
JURISDICTION AS A DEFENCE: THE DOUBLE-EDGED SWORD

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ABSTRACT

Jurisdiction is a fundamental concept in civil law that determines a court's authority to hear and decide cases. In India, jurisdiction serves as both a protective mechanism and a potential barrier, functioning as a double-edged sword. On one side, it provides defendants with a robust defence against unwarranted claims by allowing them to challenge the jurisdiction of the court. On the other side, it can also limit access to justice, as parties may find their legitimate claims barred due to strict jurisdictional requirements. This research paper explores the dual nature of jurisdiction in Indian civil law, analysing statutory provisions, judicial interpretations, and case law to illustrate its complexities. The paper ultimately aims to highlight the importance of a balanced approach to jurisdiction that safeguards litigants' rights while ensuring that justice is accessible and effectively administered.

INTRODUCTION

Jurisdiction refers to the legal authority of a court to hear and decide a case. The concept is deeply rooted in civil law systems worldwide, including India. Without jurisdiction, any judgment or decree passed by a court is considered invalid and can be challenged at any stage of the litigation. This paper explores jurisdiction as a potent defence tool in Indian civil law, examining the statutory framework, judicial pronouncements, and practical implications in modern litigation.

The importance of jurisdiction cannot be overstated. It serves as the foundation for any legal proceeding, ensuring that courts act within their lawful powers. The absence of jurisdiction results in nullity, rendering the court's decision void. Thus, defendants often raise jurisdictional challenges to contest the validity of legal proceedings initiated against them. This paper seeks to investigate the role of jurisdiction as a defence in Indian civil law, exploring its various forms, the statutory framework that governs it, and how it has been applied in practice.

The Concept of Jurisdiction in Civil Law

Jurisdiction is essentially the power of a court to hear and decide on a legal dispute. In India, it is governed primarily by the Code of Civil Procedure, 1908 (CPC), and is divided into three main categories:

1. Territorial Jurisdiction: Territorial jurisdiction refers to the geographical area within which a court can exercise its authority. It is essential in cases involving immovable property, business transactions, or disputes arising out of contracts. For example, in cases involving immovable property, the jurisdiction lies in the court where the property is situated.

2. Pecuniary Jurisdiction: This type of jurisdiction deals with the monetary value of the claim. Courts are assigned limits to the value of the disputes they can hear, ensuring that larger claims are heard by higher courts. This prevents lower courts from being burdened with complex and high-value disputes.

3. Subject-Matter Jurisdiction: This aspect of jurisdiction deals with the nature of the case. Certain courts are designated to handle specific types of disputes, such as family courts dealing with matrimonial issues or the National Company Law Tribunal (NCLT) dealing with

corporate matters. Subject-matter jurisdiction ensures that cases are heard by courts with specialised knowledge and authority to adjudicate such disputes.

For a civil court to exercise jurisdiction over a case, it must satisfy all three types of jurisdiction. Failure to meet any of these requirements renders the court incompetent to try the case, making jurisdictional challenges a strong defence in civil litigation.

Statutory Framework Governing Jurisdiction in India

The statutory framework governing jurisdiction in civil law in India primarily revolves around the Code of Civil Procedure (CPC), 1908, supplemented by other specific legislations such as the Specific Relief Act, 1963, and the Indian Contract Act, 1872. This framework lays down the rules for determining which court has the authority to try a particular case.

The Code of Civil Procedure, 1908

The CPC provides the procedural laws governing civil courts in India and defines the jurisdiction of different courts. Several key provisions in the CPC pertain to jurisdiction:

- Section 9: This section empowers civil courts to try all suits of a civil nature, unless explicitly barred by statute. Section 9 establishes the general jurisdiction of civil courts but also implies that where jurisdiction is barred, it must be specifically mentioned in statute.

- Section 15 to 20: These sections govern the territorial and pecuniary jurisdiction of civil courts.

- Section 16: Provides that suits regarding immovable property should be filed where the property is situated.

- Section 17: Allows for a case to be filed in any jurisdiction where part of the property is situated, if the property is located in more than one jurisdiction.

- Section 19: States that in personal injury or property damage cases, the suit may be filed where the defendant resides or where the injury/damage occurred.

- Section 20: Specifies that suits can be filed where the defendant resides, carries on business, or where the cause of action, wholly or in part, arises.

•Order VII Rule 10: Deals with the return of a plaint to the appropriate court if a court finds that it lacks jurisdiction. This rule is particularly significant because it allows for the rectification of a jurisdictional defect without dismissing the suit outright.

The Specific Relief Act, 1963

This Act governs specific performance of contracts, and its provisions frequently involve questions of jurisdiction, particularly regarding where the cause of action arises or where the contract was made or breached. Jurisdictional objections are common in contract disputes, with parties arguing that the court lacks authority to enforce the specific relief sought.

The Indian Contract Act, 1872

Jurisdictional disputes often arise in contractual matters, especially when parties from different states or countries are involved. The Indian Contract Act provides the legal framework for contracts in India but does not directly deal with jurisdiction. However, in cases involving contracts, jurisdiction is typically determined based on the location where the contract was executed, performed, or breached, or where the defendant resides or conducts business.

Jurisdiction as a Defence in Civil Litigation

Jurisdiction serves as a potent defence mechanism in civil litigation. Defendants can challenge the jurisdiction of the court, arguing that the court lacks the authority to hear the case. This defence can be raised at various stages of litigation, including preliminary hearings and appeals.

Raising Jurisdictional Challenges

According to Order VII Rule 10 of the CPC, a court can return a plaint if it finds that it lacks jurisdiction. This provision allows courts to address jurisdictional issues promptly, preventing unnecessary litigation. Defendants often rely on this provision to seek dismissal or transfer of cases they believe are improperly filed against them.

For example, in the case of *M/s. New Moga Transport Co. v. United India Insurance Co. Ltd.* (2004), the Supreme Court emphasised the importance of territorial jurisdiction, stating that the court must have jurisdiction over the subject matter as well as the parties involved. This ruling reinforces the principle that jurisdiction is a fundamental aspect of judicial authority.

Case Law Illustrating Jurisdiction as a Defence

Several landmark cases in India have illustrated the use of jurisdiction as a defence:

- Kiran Singh & Ors. v. Chaman Paswan & Ors. (1954)*: The Supreme Court ruled that a decree passed by a court without jurisdiction is a nullity and can be challenged at any stage of the proceedings. This case highlights the significance of jurisdiction as a protective measure for defendants.

- Harshad Chimani Lal Modi v. DLF Universal Ltd. (2005)*: The court ruled that jurisdiction cannot be conferred by consent. This case emphasised that parties cannot agree to grant a court jurisdiction it does not possess, reiterating the importance of adhering to statutory provisions regarding jurisdiction.

- Bharat Coking Coal Ltd. v. Shree Ram Singh (2003)*: The Supreme Court reiterated that a court's jurisdiction is defined by the statute, and any judgment made outside this jurisdiction is invalid. The court held that the principles of natural justice cannot override the statutory provisions defining jurisdiction.

- Laxmi Pat Surana v. State of Maharashtra (2018)*: In this case, the Supreme Court ruled that a defendant could challenge jurisdiction at any stage of the proceedings. The court emphasised that if a court lacks jurisdiction, any subsequent proceedings are rendered void.

- Bharat Heavy Electricals Ltd. v. Smt. Bansuri Prabha (2007)*: The court held that the lack of jurisdiction on the part of a court can be raised by any party at any stage of the proceedings, emphasising the necessity of jurisdiction for the validity of judicial pronouncements.

Jurisdiction as a Limitation in Civil Litigation

While jurisdiction serves as a defence, it can also act as a limitation on access to justice. The strict rules governing jurisdiction can create barriers for litigants, particularly in cases involving complex issues or multiple jurisdictions.

Jurisdictional Barriers to Justice

The rigidity of jurisdictional rules can prevent legitimate claims from being heard in a timely

manner. For example, if a plaintiff files a case in a court that lacks territorial jurisdiction, the case may be dismissed, forcing the plaintiff to start over in the appropriate court. This can lead to delays and increased costs, discouraging individuals from pursuing valid claims.

Jurisdictional Challenges in Complex Cases

In cases involving multiple parties or cross-border disputes, jurisdictional issues can become even more complicated. The need to determine which court has authority can prolong litigation and create uncertainty. For instance, in commercial disputes involving parties from different states or countries, determining jurisdiction may require complex legal analysis and can lead to conflicting court decisions.

The Supreme Court in *Swastik Gases Pvt. Ltd. v. Indian Oil Corporation Ltd. (2013)* noted the complications arising from jurisdictional issues in cases involving multiple jurisdictions, emphasising the need for a coherent approach to resolve such disputes.

Balancing Jurisdiction as a Defence and Limitation

To ensure that jurisdiction functions effectively as both a defence and a limitation, it is essential to adopt a balanced approach. Courts and lawmakers should strive to create a framework that protects the rights of defendants while also facilitating access to justice for plaintiffs.

Legislative Reforms

Reforming statutory provisions governing jurisdiction can help mitigate barriers to justice. Simplifying the rules related to territorial and pecuniary jurisdiction, for example, could enhance access for litigants while maintaining the necessary protections for defendants. Moreover, establishing clearer guidelines for determining subject-matter jurisdiction could help litigants navigate the complexities of the legal system more effectively.

Judicial Discretion

Judicial discretion plays a crucial role in resolving jurisdictional challenges. Courts should be empowered to exercise discretion when faced with jurisdictional disputes, allowing them to consider the interests of justice and the specific circumstances of each case. This approach would ensure that legitimate claims are not dismissed solely on technical grounds.

A Comparative Analysis with Foreign Legal Systems

Jurisdiction in Foreign Jurisdictions

1. United States

In the United States, jurisdiction is categorised into two main types: subject-matter jurisdiction and personal jurisdiction. These types are conceptually similar to the subject-matter and territorial jurisdictions in India but are applied differently.

•Subject-Matter Jurisdiction: U.S. courts, particularly federal courts, have jurisdiction over cases involving federal law or disputes where parties are from different states or countries (known as diversity jurisdiction). This is comparable to India's subject-matter jurisdiction, although the U.S. system explicitly distinguishes between state and federal courts based on the nature of the dispute.

•Personal Jurisdiction: Personal jurisdiction refers to a court's power over the parties involved in the litigation. A U.S. court must have sufficient contact or a connection between the defendant and the forum state, as established in cases like *International Shoe Co. v. Washington* (1945). This differs from India's territorial jurisdiction in that U.S. courts rely heavily on the "minimum contacts" doctrine. For example, if a business has engaged in substantial activity in a particular state, that state's courts can claim personal jurisdiction even if the business is not physically located there. This "long-arm" jurisdiction is often applied in commercial disputes involving parties from different states or countries.

•Forum Non Conveniens: In the U.S., defendants can also invoke the doctrine of forum non conveniens to argue that another jurisdiction would be more appropriate to hear the case. While this doctrine is similar in some respects to India's concept of challenging jurisdiction, it is more commonly used in international and interstate disputes.

2. United Kingdom

In the United Kingdom, the principles of jurisdiction are rooted in common law, supplemented by statutes such as the Civil Jurisdiction and Judgments Act, 1982, which governs jurisdiction in civil and commercial matters. The UK follows the distinction between subject-matter jurisdiction and territorial jurisdiction, akin to India.

•Subject-Matter Jurisdiction: UK courts, like their Indian counterparts, only hear cases that fall within their legal mandate. However, subject-matter jurisdiction in the UK is influenced by European Union law, particularly the Brussels Regulation (prior to Brexit), which imposed rules on which courts could hear cross-border disputes involving EU member states. Post-Brexit, the UK continues to apply domestic rules with some EU influence.

•Territorial Jurisdiction: Similar to India's territorial jurisdiction, UK courts exercise jurisdiction over cases based on where the defendant resides or where the cause of action arises. However, UK courts also apply a "substantial connection" test, which is somewhat analogous to the U.S. concept of personal jurisdiction. The courts will assess whether the dispute has sufficient connection with the UK to warrant its jurisdiction. In cases like *Spiliada Maritime Corp. v. Cansulex Ltd. (1987)*, the UK courts have elaborated on the doctrine of forum non conveniens, which allows courts to decline jurisdiction if another forum is deemed more appropriate to hear the case.

•Service Outside Jurisdiction: One interesting difference between the UK and India is the rules for serving defendants outside the court's territorial jurisdiction. In India, this can be cumbersome and is subject to limitations, whereas UK courts have more streamlined procedures, particularly in commercial disputes.

3. European Union

The European Union, prior to Brexit, had an extensive framework governing jurisdiction, most notably through the Brussels I Regulation (recast in 2012 as Regulation 1215/2012). The regulation standardizes rules across EU member states, ensuring that courts follow consistent procedures in determining which forum has jurisdiction in cross-border disputes.

•Brussels I Regulation: This regulation provides that defendants should generally be sued in the country where they are domiciled, but it includes specific provisions for cases involving contracts, torts, and other civil matters. For example, in contract disputes, jurisdiction can be determined by where the contract was performed, which mirrors India's approach under the CPC.

•Forum Selection Clauses: The Brussels regime also strongly enforces forum selection clauses, where parties to a contract can agree on which court will have jurisdiction. Although

India permits forum selection clauses under certain circumstances, courts retain discretion to overrule them if they find that the chosen forum is inconvenient or inappropriate.

- Lis Pendens: The EU system has a distinct rule for lis pendens, which requires that when parallel proceedings are instituted in multiple member states, the court where the action is first filed generally takes precedence. This contrasts with India, where parallel proceedings may be more easily litigated simultaneously in different jurisdictions.

4. Canada

Canada, like the U.S., follows the common law tradition of jurisdiction. Canadian courts apply both subject-matter jurisdiction and territorial jurisdiction, much like in India, but have developed a nuanced approach to cross-border litigation. Canadian courts use the “real and substantial connection” test to determine whether they have jurisdiction, focusing on the degree of connection between the forum and the subject matter of the dispute.

The Supreme Court of Canada has addressed jurisdictional issues in landmark cases like *Club Resorts Ltd. v. Van Breda* (2012), establishing a clear framework for determining when Canadian courts can assume jurisdiction in cases involving foreign parties or events. This is conceptually similar to the Indian approach but places greater emphasis on fairness and the efficient administration of justice.

Comparative Analysis: Key Similarities and Differences

1. Similarities

- Subject-Matter Jurisdiction: Across all jurisdictions, courts must have jurisdiction over the subject matter of the dispute. Whether it is Indian civil courts or U.S. federal courts, cases cannot be adjudicated unless the court is competent to hear the specific type of case.

- Territorial Jurisdiction: Both India and foreign jurisdictions consider the location of the parties and the events giving rise to the dispute as critical factors in determining territorial jurisdiction. However, the “minimum contacts” doctrine in the U.S. and the “real and substantial connection” test in Canada provide broader scopes for courts to claim jurisdiction compared to India’s more rigid territorial rules under the CPC.

•Forum Non Conveniens: The concept of forum non conveniens—allowing courts to refuse jurisdiction if another court is more appropriate—is common in the U.S., UK, and EU but is applied less frequently in India. Indian courts occasionally employ the doctrine, but it is more formally integrated into the legal systems of the U.S. and the UK.

2. Differences

•Personal Jurisdiction: The U.S. system of personal jurisdiction, based on the “minimum contacts” doctrine, allows for a more flexible and expansive approach to jurisdiction compared to India’s rigid territorial system. U.S. courts can claim jurisdiction over foreign defendants if they have substantial business or contractual contacts within a state. India’s system, governed by the CPC, is more restrictive, focusing on where the defendant resides or where the cause of action arises.

•Lis Pendens: The EU’s strict rules on lis pendens (giving priority to the first court seised of the matter) ensure uniformity and avoid parallel litigation. In contrast, India’s approach to parallel proceedings is more permissive, with fewer controls on multiple litigations being initiated in different forums.

•Enforceability of Forum Selection Clauses: While forum selection clauses are common in both Indian and foreign jurisdictions, their enforceability differs. In the EU, these clauses are more rigorously enforced under the Brussels Regulation. In India, courts have more discretion to overrule such clauses if they believe the chosen forum is not suitable or convenient.

Conclusion

Jurisdiction in Indian civil law operates as a complex and multifaceted concept that serves as both a crucial defensive mechanism for defendants and a potential barrier for plaintiffs seeking justice. This duality positions jurisdiction as a double-edged sword, where its application can both protect legal rights and hinder access to justice.

On one hand, jurisdictional provisions empower defendants to challenge the authority of the courts to adjudicate disputes, effectively safeguarding them from unwarranted claims and the harassment of frivolous litigation. Landmark cases such as *Kiran Singh v. Chaman Paswan and Harshad Chiman Lal Modi v. DLF Universal Ltd.* exemplify the legal principles that reinforce

this protective role, establishing that a court's lack of jurisdiction renders its decrees null and void. Such legal precedents underscore the essential nature of jurisdiction in maintaining the integrity of the judicial process.

Conversely, the rigid frameworks governing jurisdiction—such as territorial, pecuniary, and subject-matter limitations—can create significant obstacles for litigants. The complexities associated with jurisdictional challenges, particularly in cases with multiple parties or cross-border disputes, may impede timely access to justice. For example, procedural delays stemming from jurisdictional disputes can discourage individuals from pursuing legitimate claims, undermining the overarching goal of the legal system to deliver fair and equitable outcomes.

To address these challenges, it is imperative to adopt a balanced approach that recognizes the importance of jurisdiction as both a protective mechanism and a facilitator of justice. Legislative reforms aimed at simplifying jurisdictional rules, along with a judicious exercise of discretion by courts, can enhance access to justice without compromising the rights of defendants.

Ultimately, a nuanced understanding of jurisdiction in Indian civil law is essential for fostering a legal environment that is both just and efficient. By prioritizing access to justice while respecting the principles of jurisdiction, the Indian legal system can evolve to better serve all litigants, ensuring that the law is not only a shield for defendants but also a pathway for plaintiffs to seek redress effectively. As India continues to navigate the complexities of its legal landscape, addressing jurisdictional concerns will be key to achieving a more equitable and just society.

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