on Section 9

**PMA Metropolitan v. Moran
Mar Marthoma**

Suit for religious office with property is of civil nature

Dhulabhai v. State of MP

Principles for determining when civil court jurisdiction is barred

**Premier Automobiles v. K.S.
Wadke**

Industrial Disputes Act – when civil suit is barred

Res Sub Judice – Section 10 (Detailed)

No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties litigating under the same title.

Object	Avoid parallel proceedings and conflicting decisions
Conditions	(1) Same matter in issue (2) Same parties or privies (3) Previously instituted suit (4) Pending in competent court
Effect	Later suit is stayed; it is not dismissed
Inherent Power	Court can also stay under s.151 in appropriate cases

Res Judicata – Section 11 (Core Principles)

No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties and has been heard and finally decided by a competent court.

Object	Finality of litigation; public policy that there should be an end to litigation
Maxims	Interest reipublicae ut sit finis litium; Nemo debet bis vexari
Essential Conditions	Identity of matter, same parties, competent court, final decision on merits

Constructive Res Judicata and Explanations

Constructive (Expl. IV)	Matter which might and ought to have been made a ground of attack or defence is deemed to have been in issue
Might and Ought	Test is whether the party could and should have raised the point
Other Explanations	Cover former suit, competency, relief claimed, etc.
Section 12	Bar on further suit where plaintiff is precluded from suing again

RES JUDICATA CASES

Landmark Cases on Res Judicata

**Satyadhyan Ghosal v.
Deorajin Debi**

Res judicata applies to different stages of the same suit

**Hope Plantations v. Taluk
Land Board**

Constructive res judicata explained

Daryao v. State of UP

Res judicata applies even to writ petitions under certain conditions

Foreign Judgment – Sections 13 & 14

Section 13	Foreign judgment is conclusive as to any matter directly adjudicated upon – except on six grounds
Exceptions	(1) Lack of jurisdiction (2) Not on merits (3) Incorrect view of international law / Indian law (4) Opposed to natural justice (5) Obtained by fraud (6) Sustains a claim founded on breach of Indian law
Section 14	Presumption that foreign court had jurisdiction unless contrary appears
Enforcement	By filing a suit on the foreign judgment in India

PLACE OF SUITS 1

Place of Suits – Sections 15 to 20 (Part 1)

Section 15	Every suit shall be instituted in the Court of the lowest grade competent to try it
Section 16	Suits relating to immovable property – where the property is situate
Section 17	Immovable property situate within jurisdiction of different courts
Section 18	Where local limits of jurisdiction are uncertain

Place of Suits – Sections 19 & 20

Section 19	Suits for compensation for wrong to person or movables – where the wrong was done or defendant resides/carries on business
Section 20	Other suits – where defendant resides or cause of action arises (wholly or in part)
Cause of Action	Bundle of facts that the plaintiff must prove to succeed
Practical Tip	Always plead all facts showing jurisdiction clearly in the plaint

TRANSFER

Transfer of Cases – Sections 22 to 25

Section 22	Defendant may apply for transfer where suit could be instituted in more than one court
Section 23	To which court application lies (depending on whether courts are subordinate to same or different High Courts)
Section 24	General power of transfer and withdrawal by High Court / District Court
Section 25	Power of Supreme Court to transfer suits from one High Court to another

PRACTICAL TIPS

Practical Tips for Students & Practitioners

Jurisdiction Objection

Raise at the earliest; delay may amount to waiver (s.21)

Res Judicata

Always check previous litigation between same parties on same subject

Section 9

If special statute creates a right and provides a forum, civil court may be barred

Foreign Judgment

Verify the six exceptions before relying on it

Drafting

In plaint, clearly aver facts showing how the court has jurisdiction

LANDMARK RECAP

Must-Remember Landmark Cases – Unit 1

Salomon principle context	Separate entity (company law link)
Dhulabhai v. State of MP	Tests for ouster of civil court jurisdiction
Satyadhyan Ghosal	Res judicata at different stages
Daryao v. State of UP	Res judicata and writ petitions
State of Punjab v. Shamlal Murari	Procedure is handmaid of justice

SUMMARY POINTS

Must-Remember Points

- CPC is procedural law; it is the handmaid of justice.
- Jurisdiction is of three kinds – territorial, pecuniary, subject-matter; lack of it makes the decree a nullity.
- Section 9 is the foundation – all civil suits are triable unless expressly or impliedly barred.
- Res sub judice stays the later suit; Res judicata bars re-litigation (including constructive res judicata).
- Foreign judgments are conclusive subject to the six exceptions in s.13.
- Place of suing is governed by ss.15–20; transfer powers are in ss.22–25.
- Always raise jurisdiction objections early and plead jurisdictional facts clearly.