

Civil Procedure Code & Limitation Act

KSLU LL.B. — Complete Exam-Ready Study Bundle (All Five Units)

KSLU LL.B. Study Bundle

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Contents

How to Use These Notes 5
The 10 Rules That Win Marks 6
UNIT 1 — Jurisdiction, Res Judicata, Foreign Judgments & Place of Suing 7
The Big Picture 7
1. Procedural vs Substantive Law; History, Extent & Definitions 10
2. Jurisdiction of Civil Courts — Kinds & Bar on Suits 12
3. Suits of a Civil Nature (s.9) 16
4. Res Sub Judice — Stay of Suits (s.10) 19
5. Res Judicata & Constructive Res Judicata (ss.11–12) 23
6. Foreign Judgments (ss.13–14) 28
7. Place of Suing & Objection to Jurisdiction (ss.15–21) 32
8. Transfer of Cases (ss.22–25) 37
Landmark Cases — in Brief 42
Quick Revision & Case Law Table 47
UNIT 2 — Institution of Suits, Pleadings & Parties 50
The Big Picture 50
1. Institution of Suits & Stages of a Suit 52
2. Summons & Modes of Service 56
3. Interest, Costs & Mesne Profits 59
4. Pleadings — Fundamental Rules 63
5. Plaint — Parts, Return & Rejection 67
6. Written Statement, Set-off & Counter-claim 70
7. Parties — Joinder, Misjoinder & Non-joinder; Frame of Suit 74
Landmark Cases — in Brief 79
Quick Revision & Case Law Table 85

UNIT 3 — Trial, Judgment & Execution 88
The Big Picture 88
1. Appearance, Examination & Non-appearance of Parties; Ex-parte Decree (O.9, O.18) 90
2. Discovery, Inspection & Production of Documents (O.11, O.13) 94
3. First Hearing & Framing of Issues (O.10, O.14) 96
4. Admissions & Affidavits (O.12, O.19) 99
5. Adjournment (O.17) 101
6. Death, Marriage & Insolvency of Parties (O.22) 105
7. Withdrawal & Compromise of Suits (O.23) 109
8. Judgment & Decree (O.20); Decree vs Order 111
9. Execution of Decrees — Modes, Attachment & Sale (ss.36–74, O.21) 115
10. Security for Costs (O.25) 120
Landmark Cases — in Brief 122
Quick Revision & Case Law Table 128
UNIT 4 — Special Suits, Interim Orders, Appeals & Inherent Powers 131
The Big Picture 131
1. Suits by or against Government & Public Officers (ss.79–82, O.27) 134
2. Suits by or against Aliens, Foreign Rulers & Ambassadors (ss.85–87) 137
3. Suits Relating to Public Matters — Public Nuisance & Charities (ss.91–93) 139
4. Suits by or against Firms (O.30) 140
5. Suits by or against Minors & Persons of Unsound Mind (O.32) 141
6. Suits by Indigent Persons (O.33) 144
7. Interpleader Suits (s.88, O.35) 148
8. Commissions (s.75, O.26) 151
9. Arrest & Attachment before Judgment (O.38) 153
10. Temporary Injunctions (O.39) 155
11. Appointment of Receivers (O.40) 158
12. Appeals — First, Second & to the Supreme Court (ss.96–112, O.41–45) 160
13. Reference, Review & Revision (ss.113–115, O.46–47) 164
14. Caveat (s.148A) 167
15. Inherent Powers & Interlocutory Orders (ss.148–151, s.94) 171
Landmark Cases — in Brief 173
Quick Revision & Case Law Table 180

UNIT 5 — The Limitation Act, 1963 183
The Big Picture 183
1. Scheme, Objects & ‘Bars the Remedy, Not the Right’ (ss.2–3) 185
2. Sufficient Cause & Condonation of Delay (s.5) 189
3. Legal Disability (ss.6–8) 193
4. Computation of Limitation & Effect of Fraud/Mistake (ss.4, 12–17) 197
5. Continuous Running of Time; Effect of Subsequent Disability (s.9) 201
6. Acknowledgment & Effect of Part-payment (ss.18–19) 205
7. Adverse Possession, Extinguishment of Right (s.27) & Distinction from Estoppel . 210
Landmark Cases — in Brief 215
Quick Revision & Case Law Table 220
Master Case Index 222

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> ***Read this first page, then go to your unit.*** *This single file holds the whole subject: how to use the notes, the rules that win marks, and all five units of content. Everything is in plain English, every Latin maxim is translated in [brackets], and every topic is built backwards from the real exam questions.*

How to Use These Notes

What this is. A complete, exam-focused bundle covering all five units of KSLU Civil Procedure Code & Limitation Act. Every topic is built from one question: *what will the examiner ask, and how do I score full marks?* High-frequency questions get the most space; the years listed under each question tell you where to spend revision time.

Who it is for. The first-time learner (understand before memorising), the revision student (fast high-yield recall), and the last-week crammer (which questions repeat and how to answer them).

What is inside every topic — the same blocks, in the same order:

Block	Its job	The mark it earns
Previous Year Questions	Real questions + years asked	What to prepare and how often it repeats
The Hook	A true story / landmark-case opener	Memorable; a strong opening line
Jurist / Statutory Quotes	Exact sections & definitions	Examiners reward precise authority
In Simple Terms	Plain-English translation	Ensures you *understand*
The Visual (chart)	Maps the topic structure	Recall and structure at a glance
Case Laws	Landmark judgments + ratio	Case names with years are pure marks

Each unit closes with a **Quick Revision & Case Law Table** for the final hour, and the bundle ends with a **Master Case Index** so you can find any case fast.

These notes **teach** the subject. The **Question Bank** is the companion volume that turns that knowledge into marks — it carries a model answer for every past question, each opening with a ▤ **Answer Outline** (the skeleton to reproduce under time pressure) and, where two questions are easily confused, a ⚠ **Don’t Confuse** box.

The 4-step study plan. (1) Read the PYQ box first. (2) Understand, then memorise. (3) Trace the chart from memory. (4) Rehearse the matching answers in the Question Bank.

The 10 Rules That Win Marks

1. **Lead with a definition + roadmap.** Open with the section number and a one-line map of the answer.
2. **Follow the Question Bank’s Answer Outline** step by step.
3. **Name the case AND the year** every time.
4. **Quote the exact section / Order / Rule** where given (CPC has 158 sections + Orders; Limitation has 32 sections + a Schedule).
5. **Translate every Latin maxim in [brackets].**
6. **Use the four IRAC headings** for problems; spot the planted decoy fact.
7. **Always give a definite verdict** — “the suit is barred”, “the transfer is granted”.
8. **Use the chart’s structure** to organise the body of the answer.
9. **Close with a short, confident conclusion.**
10. **Manage time** so no high-mark question is left unwritten.

> ***Disclaimer.*** *A study aid, not a substitute for the bare Acts (the Code of Civil Procedure, 1908 and the Limitation Act, 1963) and prescribed texts. Cross-check every section/Order/Rule against the official text. © Medha-Academy.in · KSLU LL.B. · For personal academic use.*

UNIT 1 — Jurisdiction, Res Judicata, Foreign Judgments & Place of Suing

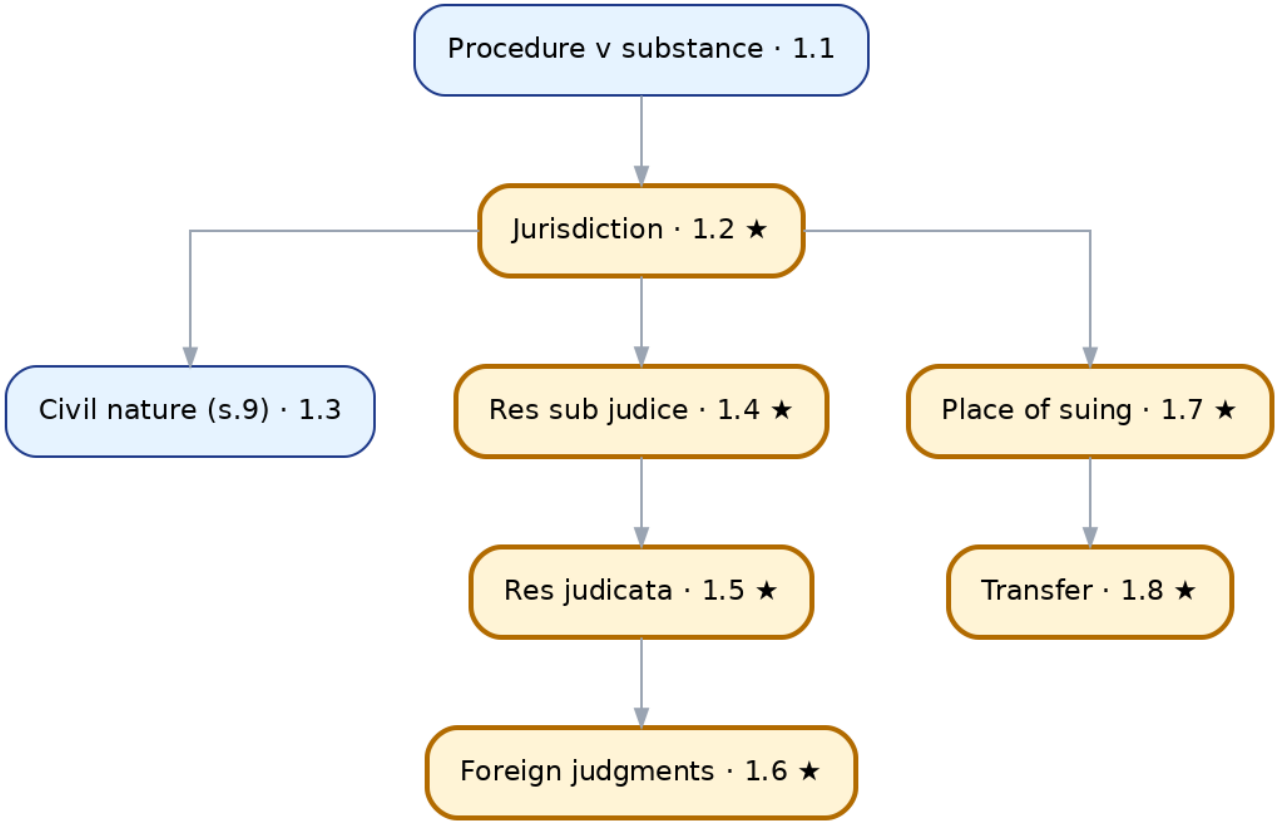
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In this unit.

Before a civil court can decide *who is right*, it must first be sure it is even allowed to hear the case — and that the fight is not a replay of one already fought. That single idea runs through the whole unit. You will learn what a court's power (jurisdiction) is and its kinds; when a suit is "of a civil nature" (s.9); when a court must pause a case (res sub judice, s. 10) and when it must refuse one for good (res judicata, s.11); when an Indian court will honour a foreign court's judgment (ss.13–14); in which town or court a suit must be filed (place of suing, ss.15–21); and when a case can be moved to another court (transfer, ss. 22–25). It looks like eight topics, but it is really one question asked in different ways — *is this court the right court, and is this fight still open?*

The Big Picture

The unit in two lines. Unit 1 answers the first questions in every civil case: *may this court hear the suit at all, is the dispute still open, and is this the right court?* Eight topics, but really three checks in order — power, finality, forum.



From jurisdiction (1.2), three strands: may a civil court act (1.3), is the matter pending or decided (1.4–1.6), which court (1.7–1.8). ★ = five-star topic.

Hold on to these

- **No power, no decree:** a decree without jurisdiction is a nullity; a competent court's wrong decision stands until appealed → 1.2, 1.7.
- **Open by default:** every civil suit is triable unless a statute bars it expressly or by clear implication → 1.3.
- **Not twice:** a matter pending elsewhere is paused; a matter decided is barred, with grounds that ought to have been raised → 1.4, 1.5, 1.6.
- **Forum follows the dispute:** land where it lies; wrongs where done or where the defendant lives; the rest where he lives or the cause arose → 1.7, 1.8.

Tests and distinctions

- **Pending or decided?** Earlier suit *pending* → stay (s.10); earlier suit *finally decided* → bar (s.11) → 1.4, 1.5.
- **Foreign judgment conclusive** unless a s.13 ground applies: incompetent court, no merits, wrong law, unfair hearing, fraud, illegality → 1.6.
- **s.21 objection succeeds only if** raised at the earliest opportunity **and** it caused a failure of justice → 1.7.

- **Transfer within a State** — High Court/District Court (s.24); **across States** — Supreme Court only (s.25) → 1.8.

Cases to name

- *Kiran Singh v Chaman Paswan (1954)* — no jurisdiction, nullity; valuation slips need prejudice → 1.2, 1.7.
- *Dhulabhai v State of M.P. (1968)* — when a statute ousts the civil court → 1.3.
- *Satyadhyan Ghosal v Deorajin Debi (1960)* — finality, even within one proceeding → 1.5.
- *State of U.P. v Nawab Hussain (1977)* — constructive res judicata after a writ → 1.5.
- *Y. Narasimha Rao v Y. Venkata Lakshmi (1991)* — foreign divorce not conclusive → 1.6.
- *Patel Roadways v Prasad Trading Co (1991)* — a company is sued at the branch where the cause arose → 1.7.

Where the marks are

Place of suing (1.7) is the most asked topic, half of it as problems (assault, newspaper defamation, late objection). Jurisdiction, res judicata and transfer (the wife's transfer problem) come as essays; res sub judice and foreign judgments often as short notes.

Table of Contents

1. Procedural vs Substantive Law; History, Extent & Definitions
2. Jurisdiction of Civil Courts — Kinds & Bar on Suits
3. Suits of a Civil Nature (s.9)
4. Res Sub Judice — Stay of Suits (s.10)
5. Res Judicata & Constructive Res Judicata (ss.11–12)
6. Foreign Judgments (ss.13–14)
7. Place of Suing & Objection to Jurisdiction (ss.15–21)
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9. Landmark Cases — in Brief
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1. Procedural vs Substantive Law; History, Extent & Definitions

In short: Substantive law says what our rights and duties are; procedural law says how a court enforces them. The Code of Civil Procedure is mainly procedural: 158 sections set the principles and 51 Orders in the First Schedule give the step-by-step rules.

> **Previous Year Questions**
>
> - **[Short Note]** Distinguish between substantive law and procedural law. *(Jan 2025, Dec 2017)* ★★

The Hook

India's first uniform code of civil procedure came in **1859**, but it did not apply to the Supreme Courts or the Sudder courts, so it was patched in 1877 and 1882 and finally replaced by the present **Code of Civil Procedure, 1908 (Act No. V of 1908)**, in force from **1 January 1909**. More than a century on, the same Code — with big overhauls in 1976, 1999 and 2002 — still governs every civil suit you will ever file.

What is the difference between substantive and procedural law?

Think of a football match. The rules that decide *who wins* — a goal counts, an offside goal does not — are **substantive** rules. The rules about *how the match is run* — the referee, the whistle, the touchline — are **procedural**. Law splits the same way.

Substantive law creates and defines rights, duties and liabilities: who owns the land, who must repay the loan, who is liable for the accident. It tells you *what* the law is. Examples: the Contract Act, the Transfer of Property Act, the Penal Code.

Procedural law (also called *adjective law*) is the machinery that enforces those rights in a court: which court, how to start a suit, how the trial runs, how a winner actually recovers. It tells you *how* to get your right enforced. The **Code of Civil Procedure, 1908 (CPC)** is that machinery for civil disputes.

A first-timer should picture the **life-cycle of a civil suit**, because every topic in these notes is one stage or safeguard on that journey:

- plaint (the written claim) → summons (notice to the defendant) → written statement (the defence) → framing of issues (the disputed questions) → trial and evidence → judgment → decree → execution (actually recovering what the decree gives).

Why the line is not watertight. CPC is procedural, yet it carries a few **substantive** rules — for example res judicata (s.11) actually destroys a right to re-litigate, and s.9 decides which rights a civil court may enforce at all. So the standard exam sentence is: *CPC is essentially procedural, but not exclusively so.*

Structure of the Code. CPC has two parts:

1. A **body of 158 sections** — the skeleton, the fundamental principles, amendable **only by Parliament**.
2. A **First Schedule of 51 Orders**, each Order divided into Rules — the detailed step-by-step procedure, amendable by **High Courts** for their territory.

Where a section and a Rule clash, the **section prevails**, because the Rules only fill in the detail the sections lay down.

Extent (s.1). The Code extends to the **whole of India**, subject to a few limited exclusions the section itself carves out (certain tribal/scheduled areas may be exempted by the State Government). It came into force on 1 January 1909.

Key definitions in s.2 (learn these three cold — they are the vocabulary of the whole subject):

- **Decree — s.2(2).** The formal expression of an adjudication which **conclusively determines the rights** of the parties on any matter in controversy. It may be preliminary, final, or partly both. It includes rejection of a plaint, but **excludes** an order of dismissal for default and any adjudication from which an appeal lies as an appeal from an order.
- **Judgment — s.2(9).** The **statement of the reasons** (the grounds) given by the judge for the decree or order. Judgment first, decree follows from it.
- **Order — s.2(14).** The formal expression of any decision of a civil court which is **not a decree**.

Related definitions worth a line: **decree-holder** s.2(3) (the person in whose favour a decree is passed); **judgment-debtor** s.2(10) (the person against whom it is passed); **mesne profits** s.2(12) (profits a wrongful possessor made or ought to have made); **foreign court** s.2(5) and **foreign judgment** s.2(6) (used in Topic 6).

> **◈ WORKED EXAMPLE — Is it a decree or an order?**
>
> **Facts.** A sues B to recover ₹2,00,000. The court, in one and the same case, (i) refuses B's request for more time to file evidence, and (ii) finally holds B liable and directs him to pay ₹2,00,000.
>
> **Rule.** A **decree** [s.2(2)] conclusively determines the rights of the parties on the matter in controversy; anything that is a formal decision but *not* a decree is an **order** [s.2(14)].
>
> **Apply.** Decision (i) does not decide who owes what — it only manages the procedure — so it is an **order**. Decision (ii) conclusively determines the parties' rights on the main dispute, so it is a **decree**.
>
> **Conclusion.** The refusal of time is an order; the final money adjudication is a decree — and it is the decree, not the order, that A can execute and B can normally appeal.

> ***Section 2(2):*** *"'decree' means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final..."*

In Simple Terms: A decree is the court's final verdict on the parties' rights — the thing you can enforce or appeal. The judgment gives the reasons; the decree gives the result.

Case Laws

- ***Official Trustee, West Bengal v Sachindra Nath Chatterjee (1969)***
  - **Facts:** In 1937 the settlor of a family trust asked the Calcutta High Court to appoint the Official Trustee in his place and to let him change the beneficiaries' shares by deed, although the trust deed allowed that only by will; the court made the order. After the settlor's death his son, Sachindra Nath, sued to have that order declared void as one the court had no power to make.
  - **Held:** A court has jurisdiction only if it has authority both to hear the kind of case and to grant the specific relief asked for; power over the subject alone is not enough. The 1937 order altering the trust was therefore void.
  - **Why it matters here:** It shows why procedure matters from the start — a court acts only within the power the procedural law gives it, a point Topic 2 builds on.

---

2. Jurisdiction of Civil Courts — Kinds & Bar on Suits

In short: Jurisdiction is a court's legal power to hear a case and grant the relief asked for, and it is divided by place, money value, subject-matter and stage (original or appeal). A decree made without jurisdiction is a nullity, while a wrong decision by a court that had power stands until it is set aside on appeal.

> **Previous Year Questions**
>
> - **[16M]** Define jurisdiction. Explain the different kinds of jurisdiction of civil courts. *(Jul 2026, Jan 2026, Jul 2025, Jan 2025, Aug 2024)* ★★★★
> - **[Short Note]** Kinds of jurisdiction — subject-matter, pecuniary; bar on jurisdiction. *(Mar 2024, Mar 2023, Jul 2019, Dec 2015, Jul 2014)* ★★★
> - **[Problem]** Objection to a court's jurisdiction over a loan suit; effect of an agreement choosing the court. *(Nov 2022, Dec 2016)* ★★

The Hook

In ***Kiran Singh v Chaman Paswan (1954)***, a suit under-valued and filed in the wrong-grade court travelled all the way to the Supreme Court. The Court laid down a line every law student must memorise: a decree passed by a court **with no jurisdiction is a nullity** — a "coram non judice" [before one who is not a judge] — and its invalidity can be set up **whenever and wherever** it is relied on, even at the execution stage or in appeal.

What is jurisdiction, and what are its kinds?

Jurisdiction is simply the **power or authority of a court to hear and decide a case** and to grant the relief asked for. A court is like a shopkeeper who can only sell what is on his shelves — a court can only decide what the law has authorised it to decide. If it steps outside that authority, its decision is worthless.

There are **four main kinds** of jurisdiction. Learn each with its own one-line test:

1. **Territorial (local) jurisdiction.** Every court is assigned a geographical area, and it can try only suits arising within that area — its "local limits". A Bengaluru civil court cannot try a land dispute over property lying wholly in Mysuru. This is worked out in detail by the place-of-suing sections (Topic 7).
2. **Pecuniary jurisdiction.** Courts are graded by the **value of the suit** ("pecuniary" = relating to money). A court can try a suit only if its value falls within the money-limit fixed for it; a small-cause court cannot try a ₹50-lakh suit. Section 15 tells the plaintiff to file in the **court of the lowest grade competent** to try it.
3. **Subject-matter jurisdiction.** Some courts are given only certain *kinds* of cases. A Family Court hears matrimonial matters, a Rent Controller hears tenancy matters — a court cannot try a subject the law has assigned elsewhere.
4. **Original and appellate jurisdiction. Original** jurisdiction is the power to try a case **at first instance** (where the suit begins). **Appellate** jurisdiction is the power to **hear appeals** from the decisions of lower courts. A District Court has both; a High Court has both plus writ jurisdiction.

The distinction that wins marks — lack of jurisdiction vs irregular exercise. This is the heart of the topic and a favourite short note.

- **Inherent lack of jurisdiction** means the court **never had the power** at all — wrong subject-matter, or no pecuniary/territorial competence. The resulting decree is a **nullity**; it can be challenged **at any time**, even in execution or collateral proceedings, and consent of the parties **cannot** cure it. You cannot give a court power the law has withheld.
- **Irregular (or wrong) exercise of jurisdiction** means the court **had** the power but **used it wrongly** — it decided a point of law or fact incorrectly, or followed a wrong procedure. Such a decree is **not a nullity**; it is valid until set aside, and the only remedy is the ordinary one of **appeal or revision**. A wrong decision by a competent court binds until reversed.

⚠ **CAUTION**

Do **not** say "a wrong decision by a competent court is void". It is *not* void — it is merely erroneous, and if you do not appeal in time it becomes final. Only a decree by a court with *no* jurisdiction is a nullity.

◈ **WORKED EXAMPLE — The wrong-grade court**

Facts. A files a suit worth ₹8,00,000 in a court whose pecuniary limit is ₹5,00,000. The court decides the suit in A's favour. B later challenges the decree in execution, saying the court had no pecuniary jurisdiction.

Rule. A decree passed **wholly without jurisdiction** (subject-matter or pecuniary) is a **nullity** and may be attacked at any stage [*Kiran Singh v Chaman Paswan (1954)*]; but a *mere* over/under-valuation objection is separately controlled by s.21, which needs prejudice to be shown.

Apply. The court had **no** competence to try an ₹8,00,000 suit at all, so the adjudication is a nullity in the true sense — unless the only defect is valuation, in which case s.21 requires B to show the error caused a **failure of justice** and that he raised it early.

Conclusion. If it is a genuine absence of pecuniary power, the decree is void and unenforceable; if it is a bare valuation error raised late with no prejudice, s.21 saves it. Always spot which of the two the facts describe.

Section 6: *"Save in so far as is otherwise expressly provided, nothing herein contained shall operate to give any Court jurisdiction over suits the amount or value of the subject-matter of which exceeds the pecuniary limits (if any) of its ordinary jurisdiction."*

In Simple Terms: Section 6 makes the point plain — the Code itself does not enlarge any court's money-limit. A court cannot hear a suit worth more than the ceiling fixed for it by the law that set it up.

✎ **EXAM TIP — Never stop at "jurisdiction = power of the court"**

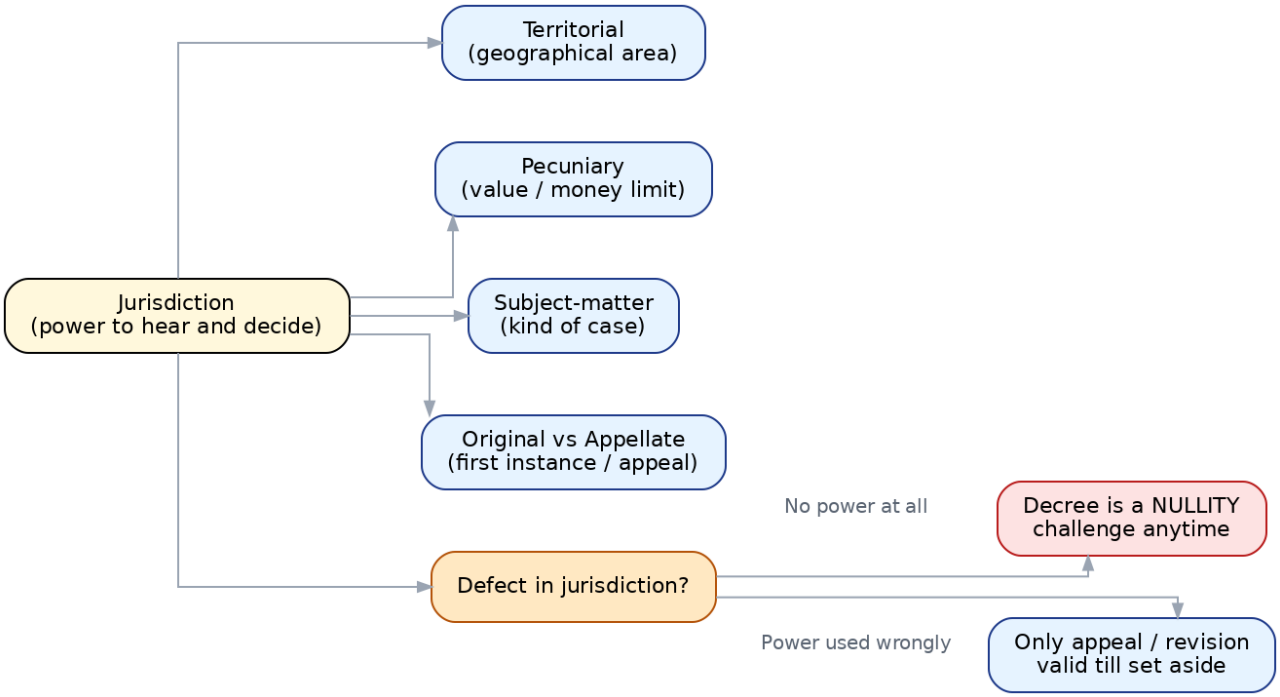
The trap. Most candidates define jurisdiction in one line, list the four kinds as bare nouns, and stop — losing half the marks on a 16-mark question.

What to write. Define it, then give the **four kinds with one concrete example each**, and finish with the **lack vs irregular exercise** distinction anchored to *Kiran Singh v Chaman Paswan (1954)* — "a decree without jurisdiction is a nullity, challengeable at any time".

Why it scores. The examiner is really testing whether you know a *void* decree from a merely *wrong* one — that single contrast is the difference between a pass and a first.

The Visual

The chart lists the four kinds of jurisdiction and then the one question that decides whether a defective decree survives.



Start at the top: the four branches on the left are the kinds you define in an essay. The diamond is the test for any problem — if the court had no power at all, follow the red branch: the decree is a nullity open to challenge at any time; if it had power but used it wrongly, the decree stands until set aside by appeal or revision.

Case Laws

- **[C-3] *Kiran Singh v Chaman Paswan (1954)***
  - **Facts:** Plaintiffs valued their suit for possession of land at Rs. 2,950 and filed it before a Subordinate Judge, whose decree went in appeal to the District Judge. When they lost and came to the High Court, the suit was re-valued at about Rs. 9,980, at which value the first appeal should have gone to the High Court; the plaintiffs then argued that the District Judge's decree was void.
  - **Held:** A decree passed by a court with no jurisdiction is a nullity and may be attacked anywhere, even in execution; but an objection based only on wrong valuation cannot upset a decree unless the error caused prejudice, and here none was shown.
  - **Why it matters here:** It is the source of the nullity rule and of the distinction between a true lack of jurisdiction and a curable defect.
- ***Official Trustee, West Bengal v Sachindra Nath Chatterjee (1969)***
  - **Facts:** As in Topic 1, a High Court order altering the terms of a trust was attacked as one the court had no power to make.

- **Held:** Jurisdiction means authority to decide the case *and* to grant the relief prayed for.
- **Why it matters here:** It supplies the full definition of jurisdiction to open an essay.

---

3. Suits of a Civil Nature (s.9)

In short: Civil courts may try every suit whose main question is a civil right — property, office, status or money — unless a law has taken that kind of dispute away from them. Such a bar must be stated in the statute or follow clearly from it, and it is never lightly assumed.

> **Previous Year Questions**
>
> - **[16M]** "Civil courts have jurisdiction to try all suits of a civil nature except those barred." Explain with reference to s.9. *(Jul 2016, Jul 2014)* ★★
> - **[Short Note]** Suits of a civil nature. *(Nov 2021)* ★
> - **[Problem]** A suit is filed over the right to a religious office carrying fees; is it a suit of a civil nature? *(Nov 2021)* ★

The Hook

In ***Most Rev. P.M.A. Metropolitan v Moran Mar Marthoma (1995)***, a bitter dispute inside a church — who controls the parish, the properties, the offices — reached the Supreme Court. The Court held that even though religious questions were tangled in, the **real dispute was about civil rights** (property and office), so the civil court's doors under **s.9 were wide open**. The lesson: s.9 is a section of *inclusion*, not exclusion.

What does "suit of a civil nature" mean?

Start with the everyday idea: a civil court is the **default forum** for private disputes about rights. Section 9 turns that into a rule — courts shall try **all** suits of a civil nature **except** those whose cognizance is expressly or impliedly **barred**. The presumption is always **in favour** of the civil court's jurisdiction; anyone who says the court is barred must prove it.

When is a suit "of a civil nature"? A suit is of a civil nature if the **principal question in it concerns a civil right** — a right to property, to an office, to a status, to money, to compensation. The word "civil" is contrasted with criminal, political, and purely religious matters. The **two Explanations** to s.9 fine-tune this:

- **Explanation I.** A suit in which the right to **property** or to an **office** is contested **is** a suit of a civil nature, *even if* that right depends entirely on the decision of questions about **religious rites or ceremonies**. So a fight over a temple's *funds or office* is civil, even though a religious question must be answered on the way.

- **Explanation II.** It makes no difference whether or not any **fees are attached** to the office, or whether it is attached to a particular place. This closes an old loophole about honorary religious offices.

What is NOT a suit of a civil nature. A suit that is **purely** about a caste question, a purely religious rite with no civil consequence, or a purely political matter is **not** civil. Example: a claim to precedence in a religious procession, standing alone with no property or office at stake, is not maintainable under s.9.

The two kinds of bar — the other half of s.9. Even a genuinely civil suit can be shut out if its cognizance is barred:

1. **Expressly barred.** A statute may **in so many words** send the matter to another forum and oust the civil court — e.g. tax disputes to tax tribunals, industrial disputes to labour courts. The bar is written into the special Act.
2. **Impliedly barred.** The bar is **not stated** but follows by necessary implication — where a statute creates a **new right and provides a special remedy/forum** for it, that special remedy is taken to be exclusive. Courts do **not** infer such a bar lightly; the exclusion must be **explicitly expressed or clearly implied** (*Dhulabhai v State of M.P. (1968)*).

> **▶ KEY POINT**
>
> A crucial safeguard: even where jurisdiction is barred, a civil court can still examine whether the special tribunal acted **without jurisdiction** or in breach of **fundamental principles of judicial procedure** — the bar is never a blank cheque (*Secretary of State v Mask & Co. (1940)*).

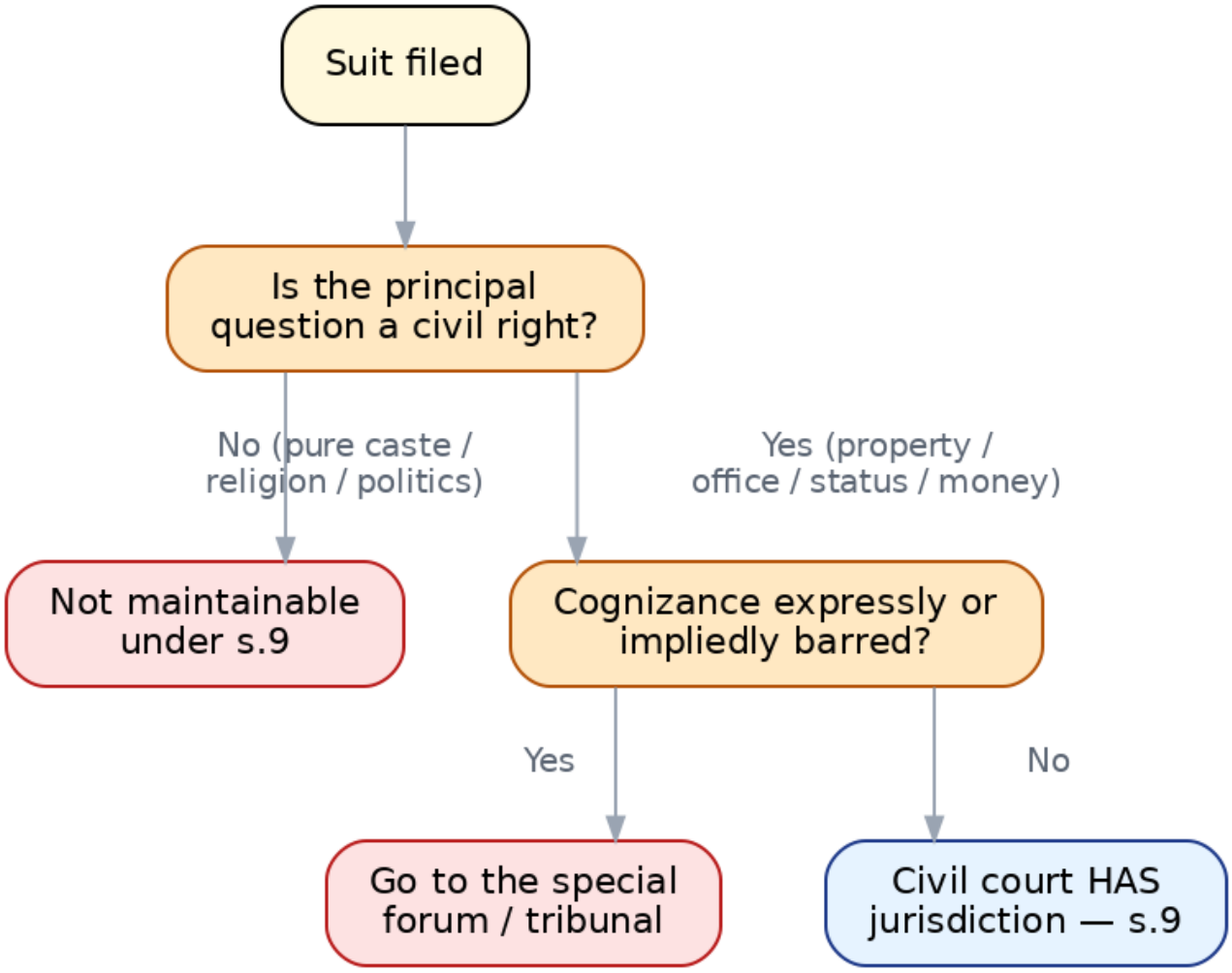
> **◈ WORKED EXAMPLE — Religious office with fees**
>
> **Facts.** X claims he is entitled to the hereditary office of *archaka* (priest) of a temple, an office that carries the right to collect certain offerings. The temple committee resists, saying this is a purely religious matter for the religious body, not a civil court.
>
> **Rule.** Under s.9 read with Explanation I and II, a suit contesting the right to an **office** is of a civil nature even if it turns on religious questions, and even if fees are (or are not) attached.
>
> **Apply.** X's claim is essentially to an **office** carrying a **financial/beneficial right**; the religious element is only incidental to deciding who holds that office.
>
> **Conclusion.** The suit **is** of a civil nature and the civil court can try it — unless a special statute (e.g. an Endowments Act) has expressly or impliedly barred it and provided its own forum.

> ***Section 9:*** *"The Courts shall (subject to the provisions herein contained) have jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred."*

In Simple Terms: If your dispute is about a private, civil right, the civil court will hear it — automatically — unless some law has clearly taken that particular dispute away and given it to another forum.

The Visual

Section 9 works as two questions asked in order; follow the chart for any "can the civil court hear this?" problem.



First ask whether the main question is a civil right; a purely caste, religious or political claim stops there. If it is a civil right, ask whether any statute bars it expressly or by clear implication — if so, the special forum decides; if not, the civil court has jurisdiction under s. 9.

Case Laws

- **[C-7]** ***Most Rev. P.M.A. Metropolitan v Moran Mar Marthoma (1995)***
  - **Facts:** Two factions of the Malankara Orthodox Syrian Church, one owing allegiance to the Catholicos in India and the other to the Patriarch of Antioch, fought for decades over control of churches, offices and church property, and the dispute was taken to the civil courts.
  - **Held:** Section 9 is to be read widely; a dispute about property or an office is a suit of a civil nature even though religious questions must be answered on the way.
  - **Why it matters here:** It is the leading modern statement that the civil court's door is open unless a bar is shown.
- **[C-6]** ***Dhulabhai v State of Madhya Pradesh (1968)***
  - **Facts:** Traders paid sales tax under a Madhya Bharat sales-tax law on goods brought in from other States; after the levy was held unconstitutional, they filed civil suits for refund, and the State pleaded that the Act barred civil suits.
  - **Held:** The Court laid down tests for exclusion: a bar must be express or clearly implied, a special remedy must be adequate, and a civil suit lies where the provision itself is ultra vires or the authority has not followed the fundamental principles of procedure. The refund suits were maintainable.
  - **Why it matters here:** It is the checklist for every "is the civil court barred?" question.
- ***Secretary of State v Mask & Co. (1940)***
  - **Facts:** Mask & Co. imported goods, disputed the customs duty assessed on them, lost the departmental appeal, and then sued the Government in a civil court for a refund.
  - **Held:** The Privy Council held that exclusion of civil jurisdiction is not readily inferred, but the Sea Customs Act clearly made the customs authorities' decision final, so the suit failed; the civil court could still interfere if the authority had acted outside the Act or against fundamental judicial procedure.
  - **Why it matters here:** It is the older authority behind both halves of the rule on bars.

---

4. Res Sub Judice — Stay of Suits (s.10)

In short: When the same dispute between the same parties is already being tried in a competent court, a court that receives a later suit on it must pause that trial. The later suit is only stayed, not dismissed, and the court can still make temporary protective orders.

> **Previous Year Questions**
>
> - **[16M]** Explain the doctrine of *res sub judice* and the conditions for staying a suit under s.10. *(Oct 2023, Mar 2023, Dec 2020, Jul 2014)* ★★★
> - **[Short Note]** Stay of suit / res sub judice. *(Jul 2026, Jan 2026, Jan 2025, Oct 2023, Nov 2022)* ★★★★

The Hook

Two courts, the same two parties, the very same dispute, at the same time — a recipe for two contradictory judgments and endless confusion. Section 10 is the traffic signal that prevents the crash: the court that got the case **later** must **stop and wait** for the court that got it **first**. In ***Indian Bank v Maharashtra State Coop. Marketing Federation (1998)***, the Supreme Court clarified exactly how far that "stop" reaches.

What is res sub judice?

Res sub judice is Latin for **"a matter under judgment"** — i.e. a matter still being tried. The everyday idea is fairness and economy: you should not have to defend the **same fight in two courts at once**, and two courts should not risk delivering **conflicting** decisions on the same question. So s.10 tells the **later** court to **stay** (halt) the trial while the **earlier** suit is pending.

The five conditions for a stay under s.10 — all must be satisfied:

1. **Two suits** — one previously instituted, one subsequently instituted.
2. The **matter in issue** in the later suit is **directly and substantially in issue** in the earlier suit. It need not be a word-for-word overlap, but the core dispute must be the same.
3. Both suits are between the **same parties**, or parties **litigating under the same title** (claiming through the same source).
4. The **previously instituted suit is pending** — in the same court, or in any other court in India competent to grant the relief, or in a court beyond India established by the Central Government, or before the Supreme Court.
5. The court in which the earlier suit is pending is **competent to grant the relief** claimed in the later suit.

What exactly is stayed? The section bars the court from proceeding with the **trial** of the later suit — not from existing. So the suit is **not dismissed**; it is only kept on hold, to be taken up if and when the earlier suit ends without deciding the common matter.

The traps and limits — this is where marks are won:

- Section 10 stays the **trial**, not the whole proceeding. The later court can still pass **interim/interlocutory orders** (e.g. an injunction, appointment of a receiver) to protect the parties. In *Indian Bank (1998)* the Court held that the s.10 bar on "trial"

does **not** paralyse the court from making interim orders, and does not apply to a **summary suit** under Order 37 until leave to defend is granted.

- The **object** is to protect a defendant from two vexatious parallel trials and to avoid conflicting decrees — not to help a plaintiff delay.
- Section 10 is **mandatory** in form ("no court shall proceed"), but parties may **consent to waive** it, and the court retains power to **consolidate** the two suits instead of staying one — consolidation actually serves the same purpose better.
- **Explanation to s.10** — the **pendency of a suit in a foreign court does not** prevent an Indian court from trying a suit founded on the same cause of action.

Res sub judice vs res judicata — keep them apart:

- **Res sub judice (s.10)** applies when the earlier suit is **still pending** → the remedy is a **stay** (pause).
- **Res judicata (s.11)** applies when the earlier suit has been **finally decided** → the remedy is a **bar** (the later suit cannot be tried at all).

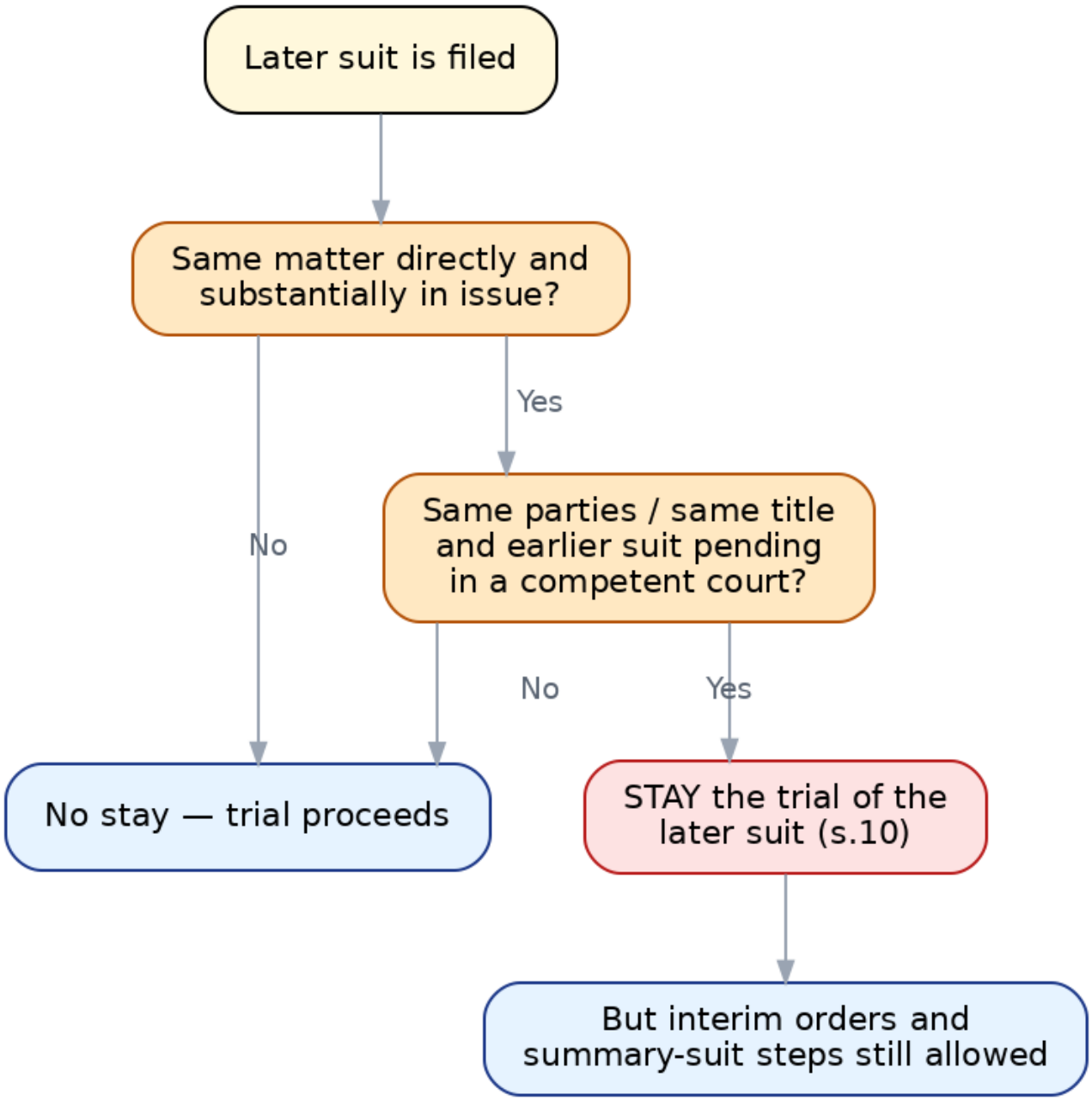
> **◈ WORKED EXAMPLE — The parallel suits**
>
> **Facts.** A sues B at Court X (filed in January) claiming that a sale deed of a house is valid. In March, B sues A at Court Y claiming the same sale deed is a forgery. Both courts are competent. A applies to Court Y to stay its suit.
>
> **Rule.** Under s.10 the later court must stay the trial where the matter is directly and substantially in issue in a previously instituted suit between the same parties in a competent court.
>
> **Apply.** The core question — is the sale deed valid? — is directly and substantially in issue in both; the parties are the same; Court X's suit is earlier and Court X is competent to grant the relief.
>
> **Conclusion.** Court Y **must stay** the trial of the March suit and let Court X decide first — but Court Y may still grant A or B an interim injunction to preserve the house in the meantime.

> ***Section 10:*** *"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, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court."*

In Simple Terms: If the very same dispute between the very same parties is already being tried in a competent court, a second court must not run its own trial in parallel — it has to wait for the first court to finish.

The Visual

The chart turns the five conditions of s.10 into a sequence of checks the later court makes.



Begin with the later suit. If the matter in issue is not the same, or the parties, title, pendency or competence tests fail, the trial goes on. Only when every check is met is the trial stayed — and even then the bottom box reminds you that interim orders remain possible.

Case Laws

- **[C-8]** ***Indian Bank v Maharashtra State Co-operative Marketing Federation Ltd. (1998)***
  - **Facts:** The Federation had already sued Indian Bank over a letter-of-credit transaction; the bank then filed a summary suit under Order 37 to recover the amount due under the letter of credit, and the Federation asked the court to stay that summary suit under s.10.
  - **Held:** The "trial" that s.10 stops does not include interim orders, and in a summary suit the trial begins only when leave to defend is granted, so s.10 does not stop the earlier summary stages.
  - **Why it matters here:** It fixes how far the stay under s.10 reaches.

---

5. Res Judicata & Constructive Res Judicata (ss. 11–12)

In short: Once a competent court has finally decided a matter between two parties, neither of them can make a court decide it again. A point that could and should have been raised in the first suit is treated as if it had been raised and decided.

> **Previous Year Questions**
>
> - **[16M]** Define res judicata. State and explain the conditions for its application under s.11. *(Jul 2026, Jan 2026, Jul 2025, Jan 2025, Aug 2024)* ★★★★
> - **[Short Note]** Constructive res judicata. *(Aug 2024, Mar 2021)* ★★
> - **[Problem]** X sues for possession on the ground of ownership (dismissed) and files a fresh suit on adverse possession; is the second suit barred? *(Jul 2026, Dec 2014)* ★★

The Hook

In ***Satyadhyan Ghosal v Deorajin Debi (1960)***, the Supreme Court explained the human sense behind the rule: litigation must have an **end**. A man who has fought and lost cannot drag his opponent back to court over the same quarrel for the rest of their lives. And in ***Daryao v State of U.P. (1961)***, the Court went further — res judicata is not a mere technical rule of CPC but a principle of **public policy** that even binds writ petitions under Articles 32 and 226.

What is res judicata?

Res judicata means **“a matter already judged”**. The everyday analogy: **the match is over — you cannot demand a replay because you lost.** Once a competent court has finally decided a matter between two parties, **neither** party can re-open that same matter in a fresh suit. Section 10 makes a court *wait*; section 11 makes a court *refuse*.

It rests on three ancient maxims (translate each in the exam):

- *Interest reipublicae ut sit finis litium* — **it is in the interest of the State that there be an end to litigation.**
- *Nemo debet bis vexari pro una et eadem causa* — **no one should be vexed twice for the same cause.**
- *Res judicata pro veritate accipitur* — **a decided matter is accepted as the truth.**

The conditions for res judicata under s.11 — a later suit/issue is barred only if **all** are met:

1. **The matter directly and substantially in issue** in the later suit was **directly and substantially in issue** in the former suit. (A matter only *collaterally* or *incidentally* in issue does not attract the bar.)
2. The former suit was between the **same parties**, or parties **litigating under the same title** (in the same legal capacity — a man suing as an heir is not the same as the same man suing as a trustee).
3. The parties litigated under the **same title** (capacity) in both.
4. The court that decided the former suit was **competent** to try the later suit (or the issue in it).
5. The matter was **heard and finally decided** in the former suit — actually adjudicated, not left open, withdrawn, or dismissed for default.

The eight Explanations to s.11 refine these; know the important ones:

- **Explanation IV — constructive res judicata (the star of the topic).** Any matter which **might and ought to have been made a ground of attack or defence** in the former suit is **deemed** to have been a matter directly and substantially in issue. In plain words: you must bring **all** your grounds in the first fight; a ground you *could* have raised but did not is treated **as if it had been raised and lost**. This is “constructive” (i.e. deemed) res judicata. It stops a losing party from re-litigating the same claim by simply inventing a new argument.
- **Explanation VI** — where persons litigate **bona fide in respect of a public/private right claimed in common**, all persons interested are deemed to claim under the litigating parties (representative suits).
- **Explanations VII and VIII** (added in 1976) — res judicata applies to **execution proceedings**, and a decision by a **court of limited jurisdiction** competent to decide the issue operates as res judicata in a later suit even if that limited court could not have tried the later suit.

Section 12 — bar to further suit. Where a plaintiff is **precluded by rules** (e.g. Order 2 Rule 2 for omitting part of his claim, or Order 9 for a suit dismissed) from instituting a further suit for a particular cause of action, he **cannot** bring a fresh suit for it in any court to which the Code applies. Section 12 is the companion "no second bite" provision that backs up s.11.

> ⚠ **CAUTION**
>
> Res judicata needs a matter **heard and finally decided**. A suit dismissed for **default of appearance** (Order 9), or **withdrawn without leave**, is **not** a decision on the merits — so it does **not** by itself create res judicata (though other rules may bar a fresh suit). Do not confuse "dismissed" with "decided".

> ◈ **WORKED EXAMPLE — Ownership lost, adverse possession tried next**
>
> **Facts.** X sues to recover a plot claiming he is the **owner**. The suit is dismissed on the merits. X then files a **fresh** suit for the same plot, this time claiming title by **adverse possession**.
>
> **Rule.** Section 11 with Explanation IV (constructive res judicata) bars not only grounds actually raised but every ground of attack that **might and ought to have been** raised in the earlier suit.
>
> **Apply.** Adverse possession over the same plot was a ground X could and should have pleaded in the first suit to establish his right to possession. Failing to raise it does not create a new cause of action — the subject and relief are identical.
>
> **Conclusion.** The second suit is **barred by constructive res judicata**. A new *argument* about the same claim is not a new *suit*.
>
> **Variant.** Contrast the "different capacity" problem: if X first sued **as legal heir** (and lost) and later sues **as trustee** of the same property, s.11 does **not** bar him, because he litigates under a **different title/capacity**.

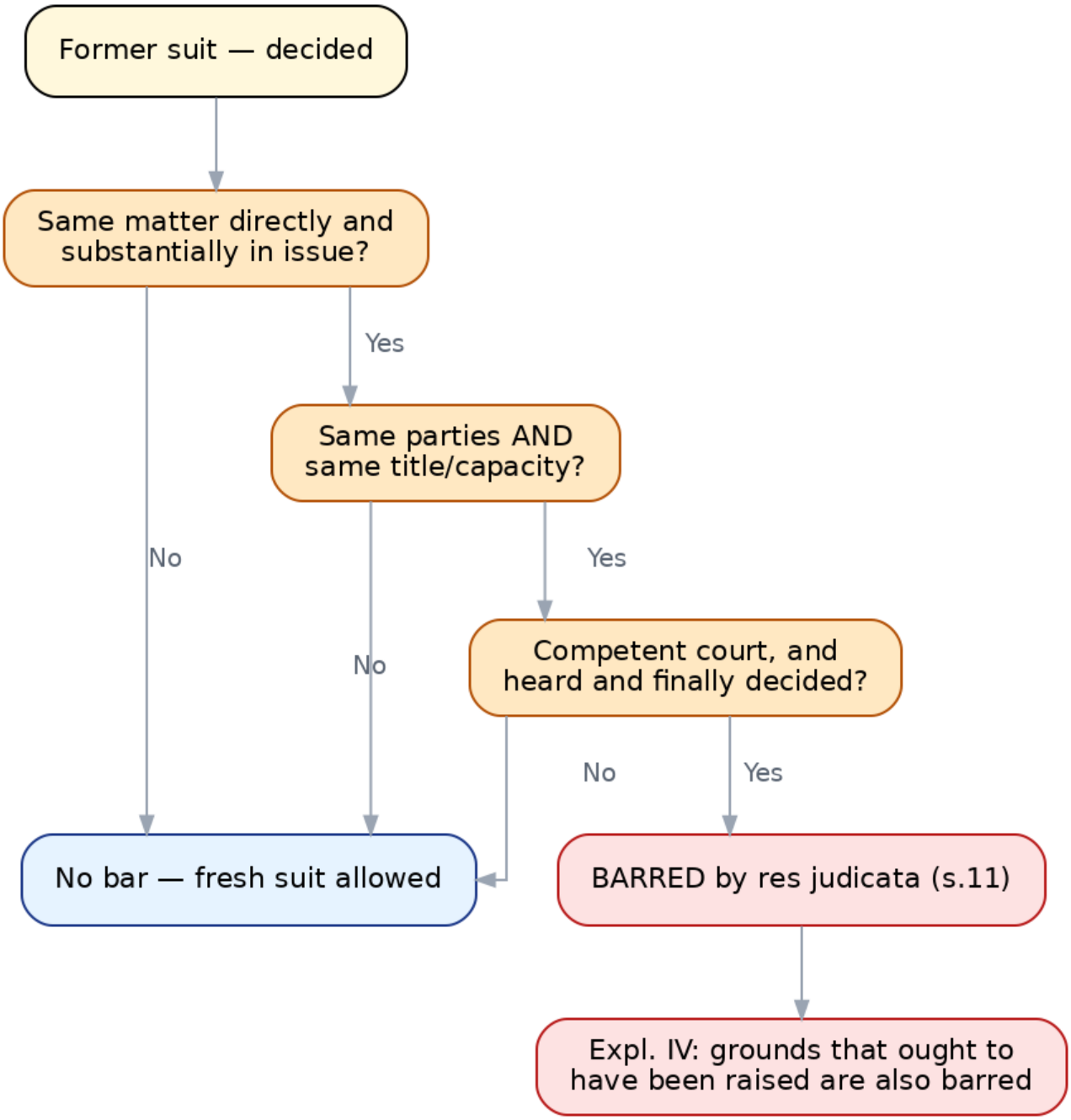
> ***Section 11:*** *"No Court shall try any suit or issue in which the matter directly and substantially in issue has been directly and substantially in issue in a former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a Court competent to try such subsequent suit or the suit in which such issue has been subsequently raised, and has been heard and finally decided by such Court."*

In Simple Terms: If a proper court has already finally decided the same question between the same parties, no court will hear that question again. And under Explanation IV, a point you *could* have raised the first time counts as already decided against you.

> **✎ EXAM TIP — Don’t confuse “same party” with “same title”**
>
> **The trap.** Candidates see the *same person* on both sides and jump to “res judicata applies”, forgetting the person may be suing in a **different capacity**.
>
> **What to write.** State condition 2 precisely — “same parties **litigating under the same title**” — and give the example: a claim as *legal heir* and a claim as *trustee* are **different titles**, so the bar does not apply.
>
> **Why it scores.** The 2014 “trust property — heir then trustee” problem is decided entirely on this distinction; spotting it shows the examiner you can *apply*, not just recite.

The Visual

Res judicata is a chain of conditions, each of which must be met; the chart shows where a later suit escapes.



Work downwards from the former suit. A “no” at any diamond — different matter, different parties or capacity, incompetent court, or no final decision — lets the later suit proceed. Only a “yes” at all three brings the bar, and the last box adds Explanation IV: grounds that ought to have been raised are barred too.

Case Laws

- **[C-2] *Satyadhyan Ghosal v Deorajin Debi (1960)***
  - **Facts:** Landlords obtained an ejectment decree against their tenant, Deorajin Debi. She applied under a new Calcutta tenancy law to have the decree rescinded; the Munsif refused, but the High Court in revision held the law applied and sent the case back. The decree was then rescinded, and when the landlords challenged that, they

were told that the High Court's earlier remand order, which they had not appealed, barred them as res judicata.
    - **Held:** Res judicata rests on the need to end litigation and applies between different stages of the same proceeding; but a party may still challenge an interlocutory order, such as an order of remand, in an appeal from the final decision if he did not or could not appeal it separately. The landlords' appeal was allowed.
    - **Why it matters here:** It explains *why* the doctrine exists and how it works inside one case.
- **[C-1]** ***Daryao v State of U.P. (1961)***
    - **Facts:** The petitioners lost writ petitions under Art. 226 in the Allahabad High Court on the merits and then filed fresh petitions under Art. 32 in the Supreme Court on the same facts.
    - **Held:** Res judicata is a rule of public policy and bars a fresh writ on a matter already decided on the merits.
    - **Why it matters here:** It shows that the principle is wider than s.11 and binds constitutional remedies too.
- ***State of U.P. v Nawab Hussain (1977)***
    - **Facts:** A sub-inspector of police dismissed from service challenged the dismissal in a writ petition, arguing he had not been heard; the writ was dismissed. He then filed a suit arguing, for the first time, that he had been dismissed by an officer below the one who had appointed him.
    - **Held:** The new plea could and ought to have been raised in the writ petition, so the suit was barred by constructive res judicata.
    - **Why it matters here:** It is the clearest example of Explanation IV — a ground held back is lost.
- ***Direct Recruit Class II Engineering Officers' Association v State of Maharashtra (1990)***
    - **Facts:** Directly recruited engineers in Maharashtra challenged the rules fixing their seniority against promoted officers after earlier litigation on the same seniority had been decided.
    - **Held:** A party cannot reopen a decided matter by raising grounds that were available in the earlier proceeding; constructive res judicata applies to writ petitions as well.
    - **Why it matters here:** It confirms that Explanation IV reaches beyond ordinary suits.

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6. Foreign Judgments (ss.13–14)

In short: A judgment of a foreign court binds the same parties in India unless it fails one of six tests: the court lacked competence, it did not decide the merits, it misapplied the

law, it denied a fair hearing, it was obtained by fraud, or it enforces something illegal in India. A certified copy is presumed to come from a competent court.

> **Previous Year Questions**
>
> - **[16M]** When is a foreign judgment conclusive? Explain the exceptions under s.13. *(Jul 2015)* ★
> - **[Short Note]** Foreign judgment / presumption under s.14. *(Jul 2026, Jul 2025, Mar 2024, Oct 2023, Nov 2022)* ★★★★
> - **[Problem]** A sues B in a foreign court (dismissed) and re-sues in India on the same cause; is the fresh suit barred? *(Mar 2023, Dec 2018)* ★★

The Hook

In ***Y. Narasimha Rao v Y. Venkata Lakshmi (1991)***, a husband obtained a quick divorce in a US court that neither spouse was really domiciled in, then used it in India. The Supreme Court refused to recognise it: a foreign matrimonial decree is **not** conclusive in India unless the foreign court was one that Indian law would treat as **competent** and the decision was **on the merits** under the law the parties were married under. It is the leading modern case on s.13.

What is a foreign judgment, and when is it conclusive?

A **foreign judgment** [s.2(6)] is the judgment of a **foreign court** [s.2(5)] — a court outside India, not established or continued by the authority of the Central Government. The starting principle is one of **comity** (mutual respect between nations): India will normally **honour** a foreign court's judgment and treat it as **conclusive** between the same parties, so they are not forced to re-litigate abroad and again at home.

But the respect is **conditional**. Section 13 says a foreign judgment is conclusive **except** on **six grounds** — memorise them, because the whole topic is these six exceptions. A foreign judgment is **NOT** conclusive where:

1. **Not a competent court** — it was **not** pronounced by a court of competent jurisdiction (the foreign court had no jurisdiction that Indian law recognises over the parties or subject-matter).
2. **Not on the merits** — it was **not given on the merits** of the case (e.g. decided by default, or dismissed on a technicality without examining the real dispute).
3. **Wrong view of law** — it appears **on the face of the proceedings** to be founded on an **incorrect view of international law** or a **refusal to recognise the law of India** where Indian law applied.
4. **Natural justice breached** — the proceedings were **opposed to natural justice** (e.g. a party got no notice, no fair hearing, or a biased judge).
5. **Obtained by fraud** — the judgment was **obtained by fraud** (fraud unravels everything; a judgment procured by fraud is a nullity everywhere).

6. **Breach of Indian law** — it **sustains a claim founded on a breach of any law in force in India** (e.g. enforcing a gaming or smuggling contract void in India).

If **none** of the six exceptions applies, the foreign judgment is **conclusive** and **bars a fresh suit** in India on the same matter — it operates almost like res judicata.

Section 14 — the presumption. When a **certified copy** of a foreign judgment is produced, the court shall **presume** that it was pronounced by a **court of competent jurisdiction**, unless the contrary appears on the record — but this presumption can be **rebutted** by the party challenging it. So s.14 helps the person relying on the foreign judgment; s.13 gives the other side its six ways to attack it.

> **▶ KEY POINT**
>
> A conclusive foreign judgment can be enforced in India in **two ways**: (i) by filing a **fresh suit** on the foreign judgment, or (ii) where the country is a "reciprocating territory" notified under s.44A, by **direct execution** as if it were a decree of an Indian district court.

> **◈ WORKED EXAMPLE — Dismissed abroad, re-sued in India**
>
> **Facts.** A sues B in a competent English court on a contract debt. After a full trial, the court dismisses A's claim on the merits. A then files a fresh suit in India against B on the **same** debt.
>
> **Rule.** Under s.13, a foreign judgment pronounced by a competent court **on the merits** is conclusive between the parties and bars a fresh Indian suit on the same cause — unless one of the six exceptions applies.
>
> **Apply.** The English court was competent and decided **on the merits**; none of exceptions (c)–(f) is shown. So the judgment is conclusive.
>
> **Conclusion.** A's fresh Indian suit is **barred** by the conclusive foreign judgment.
>
> **Decoy.** The examiner plants "a foreign dismissal is irrelevant in India". It is wrong — a merits dismissal by a competent foreign court is very much conclusive here. But **flip the facts**: if the foreign court had dismissed the suit **for default** or **want of jurisdiction**, that is **not on the merits**, exception (b) applies, and A's Indian suit would **not** be barred.

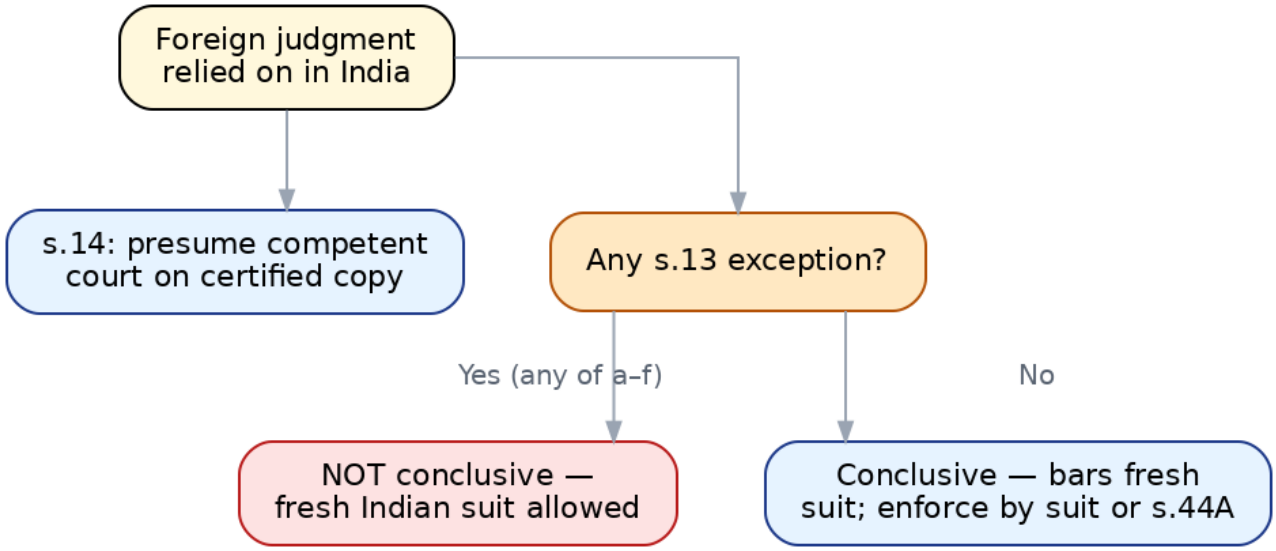
> ***Section 13:*** *"A foreign judgment shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except— (a) where it has not been pronounced by a Court of competent jurisdiction; (b) where it has not been given on the merits of the case; (c) where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of India in cases in which such law is applicable; (d) where the proceedings in which the judgment was obtained are opposed to natural justice; (e) where it has been obtained*

> *by fraud; (f) where it sustains a claim founded on a breach of any law in force in India.”*

In Simple Terms: India treats a foreign court’s judgment as final and binding — but only if that court was competent, decided the real dispute fairly, applied the right law, was not tricked, and did not enforce something illegal in India. Fail any one of those six tests and the foreign judgment carries no weight here.

The Visual

The chart shows how a party relying on a foreign judgment and a party resisting it each use the two sections.



Section 14 helps the party relying on the judgment by presuming the foreign court was competent. The other side then tests it against the six exceptions in s.13: if any applies, the judgment is not conclusive and a fresh Indian suit is open; if none applies, it bars a fresh suit and can be enforced by suit or, for reciprocating countries, under s.44A.

Case Laws

- **[C-5]** ***Y. Narasimha Rao v Y. Venkata Lakshmi (1991)***
  - **Facts:** A husband married under the Hindu Marriage Act went to the United States, claimed to have lived in Missouri for ninety days, and obtained a divorce from a Missouri court on a ground unknown to Indian law; the wife never submitted to that court. He then relied on the decree in India.
  - **Held:** A foreign matrimonial decree is conclusive only if the foreign court was competent under the law under which the parties married and decided the case on grounds that law recognises, with the other spouse properly before it; this decree failed those tests.
  - **Why it matters here:** It is the leading case on the competence and merits exceptions in s.13.

- **[C-11]** ***Satya v Teja Singh (1975)***
  - **Facts:** Teja Singh, married to Satya in India, went to the United States, stayed briefly in Nevada claiming to be domiciled there, and obtained a divorce; when Satya claimed maintenance in Punjab, he set up the Nevada decree.
  - **Held:** The Nevada court had no real jurisdiction because the claimed domicile was false, so the decree was not recognised.
  - **Why it matters here:** It applies the competent-court and fraud exceptions.
- ***International Woollen Mills v Standard Wool (U.K.) Ltd. (2001)***
  - **Facts:** An English company sued an Indian buyer in the Central London County Court for the price of wool; the buyer did not appear, an ex parte decree was entered without any evidence being led, and the English company sought to execute it in India under s.44A.
  - **Held:** A judgment is "on the merits" only if the court considered the evidence and decided the claim; this ex parte judgment was not, so it could not be enforced.
  - **Why it matters here:** It explains exception (b) — default is not merits.

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7. Place of Suing & Objection to Jurisdiction (ss. 15–21)

In short: A suit about land is filed where the land lies; a suit for a wrong to the person or to movable goods is filed where the wrong was done or where the defendant lives; every other suit is filed where the defendant lives or works or where the cause of action arose. An objection that the wrong place was chosen fails in appeal unless it was raised early and caused real injustice.

> **Previous Year Questions**
>
> - **[16M]** Explain the rules regarding the place of suing under the CPC (ss.15–20). *(Jan 2026, Jul 2025, Jan 2025, Aug 2024, Mar 2024)* ★★★★★
> - **[Problem]** A beats B at place-2; B resides at place-1; where may B sue? *(Mar 2024, Oct 2023, Dec 2014)* ★★
> - **[Problem]** A defamatory item is printed at place-1 and circulated in places 2–4; where may B sue? *(Jul 2025, Nov 2021, Mar 2021, Jul 2019, Jul 2016)* ★★★
> - **[Problem]** At the argument stage, D objects to territorial jurisdiction; is the objection good? *(Jan 2026, Aug 2024, Nov 2022, Dec 2019, Dec 2018)* ★★★

The Hook

Two friends quarrel: A, of Bengaluru, assaults B when B visits Mysuru. B goes home and wonders — *do I have to chase A all the way to Bengaluru to sue?* The place-of-suing

sections answer exactly this everyday problem, and they are the **single most examined problem-area** of Unit I — one long essay and roughly **seventeen** fact problems across the papers.

Where must a suit be filed?

“Place of suing” simply means **which court, in which place**, a plaintiff must go to. The Code sorts suits into three buckets and gives each a rule.

First, the grading rule — s.15. Every suit shall be instituted in the **court of the lowest grade competent to try it**. This is about **pecuniary** convenience: don’t clog the higher courts with small suits. It is a rule of procedure, not of jurisdiction, so filing in a higher grade is an irregularity, not a nullity.

Bucket 1 — Suits about immovable property (ss.16–18).

- **s.16** — suits for the recovery, partition, sale, foreclosure, or determination of rights in **immovable property** must be filed **where the property is situated**. Land does not move, so the court where it lies is the natural forum. **Proviso**: where the relief can be obtained through the defendant’s **personal obedience** (e.g. compensation), the suit may be filed where the defendant **resides/works** — provided the property is within the jurisdiction.
- **s.17** — where immovable property is situated **within the jurisdiction of different courts**, the suit may be filed in **any one** of those courts.
- **s.18** — where it is **uncertain** within which court’s local limits the property lies, any of those courts may proceed after recording the uncertainty.

Bucket 2 — Suits for wrongs to person or movable property (s.19). Where the suit is for **compensation for a wrong** done to the **person** (assault, defamation) or to **movable property**, the plaintiff has an **option**: sue **where the wrong was done**, **or** where the **defendant resides / carries on business / personally works for gain**. This directly solves the assault problem.

Bucket 3 — all other suits (s.20). For everything else (chiefly suits on contracts and for money), the suit may be filed where:

1. the **defendant** (or each of several defendants) actually and voluntarily **resides, carries on business, or personally works for gain**; or
2. any **one** of several defendants so resides/works, **with the court’s leave** or the others’ acquiescence; or
3. the **cause of action, wholly or in part, arises**.

Explanation to s.20 — a **corporation** is deemed to carry on business at its **sole/ principal office** in India, **or**, in respect of a cause of action arising at a place where it has a **subordinate office**, at that place. So a company can be sued where its branch that handled the deal is located — not only at its head office.

Section 21 — objection to jurisdiction (the other half, and a favourite problem). A wrong choice of place is **not** always fatal. Section 21 says an objection as to the **place of suing** (territorial) — and likewise as to **pecuniary** limits, and (post-1976) as to the **competence of the executing court** — will **not** be allowed by an appellate/revisional court **unless**:

1. the objection was taken **in the trial court at the earliest possible opportunity** (and, for issues, before issues are settled); **and**
2. there has been a **consequent failure of justice**.

Both limbs must be satisfied. The idea is that a party cannot **sit silent**, take a chance on winning, and then spring a technical jurisdiction objection after losing.

> ⚠ **CAUTION**
>
> Section 21 does **not** save a defect of **subject-matter** jurisdiction. A total lack of subject-matter competence makes the decree a **nullity** (Topic 2, *Kiran Singh*); s.21's forgiveness covers only **territorial** and **pecuniary** objections, and even then only if raised late without prejudice. **s.21A** further bars a separate suit to set aside a decree merely on a place-of-suing objection.

> ◈ **WORKED EXAMPLE — Assault, and defamation by newspaper**
>
> **Facts.** (i) A, resident of place-1, assaults B at place-2. (ii) A prints a defamatory article at place-1; the newspaper is circulated and read in places 2, 3 and 4. Where may B sue in each case?
>
> **Rule.** Section 19 gives a wrong-to-the-person plaintiff the **option** of suing where the wrong was done **or** where the defendant resides. For defamation, the wrong (publication) is complete **wherever the matter is read**, and each such place gives a cause of action under ss.19/20.
>
> **Apply.** (i) The assault happened at place-2 and A resides at place-1 — B may sue at **either** place-2 or place-1. (ii) Defamation is "published" wherever it is read, so a cause of action arises at **every place of circulation** — places 2, 3 and 4 — as well as where A resides/printed.
>
> **Conclusion.** (i) B may sue at place-1 **or** place-2. (ii) B may sue at any of places 1–4.
>
> **Decoy.** "Sue only where the defendant resides" (case i) and "sue only where it was printed" (case ii) are the planted wrong answers — both ignore the plaintiff's option and the place-of-publication rule.

> ***Section 15:*** *"Every suit shall be instituted in the Court of the lowest grade competent to try it."*

In Simple Terms: Start your suit in the smallest competent court, so higher courts are not burdened with matters a lower court can handle.

> ***Section 19:*** *"Where a suit is for compensation for wrong done to the person or to movable property, if the wrong was done within the local limits of the jurisdiction of one Court and the defendant resides, or carries on business, or personally works for gain, within the local limits of the jurisdiction of another Court, the suit may be instituted at the option of the plaintiff in either of the said Courts."*

In Simple Terms: If someone wrongs your person or your movable goods, you can sue either where the wrong happened or where the wrongdoer lives or works — your choice.

> ***Section 20:*** *"Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction— (a) the defendant... actually and voluntarily resides, or carries on business, or personally works for gain; or (b) any of the defendants... resides, or carries on business, or personally works for gain, provided that... leave of the Court is given, or the defendants... acquiesce; or (c) the cause of action, wholly or in part, arises."*

In Simple Terms: For ordinary suits (money, contracts), sue where the defendant lives or works, or where the dispute (the cause of action) arose — and a company can be sued where the branch that dealt with you is located.

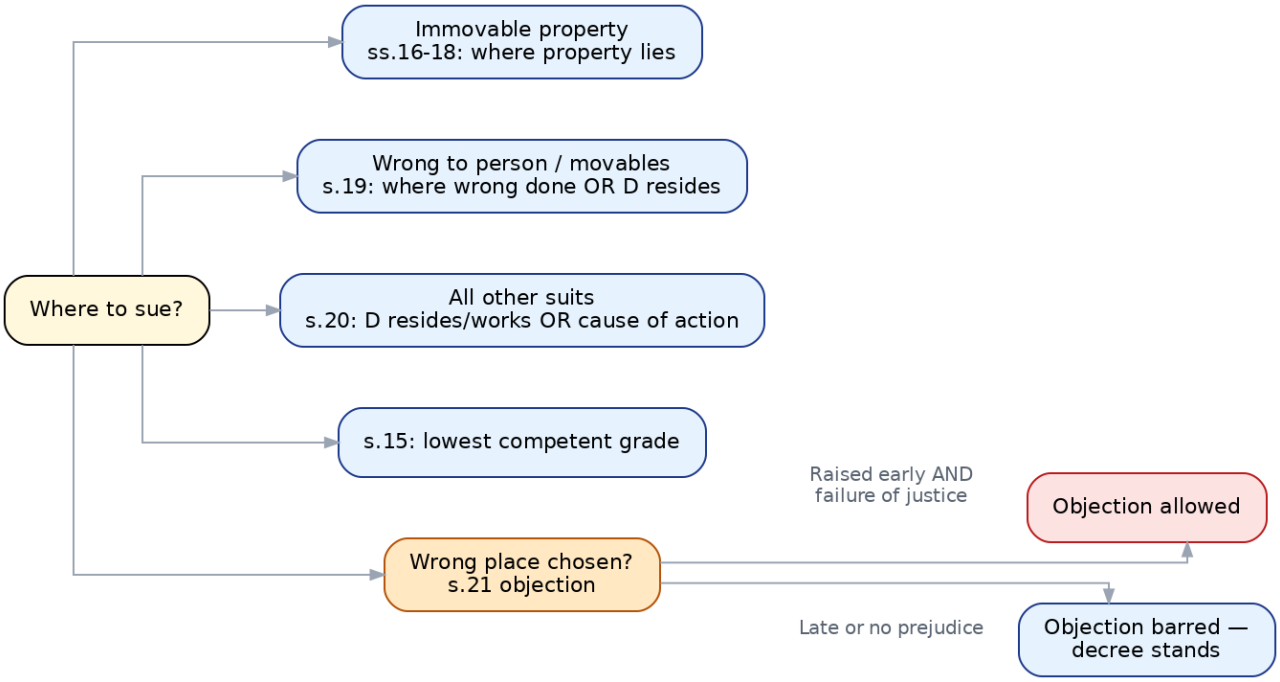
> ***Section 21(1):*** *"No objection as to the place of suing shall be allowed by any appellate or Revisional Court unless such objection was taken in the Court of first instance at the earliest possible opportunity and in all cases where issues are settled at or before such settlement, and unless there has been a consequent failure of justice."*

In Simple Terms: You cannot keep a territorial-jurisdiction objection up your sleeve. Raise it in the trial court at the first chance, and unless the wrong court actually caused injustice, an appeal court will not entertain the objection later.

> **✎ EXAM TIP — s.21 needs BOTH limbs, not one**
>
> **The trap.** In the "objection at the argument stage" problem, students write "objection can be taken any time" or stop at "it was raised late, so it fails" — missing that s.21 has **two** cumulative conditions.
>
> **What to write.** State both limbs: the objection must be (1) taken in the trial court at the **earliest opportunity**, **and** (2) there must be a **consequent failure of justice** — cite *Kiran Singh v Chaman Paswan (1954)*, and add that s.21 saves only **territorial/pecuniary** defects, never subject-matter.
>
> **Why it scores.** The examiner is testing whether you can separate a *curable* place-of-suing slip from an *incurable* nullity — the exact hinge of the problem.

The Visual

Choosing the court means first sorting the suit into one of three kinds; the chart then shows what happens if the wrong place is chosen.



*Take the suit's kind first: land goes to the court where it lies, wrongs to the place of the wrong or the defendant's residence, and all others to the defendant's residence or where the cause of action arose — always in the lowest competent grade. If the place is wrong, the s.21 diamond decides: the objection succeeds only if raised early **and** it caused a failure of justice.*

Case Laws

- **[C-3] *Kiran Singh v Chaman Paswan (1954)***
  - **Facts:** As in Topic 2, the plaintiffs, who had chosen the court themselves, attacked the decree as void only after losing, on the basis of a re-valuation.
  - **Held:** Objections to territorial or pecuniary competence are technical; unless raised early and shown to have caused a failure of justice they do not upset a decree.
  - **Why it matters here:** It is the policy behind s.21.
- ***Patel Roadways Ltd. v Prasad Trading Co. (1991)***
  - **Facts:** A transport company with its head office in Bombay accepted goods for carriage at its branch in another city; the goods were lost and the consignors sued where the branch was. The carrier relied on a clause in its booking form giving only the Bombay courts jurisdiction.
  - **Held:** Under the Explanation to s.20, where a cause of action arises at a place where a corporation has a subordinate office, it is deemed to carry on business there, not at

the head office; the Bombay courts therefore had no jurisdiction, the clause could not confer it, and the suits were rightly filed at the branch's place.
    - **Why it matters here:** It is the key authority on where a company may be sued.
- **[C-4]** ***Hakam Singh v Gammon (India) Ltd. (1971)***
    - **Facts:** Hakam Singh agreed to do construction work for Gammon, a Bombay company; the contract said the Bombay courts alone would have jurisdiction, but he started proceedings in a court at Varanasi.
    - **Held:** Where two courts have jurisdiction, parties may agree to sue in only one of them; the clause was valid and Bombay was the proper forum.
    - **Why it matters here:** It allows jurisdiction clauses — but only between courts that already have jurisdiction.
- **[C-10]** ***A.B.C. Laminart Pvt. Ltd. v A.P. Agencies (1989)***
    - **Facts:** A Salem firm sued a supplier in a Salem court for breach of a supply contract; the order confirmation said it was "subject to Kaira jurisdiction".
    - **Held:** Part of the cause of action arose at Kaira, so the clause was valid and, read naturally, excluded the other courts; the Salem suit failed.
    - **Why it matters here:** It shows how to read a jurisdiction clause even without the word "only".
- ***Harshad Chiman Lal Modi v DLF Universal Ltd. (2005)***
    - **Facts:** A buyer booked a plot in DLF's project at Gurgaon in Haryana under an agreement saying Delhi courts would have jurisdiction, and sued in Delhi for specific performance.
    - **Held:** A suit for rights in immovable property must be filed where the property lies (s.16); a court that lacks such jurisdiction cannot get it by consent, so the Delhi court had none.
    - **Why it matters here:** It marks the limit of jurisdiction clauses and of s.21.

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8. Transfer of Cases (ss.22–25)

In short: A superior court can move a case to another court when fairness and the convenience of the parties and witnesses require it. A High Court or District Court can do this within its area, but only the Supreme Court can move a case from one State to another.

Previous Year Questions

- **[16M]** Explain the powers of courts to transfer and withdraw suits under ss.22–25. *(Jul 2026, Jul 2025, Aug 2024, Nov 2021, Mar 2021)* ★★★★
- **[Short Note]** Power of the Supreme Court to transfer cases (s.25). *(Jul 2025, Aug 2024, Jul 2014)* ★★
- **[Problem]** A wife with no income, unable to travel, seeks transfer of the suit filed by her husband to a court near her home. *(Jan 2026, Jul 2025, Jan 2025, Oct 2023, Nov 2022)* ★★★

The Hook

In ***Guda Vijayalakshmi v Guda Ramachandra Sekhara Sastry (1981)***, a wife sued for maintenance in Andhra Pradesh; the husband promptly filed for divorce hundreds of kilometres away in Rajasthan. The Supreme Court used **s.25** to pull the divorce case to Andhra so both matters could be tried together — and confirmed that the general transfer power survives even special matrimonial statutes. This “wife wants the case moved home” scenario is the topic’s guaranteed problem.

When and how can a case be transferred?

Sometimes the court where a suit is filed, though competent, is **not the fair or convenient** place to try it — a party cannot travel, witnesses are elsewhere, or two related suits are pending in different courts. The transfer sections let a **superior court move a case** to a more appropriate court. The guiding star throughout is the **balance of convenience** and the **ends of justice**.

Section 22 — transfer on a party’s application. Where a suit may be instituted in **more than one court** and is filed in one of them, the **defendant** may apply — at the **earliest possible opportunity**, after notice to the other side — to have it transferred to another competent court. The court decides on the **balance of convenience** (where witnesses live, expense, etc.).

Section 23 — to which court the application lies. It tells you the *forum* for a s.22 application: if the courts are under the same appellate court, apply to that appellate court; if under different appellate courts of the same High Court, to the High Court; if under different High Courts, to the High Court within whose local limits the court where the suit is pending is situated.

Section 24 — general power of transfer and withdrawal (the workhorse). The **High Court** or the **District Court** may, on an application of a party or **on its own motion (suo motu)**, and at any stage:

1. **transfer** any suit, appeal or other proceeding pending before it or a subordinate court to another subordinate court competent to try it;

2. **withdraw** any suit/appeal/proceeding pending in a subordinate court and either try it itself, or transfer it to another competent subordinate court, or re-transfer it back.

No detailed grounds are listed — the court acts on the **ends of justice and balance of convenience**. This is the section usually invoked for the "wife's transfer" problem at the District/High Court level.

Section 25 — power of the Supreme Court. The **Supreme Court** may, on the application of a party (after notice), transfer any suit, appeal or other proceeding from a **High Court or civil court in one State to a High Court or civil court in another State**, if it is **satisfied that such an order is expedient for the ends of justice**. This is the only way to move a case **across State lines** — a District Court or High Court cannot do that; only the Supreme Court can.

The factors the court weighs (learn these — they frame every answer):

- convenience/inconvenience of the **parties** and **witnesses**;
- the **expense** involved;
- whether a **fair trial** is possible in the current court (e.g. surcharged atmosphere, apprehension of bias);
- the interests of **justice** and avoidance of **multiplicity** of proceedings.

> **▶ KEY POINT**
>
> In the recurring matrimonial problem, courts lean in favour of the **wife's** convenience — she often has no independent income and small children — but this is a **guideline, not an automatic rule**; the court still weighs the overall balance.

> **⚠ CAUTION**
>
> **Mere convenience of one party is not enough.** The applicant must show that the balance **overall** tilts in favour of transfer and that the **ends of justice** require it — a bare "it's easier for me" plea, especially without inability to travel or genuine hardship, will fail.

> **◈ WORKED EXAMPLE — The wife's transfer application**
>
> **Facts.** X files a matrimonial suit against his wife Y at place-1 (X's city). Y lives at place-2 in another State, has no independent income, and cannot travel with a small child. Y applies to transfer the suit to a court at place-2.
>
> **Rule.** Under ss.24/25 a court may transfer a case on the **balance of convenience** and the **ends of justice**; where the transfer is **across States**, only the **Supreme Court (s.25)** can order it, while within a State the **District/High Court (s.24)** can.
>
> **Apply.** Y's lack of income, inability to travel and childcare tilt the balance of convenience towards place-2; the ends of justice favour a forum she can actually

reach. As place-1 and place-2 are in **different States**, the proper route is a **s.25** petition to the Supreme Court.

Conclusion. The transfer to place-2 should be **granted** on balance of convenience under s.25.

Decoy. "Mere convenience of one party settles it" is the planted error — the court weighs the **overall** balance and the ends of justice, not one party's comfort in isolation.

> ***Section 24(1):*** *"On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage— (a) transfer any suit, appeal or other proceeding pending before it for trial or disposal to any Court subordinate to it and competent to try or dispose of the same, or (b) withdraw any suit, appeal or other proceeding pending in any Court subordinate to it, and— (i) try or dispose of the same; or (ii) transfer the same for trial or disposal to any Court subordinate to it and competent to try or dispose of the same; or (iii) re-transfer the same for trial or disposal to the Court from which it was withdrawn."*

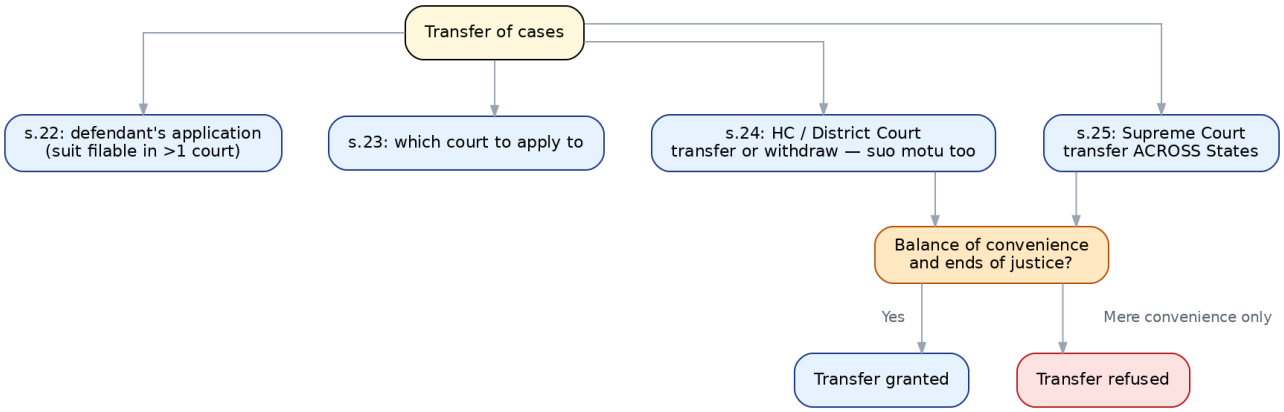
In Simple Terms: A High Court or District Court can, at any time — even on its own — move a case from one subordinate court to another, or pull a case up to decide itself, whenever justice and convenience require it.

> ***Section 25(1):*** *"On the application of a party, and after notice to the parties, and after hearing such of them as desire to be heard, the Supreme Court may, at any stage, if satisfied that an order under this section is expedient for the ends of justice, direct that any suit, appeal or other proceeding be transferred from a High Court or other Civil Court in one State to a High Court or other Civil Court in any other State."*

In Simple Terms: Only the Supreme Court can shift a case from a court in one State to a court in another State, and it will do so when that is needed for the ends of justice.

The Visual

The four transfer sections and the one test they share are set out below.



Sections 22 and 23 cover the defendant's application and where to file it; s.24 is the general power of the High Court and District Court; s.25 is the Supreme Court's power across States. Sections 24 and 25 both lead to the same diamond — balance of convenience and the ends of justice — and mere convenience of one party is not enough.

Case Laws

- **[C-12]** ***Guda Vijayalakshmi v Guda Ramachandra Sekhara Sastry (1981)***
  - **Facts:** The husband filed a matrimonial petition in a court in Rajasthan while the wife lived in Andhra Pradesh; she asked the Supreme Court to transfer it to a court near her.
  - **Held:** Section 25 lets the Supreme Court transfer matrimonial cases between States for the ends of justice, and the Hindu Marriage Act does not take that power away; the case was transferred.
  - **Why it matters here:** It decides the recurring "wife seeks transfer" problem.
- ***Maneka Sanjay Gandhi v Rani Jethmalani (1979)***
  - **Facts:** A defamation complaint was pending against Maneka Gandhi in a Bombay court; she asked for it to be moved to Delhi, citing the inconvenience of travel and a hostile atmosphere at the hearings.
  - **Held:** The first consideration in transfer is whether a fair trial is possible; mere inconvenience is not enough, so the case stayed in Bombay, with directions to ease her attendance.
  - **Why it matters here:** Though decided under the criminal code, it states the transfer principles civil courts also follow.
- ***Durgesh Sharma v Jayshree (2008)***
  - **Facts:** A party to a matrimonial case asked a High Court to move it from a court in its State to a court in another State.
  - **Held:** A High Court's power under s.24 is confined to courts subordinate to it; only the Supreme Court under s.25 can transfer a case between States.
  - **Why it matters here:** It decides which court the applicant must approach.

Landmark Cases — in Brief

[C-1] Daryao v State of U.P. (1961) — res judicata binds writ petitions

Facts.

The petitioners, having lost writ petitions under Art. 226 in the Allahabad High Court, filed a fresh writ petition under Art. 32 in the Supreme Court on the same facts and grounds.

Issue.

Does the rule of res judicata apply to writ petitions, or is a constitutional remedy immune from it?

Held.

Res judicata is a rule of **public policy** and applies to writ petitions; a matter finally decided on the merits in a Art. 226 petition cannot be re-agitated under Art. 32.

Why it matters.

It confirmed that res judicata (s.11) is not a mere technicality of the CPC but a general principle of finality that even governs fundamental-rights litigation.

[C-2] Satyadhyan Ghosal v Deorajin Debi (1960) — the finality principle

Facts.

Landlords obtained an ejectment decree against their tenant, Deorajin Debi. She applied under a new Calcutta tenancy law to have the decree rescinded; the Munsif refused, but the High Court in revision held the law applied and sent the case back. The decree was then rescinded, and when the landlords challenged that, they were told that the High Court's earlier remand order, which they had not appealed, barred them as res judicata.

Issue.

Can a matter already judicially determined between the parties be reopened, and what is the principle underlying res judicata?

Held.

The principle of res judicata rests on the need for **finality** in litigation — once a court of competent jurisdiction decides a matter, the parties are bound and cannot reopen it, even at a later stage of the same proceeding. But res judicata between stages does not stop a party from challenging an interlocutory order (such as an order of remand) in an appeal from the final decision, if he did not or could not appeal it separately; the landlords' appeal was allowed.

Why it matters.

The classic statement of *why* res judicata exists: litigation must end, and a decided matter is treated as the truth between the parties.

[C-3] Kiran Singh v Chaman Paswan (1954) — a decree without jurisdiction is a nullity

Facts.

Plaintiffs valued their suit for possession at Rs. 2,950 and filed it before a Subordinate Judge; the first appeal went to the District Judge. After losing, they had the suit re-valued in the High Court at about Rs. 9,980 — a value at which the first appeal should have gone to the High Court — and argued that the District Judge's decree was void.

Issue.

Is a decree passed by a court lacking jurisdiction valid, and when can a jurisdiction objection be raised?

Held.

A decree passed by a court **without jurisdiction is a nullity**, void wherever set up; but a mere **over/under-valuation** objection is governed by s.11 of the Suits Valuation Act / s.21 CPC and requires a **failure of justice**.

Why it matters.

The leading authority on both the "nullity" rule (Topic 2) and the s.21 objection to place of suing (Topic 7).

[C-4] Hakam Singh v Gammon (India) Ltd. (1971) — a valid ouster clause

Facts.

Hakam Singh contracted to do construction work for Gammon, a Bombay company; the contract gave the Bombay courts sole jurisdiction, but he started proceedings at Varanasi.

Issue.

Can parties by agreement confine their disputes to one of several courts that have jurisdiction?

Held.

Where two or more courts have jurisdiction, an agreement to submit disputes to **one** of them is **valid** and not opposed to public policy; parties cannot, however, confer jurisdiction on a court that has none.

Why it matters.

The foundation of "jurisdiction clauses" in commercial contracts and a key place-of-suing authority.

[C-5] Y. Narasimha Rao v Y. Venkata Lakshmi (1991) — s.13 and foreign matrimonial decrees

Facts.

A husband married under the Hindu Marriage Act claimed ninety days' residence in Missouri and obtained a divorce from a Missouri court on a ground unknown to Indian law, without the wife submitting to that court; he then relied on it in India.

Issue.

When is a foreign matrimonial judgment conclusive under s.13?

Held.

A foreign matrimonial decree is conclusive only if the foreign court was one that the **Act under which the parties married** recognises as competent, and the decision was **on the merits**; the decree here failed both tests.

Why it matters.

The leading modern authority on the competent-court and on-the-merits exceptions in s. 13.

[C-6] Dhulabhai v State of Madhya Pradesh (1968) — when civil jurisdiction is excluded

Facts.

Traders paid sales tax under a Madhya Bharat law on goods brought in from other States; after the levy was held unconstitutional they sued for refunds, and the State pleaded that the taxing Act barred civil suits.

Issue.

When does a special statute exclude the jurisdiction of civil courts under s.9?

Held.

The Court laid down guiding principles: exclusion must be **explicit or clearly implied**; even where a statute gives finality to a tribunal, the civil court can examine acts done in breach of the statute or of fundamental judicial procedure.

Why it matters.

The classic checklist for deciding express/implied bars under s.9 (Topic 3).

[C-7] Most Rev. P.M.A. Metropolitan v Moran Mar Marthoma (1995) — the reach of s.9

Facts.

Two factions of the Malankara Orthodox Syrian Church fought for decades over control of parishes, offices and church property, and took the dispute to the civil courts.

Issue.

Can a civil court try a dispute so entangled with religious questions?

Held.

Section 9 is to be read **expansively**; a suit concerning **property or office** is of a civil nature even where religious questions are incidentally involved, and the civil court has jurisdiction unless a bar is shown.

Why it matters.

The leading modern statement that s.9 presumes jurisdiction and that "civil nature" is read broadly.

[C-8] Indian Bank v Maharashtra State Coop. Marketing Federation (1998) — the reach of "trial" in s.10

Facts.

The Federation had already sued Indian Bank over a letter-of-credit transaction; the bank then filed a summary suit under Order 37 for the amount due, and the Federation sought a stay of it under s.10.

Issue.

Does the s.10 bar on proceeding with the "trial" stop interim orders, and does it apply to a summary suit?

Held.

The word "trial" in s.10 does **not** bar the court from passing **interim orders**; and s.10 does **not** apply to a summary suit under Order 37 until leave to defend is granted.

Why it matters.

Fixes the practical limits of the stay under s.10 (Topic 4) — a stay pauses the trial, not the whole case.

[C-9] Gulabchand Chhotalal Parikh v State of Bombay (now Gujarat) (1965) — res judicata beyond suits

Facts.

Gulabchand, a surety resisting enforcement of his surety liability, lost a writ petition against the State on the merits and then filed a civil suit seeking the same relief on the same grounds.

Issue.

Can the general principle of res judicata operate between a writ proceeding and a later suit?

Held.

The **general principle** of res judicata (not merely s.11 in terms) can bar a subsequent suit where the same matter was finally decided on the merits in an earlier writ proceeding.

Why it matters.

Shows that res judicata is a principle wider than the text of s.11 and applies across proceedings.

[C-10] A.B.C. Laminart Pvt. Ltd. v A.P. Agencies (1989) — construing a jurisdiction clause

Facts.

A Salem firm sued its supplier in Salem for breach of a supply contract whose order confirmation said it was “subject to Kaira jurisdiction”.

Issue.

When does a contractual jurisdiction clause oust the jurisdiction of other otherwise-competent courts?

Held.

Where a clause confers jurisdiction on one competent court, it is presumed to **exclude** the others, especially where words like “only”, “alone” or “exclusive” are used; but it cannot create jurisdiction where none exists.

Why it matters.

The standard authority on reading ouster/jurisdiction clauses, building on *Hakam Singh* (Topic 7).

[C-11] Satya v Teja Singh (1975) — a foreign divorce refused recognition

Facts.

Teja Singh, married in India, stayed briefly in Nevada, falsely claimed domicile there and obtained a divorce; when his wife Satya claimed maintenance in Punjab he relied on that decree.

Issue.

Is such a foreign divorce conclusive in India under s.13?

Held.

The decree was **not recognised** — the foreign court was not a court of competent jurisdiction over the parties, so exception (a) of s.13 applied.

Why it matters.

An early, much-cited application of the “competent court” and fraud exceptions in s.13 (Topic 6).

[C-12] Guda Vijayalakshmi v Guda Ramachandra Sekhara Sastry (1981) — transfer of matrimonial cases

Facts.

The husband filed a matrimonial petition in Rajasthan while the wife lived in Andhra Pradesh; she applied to the Supreme Court for transfer.

Issue.

Can the Supreme Court transfer a matrimonial proceeding across States, and does the CPC power survive special matrimonial statutes?

Held.

Section 25 CPC empowers the Supreme Court to transfer such proceedings **for the ends of justice**, and this power is **not excluded** by the Hindu Marriage Act; related matters should be tried together.

Why it matters.

The go-to authority for the recurring "wife seeks transfer" problem under ss.24/25 (Topic 8).

Quick Revision & Case Law Table

One-line memory hooks

- **Procedural vs Substantive Law:** substance says *what* the right is; procedure (CPC) says *how* to enforce it — 158 sections + 51 Orders.
- **Jurisdiction — kinds & bar:** four kinds (territorial, pecuniary, subject-matter, original/appellate); no jurisdiction = **nullity**, wrong exercise = only appealable.
- **Suits of a civil nature (s.9):** civil courts try **all** civil suits **except** those expressly/impliedly barred — presumption favours jurisdiction.
- **Res sub judice (s.10):** same matter, same parties, earlier suit pending in a competent court → later court **STAYS** the trial (not dismissal).
- **Res judicata (ss.11–12):** matter heard and finally decided between same parties/same title → later suit **BARRED**; Expl. IV bars grounds that ought to have been raised.
- **Foreign judgments (ss.13–14):** conclusive **except** the six s.13 grounds; s.14 presumes competence on a certified copy.
- **Place of suing (ss.15–21):** immovable = where it lies (s.16); wrongs = where done or D resides (s.19); rest = D's residence/cause of action (s.20); s.21 objection needs earliest opportunity **plus** failure of justice.
- **Transfer (ss.22–25):** balance of convenience + ends of justice; s.24 = HC/District Court, s.25 = Supreme Court for **inter-State** transfers.

Master Case List for Unit 1

Case	Topic	One-line ratio
[C-3] Kiran Singh v Chaman Paswan (1954)	Jurisdiction / Place of suing	Decree without jurisdiction is a nullity; s.21 objection needs prejudice.
[C-2] Satyadhyan Ghosal v Deorajin Debi (1960)	Res judicata	Res judicata secures finality; a decided matter binds.
[C-1] Daryao v State of U.P. (1961)	Res judicata	Res judicata is public policy; applies to writ petitions.
[C-9] Gulabchand Chhotalal Parikh v State of Bombay (now Gujarat) (1965)	Res judicata	General principle of res judicata can bar a later suit after a writ.
[C-6] Dhulabhai v State of M.P. (1968)	Suits of a civil nature	Principles for when a statute excludes civil-court jurisdiction.
[C-4] Hakam Singh v Gammon (India) Ltd. (1971)	Place of suing	Ouster clause to one competent court is valid.
[C-11] Satya v Teja Singh (1975)	Foreign judgments	Foreign divorce by an incompetent court not recognised (s.13).
[C-12] Guda Vijayalakshmi v Guda R.S. Sastry (1981)	Transfer of cases	Supreme Court may transfer matrimonial cases across States under s.25.
[C-10] A.B.C. Laminart v A.P. Agencies (1989)	Place of suing	A jurisdiction clause excludes other competent courts.

Case	Topic	One-line ratio
[C-5] Y. Narasimha Rao v Y. Venkata Lakshmi (1991)	Foreign judgments	Foreign matrimonial decree conclusive only if competent and on merits.
[C-7] P.M.A. Metropolitan v Moran Mar Marthoma (1995)	Suits of a civil nature	s.9 read expansively; property/office disputes are civil.
[C-8] Indian Bank v Maharashtra State Coop. Federation (1998)	Res sub judice	“Trial” in s.10 does not bar interim orders or summary suits pre-leave.

End of Unit 1.



Civil Procedure Code & Limitation Act

KSLU LL.B. — Question Bank · Model Answers (Essays & Problems) · 100-mark pattern

KSLU LL.B. Question Bank

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Contents

How to Use This Question Bank 3

Exam Pattern & Mark Weights 3

Priority Index — Questions by Frequency 4

Year Index — Questions by Paper 14

UNIT 1 — Jurisdiction, Res Judicata, Foreign Judgments & Place of Suing 17

UNIT 2 — Institution of Suits, Pleadings & Parties 48

UNIT 3 — Trial, Judgment & Execution 80

UNIT 4 — Special Suits, Interim Orders, Appeals & Inherent Powers 107

UNIT 5 — The Limitation Act, 1963 148

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> ***Read this first, then go to your unit.*** *This companion to the study notes gives you a full, exam-ready* ***model answer*** *to every long-question theme, every 8-mark short note and every fact-pattern problem asked in past KSLU CPC & Limitation papers — grouped by unit and topic in the same order as the notes. The 8-mark Q8 short notes of the 100-mark paper are in §B of each unit; 5M / 6M short notes of the 80-mark paper are answered in the notes bundle.*
>
> ***Built for the 100-mark paper.*** *KSLU sets an* ***80-mark*** *and a* ***100-mark*** *paper; this bank is the* ***100-mark*** *edition (* `CPC_Limitation_Question_Bank_100.pdf` *), which most students sit. A theme asked as a 16-mark essay in the 100-paper and as a 10-mark essay in the 80-paper is written* ***once*** *(tagged Pattern: both), so an 80-mark student can use the same answer scaled to the 10-mark budget. The* ***problems (§C) cover every fact-pattern from both patterns*** *— problems repeat, so none is left out.*

How to Use This Question Bank

What this is. A rehearsal book. The study notes teach the concept; this bank shows you how to *write the marks* — a complete answer in the exact shape an examiner rewards.

The 3-step drill. (1) Read the question and try a 2-minute plan from memory.

1. Read the model answer; note the structure, the sections, the verdict. (3) For problems, re-do the IRAC in your own words under time.

Priorities. The ★ rating shows how often a question has been set — from ★★★★★ (twelve times or more) down to ★ (once). Start with the top tiers; the Priority Index below lists every block ranked.

House rules that win marks. Lead with a definition + roadmap; name the case **and** the year; cite the exact section, Order and Rule; for problems use the four IRAC headings and always give a definite verdict — spot the planted decoy.

Exam Pattern & Mark Weights

> ***100-mark paper*** *— Q.No. 9 = 20 marks (two problems × 10); answer Q9* ***and any five*** *of Q1–Q8 (16 marks each; Q8 is usually two short notes × 8). Always attempt Q9 (the problems) first.* ***80-mark paper*** *— five Units; from each Unit one essay (10) +*

> *one short-note / problem (6) is compulsory. The 6-mark short notes are in the notes bundle.*

Mark slot	What it is	Where it’s drilled
16M (100) / 10M (80)	Long essay	Section A of each unit
Problems (10M/6M)	Fact-pattern, IRAC	Section C of each unit
8M short notes (100, Q8)	Short notes, 300–350 words	Section B of each unit
6M short notes (80)	Short explanatory notes	In the **study-notes** bundle

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Priority Index — Questions by Frequency

Every
block in the bank, grouped by how often its question has been set (counted from the *Asked:* lines). Start at the top.

★★★★★ — asked twelve times or more — master these first

Block	Marks	Question
`Q1.1`	16M	Define jurisdiction. Explain the different kinds of jurisdiction of the civil courts
`Q1.6`	16M	Explain the rules regarding the place of suing under the Civil Procedure Code (ss.15–21)
`Q2.5`	16M	What is a plaint? Explain its essential parts and the grounds for its return and rejection
`Q3.7`	16M	Explain the various modes of execution of a decree under Order 21, and state which...

★★★★ — asked seven to eleven times

Block	Marks	Question
Q1.3	16M	Explain the doctrine of res sub judice and the conditions for staying a suit under s.10
Q1.4	16M	Explain the doctrine of res judicata. State the conditions for its applicability under s. 11
Q1.5	16M	Define a foreign judgment. When is it conclusive, and state the presumption relating to it
Q1.7	16M	State the provisions of the Civil Procedure Code, 1908 regarding transfer of cases...
Q2.1	16M	What is a “suit”? Describe the various stages of a civil suit from its institution to...
Q2.2	16M	Define “summons”. Explain the various modes of service of summons under the Code of Civil...
Q2.4	16M	What are pleadings? Explain the fundamental rules of pleadings. When may pleadings be...
Q2.6	16M	What is a written statement? Distinguish between set-off and counter-claim
Q2.7	16M	State the provisions of the CPC relating to joinder of parties. What is the effect of...
Q3.1	16M	What is an ex-parte decree? Explain the consequences of appearance and non-appearance of...

Block	Marks	Question
P3.3	Prob	P sues D for defamation and obtains a decree in his favour. D prefers an appeal against…
Q4.1	16M	What are the pre-conditions and procedure to be followed in the institution of suits by…
Q4.4	16M	State the procedure for instituting a suit by an indigent person
Q4.6	16M	Explain the objects for which a commission may be appointed and the powers of a commissioner
Q4.8	16M	What is a temporary injunction? Discuss the grounds and principles governing the grant of…
Q4.11	16M	Distinguish between reference, review and revision under the Code
S4.9	8M	Write a short note on: Caveat
Q5.2	16M	What is “sufficient cause”? Discuss the court’s power to condone delay under s.5 of the…
Q5.3	16M	What is legal disability? Discuss the provisions in the Limitation Act (ss.6–8) affording…
Q5.4	16M	Explain the rules for computing the period of limitation (ss.4, 12–15) and the effect of…

Block	Marks	Question
`Q5.5`	16M	"Where once time has begun to run, no subsequent disability or inability to sue stops…
`Q5.6`	16M	State the essentials of a valid acknowledgment under s.18 and explain the effect of…
`Q5.7`	16M	Explain the doctrine of adverse possession and the extinguishment of the owner’s right…
`P5.4`	Prob	A’s appeal falls due on the last day of the period, but the court is closed that day for…
`P5.7`	Prob	X takes a debt from Y under oral terms. After the expiry of two years, X gives Y a…

★★★ — asked four to six times

Block	Marks	Question
`S1.4`	8M	Write a short note on: Doctrine of res sub judice / Stay of suits
`S1.5`	8M	Write a short note on: Foreign judgment
`P1.2`	Prob	A, residing at place-1, publishes at place-2 statements defamatory of B; the newspaper is…
`P1.3`	Prob	X, a permanent resident of place-1, takes a loan from Y (resident of place-2) at place-1…

Block	Marks	Question
P1.9	Prob	X institutes a matrimonial suit against his wife Y at place-1; Y lives at place-2…
S2.4	8M	Write a short note on: Set-off and counter-claim
P2.1	Prob	P instituted a suit against A for recovery of a loan, claiming only the **principal**…
Q3.3	16M	What are issues? Explain the kinds of issues and how they are framed, amended and struck off
Q3.4	16M	Describe the provisions of the Civil Procedure Code relating to adjournment of proceedings
Q3.5	16M	Whether the death of a party to a suit abates the legal proceedings? Explain the effect…
Q3.6	16M	Define judgment, decree and order. Explain the essentials and kinds of a decree, and…
S3.3	8M	Write a short note on: Affidavit
Q4.3	16M	State the special rules regarding suits by or against minors and persons of unsound mind
Q4.5	16M	What is an interpleader suit? Explain the conditions and procedure relating to an…
Q4.7	16M	Discuss the provisions of the Code relating to arrest and attachment before judgment

Block	Marks	Question
Q4.9	16M	For what purposes may a receiver be appointed? Explain the powers and duties of a receiver
Q4.10	16M	What are appeals? Discuss the different classes of appeals provided under the Code and…
Q5.1	16M	Explain the objects and salient features of the Limitation Act, 1963. "Limitation bars…
P5.3	Prob	A right to sue accrues to X during his minority. X dies one day after attaining majority,…

★★ — asked two or three times

Block	Marks	Question
Q1.2	16M	What is a suit? Write about the suits of a civil nature with examples
P1.1	Prob	X, a resident of place-1, beats Y at place-2. Y wants to file a suit against X. Where can…
P1.5	Prob	A has instituted a suit against B to recover ₹1,00,000 in the Court of the Senior Civil…
P1.6	Prob	X sues to recover a plot claiming he is the owner; the suit is dismissed on the merits. X…
P1.8	Prob	A sues B in a foreign court; the suit is dismissed. A then wants to file the same suit…

Block	Marks	Question
`Q2.3`	16M	Explain the provisions of the CPC relating to interest, costs and mesne profits
`S2.2`	8M	Write a short note on: Mesne profits
`P2.2`	Prob	P instituted a suit against Q seeking possession of a house on the ground that he had…
`Q3.2`	16M	Explain the provisions of the Civil Procedure Code relating to discovery, inspection and…
`S3.1`	8M	Write a short note on: Issues / Kinds of issues
`S3.2`	8M	Write a short note on: Admissions
`Q4.2`	16M	What is the special procedure to be followed in a suit by or against a partnership firm?
`Q4.12`	16M	State and explain the inherent powers of the court under the Code
`S4.4`	8M	Write a short note on: Interim orders / Interlocutory applications
`S4.7`	8M	Write a short note on: Reference
`P4.1`	Prob	In a partition suit, the court passes a **preliminary decree** and later a **final…
`S5.2`	8M	Write a short note on: Legal disability under the Limitation Act

Block	Marks	Question
S5.3	8M	Write a short note on: Effect of fraud or mistake on limitation
S5.4	8M	Write a short note on: Prescription / Adverse possession
P5.2	Prob	Mohan seeks condonation of delay for not preferring his appeal within the period of...
P5.5	Prob	A’s wife deserts him and refuses conjugal rights. A believes "family matters have no...
P5.8	Prob	Keshav has been a tenant in Sunil’s house for 35 years. Sunil now needs the house and...

★ — asked once

Block	Marks	Question
S1.1	8M	Write a short note on: Substantive and procedural law
S1.2	8M	Write a short note on: Pecuniary jurisdiction
S1.3	8M	Write a short note on: Bar on jurisdiction of civil courts
P1.4	Prob	A company has its head office at place-1 and branch offices at places 2, 3 and 4; a...
P1.7	Prob	R sues to recover trust property as the legal heir of the deceased; the suit fails. R...

Block	Marks	Question
`S2.1`	8M	Write a short note on: Substituted service
`S2.3`	8M	Write a short note on: Return of plaint
`S2.5`	8M	Write a short note on: Joinder of parties
`S2.6`	8M	Write a short note on: Representative suit
`S2.7`	8M	Write a short note on: Dilatory pleas
`P2.3`	Prob	A enters into an agreement **jointly** with B and C to sell 100 tins of oil. A thereafter…
`P2.4`	Prob	R published books under the joint name of two institutions, X University and Y…
`P2.5`	Prob	S took a loan of ₹50,000 from City Bank on 10-5-2013. S held a **matured fixed deposit**…
`P2.6`	Prob	A files a suit against B to recover money on a **pro-note**. In his written statement B…
`P2.7`	Prob	In a suit, the defendant D **refused** to accept the summons issued to him. The…
`S3.4`	8M	Write a short note on: Adjournment
`P3.1`	Prob	A institutes a suit against B for recovery of a loan. B appears in the suit but does not…

Block	Marks	Question
P3.2	Prob	A suit filed by X is posted for cross-examination of the plaintiff’s witness. On that…
P3.4	Prob	A decree-holder holds a money decree passed in 2019. He files an execution petition in…
P3.5	Prob	In execution of a decree, the court orders the attachment and sale of the…
S4.1	8M	Write a short note on: Indigent person
S4.2	8M	Write a short note on: Interpleader suit
S4.3	8M	Write a short note on: Commission
S4.5	8M	Write a short note on: Appeal
S4.6	8M	Write a short note on: Appeal to the Supreme Court
S4.8	8M	Write a short note on: Review
S4.10	8M	Write a short note on: Inherent powers of the court
P4.2	Prob	A, a **16-year-old**, lends ₹50,000 to Y. On Y’s failure to repay, A wishes to file a…
S5.1	8M	Write a short note on: Condonation of delay
P5.1	Prob	Ramesh took a loan of ₹50,000 from Ashok on 20-10-2010 and has not repaid it. Ashok now…
P5.6	Prob	At the time the cause of action arose, X was of full age and sound mind, but shortly…

Block	Marks	Question
P5.9	Prob	‘X’ has taken a debt from ‘Y’ under oral terms. ‘X’ gives a written acknowledgment after...

Year Index — Questions by Paper

The 100-mark papers of the last five years (2022–2026), newest first, with the blocks that answer their questions. Use it to rehearse a whole past paper.

Paper	Blocks
Jul 2026 (100)	Q1.4 · Q1.5 · Q1.7 · S1.5 · P1.6 · Q2.3 · Q2.5 · Q2.7 · S2.2 · Q3.7 · P3.3 · Q4.4 · Q4.11 · S4.7 · Q5.6 · P5.3
Jan 2026 (100)	Q1.4 · P1.5 · Q2.2 · Q2.5 · Q2.7 · S2.2 · S2.4 · Q3.6 · S3.2 · S3.3 · Q4.4 · P4.1 · Q5.3 · Q5.4 · P5.5
Jul 2025 (100)	Q1.1 · Q1.5 · Q1.6 · Q1.7 · S1.5 · P1.2 · P1.9 · Q2.6 · Q4.4 · Q4.11 · Q4.12 · S4.5 · Q5.3 · Q5.6 · S5.2 · P5.7
Jan 2025 (100)	Q1.6 · Q1.7 · S1.4 · P1.2 · P1.9 · Q2.1 · Q2.2 · Q2.5 · Q3.7 · S3.3 · P3.3 · Q4.1 · Q4.6 · S4.9 · Q5.3 · Q5.6 · P5.7
Aug 2024 (100)	Q1.1 · Q1.4 · Q1.7 · P1.1 · P1.5 · Q2.5 · Q2.6 · S2.4 · Q3.7 · S3.3 · P3.3 · Q4.4 · Q4.8 · S4.4 · Q5.3 · Q5.4 · P5.4
Mar 2024 (100)	Q1.1 · Q1.4 · Q1.5 · P1.1 · P1.5 · Q2.6 · S2.5 · P2.1 · Q3.3 · Q3.7 · Q4.2 · Q4.7 · S4.4 · S4.9 · Q5.6 · P5.2 · P5.5
Oct 2023 (100)	Q1.1 · Q1.3 · S1.4 · P1.9 · Q2.5 · Q2.7 · Q3.6 · Q3.7 · S3.3 · P3.3 · Q4.6 · Q4.11 · S4.8 · Q5.3 · P5.3
Mar 2023 (100)	Q1.3 · Q1.4 · Q1.5 · P1.8 · Q2.6 · Q2.7 · S2.1 · S2.6 · Q3.7 · Q4.9 · Q4.11 · S4.6 · Q5.6 · P5.7 · P5.8

Paper	Blocks
Nov 2022 (100)	`Q1.1` · `Q1.5` · `Q1.6` · `S1.5` · `P1.3` · `Q2.4` · `S2.4` · `S3.3` · `P3.3` · `Q4.1` · `Q4.5` · `Q4.6` · `Q4.9` · `Q4.11` · `Q5.3` · `Q5.4` · `P5.2` · `P5.4`
Apr 2022 (100)	`Q1.1` · `Q1.3` · `Q1.4` · `S1.4` · `Q2.4` · `Q4.9` · `Q4.11` · `S4.7` · `Q5.3` · `Q5.4` · `S5.3` · `P5.2` · `P5.4`

> ***This bank is built for the 100-mark paper.*** *Its* ***essays*** *(§A) are the long questions asked on the KSLU Civil Procedure Code & Limitation sitting (a theme asked as a 16-mark essay in the 100-mark paper and as a 10-mark essay in the 80-mark paper is written once and tagged Pattern: both); its* ***short notes*** *(§B) answer every 8-mark Q8 short note of the 100-mark paper; its* ***problems*** *(§C) cover* ***every*** *fact-pattern from both the 80- and 100-mark papers. Every unit follows the notes' topic order. The 6-mark short notes of the 80-mark paper are in the study-notes bundle.*

UNIT 1 — Jurisdiction, Res Judicata, Foreign Judgments & Place of Suing

A. Essay Questions (16M) — Model Answers

Q1.1 — `[16M]` Define jurisdiction. Explain the different kinds of jurisdiction of the civil courts.

Asked: Jul 2026 (80), Jan 2026 (80), Jul 2025 (100), Jan 2025 (80), Mar Aug 2024 (100) · +7 earlier · Pattern: both · ★★★★★ · Notes: Unit 1 → Topic 2 (Jurisdiction of Civil Courts — Kinds & Bar on Suits)

▤ ***ANSWER OUTLINE***

1. *Define jurisdiction — power to hear, decide and grant relief.*
2. *Four kinds — territorial, pecuniary, subject-matter, original/appellate.*
3. *Lack of jurisdiction vs irregular exercise — nullity vs merely erroneous.*
4. *s.6 — Code does not enlarge pecuniary limits.*
5. *Kiran Singh — decree without jurisdiction is a nullity, challengeable anytime.*

Introduction

Jurisdiction is the power or authority of a court to hear and decide a case and to grant the relief prayed for. A court must be competent to try a suit before it can decide it on the merits, and a decision given without jurisdiction is of no effect. Jurisdiction is classified as territorial, pecuniary, subject-matter, and original or appellate; and a total lack of jurisdiction must be distinguished from an irregular exercise of it.

A. Meaning of jurisdiction

A court can decide only what the law has authorised it to decide. In **Official Trustee, West Bengal v Sachindra Nath Chatterjee (1969)** the Supreme Court stressed that jurisdiction means not merely the authority to *hear* a case but the authority to grant the **specific relief** asked for; a court may be competent to entertain the suit yet have no power to give the particular remedy claimed. Jurisdiction, in short, is the legal competence conferred by the statute that created the court, and it cannot be enlarged by the consent of the parties.

B. The four kinds of jurisdiction

1. **Territorial (local) jurisdiction.** Every court is assigned a geographical area and can try only suits arising within its local limits. A Bengaluru civil court cannot try a dispute over land lying wholly in Mysuru. The place-of-suing sections (**s.15** to **s.20**) work this out in detail.
2. **Pecuniary jurisdiction.** Courts are graded by the value of the suit ("pecuniary" relates to money). A court can try a suit only if its value falls within the money-limit fixed for it — a small-cause court cannot try a fifty-lakh suit. **Section 15** directs the plaintiff to file in the court of the **lowest grade competent** to try the suit.
3. **Subject-matter jurisdiction.** Some courts are given only certain *kinds* of cases. A Family Court hears matrimonial matters and a Rent Controller hears tenancy matters; a court cannot try a subject the law has assigned to another forum.
4. **Original and appellate jurisdiction. Original** jurisdiction is the power to try a case at first instance, where the suit begins; **appellate** jurisdiction is the power to hear appeals from lower courts. A District Court has both, and a High Court has both plus writ jurisdiction.

Reinforcing the money-limit, **s.6** provides that, save where otherwise expressly provided, nothing in the Code gives a court jurisdiction over suits whose value exceeds its ordinary pecuniary limits. The Code itself, therefore, never enlarges any court's ceiling.

C. Lack of jurisdiction vs irregular exercise

The distinction between a lack of jurisdiction and an irregular exercise of jurisdiction is set out below.

Inherent lack of jurisdiction	Irregular exercise of jurisdiction
Court **never had power** — wrong subject-matter, or no pecuniary/territorial competence	Court **had power** but **used it wrongly** — decided law or fact incorrectly, or followed a wrong procedure
Decree is a **nullity** [coram non judice — before one who is not a judge]	Decree is **valid until set aside** — merely erroneous
Challengeable **at any stage**, even in execution or collaterally; consent cannot cure	Only remedy is **appeal or revision** within time

A wrong decision by a *competent* court is not void; it is merely erroneous, and if not appealed in time it becomes final. Only a decree by a court with **no** jurisdiction is a nullity.

Leading cases

- ***Kiran Singh v Chaman Paswan (1954)*** — a decree passed without jurisdiction is a **nullity**, and its invalidity may be set up whenever and wherever it is relied on.

- ***Official Trustee, West Bengal v Sachindra Nath Chatterjee (1969)*** — jurisdiction includes the authority to grant the specific relief prayed for, not merely to hear the case.

Conclusion

Jurisdiction is the foundation of every civil suit. It is territorial, pecuniary, subject-matter, and original or appellate; and, as held in *Kiran Singh v Chaman Paswan (1954)*, a decree passed without jurisdiction is a nullity that may be challenged at any time, whereas an erroneous decree of a competent court binds until it is set aside in appeal or revision.

Q1.2 — `[16M]` What is a suit? Write about the suits of a civil nature with examples.

> *Asked: Jul 2014 (80), Jul 2016 (80), Nov 2021 (80) · Pattern: 80-only · ★★ · Notes: Unit 1 → Topic 3 (Suits of a Civil Nature (s.9))*

> ***▤ ANSWER OUTLINE***
>
> *1. s.9 — courts try all suits of a civil nature except those barred.*
>
> *2. "Civil nature" — principal question is a civil right.*
>
> *3. Explanations I & II — property/office civil despite religion, fees immaterial.*
>
> *4. Two bars — express and implied.*
>
> *5. Moran Mar Marthoma; Dhulabhai; Mask & Co.*

Introduction

A **suit** is a civil proceeding instituted by presenting a plaint, by which a person seeks the enforcement of a private right against another. **Section 9** governs which of those suits a civil court may entertain: courts shall try **all** suits of a civil nature except those whose cognizance is expressly or impliedly barred. The section is one of *inclusion* — the presumption always favours the jurisdiction of the civil court, and whoever alleges a bar must prove it.

A. When is a suit "of a civil nature"

A suit is of a civil nature if the **principal question in it concerns a civil right** — a right to property, to an office, to a status, to money or to compensation. The word "civil" is set against the criminal, the political and the purely religious. A civil court is the **default forum** for private disputes about rights, and s.9 turns that everyday idea into a rule.

The **two Explanations** to s.9 fine-tune this:

1. **Explanation I.** A suit in which the right to **property** or to an **office** is contested is a suit of a civil nature **even if** that right depends entirely on the decision of questions

about religious rites or ceremonies. A fight over a temple's funds or a temple office is civil, even though a religious question must be answered along the way.

2. **Explanation II.** It is immaterial whether or not any **fees** are attached to the office, or whether it is attached to a particular place. This closes the old loophole about honorary religious offices.

B. What is, and is not, maintainable

Examples of suits of a **civil nature**: a suit for possession of property, a suit for the price of goods, a suit for damages for breach of contract, a suit claiming a hereditary office such as that of an *archaka* (priest) carrying the right to offerings, and a suit for a declaration of status. Each turns on a private civil right.

Examples of suits **not** of a civil nature: a suit **purely** about a caste question, a claim to precedence or honours in a religious procession with no property or office at stake, or a purely political matter. Where nothing civil is involved, s.9 does not open the court's doors. The dividing line is drawn by the **principal question**: if the substance of the dispute is a civil right, an incidental religious question does not take it out of s.9; but if the substance is purely a religious rite or a caste matter with **no civil consequence**, the suit fails at the threshold. Because s.9 is a section of inclusion, the **burden of establishing the bar lies on the party who asserts it**, and any doubt is resolved in favour of the civil court's jurisdiction.

C. The two kinds of bar

Even a genuinely civil suit may be shut out:

1. **Expressly barred.** A statute may in so many words send the matter to another forum and oust the civil court — tax disputes to tax tribunals, industrial disputes to labour courts. The bar is written into the special Act.
2. **Impliedly barred.** The bar is not stated but follows by necessary implication — where a statute creates a **new right and provides a special remedy or forum** for it, that special remedy is taken to be exclusive. Courts do not infer such a bar lightly; the exclusion must be **explicitly expressed or clearly implied**.

Even where jurisdiction is barred, a crucial safeguard survives: the civil court may still examine whether the special tribunal acted **without jurisdiction** or in breach of **fundamental principles of judicial procedure**. The bar is never a blank cheque.

Leading cases

- ***Most Rev. P.M.A. Metropolitan v Moran Mar Marthoma (1995)*** — s.9 is read expansively; a dispute over church property or office is civil despite religious overtones.
- ***Dhulabhai v State of Madhya Pradesh (1969)*** — laid down the principles governing when a statute excludes the jurisdiction of civil courts.

- ***Secretary of State v Mask & Co. (1940)*** — exclusion of civil jurisdiction is not readily inferred; even when barred, the court may check fundamental procedural breaches.

Conclusion

Section 9 thus makes the civil court the ordinary forum for every dispute about a private civil right, unless a special law has clearly excluded that dispute and provided its own forum. The presumption favours jurisdiction, the Explanations extend it to property and office disputes with a religious flavour, and even an express bar leaves the civil court free to police a tribunal that acts wholly without jurisdiction.

Q1.3 — `[16M]` Explain the doctrine of res sub judice and the conditions for staying a suit under s.10.

> *Asked: Jul 2026 (80), Jan 2026 (80), Jan 2025 (80), Oct 2023 (80), Mar Oct 2023 (100) · +5 earlier · Pattern: both · ★★★★ · Notes: Unit 1 → Topic 4 (Res Sub Judice — Stay of Suits (s.10))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Res sub judice — "a matter under judgment"; s.10.*
>
> *2. Five conditions for a stay.*
>
> *3. What is stayed — the trial, not the suit; interim orders survive.*
>
> *4. Object — avoid parallel trials and conflicting decrees.*
>
> *5. Indian Bank; Explanation — foreign suit no bar.*

> ⚠ **DON'T CONFUSE**
>
> This is **res sub judice (s.10)** — the earlier suit is **still pending**, so the remedy is a **STAY** (pause). Do not answer with **res judicata (Q1.4, s.11)**, where the earlier suit is **finally decided** and the remedy is a total **BAR**. Tell: the word "pending" points to s.10; "already decided" points to s.11.

Introduction

Res sub judice is Latin for **"a matter under judgment"** — a matter still being tried. **Section 10** embodies the doctrine: no court shall proceed with the trial of a suit whose matter is directly and substantially in issue in a previously instituted suit between the same parties in a competent court. The court in which the **later** suit is instituted must stay its trial and allow the court of the **earlier** suit to decide, so that contradictory judgments are avoided.

A. Object of the doctrine

The everyday idea is fairness and economy. A defendant should not have to defend the **same fight in two courts at once**, and two courts should not risk delivering **conflicting decisions** on the same question. The object of s.10 is therefore to prevent two parallel trials on the same matter and the conflicting decisions they could produce, and to save the time of courts and parties.

B. The five conditions for a stay under s.10

All of the following must be satisfied:

1. **Two suits** — one previously instituted and one subsequently instituted.
2. The **matter in issue** in the later suit is **directly and substantially in issue** in the earlier suit. It need not be a word-for-word overlap, but the core dispute must be the same.
3. Both suits are between the **same parties**, or parties **litigating under the same title** (claiming through the same source).
4. The **previously instituted suit is pending** — in the same court, or any other court in India competent to grant the relief, or a court beyond India established by the Central Government, or before the Supreme Court.
5. The court in which the earlier suit is pending is **competent to grant the relief** claimed in the later suit.

C. What exactly is stayed, and its limits

The section bars the court from proceeding with the **trial** of the later suit — not from existing. The later suit is **not dismissed**; it is kept on hold, to be taken up if the earlier suit ends without deciding the common matter. The limits of the stay are as follows:

1. Section 10 stays the **trial**, not the whole proceeding. The later court can still pass **interim or interlocutory orders** — an injunction, appointment of a receiver — to protect the parties. In **Indian Bank v Maharashtra State Coop. Marketing Federation (1998)** the Court held that the bar on “trial” does not paralyse the court from making interim orders, and does **not** apply to a **summary suit** under Order 37 until leave to defend is granted.
2. Section 10 is **mandatory** in form (“no court shall proceed”), but parties may **consent to waive** it, and the court may **consolidate** the two suits instead of staying one — consolidation actually serves the same purpose better.
3. The **Explanation to s.10** provides that the pendency of a suit in a **foreign court** does not prevent an Indian court from trying a suit founded on the same cause of action.

D. An illustration

A sues B in Court X in January, claiming that a sale deed of a house is valid; in March B sues A in Court Y, claiming the same deed is a forgery. The validity of the deed is directly and substantially in issue in both suits, the parties are the same, and Court X — where the

earlier suit is pending — is competent. Court Y must therefore stay the trial of the March suit, though it may still grant an interim injunction to preserve the house meanwhile.

Leading cases

- ***Indian Bank v Maharashtra State Coop. Marketing Federation (1998)*** — the Federation had already sued Indian Bank over a letter-of-credit transaction; the bank then filed a summary suit under Order 37 for the amount due, and the Federation asked for it to be stayed under s.10. The Court held that "trial" in s.10 does not bar interim orders, and that in a summary suit the trial begins only when leave to defend is granted, so s.10 did not stop the earlier summary stages.

Conclusion

Thus, s.10 prevents two competent courts from trying the same dispute at the same time. Where the same matter between the same parties is already pending in a competent earlier suit, the later court must **stay its trial** and allow the first court to decide, while remaining free to grant interim protection.

Q1.4 — `[16M]` Explain the doctrine of res judicata. State the conditions for its applicability under s.11.

> *Asked: Jul 2026 (100), Jan 2026 (100), Jan Jul 2025 (80), Mar Aug 2024 (80), Mar Aug 2024 (100) · +5 earlier · Pattern: both · ★★★★ · Notes: Unit 1 → Topic 5 (Res Judicata & Constructive Res Judicata (ss.11–12))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Res judicata — "a matter already judged"; s.11.*
>
> *2. Three maxims of public policy.*
>
> *3. Five conditions for the bar.*
>
> *4. Explanation IV — constructive res judicata.*
>
> *5. Satyadhyan Ghosal; Daryao; Direct Recruit.*

> ⚠ **DON'T CONFUSE**
>
> This is **res judicata (s.11)** — the earlier suit is **heard and finally decided**, so the later suit is totally **BARRED**. Do not slip into **res sub judice (Q1.3, s.10)**, where the earlier suit is merely **pending** and the remedy is only a **STAY**. Tell: "finally decided" = s.11 bar; "still pending" = s.10 stay.

Introduction

Res judicata means **“a matter already judged”**. **Section 11** provides that 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, litigating under the same title, in a competent court, and has been **heard and finally decided**. Section 10 makes a court *wait*; section 11 makes a court *refuse*.

A. The public-policy foundation

The doctrine rests on three ancient maxims:

1. *Interest reipublicae ut sit finis litium* — [it is in the interest of the State that there be an end to litigation].
2. *Nemo debet bis vexari pro una et eadem causa* — [no one should be vexed twice for the same cause].
3. *Res judicata pro veritate accipitur* — [a decided matter is accepted as the truth].

In **Daryao v State of U.P. (1961)** the Supreme Court held that res judicata is not a mere technicality of the CPC but a principle of **public policy** that even binds writ petitions under Articles 32 and 226. In **Satyadhyan Ghosal v Deorajin Debi (1960)** the Court gave the classic reason: litigation must have an **end**, and a decided matter is treated as the truth between the parties.

B. The five conditions under s.11

A later suit or issue is barred only if **all** are met:

1. The **matter directly and substantially in issue** in the later suit was directly and substantially in issue in the former suit. A matter only collaterally or incidentally in issue does not attract the bar.
2. The former suit was between the **same parties**, or parties claiming under them.
3. The parties litigated under the **same title** — the same legal capacity. A man suing as an heir is not the same as the same man suing as a trustee.
4. The court that decided the former suit was **competent** to try the later suit or issue.
5. The matter was **heard and finally decided** in the former suit — actually adjudicated, not withdrawn, left open, or dismissed for default.

A caution follows from condition 5: a suit dismissed for **default of appearance** (Order 9), or **withdrawn without leave**, is not a decision on the merits and does **not** by itself create res judicata. One must not confuse “dismissed” with “decided”.

C. Constructive res judicata and s.12

Explanation IV — constructive res judicata is the most important extension of the rule. Any matter which **might and ought to have been made a ground of attack or defence** in the former suit is **deemed** to have been directly and substantially in issue. A party must therefore bring forward **all** his grounds in the first suit; a ground which could

have been raised but was not is treated as if it had been raised and decided against him. This stops a losing party from re-litigating the same claim by inventing a new argument, and it was applied in **Direct Recruit Class II Engineering Officers' Association v State of Maharashtra (1990)**.

Other Explanations refine the rule: **Explanation VI** covers representative suits, where persons litigating bona fide over a right claimed in common bind all interested; **Explanations VII and VIII** (added in 1976) apply res judicata to **execution proceedings** and to decisions of a **court of limited jurisdiction** competent to decide the issue. **Section 12** is the companion "no second bite" provision — where a plaintiff is precluded by rules (for example Order 2 Rule 2) from a further suit on a cause of action, he cannot bring a fresh suit for it in any court to which the Code applies.

Leading cases

- ***Satyadhyan Ghosal v Deorajin Debi (1960)*** — res judicata embodies the principle that litigation must reach finality; a decided matter binds.
- ***Daryao v State of U.P. (1961)*** — res judicata is a rule of public policy and applies to writ petitions under Arts. 32 and 226.
- ***Direct Recruit Class II Engineering Officers' Association v State of Maharashtra (1990)*** — constructive res judicata (Expl. IV) bars grounds that could and ought to have been taken earlier.

Conclusion

Res judicata secures finality: once a competent court has heard and finally decided a matter between the same parties in the same capacity, no court will try it again, and Explanation IV bars even the grounds a party ought to have raised. The bar applies only when all five conditions are met, including litigation under the same title, and through Explanation IV it extends to grounds that might and ought to have been raised.

Q1.5 — `[16M]` Define a foreign judgment. When is it conclusive, and state the presumption relating to it.

> *Asked: Jul 2026 (80), Jul 2026 (100), Jul 2025 (100), Mar 2024 (100), Mar 2023 (100) · +5 earlier · Pattern: both · ★★★★ · Notes: Unit 1 → Topic 6 (Foreign Judgments (ss.13–14))*

> ***▤ ANSWER OUTLINE***
>
> *1. Foreign judgment s.2(6); foreign court s.2(5); comity.*
>
> *2. s.13 — conclusive except six grounds.*
>
> *3. The six exceptions (a)–(f).*
>
> *4. s.14 — presumption of competence on a certified copy.*

> *5. Enforcement — fresh suit or s.44A; Narasimha Rao; Satya v Teja Singh.*

Introduction

A **foreign judgment** [s.2(6)] is the judgment of a **foreign court** [s.2(5)] — a court situated outside India, not established or continued by the authority of the Central Government. The starting principle is one of **comity** (mutual respect between nations): India will normally honour a foreign court's judgment and treat it as conclusive between the same parties, so they are not forced to re-litigate abroad and again at home. But that respect is **conditional**, and the conditions are the whole of **section 13**.

A. When a foreign judgment is conclusive — the six exceptions

Section 13 declares a foreign judgment conclusive as to any matter directly adjudicated upon between the same parties, **except** on six grounds. A foreign judgment is **NOT** conclusive where:

1. **Not a competent court** — it was not pronounced by a court of competent jurisdiction that Indian law recognises over the parties or subject-matter.
2. **Not on the merits** — it was not given on the merits of the case, for example decided by default or dismissed on a technicality without examining the real dispute.
3. **Wrong view of law** — it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognise the law of India where Indian law applied.
4. **Natural justice breached** — the proceedings were opposed to natural justice, for example a party got no notice, no fair hearing, or faced a biased judge.
5. **Obtained by fraud** — the judgment was obtained by fraud, which unravels everything; a judgment procured by fraud is a nullity everywhere.
6. **Breach of Indian law** — it sustains a claim founded on a breach of any law in force in India, for example enforcing a gaming or smuggling contract void in India.

If **none** of the six applies, the foreign judgment is conclusive and **bars a fresh suit** in India on the same matter — it operates almost like res judicata.

B. Section 14 — the presumption

When a **certified copy** of a foreign judgment is produced, the court shall **presume** that it was pronounced by a court of **competent jurisdiction**, unless the contrary appears on the record. The presumption is **rebuttable**: the party challenging the judgment may displace it. Thus s.14 assists the person relying on the foreign judgment, while s.13 gives the opponent its six avenues of attack.

C. Enforcement, and the leading cases

A conclusive foreign judgment can be enforced in India in **two ways**: (i) by filing a **fresh suit** on the foreign judgment; or (ii) where the country is a "reciprocating territory" notified under **s.44A**, by **direct execution** as if it were a decree of an Indian district court.

The modern law is shaped by matrimonial cases. In **Y. Narasimha Rao v Y. Venkata Lakshmi (1991)** a husband obtained a quick divorce in a US court where neither spouse was really domiciled and relied on it in India; the Supreme Court refused recognition, holding that a foreign matrimonial decree is conclusive only if the foreign court was competent by the **law under which the parties married** and the decision was **on the merits**. Earlier, in **Satya v Teja Singh (1975)**, a foreign divorce obtained from a court with no real jurisdiction over the parties, on a misrepresented domicile, was not recognised — exception (a) applied. And in **International Woollen Mills v Standard Wool (U.K.) Ltd. (2001)** the Court explained "on the merits": even an ex-parte judgment can be on the merits if the claim was actually examined.

Leading cases

- ***Y. Narasimha Rao v Y. Venkata Lakshmi (1991)*** — a foreign matrimonial decree is conclusive only if the court was competent by the law under which the parties married and decided on the merits.
- ***Satya v Teja Singh (1975)*** — a foreign divorce from a court with no real jurisdiction over the parties is not recognised under s.13.
- ***International Woollen Mills v Standard Wool (U.K.) Ltd. (2001)*** — explains "on the merits"; an ex-parte judgment can still be on the merits if the claim was examined.

Conclusion

Thus, a foreign judgment is conclusive in India only if it was pronounced by a competent court on the merits, applied the correct law, observed natural justice, was not obtained by fraud and does not sustain a claim founded on a breach of Indian law. If any of the six exceptions in s.13 applies, it is not conclusive; if none applies, it bars a fresh suit and may be enforced by suit or, for reciprocating territories, by execution under s.44A.

Q1.6 — `[16M]` Explain the rules regarding the place of suing under the Civil Procedure Code (ss.15–21).

> *Asked: Jan 2026 (80), Jul 2025 (80), Jan Jul 2025 (100), Mar Aug 2024 (80), Oct 2023 (80) · +7 earlier · Pattern: both · ★★★★★ · Notes: Unit 1 → Topic 7 (Place of Suing & Objection to Jurisdiction (ss.15–21))*

> ▤ ***ANSWER OUTLINE***
>
> *1. s.15 — lowest grade competent court.*
>
> *2. ss.16–18 — immovable property where it lies.*
>
> *3. s.19 — wrongs to person/movables: where done OR D resides.*
>
> *4. s.20 — all other suits: D resides/works OR cause of action; corporation Expl.*
>
> *5. s.21 — objection needs earliest opportunity AND failure of justice.*

Introduction

"Place of suing" means **which court, in which place**, a plaintiff must go to. The Code classifies suits according to their subject-matter and prescribes a forum for each class (ss. 15–20), and s.21 restricts objections to a wrong choice of forum.

A. The grading rule and immovable property

Section 15 provides that every suit shall be instituted in the **court of the lowest grade competent to try it**. This is a rule of pecuniary convenience — do not clog higher courts with small suits — and being procedural, filing in a higher grade is an irregularity, not a nullity.

For **immovable property (ss.16–18)**:

1. **s.16** — suits for recovery, partition, sale, foreclosure or determination of rights in immovable property must be filed **where the property is situated**, since land does not move. Its **proviso** allows a suit for relief obtainable through the defendant's **personal obedience** (for example compensation) to be filed where the defendant resides or works, provided the property is within the jurisdiction.
2. **s.17** — where property lies within the jurisdiction of **different courts**, the suit may be filed in **any one** of them.
3. **s.18** — where it is **uncertain** within which court's limits the property lies, any of those courts may proceed after recording the uncertainty.

That s.16 jurisdiction cannot be waived or created by consent was confirmed in **Harshad Chiman Lal Modi v DLF Universal Ltd. (2005)**.

B. Wrongs, other suits, and corporations

Section 19 — where the suit is for **compensation for a wrong** to the **person** (assault, defamation) or to **movable property**, the plaintiff has an **option**: sue where the wrong was done, **or** where the defendant resides, carries on business, or personally works for gain.

Section 20 — for all other suits (chiefly contracts and money), the suit may be filed where: (a) the **defendant** actually and voluntarily resides, carries on business, or personally works for gain; (b) any **one** of several defendants so resides or works, with the court's **leave** or the others' acquiescence; or (c) the **cause of action, wholly or in part, arises**. The **Explanation** deems a **corporation** to carry on business at its sole or principal office, or, for a cause of action arising where it has a **subordinate office**, at that place — so a company may be sued where the branch that handled the deal is located.

Parties may also, by contract, narrow the choice: in **Hakam Singh v Gammon (India) Ltd. (1971)** an agreement confining disputes to one of several competent courts was upheld, and **A.B.C. Laminart Pvt. Ltd. v A.P. Agencies (1989)** held that a clause naming one competent court presumptively excludes the others, especially with words like "only", "alone" or "exclusive". Such a clause cannot, however, create jurisdiction where none exists.

C. Section 21 — objection to jurisdiction

A wrong choice of place is not always fatal. **Section 21** provides that an objection as to the **place of suing** (territorial), and likewise as to **pecuniary** limits and (post-1976) the **competence of the executing court**, will not be allowed by an appellate or revisional court **unless**:

1. the objection was taken in the **trial court at the earliest possible opportunity** (and, where issues are settled, at or before their settlement); **and**
2. there has been a **consequent failure of justice**.

Both limbs are cumulative. A party cannot sit silent, take a chance on winning, and then spring a technical objection after losing. Crucially, s.21 does **not** save a defect of **subject-matter** jurisdiction — a total want of that makes the decree a **nullity** (**Kiran Singh v Chaman Paswan, 1954**) — and **s.21A** bars a separate suit to set aside a decree merely on a place-of-suing objection.

Leading cases

- ***Kiran Singh v Chaman Paswan (1954)*** — a territorial/pecuniary objection is controlled by s.21 and needs prejudice; a total want of jurisdiction is a nullity.
- ***Hakam Singh v Gammon (India) Ltd. (1971)*** — an ouster clause confining suits to one competent court is valid.
- ***A.B.C. Laminart Pvt. Ltd. v A.P. Agencies (1989)*** — a jurisdiction clause naming one competent court excludes the others.
- ***Harshad Chiman Lal Modi v DLF Universal Ltd. (2005)*** — s.16 jurisdiction over immovable property cannot be waived or conferred by consent.

Conclusion

Thus, a suit is filed in the court of the lowest competent grade (s.15); immovable property where it lies (ss.16–18); wrongs where done or where the defendant resides (s.19); everything else where the defendant resides or works, or where the cause of action arose (s.20). An objection to the place of suing is not allowed under s.21 unless it was raised at the earliest opportunity and there has been a consequent failure of justice; a defect of subject-matter jurisdiction, by contrast, makes the decree a nullity.

Q1.7 — `[16M]` State the provisions of the Civil Procedure Code, 1908 regarding transfer of cases (ss.22–25).

> *Asked: Jul 2026 (80), Jul 2026 (100), Jan Jul 2025 (100), Aug 2024 (100), Mar Nov 2021 (80) · +3 earlier · Pattern: both · ★★★★ · Notes: Unit 1 → Topic 8 (Transfer of Cases (ss.22–25))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Purpose — balance of convenience and ends of justice.*
>
> *2. s.22 — defendant's application; s.23 — which court.*
>
> *3. s.24 — HC/District Court transfer and withdrawal, suo motu.*
>
> *4. s.25 — Supreme Court, inter-State transfers.*
>
> *5. Factors; Guda Vijayalakshmi; Durgesh Sharma.*

Introduction

Sometimes the court where a suit is filed, though competent, is **not the fair or convenient** place to try it — a party cannot travel, the witnesses are elsewhere, or two related suits are pending in different courts. Sections 22 to 25 let a **superior court move a case** to a more appropriate court. The guiding considerations throughout are the **balance of convenience** and the **ends of justice**.

A. Transfer on a party's application (ss.22–23)

Section 22 — where a suit may be instituted in **more than one court** and is filed in one of them, the **defendant** may apply, at the **earliest possible opportunity** and after notice to the other side, to have it transferred to another competent court. The court decides on the **balance of convenience** — where the witnesses live, the expense involved, and so on.

Section 23 identifies the **forum** for a s.22 application: if the courts are subordinate to the same appellate court, apply to that appellate court; if they are under different appellate courts of the same High Court, to that High Court; and if under different High Courts, to the High Court within whose limits the court where the suit is pending is situated.

B. General power of transfer and withdrawal (s.24)

Section 24 is the workhorse. The **High Court** or the **District Court** may, on the application of a party or **on its own motion (suo motu)**, and at any stage:

1. **transfer** any suit, appeal or other proceeding pending before it or before a subordinate court to another subordinate court competent to try it; or
2. **withdraw** any suit, appeal or proceeding pending in a subordinate court and either try it itself, transfer it to another competent subordinate court, or re-transfer it back.

No detailed grounds are listed; the court acts on the **ends of justice and balance of convenience**. This is the section usually invoked for the recurring "wife's transfer" problem at the District or High Court level, when both courts are within the **same State**.

C. Power of the Supreme Court (s.25)

Section 25 empowers the **Supreme Court**, on the application of a party after notice, to transfer any suit, appeal or proceeding from a **High Court or civil court in one State to a High Court or civil court in another State**, if satisfied that the order is **expedient**

for the ends of justice. This is the **only** route to move a case **across State lines** — a District Court or High Court cannot do so, as confirmed in **Durgesh Sharma v Jayshree (2008)**.

The **factors** the court weighs are: the convenience or inconvenience of the **parties** and **witnesses**; the **expense** involved; whether a **fair trial** is possible in the present court (a surcharged atmosphere or apprehension of bias); and the interests of **justice** and avoidance of a **multiplicity** of proceedings. In the recurring matrimonial problem, courts lean in favour of the **wife's** convenience — often she has no independent income and small children — but this is a **guideline, not an automatic rule**; the court still weighs the overall balance. **Mere convenience of one party is not enough**; the applicant must show the balance overall tilts towards transfer.

Leading cases

- ***Guda Vijayalakshmi v Guda Ramachandra Sekhara Sastry (1981)*** — the s.25 transfer power applies to matrimonial matters; related proceedings should be tried together to avoid conflicting decrees.
- ***Maneka Sanjay Gandhi v Rani Jethmalani (1979)*** — assurance of a fair and impartial trial is the primary consideration in any transfer.
- ***Durgesh Sharma v Jayshree (2008)*** — only the Supreme Court, under s.25, can transfer a case from a court in one State to a court in another.

Conclusion

The transfer scheme is graded by the reach required: s.22 lets a defendant ask, s.24 gives the High Court and District Court a broad power within the State (even suo motu), and s.25 reserves inter-State transfers to the Supreme Court alone. In every case the test is the balance of convenience and the ends of justice, not the mere convenience of one party.

B. Short Notes (8M — Q8) — Model Answers

S1.1 — `[8M]` Write a short note on: Substantive and procedural law.

> *Asked: Dec 2017 (100) · Pattern: 100-only · ★ · Notes: Unit 1 → Topic 1 (Procedural vs Substantive Law; History, Extent & Definitions)*

> ▤ ***ANSWER OUTLINE***
>
> *1. Meaning of substantive law.*
>
> *2. Meaning of procedural (adjective) law.*
>
> *3. Differences.*

> *4. CPC as procedural law — not exclusively so.*

Introduction

Law is divided into substantive law and procedural law. **Substantive law** creates and defines rights, duties and liabilities; **procedural law**, also called adjective law, prescribes the machinery by which those rights are enforced in a court.

A. Substantive law

Substantive law determines *what* the rights and obligations of persons are — who owns property, who must repay a loan, who is liable for a wrong. The Indian Contract Act, 1872, the Transfer of Property Act, 1882 and the law of torts are examples. It confers rights and imposes duties independently of any court proceeding.

B. Procedural law

Procedural law lays down *how* a right is enforced or a wrong redressed: which court is to be approached, how a suit is instituted, how the trial is conducted, and how a decree is executed. The **Code of Civil Procedure, 1908** is the principal procedural law for civil disputes. Its 158 sections contain the fundamental principles and may be amended only by Parliament; the 51 Orders of the First Schedule contain the detailed rules, which High Courts may amend for their territories.

C. Distinction

1. **Function.** Substantive law defines rights; procedural law enforces them.
2. **Nature.** Substantive law is an end in itself; procedural law is a means to that end — the handmaid of justice.
3. **Operation.** Substantive law operates whether or not a dispute reaches a court; procedural law comes into play only when a right is sought to be enforced through a court.

D. CPC — essentially but not exclusively procedural

The Code is essentially procedural, yet some of its provisions are substantive in effect: s.9 determines which rights the civil court may enforce, and s.11 (res judicata) extinguishes the right to re-litigate a decided matter.

Leading case

- ***Sangram Singh v Election Tribunal, Kotah (1955)*** — the rules of procedure are the handmaid of justice, not its mistress, and must be read to advance justice, not to defeat it.

Conclusion

Thus, substantive law states the rights and duties of persons, while procedural law provides the means of enforcing them. The Code of Civil Procedure is procedural law, though not exclusively so.

S1.2 — `[8M]` Write a short note on: Pecuniary jurisdiction.

> *Asked: Jul 2019 (100) · Pattern: 100-only · ★ · Notes: Unit 1 → Topic 2 (Jurisdiction of Civil Courts — Kinds & Bar on Suits)*

> ▤ ***ANSWER OUTLINE***
>
> *1. Meaning — jurisdiction by value of the suit.*
>
> *2. s.15 — lowest competent grade.*
>
> *3. s.6 — Code does not enlarge pecuniary limits.*
>
> *4. Effect of defect — s.21(2), Suits Valuation Act s.11; Kiran Singh.*

Introduction

Pecuniary jurisdiction is the jurisdiction of a court determined by the money value of the subject-matter of the suit. Civil courts are graded, and each court may try only suits whose value falls within the limit fixed for it by the law that constitutes it.

A. The rules in the Code

1. **Section 15.** Every suit shall be instituted in the court of the **lowest grade competent** to try it. The object is to prevent higher courts from being burdened with suits that lower courts can try. Filing in a higher competent court is an irregularity, not a nullity.
2. **Section 6.** Save as otherwise expressly provided, nothing in the Code gives any court jurisdiction over suits whose value exceeds the pecuniary limits of its ordinary jurisdiction. The Code does not enlarge any court's pecuniary limit, and consent of parties cannot confer it.
3. **Valuation.** The value of the suit is ordinarily the value stated in the plaint, determined under the Court-fees and Suits Valuation Acts.

B. Effect of a defect

A court wholly lacking pecuniary jurisdiction acts without authority. However, an objection based only on **over-valuation or under-valuation** is controlled by s.21(2) and s.11 of the Suits Valuation Act, 1887: it is not entertained by an appellate or revisional court unless it was taken at the earliest opportunity in the trial court and has caused a **failure of justice**.

Leading case

- ***Kiran Singh v Chaman Paswan (1954)*** — a suit was re-valued at a higher figure only after the plaintiffs lost; the Supreme Court held that a decree without jurisdiction is a nullity, but a mere valuation objection does not upset a decree unless prejudice is shown.

Conclusion

Thus, pecuniary jurisdiction depends on the value of the suit; a suit must be filed in the lowest competent court (s.15), the Code does not enlarge pecuniary limits (s.6), and a mere valuation defect does not vitiate a decree without proof of prejudice.

S1.3 — `[8M]` Write a short note on: Bar on jurisdiction of civil courts.

> *Asked: Dec 2015 (100) · Pattern: 100-only · ★ · Notes: Unit 1 → Topic 3 (Suits of a Civil Nature (s.9))*

> ▤ ***ANSWER OUTLINE***
>
> *1. s.9 — all suits of a civil nature unless barred.*
>
> *2. Express bar.*
>
> *3. Implied bar.*
>
> *4. Limits of exclusion — Dhulabhai; Mask & Co.*

Introduction

Under **s.9** the civil courts have jurisdiction to try all suits of a civil nature **except** suits whose cognizance is **expressly or impliedly barred**. The presumption is in favour of jurisdiction, and the party alleging a bar must prove it.

A. Express bar

A statute may in express words exclude the civil court and vest a matter in a special forum — for example, disputes assigned to tax authorities, rent controllers or tribunals. Where the words are clear, the civil court cannot entertain the suit.

B. Implied bar

Exclusion may also arise by necessary implication, where a statute creates a new right or liability and provides a complete and adequate machinery for its enforcement. The special remedy is then exclusive. Such exclusion is not readily inferred.

C. Limits of the bar

Even where jurisdiction is excluded, the civil court may examine whether the special authority acted outside the Act, whether the provision itself is ultra vires, or whether the fundamental principles of judicial procedure were violated.

Leading cases

- ***Dhulabhai v State of Madhya Pradesh (1968)*** — traders who paid sales tax later held unconstitutional sued for refunds; the Supreme Court laid down that exclusion must be express or clearly implied, the special remedy must be adequate, and a civil suit lies where the provision is ultra vires. The refund suits were maintainable.
- ***Secretary of State v Mask & Co. (1940)*** — exclusion of civil jurisdiction is not readily inferred, but a clear statutory bar must be given effect; the court may still intervene where the authority acts outside the statute or against fundamental judicial procedure.

Conclusion

Thus, the civil court's jurisdiction is the rule and its exclusion the exception. A bar must be express or clearly implied, and even then the civil court retains power to correct action taken wholly without jurisdiction.

S1.4 — `[8M]` Write a short note on: Doctrine of res sub judice / Stay of suits.

> *Asked: Dec 2016 (100), Mar 2021 (100), Apr 2022 (100), Oct 2023 (100), Jan 2025 (100) · Pattern: 100-only · ★★★ · Notes: Unit 1 → Topic 4 (Res Sub Judice — Stay of Suits (s.10))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Meaning — s.10.*
>
> *2. Five conditions.*
>
> *3. Trial stayed, not the suit; interim orders.*
>
> *4. Explanation — foreign suit; Indian Bank.*

Introduction

Res sub judice means "a matter under judgment". Under **s.10**, no court shall proceed with the trial of a suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties pending in a competent court. The object is to prevent two parallel trials and conflicting decisions on the same matter.

A. Conditions

1. There are two suits, one previously and one subsequently instituted.
2. The matter in issue in the later suit is directly and substantially in issue in the earlier suit.
3. Both suits are between the same parties, or parties litigating under the same title.
4. The earlier suit is pending in the same or another court in India, a court established by the Central Government beyond India, or the Supreme Court.
5. The court of the earlier suit is competent to grant the relief claimed in the later suit.

B. Effect

Section 10 bars only the **trial** of the later suit; the suit is not dismissed. The court may still pass interim orders such as injunctions or appointment of a receiver. The parties may waive the bar, and the court may consolidate the suits. Under the **Explanation**, the pendency of a suit in a foreign court does not bar an Indian court from trying a suit on the same cause of action.

Leading case

- ***Indian Bank v Maharashtra State Co-operative Marketing Federation Ltd. (1998)*** — the Federation sought a stay of the bank's later summary suit under Order 37; the Supreme Court held that "trial" in s.10 does not bar interim orders, and in a summary suit the trial begins only when leave to defend is granted.

Conclusion

Thus, where the same matter between the same parties is pending in an earlier suit before a competent court, the later court must stay the trial, though it may grant interim relief. Res sub judice operates while the earlier suit is pending; res judicata operates after it is decided.

S1.5 — `[8M]` Write a short note on: Foreign judgment.

> *Asked: Dec 2019 (100), Nov 2022 (100), Jul 2025 (100), Jul 2026 (100) · Pattern: 100-only · ★★★ · Notes: Unit 1 → Topic 6 (Foreign Judgments (ss.13–14))*

> ***▤ ANSWER OUTLINE***
>
> *1. Definitions — s.2(5), s.2(6).*
>
> *2. Conclusive except six grounds — s.13.*
>
> *3. Presumption — s.14.*
>
> *4. Enforcement — suit or s.44A; Narasimha Rao.*

Introduction

A **foreign judgment** is the judgment of a foreign court (s.2(6)), and a **foreign court** is a court situated outside India and not established or continued by the authority of the Central Government (s.2(5)). On the principle of comity, a foreign judgment is ordinarily conclusive between the same parties.

A. When not conclusive — s.13

A foreign judgment is conclusive as to any matter directly adjudicated between the same parties, except where:

1. it was not pronounced by a court of competent jurisdiction;
2. it was not given on the merits of the case;
3. it is founded on an incorrect view of international law or a refusal to recognise Indian law where applicable;
4. the proceedings were opposed to natural justice;
5. it was obtained by fraud; or
6. it sustains a claim founded on a breach of any law in force in India.

B. Presumption — s.14

On production of a certified copy, the court presumes that the foreign judgment was pronounced by a court of competent jurisdiction, unless the contrary appears on the record or is proved.

C. Enforcement

A conclusive foreign judgment is enforced by a suit on the judgment or, if passed by a superior court of a reciprocating territory, by execution under s.44A.

Leading cases

- ***Y. Narasimha Rao v Y. Venkata Lakshmi (1991)*** — a husband obtained a divorce in Missouri on a ground unknown to the Hindu Marriage Act, without the wife's submission; the decree was held not conclusive.
- ***International Woollen Mills v Standard Wool (U.K.) Ltd. (2001)*** — an ex parte decree passed without considering any evidence is not "on the merits" and cannot be executed.

Conclusion

Thus, a foreign judgment binds the parties in India unless one of the six exceptions in s.13 applies; a certified copy raises a presumption of competence under s.14, and enforcement is by suit or under s.44A.

C. Problems — Model Answers (IRAC)

P1.1 — `[Prob]` X, a resident of place-1, beats Y at place-2. Y wants to file a suit against X. Where can Y sue? Advise. *(Decoy: sue only where the defendant resides.)*

> *Asked: Jul Dec 2016 (80), Oct 2023 (80), Mar Aug 2024 (100) · Pattern: both · ★★ · Notes: Unit 1 → Topic 7 (Place of Suing & Objection to Jurisdiction (ss.15–21))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — where may a victim of assault sue?*
>
> *2. Rule — s.19 gives an option.*
>
> *3. Apply — kill the "only where D resides" decoy.*
>
> *4. Verdict — sue at place-1 or place-2.*

Issue.

Where may Y institute a suit for compensation for the assault — only at the place where X resides, or does Y have a choice of forum?

Rule.

1. **Section 19** governs a suit for **compensation for a wrong done to the person** (assault falls squarely here). It gives the plaintiff an **option**: he may sue either where the **wrong was done**, or where the **defendant resides, carries on business, or personally works for gain**.
2. This is read with **s.15**, which requires the suit to be filed in the court of the lowest grade competent to try it in the chosen place.

Application.

1. The contention that Y may sue **only where X resides** (place-1) is untenable, because s.19 expressly gives the plaintiff the option of suing where the wrong was done.
2. Applying s.19: the assault (the wrong to the person) was committed at **place-2**, giving Y a cause of action there; and X **resides at place-1**. Both limbs of s.19 are satisfied, and the choice between them belongs to the plaintiff, not the defendant.

Conclusion.

Y may sue X **at his option in either place-1 (where X resides) or place-2 (where the assault was committed)**, in the lowest-grade competent civil court there. The relief sought is compensation (damages) for the assault.

P1.2 — `[Prob]` A, residing at place-1, publishes at place-2 statements defamatory of B; the newspaper is circulated in places 3, 4 and 5. B wants to sue A. Where can B sue? Advise. *(Decoy: only the place of printing.)*

> *Asked: Jul Dec 2016 (80), Jul Dec 2019 (80), Nov 2021 (80), Jan Jul 2025 (100) · Pattern: both · ★★★ · Notes: Unit 1 → Topic 7 (Place of Suing & Objection to Jurisdiction (ss.15–21))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — where may a defamation plaintiff sue?*
>
> *2. Rule — ss.19/20; publication complete where read.*
>
> *3. Apply — kill "only place of printing" decoy.*
>
> *4. Verdict — any place of circulation, or where A resides.*

Issue.

For a defamatory newspaper item, may B sue only where the paper was printed, or at every place where it was circulated and read?

Rule.

1. **Section 19** gives a plaintiff wronged in his person (defamation injures reputation, a wrong to the person) the **option** to sue where the wrong was done or where the defendant resides or works.
2. A defamation is "published" — and the wrong is complete — **wherever the defamatory matter is read**. Under **s.20(c)**, a cause of action arises, wholly or in part, at every such place of circulation. Read with s.19, each place of publication is therefore a place of suing.

Application.

1. The contention that B may sue **only where the paper was printed** (place-2) is untenable. The gist of defamation is **communication to a third person**, which occurs at every place where the paper is read.
2. Applying the rule: the paper was circulated and read at **places 3, 4 and 5**, so a fresh cause of action arises at each. A also **resides at place-1** and printed at place-2. Every one of these is a competent forum.

Conclusion.

B may sue A at **any of the places of circulation (places 3, 4 and 5)**, and also at **place-1 (where A resides) or place-2 (where it was printed/published)**, in the lowest-grade competent court, claiming damages for defamation.

P1.3 — `[Prob]` X, a permanent resident of place-1, takes a loan from Y (resident of place-2) at place-1 and fails to repay it. Y wants to recover the money. Where can Y sue? Advise. *(Decoy: sue only where the creditor resides.)*

> *Asked: Dec 2015 (80), Dec 2018 (80), Jul Dec 2019 (80), Nov 2022 (100) · Pattern: both · ★★★ · Notes: Unit 1 → Topic 7 (Place of Suing & Objection to Jurisdiction (ss. 15–21))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — where may a creditor sue on an unpaid loan?*
>
> *2. Rule — s.20; D's residence or cause of action.*
>
> *3. Apply — kill "where the creditor lives" decoy.*
>
> *4. Verdict — where X resides or where the loan was made.*

Issue.

A suit to recover money lent is neither about immovable property nor a wrong to the person. Where may the creditor Y file it — and can he sue at his own place of residence?

Rule.

1. **Section 20** is the residuary rule for all other suits (contracts and money). The suit may be filed where (a) the **defendant** actually and voluntarily resides, carries on business, or personally works for gain; or (c) the **cause of action, wholly or in part, arises**.
2. **Section 15** requires the suit to go to the lowest-grade competent court at that place.

Application.

1. Y, the plaintiff-creditor, cannot sue merely **where he himself resides** (place-2). Section 20 does **not** allow a plaintiff to sue merely at his own residence; the choice keys on the **defendant's** residence or the **cause of action**.
2. Applying s.20: the defendant **X resides at place-1**, and the loan — the source of the cause of action, and normally the place where repayment was due — was **made at place-1**. Both s.20(a) and s.20(c) therefore point to **place-1**.

Conclusion.

Y must sue X at **place-1** — where X (the defendant) resides and where the cause of action (the loan and its non-repayment) arose — in the lowest-grade competent civil court, claiming recovery of the money with interest. He cannot sue merely at his own place of residence.

P1.4 — `[Prob]` A company has its head office at place-1 and branch offices at places 2, 3 and 4; a dispute arises out of a transaction handled by the branch at place-3. Where may the company be sued? *(Decoy: a company can be sued only at its head office.)*

> *Asked: Dec 2014 (80) · Pattern: 80-only · ★ · Notes: Unit 1 → Topic 7 (Place of Suing & Objection to Jurisdiction (ss.15–21))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — must a company be sued only at its HO?*
>
> *2. Rule — s.20 Explanation (corporation).*
>
> *3. Apply — kill "HO only" decoy.*
>
> *4. Verdict — sue at the branch where the cause of action arose.*

Issue.

Where a cause of action arises out of a transaction handled by a company's branch office, must the plaintiff sue at the head office, or may he sue where the branch is situated?

Rule.

1. **Section 20** allows suit where the defendant carries on business or where the cause of action arises.
2. The **Explanation to s.20** deems a **corporation** to carry on business at its **sole or principal office in India**, **or**, in respect of a cause of action arising at a place where it has a **subordinate (branch) office**, at that place. So a company may be sued where the branch that dealt with the plaintiff is located, not only at its head office.

Application.

1. The contention that a company can be sued **only at its head office** (place-1) is untenable; the Explanation to s.20 provides otherwise where a subordinate office handled the transaction.
2. Here the disputed transaction was handled by the branch at **place-3**, so the **cause of action arose at place-3**, where the company has a subordinate office. Under the Explanation the company is deemed to carry on business there and may be sued at place-3; the head office at place-1 remains an alternative forum.

Conclusion.

The company may be sued at **place-3**, where its branch handled the transaction and the cause of action arose, and alternatively at **place-1**, its principal office. It is not confined to the head office.

P1.5 — `[Prob]` A has instituted a suit against B to recover ₹1,00,000 in the Court of the Senior Civil Judge. The suit is tried, and at the argument stage B objects that the court has no territorial jurisdiction. Is the objection good? *(Decoy: an objection to jurisdiction can be taken at any time.)*

> *Asked: Jul Dec 2019 (80), Mar Aug 2024 (100), Jan 2026 (100) · Pattern: both · ★★ · Notes: Unit 1 → Topic 7 (Place of Suing & Objection to Jurisdiction (ss.15–21))*

> ***▤ ANSWER OUTLINE***
>
> *1. Issue — is a territorial objection at the argument stage good?*
>
> *2. Rule — s.21, two cumulative limbs.*
>
> *3. Apply — kill "anytime" decoy; no failure of justice.*
>
> *4. Verdict — objection fails.*

Issue.

Can B raise an objection to the **territorial** jurisdiction of the trial court for the first time at the **argument stage**, and will it succeed?

Rule.

1. **Section 21** provides that no objection as to the **place of suing** shall be allowed by an appellate or revisional court **unless** (i) it was taken in the **trial court at the earliest possible opportunity** (and, where issues are settled, at or before their settlement); **and** (ii) there has been a **consequent failure of justice**. Both limbs are cumulative.
2. **Kiran Singh v Chaman Paswan (1954)** confirms that a mere territorial or pecuniary objection is controlled by s.21 and needs prejudice; only a total want of subject-matter jurisdiction is a nullity challengeable at any stage.

Application.

1. An objection to jurisdiction may be taken **at any time** only where the defect is one of **subject-matter**, which makes the decree a nullity — not of a **territorial** objection, which s.21 deliberately restricts.
2. Applying s.21: B raised the objection only at the **argument stage**, long after the earliest opportunity and after issues were settled — the first limb fails. There is also nothing to show that trial in this court caused any **failure of justice** on the ₹1,00,000 money claim — the second limb fails too. A party cannot stay silent, gamble on the verdict, and then spring a technical objection.

Conclusion.

The objection is **not good** and must be **rejected**. Both conditions of s.21 are unmet — it was raised late, and no failure of justice is shown — so the decree of the Senior Civil Judge stands.

P1.6 — `[Prob]` X sues to recover a plot claiming he is the owner; the suit is dismissed on the merits. X then files a fresh suit for the same plot claiming title by adverse possession. Is the second suit maintainable? *(Decoy: a new ground makes it a new suit.)*

> *Asked: Mar Nov 2021 (80), Mar 2023 (80), Jul 2026 (100) · Pattern: both · ★★ · Notes: Unit 1 → Topic 5 (Res Judicata & Constructive Res Judicata (ss.11–12))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — does a new ground escape the earlier decision?*
>
> *2. Rule — s.11 + Explanation IV (constructive res judicata).*
>
> *3. Apply — kill "new ground = new suit" decoy.*
>
> *4. Verdict — second suit barred.*

Issue.

Is X's second suit for the same plot, founded on a **new ground** (adverse possession) not pleaded earlier, barred by res judicata?

Rule.

1. **Section 11** bars a later suit where the matter directly and substantially in issue was directly and substantially in issue in a former suit between the same parties in a competent court and was **heard and finally decided**.
2. **Explanation IV — constructive res judicata** deems any matter which **might and ought to have been made a ground of attack or defence** in the former suit to have been in issue. Applied in **Direct Recruit Class II Engineering Officers' Association v State of Maharashtra (1990)**.

Application.

1. A **new ground** does not make a **new suit**: a fresh *argument* about the same claim is not a fresh *cause of action*.
2. Applying s.11 with Explanation IV: X's claim to the **same plot**, between the **same parties**, was **finally decided on the merits** in the first suit. Adverse possession was a ground X **could and ought to have** raised then to establish his right to possession. Having omitted it, he is deemed to have raised and lost it; the subject and the relief are identical.

Conclusion.

The second suit is **barred by constructive res judicata** under s.11, Explanation IV, and is **not maintainable**. X cannot re-litigate the same claim by inventing a ground he should have pleaded the first time.

P1.7 — `[Prob]` R sues to recover trust property as the legal heir of the deceased; the suit fails. R later files a fresh suit for the same property in his capacity as the trustee. Is the second suit barred by res judicata? *(Decoy: the same person is always barred.)*

> *Asked: Dec 2014 (80) · Pattern: 80-only · ★ · Notes: Unit 1 → Topic 5 (Res Judicata & Constructive Res Judicata (ss.11–12))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — does res judicata bind a person suing in a different capacity?*
>
> *2. Rule — s.11 "same title/capacity" requirement.*
>
> *3. Apply — kill "same person always barred" decoy.*
>
> *4. Verdict — second suit not barred.*

Issue.

Where the **same person** first sues as **legal heir** and later as **trustee**, does res judicata bar the second suit, given the parties are physically the same?

Rule.

1. **Section 11** requires that the former suit be between the **same parties** litigating **under the same title** — that is, in the **same legal capacity**. If the capacity differs, one essential condition of the bar is not satisfied.
2. A man suing as an **heir** (asserting a personal, beneficial claim) is not the same litigant as the same man suing as a **trustee** (representing the trust and its beneficiaries); the titles are different.

Application.

1. The identity of the **person** alone does not attract s.11; condition 2 requires that he litigate under the **same title**, that is, in the same capacity.
2. Applying s.11: in the first suit R litigated as **legal heir**; in the second he sues as **trustee** of the same property. Because he litigates under a **different title**, the parties are not, in law, the same, and the earlier decision does not operate as res judicata against him.

Conclusion.

The second suit is **not barred** by res judicata, because R litigates in a **different capacity (title)** — trustee versus heir. Section 11 binds a party only where he sues under the same title in both suits, so R's fresh suit as trustee may proceed on its own merits.

P1.8 — `[Prob]` A sues B in a foreign court; the suit is dismissed. A then wants to file the same suit against B in India on the same cause of action. Can he? Decide. *(Decoy: a foreign dismissal is irrelevant in India.)*

> *Asked: Dec 2018 (80), Mar 2023 (100), Oct 2023 (80) · Pattern: both · ★★ · Notes: Unit 1 → Topic 6 (Foreign Judgments (ss.13–14))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — does a foreign dismissal bar a fresh Indian suit?*
>
> *2. Rule — s.13; conclusive if competent + on merits.*
>
> *3. Apply — kill "irrelevant" decoy; test the merits limb.*
>
> *4. Verdict — barred if on merits; open if not.*

Issue.

Does a foreign court's **dismissal** of A's suit bar A from filing a fresh suit against B in India on the **same cause of action**?

Rule.

1. **Section 13** makes a foreign judgment **conclusive** between the same parties, and thus a **bar** to a fresh Indian suit on the same matter, **except** on six grounds — including where it was **not by a competent court** [(a)] or **not given on the merits** [(b)].
2. **Section 14** raises a rebuttable presumption, on a certified copy, that the foreign court was competent. **International Woollen Mills v Standard Wool (U.K.) Ltd. (2001)** explains that even an ex-parte judgment is "on the merits" if the claim was actually examined.

Application.

1. A foreign dismissal is not irrelevant in India: a dismissal **on the merits** by a **competent** foreign court is conclusive under s.13 and bars the fresh suit.
2. Applying s.13: if the foreign court was competent and dismissed A's claim **on the merits**, none of the exceptions applies and the judgment is conclusive. But if the dismissal was **for default** or for **want of jurisdiction**, exception (b) (or (a)) applies — it is not on the merits — and no bar arises.

Conclusion.

If the foreign dismissal was **on the merits by a competent court**, A's fresh Indian suit is **barred** under s.13. If it was **not on the merits** (dismissed for default or want of jurisdiction), the judgment is not conclusive and A **may** sue afresh in India. The answer turns entirely on the nature of the dismissal.

P1.9 — `[Prob]` X institutes a matrimonial suit against his wife Y at place-1; Y lives at place-2 (another State), has no independent income and cannot travel with her small child. Y seeks transfer of the suit to place-2. Advise her. *(Decoy: mere convenience of one party settles it.)*

> *Asked: Nov 2022 (80), Oct 2023 (100), Jan Jul 2025 (100), Jan 2026 (80) · Pattern: both · ★★★ · Notes: Unit 1 → Topic 8 (Transfer of Cases (ss.22–25))*

> ▤ ***ANSWER OUTLINE***
>
> *1. Issue — can the wife get the suit transferred to her place?*
>
> *2. Rule — ss.24/25; balance of convenience, ends of justice.*
>
> *3. Apply — kill "one party's convenience" decoy; identify inter-State route.*
>
> *4. Verdict — transfer granted via s.25.*

Issue.

Is Y entitled to have the matrimonial suit transferred from place-1 to place-2, and which court has the power where the two places lie in different States?

Rule.

1. A court may transfer a case on the **balance of convenience** and the **ends of justice**. Within a State the **District Court or High Court** acts under **s.24**; for a transfer **across State lines**, only the **Supreme Court under s.25** can order it (**Durgesh Sharma v Jayshree, 2008**).
2. In **Guda Vijayalakshmi v Guda Ramachandra Sekhara Sastry (1981)** the Supreme Court used s.25 to transfer a matrimonial proceeding across States for the ends of justice; the factors the courts weigh are convenience, expense, fair trial and the ends of justice.

Application.

1. **Mere convenience of one party** does not settle a transfer application; the court weighs the **overall** balance and the ends of justice. A wife with no income who cannot travel with a small child, however, shows genuine hardship, and the courts lean in her favour.

2. Applying the rule: Y's **lack of income**, her **inability to travel**, and **childcare** tilt the balance of convenience towards place-2, and the ends of justice favour a forum she can actually reach. As place-1 and place-2 are in **different States**, the correct route is a **s. 25 petition to the Supreme Court**.

Conclusion.

Y should file a **transfer petition under s.25 before the Supreme Court** (the suit being inter-State), and on the **balance of convenience and the ends of justice** the transfer of the suit to **place-2** should be **granted**. Were both courts within one State, she would instead move the District/High Court under s.24.
