

## **Territorial Jurisdiction of Courts in India**

Every Litigant before proceeding with his/her claim is faced with one common perplexing question as to which court shall have the territorial jurisdiction to hear and finally adjudicate the dispute. The law contained in Constitution, Civil and Criminal Code and statues on various subject matters clearly provide and demarcate jurisdiction of the courts but in spite of the same, the common issue that often arises before the court is in regard to territorial jurisdiction of courts.

This articles aims to briefly describe the law governing territorial jurisdiction of courts. Before proceeding further, it is essential to understand the meaning of the term jurisdiction to understand the law governing territorial jurisdiction. Jurisdiction of court refers to power of the court to deal with the matter and render a decision for the resolution of matter. Jurisdiction of every court is on three counts i.e. Subject matter, Pecuniary and Territorial.

Territorial jurisdiction refers to power of the court to inquire and proceed with the trial of matter that is presented before it. The following is brief description of the law on territorial jurisdiction.

### **Territorial Jurisdiction of Indian Civil Courts:**

Every civil suit in regard to recovery/partition/sale, mortgage or redemption/determination of any right or claim/compensation for wrong to immovable property or for recovery of movable property shall be instituted in the court of law within whose local limits the property is situated. In case, the suit is directed to obtain relief or compensation in respect to the property held by defendant then, the suit may be instituted either in the court within whose local limits the property is situated or within whose jurisdiction the defendant resides or carries on business.

Section 20 of Civil Procedure Code, 1908 (CPC) provides that for any suit, every plaintiff may file a suit in the court of law within whose local limits the defendant/opponent against whom claim arises voluntarily resides or carries on his business or is gainfully employed. The section further provides that the suit may also be filed in a court within whose local limits the whole or part of cause of action arose. This is the basic principal of law that the suit are generally filed in court of law within whose jurisdiction the whole or a part of cause of action arises. Causes of action are the facts in regard to claim, relief that gives the plaintiff the right to bring a legal action.

The CPC further provides in case of more than one defendant, the suit can be instituted in any court within whose jurisdiction any of the defendants resides or carries on business. A suit can be filed only after obtaining leave of the court or by way of other defendants acquiescing it.

The law also provides that in case, the property is situated within the jurisdiction of more than one court then, the plaintiff may file the suit in either of the court within whose jurisdiction any portion of the property is situated.

## **Territorial Jurisdiction of Criminal Courts in India**

The Criminal Procedure Code, 1973 (Cr. PC) under Section 177 provides that every offence that is committed in India shall be ordinarily inquired and tried in the court within whose local limits the offence is committed. The law contained under Cr. PC further provides that in case where an offence consists of several acts that are done in different local areas then it may be inquired and tried by a court that is having jurisdiction over any of these local areas.

Section 188 of the Cr. PC bestows jurisdiction on Indian Criminal Courts in case where offences are committed outside India by Indian Citizen or by non-citizen but on ship or aircraft registered in India. The Section provides that where an offence is committed outside India by an Indian citizen or non-citizen on a ship or aircraft registered in India then the accused may be dealt with in respect to such an offence as if the said offence has been committed at any place within India at which he is found provided that previous sanction from the central government is taken in regard to the same.

Under Law, the Police may take cognizance of the offence in India but the trial would not proceed without previous sanction of the central government as envisaged by the code under section 188 of Cr. Pc.

## **Territorial Jurisdiction of Courts in Case of Writ Petition**

Writ petition seeking enforcement of Fundamental rights can be made either to Supreme Court of India at New Delhi or to the High Court of a respective state within whose local limits either the person or authority or government resides against whom the aggrieved seeks the court to issue writ.

Article 226 (1) of the Constitution of India provides that High Court within whose jurisdiction the person, authority or government is located would have jurisdiction to entertain the writ petition directed against any one of them irrespective as to the fact as to where the cause of action arose in that state provided that there was cause of action for filing writ petition.

Article 226 (2) of the Constitution of India provides that High Court within whose jurisdiction or local limits any part or whole cause of action arises shall have the jurisdiction to pass any order or direction so as to enforce fundamental rights and any other right.

Hence, the High Court has the jurisdiction to entertain writ petition against person/authority that is situated within its local limits and also in case where whole or part of cause of action arose in their respective local limits of the state where the High Court is situated.

## **Territorial Jurisdiction of Court in Case of Arbitration Disputes**

The Indian Arbitration and Conciliation, 1996 provides the law on arbitration in India. The Act under Section 2 (1) (e) defines Court for the purpose of the Act as the Principal Civil Court in a

[www.lawsenate.com](http://www.lawsenate.com)

Office Numbers: +91-11-26102873, +91-11-26104773

Email Id: [contact@lawsenate.com](mailto:contact@lawsenate.com), [info@lawsenate.com](mailto:info@lawsenate.com)

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District that is exercising original civil jurisdiction and is competent under to law to exercise jurisdiction on subject matter of arbitration. The Section states further that court includes High Court of a state but does not include any court inferior to Principal Civil court or court of small causes.

Thus, the law contained in Arbitration act provides that any person aggrieved from arbitration award or in case wants to challenge the award or any person who wishes to enforce the award can present arbitration petition to either Principal Civil Court or High Court in accordance to provisions of Civil Procedure Code that is providing for rules of original civil jurisdiction. Hence, any party to arbitration agreement can file arbitration petition challenging or seeking the enforcement of arbitration award in

1. Either at the place where defendant resides or gainfully carries on business.
2. Where whole or part of cause of action arises.

Under Principles of Arbitration law, arbitration proceeding are generally governed by municipal law of seat of arbitration i.e. place where arbitration proceedings are carried on as the law does not intend to create de- localised arbitration and this principle has been incorporated under the arbitration act too wherein under section 2 (1) (e), the court has been defined as the court having jurisdiction over subject matter of arbitration. The law thereby confer supervisory jurisdiction on the principal civil courts or high Court within whose local limits seat of arbitration is situated i.e. where arbitration proceedings are carried.

The Indian courts have also taken this view in variety of disputes before it. In BALCO v. Kaiser Services, the Apex Court categorically stated this principle and referred this principle in context of use of phrase 'subject matter of arbitration'.

The apex court also laid down the principle that has been followed by various High Courts in its various reported decisions that venue/situs is not necessarily seat of arbitration and is only convenient place chosen by parties to arbitration for carrying out arbitration proceedings. The venue of arbitration proceedings thus do not confer supervisory jurisdiction on the court in respect of arbitration matters.

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**Office Numbers: +91-11-26102873, +91-11-26104773**  
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