Jurisdiction of Courts under the Code of Civil Procedure (CPC), 1908 – Pakistan

Introduction

Jurisdiction is the foundational concept upon which the authority of any court rests. The term "jurisdiction" means the power and authority of a court to hear, try, and determine a legal dispute. Without jurisdiction, a court's actions are void and unenforceable. In Pakistan, the Code of Civil Procedure, 1908 (CPC) sets out comprehensive rules governing civil courts' jurisdiction. These rules ensure orderly administration of justice and prevent overlapping or misuse of judicial authority.

Jurisdiction under the CPC revolves around three major pillars:

1. Subject-matter jurisdiction
2. Pecuniary jurisdiction
3. Territorial jurisdiction

Additionally, the CPC details rules regarding institution of suits, objections, transfer of cases, and consequences of lack of jurisdiction. Each of these principles plays a vital role in Pakistan's civil justice system.

Meaning and Importance of Jurisdiction

Jurisdiction determines the competence of a court. A court must possess jurisdiction at three levels—over the person, over the subject of dispute, and over the geographical area. Jurisdiction cannot be assumed; it must be conferred by law. As held repeatedly by superior courts, "jurisdiction is everything," because if a court lacks jurisdiction, its decree is a nullity and can be challenged even in collateral proceedings.

Types of Jurisdiction

1. **Original Jurisdiction:**

The court has the power to hear and decide a case for the first time.

2. **Appellate Jurisdiction:**

The court has the power to hear and decide appeals from lower courts.

3. **Revisional Jurisdiction:**

The court has the power to review and revise decisions of lower courts.

Jurisdiction of Courts in Pakistan

1. **District Courts:** District courts have original jurisdiction over civil cases, including:
    - Suits for recovery of money
    - Suits for possession of property
    - Suits for declaration and injunction
    - Family law cases (e.g., divorce, maintenance)
2. **High Courts:** High courts have:
    - Original jurisdiction over cases involving constitutional matters, company law, and intellectual property
    - Appellate jurisdiction over decisions of district courts and other lower courts
    - Revisional jurisdiction over decisions of lower courts
3. **Supreme Court:** The Supreme Court has:
    - Original jurisdiction over cases involving disputes between provinces or between the federal government and provinces
    - Appellate jurisdiction over decisions of high courts
    - Revisional jurisdiction over decisions of lower courts.

1.Subject-Matter Jurisdiction (Section 9 CPC)

The starting point is **Section 9 CPC**, which states that civil courts have jurisdiction to try all suits of a civil nature except those expressly or impliedly barred. This establishes a broad presumption in favour of civil courts.

a. Suits of a Civil Nature

A matter is "civil" if it concerns private rights—property, contracts, status, family matters, compensation, torts, etc. Even if the suit involves determination of religious or customary questions, it may still be civil if it affects civil rights.
For example:

- A suit about management of religious donations could be civil if rights over property are involved.
- A dispute about election of a religious body may be civil if rights of office are in issue.

b. Suits Expressly Barred

Civil courts cannot entertain matters that other special laws assign exclusively to special tribunals. These include:

- Revenue matters (e.g., land revenue assessments)

- Family disputes under the **Family Courts Act**
- Rent matters under Rent Restriction laws
- Labour disputes under Labour Courts
- Tax and customs issues under specialized tribunals

When a special statute gives finality to decisions of a tribunal and bars civil courts, the bar is effective unless the tribunal acts without jurisdiction or violates principles of natural justice.

c. Suits Impliedly Barred

Where special rights and liabilities are created by statute, and the same statute provides the remedy, civil courts are impliedly barred even if not explicitly stated.
E.g., Motor Vehicle Ordinance for compensation.

d. Subject-Matter Jurisdiction Cannot Be Waived

Unlike territorial or pecuniary jurisdiction, a defect in subject-matter jurisdiction cannot be cured by consent of parties. It can be raised at any stage—even in appeal or revision—because the court must have inherent authority to adjudicate the subject.

2.Pecuniary Jurisdiction (Section 15 CPC)

Pecuniary jurisdiction refers to the monetary value of the suit which determines which court may try the case. Section 15 CPC directs that every suit must be instituted in the court of the lowest grade competent to try it.

a. Organization of Civil Courts in Pakistan

Generally, civil courts in Pakistan are structured as:

- **Civil Judge Class III**
- **Civil Judge Class II**
- **Civil Judge Class I**
- **District Judge / Additional District Judge**

Provincial laws fix pecuniary limits for these courts. Suits of higher valuation are filed before higher courts.

b. Determining Value of Suit

Valuation depends on the nature of relief:

- For recovery of money → exact amount claimed
- For property suits → market value of the property

- For injunctions → valuation fixed by plaintiff but subject to court scrutiny
- For accounts or unascertained sums → estimation done according to court rules

c. Suit Filed in Wrong Pecuniary Court

If a suit is filed in a court lacking pecuniary competence, the proceedings may not be void unless prejudice is caused. Objections must be raised at the earliest, otherwise they are deemed waived under Section 21 CPC. However, deliberate undervaluation or overvaluation may cause rejection or return of plaint.

3.Territorial Jurisdiction (Sections 16–20 CPC)

Territorial jurisdiction determines the geographical boundary of a court's authority. CPC provides detailed rules for where a suit should be instituted.

a. Suits Relating to Immovable Property (Section 16)

These must be filed in the court within whose jurisdiction the property is situated. This rule is mandatory.

Examples:

- Suit for possession of land
- Suit for specific performance involving immovable property
- Suit for partition of property
- Suit for foreclosure or sale

b. Exception (Section 17)

If immovable property spans multiple jurisdictions, the suit can be filed in any court where part of the property is located, provided that court can grant effective relief.

c. Suits Relating to Movable Property or Compensation for Wrong (Section 19)

Plaintiff may sue:

- Where the wrong was committed, or
- Where the defendant resides or carries on business

This applies to torts, damages, and movable property disputes.

d. Other Suits (Section 20)

For all other suits, the plaintiff may sue where:

1. The defendant resides or works for gain
2. Cause of action wholly or partly arises

This is the most frequently used provision in civil litigation.

4.Jurisdiction over Persons

A court must have personal jurisdiction over parties. Generally:

- Plaintiff submits to court's jurisdiction by filing the suit
- Defendant is subject to jurisdiction where he resides, works, or where cause of action arises
- Non-residents may be brought before court only if cause of action arises within jurisdiction

Service of summons is essential for establishing personal jurisdiction

5.Jurisdiction over Immovable Property

Section 16 CPC specifically deals with suits related to immovable property, including partition, foreclosure, sale, or compensation for wrongs to property. Courts where the property is situated have exclusive jurisdiction. This ensures that local courts familiar with the area handle such disputes.

6.Place of Suing (Sections 15–25 CPC)

These provisions collectively ensure proper institution and distribution of suits.

a. Suits Against Government (Section 80)

Notice is mandatory before filing a suit against the Government or public officer acting officially. The suit must be filed where the cause of action arises or where the Government office is situated.

b. Transfer of Suits (Sections 22–25)

Higher courts may transfer cases to prevent injustice, avoid bias, or for convenience of parties.

- A District Court may transfer cases within its jurisdiction
- High Courts have wider powers
- Supreme Court may transfer cases between provinces.

7.Objections to Jurisdiction (Section 21 CPC)

Section 21 CPC governs objections regarding territorial and pecuniary jurisdiction.

a. Requirements for Raising Objection

An objection is valid only if:

1. It was raised at the earliest possible opportunity
2. It was raised before settlement of issues
3. Failure of justice is shown

If these conditions are not met, objections are waived. This promotes efficiency and prevents defendants from raising jurisdictional objections after contesting the case on merits.

b. Subject-Matter Objection Exception

Subject-matter jurisdiction cannot be waived. Courts lacking inherent authority cannot proceed regardless of parties' consent.

8. Consequences of Lack of Jurisdiction

A court acting without jurisdiction produces a null and void decree. The consequences include:

- The decree can be challenged at any time
- It has no legal force
- Execution cannot proceed
- Appellate or revisional courts may set aside the entire proceedings

Superior courts in Pakistan consistently hold that jurisdiction cannot be inferred and must be clearly present.

9. Jurisdiction vs. Powers of Court

Jurisdiction refers to authority, while powers relate to methods of exercising that authority. A court with jurisdiction may still act illegally by misusing its powers, but the decree is not void—only irregular. Conversely, if a court lacks jurisdiction, even correct exercise of powers is invalid.

10.Conclusion

Jurisdiction under the CPC ensures proper distribution of judicial authority among courts in Pakistan. The three main foundations—**subject-matter, pecuniary limits, and territorial boundaries**—structure the civil justice system and prevent misuse of court processes. Correct determination of jurisdiction is essential for fair, efficient, and lawful adjudication.