

(Code of Civil Procedure (CPC))

SUITS OF CIVIL NATURE (Synopsis)

Question 1

What is meant by a “suit of a civil nature”? Explain the scope of Section 9 of the Code of Civil Procedure.

Synopsis

Introduction

- Section 9 deals with subject-matter jurisdiction of Civil Courts.
- Civil Courts can try all suits of a civil nature unless expressly or impliedly barred.
- Ubi jus ibi remedium.

Essential Requirements of Section 9

- The suit must be of a civil nature.
- Its cognizance must not be expressly barred.
- Its cognizance must not be impliedly barred.

Meaning of Civil Nature

- Enforcement or protection of a civil right.
- Expression “civil nature” to be liberally construed.
- Wider than merely civil proceedings.

Test to Determine Civil Nature

- Cause of action.
- Nature of right asserted.
- Principal question involved.
- Main relief claimed.
- Real substance of dispute, not form of plaint.

Express Bar

- Clear statutory words excluding Civil Court jurisdiction.

- Expressions such as:
 - “No Civil Court shall have jurisdiction.”
 - “No suit shall lie.”
 - Matter to be decided exclusively by a specified authority.
 - **Illustrations**

Implied Bar

- No direct words of exclusion.
- Bar inferred from the complete statutory scheme.

Factors Indicating Implied Bar

- Special right or liability created by statute.
- Special tribunal or authority constituted.
- Complete procedure prescribed.
- Adequate remedy provided.
- Finality given to the authority’s decision.

Difference

- Express bar: determined primarily from statutory language.
- Implied bar: determined from scheme, object and remedies under the statute.

Conclusion

- Civil Court has jurisdiction wherever an enforceable civil right is involved and no statutory bar exists.

Question 2

“Exclusion of the jurisdiction of Civil Courts is not to be readily inferred.” Discuss with reference to Section 9 CPC and the principles laid down in *Dhulabhai v. State of Madhya Pradesh*.

Synopsis

Introduction

- Civil Courts possess general jurisdiction over civil rights.
- Bar of jurisdiction must be strictly established.

Presumption in Favour of Jurisdiction

- Civil Court jurisdiction is the normal rule.
- Exclusion is exceptional.
- Burden lies upon the party alleging bar.

Principles from *Dhulabhai v State of Madhya Pradesh*

- Finality clause plus adequate statutory remedy may exclude jurisdiction.
- In absence of an express bar, the entire statutory scheme must be examined.
- Consider the nature of right, powers of tribunal and adequacy of remedy.
- Mere creation of a tribunal does not exclude jurisdiction.
- Exclusion should not be readily inferred.

Civil Court Intervention Despite Bar (*Dhulabhai v State of Madhya Pradesh*)

- The tribunal acted without jurisdiction.
- Mandatory statutory provisions violated.
- Fundamental principles of judicial procedure violated.
- Power exercised beyond the statute.
- Order obtained by fraud.
- Validity of statute challenged.

Conclusion

- Statutory bar protects lawful decisions of the special forum, not acts beyond its jurisdiction or contrary to fundamental procedure.

Question 3

A special statute creates a tribunal, provides a complete remedy and declares its decision final. Can a Civil Court entertain a suit concerning a matter governed by that statute? Discuss.

Application-Based Questions

Question 4

A special statute creates a tribunal to decide disputes relating to the cancellation of licences granted under the statute. It provides a complete procedure, a right of appeal and declares the tribunal's decision final. A licence holder, whose licence is cancelled without being given any

opportunity of hearing, files a civil suit seeking a declaration that the cancellation order is void. The authority contends that the jurisdiction of the Civil Court is impliedly barred.

Decide whether the Civil Court can entertain the suit.

Synopsis

Issue

- Whether Civil Court jurisdiction is impliedly barred by the special statute.
- Whether violation of fundamental judicial procedure permits Civil Court intervention.

Applicable Law

- Section 9 CPC.
- Civil Court jurisdiction extends to all suits of civil nature unless expressly or impliedly barred.
- Principles in *Dhulabhai v. State of Madhya Pradesh*.

Application of Law to Facts

- Statutory scheme generally indicates exclusion of Civil Court jurisdiction.
- However, licence was cancelled without giving an opportunity of hearing.
- This amounts to violation of natural justice and fundamental judicial procedure.
- Statutory finality does not protect an order passed contrary to mandatory procedure or without jurisdiction.

Conclusion

- The Civil Court may entertain the suit to examine the validity of the cancellation order because the challenge is based on denial of natural justice, not merely an error within jurisdiction.

Question 5

A hereditary priest of a temple is removed by the temple committee. The office carries no salary, but the priest claims that under an established custom he has the exclusive right to perform daily worship and religious ceremonies. He files a civil suit seeking a declaration of his right to hold the office and an injunction restraining the committee from interfering with his duties. The committee contends that the dispute relates only to religious rites and is therefore not of a civil nature.

Decide whether the suit is maintainable.