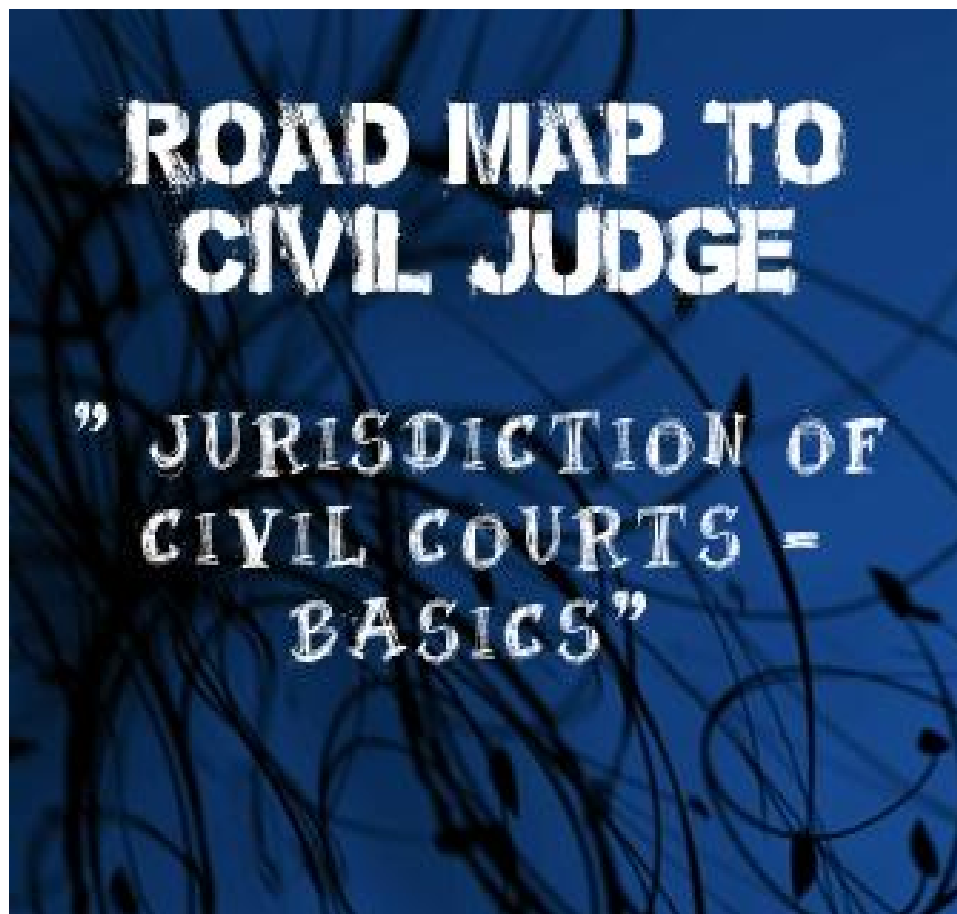


# LAWXPERTS.

## WHY YOU SHOULD STUDY THIS ?

1. HIGH QUALITY.
2. BASED ON STANDARD SOURCES
3. POSSIBILITY OF DIRECT QUESTIONS
4. COMPLETELY SYLLABUS-ORIENTED.



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## **JURISDICTION OF CIVIL COURTS - BASICS**

**Jurisdiction of civil courts** : Jurisdiction = juris + dicto – power/authority of court of law to hear and determine a dispute – emphasis supplied – ***Official Trustee v. Sachindranath.***

**Whether Court can alter its jurisdiction** ? The power to create/ enlarge jurisdiction is legislative in character – ***A.R. Anutalay v. Nayak.***

**Who can decide on jurisdiction?** Even though court cannot alter its jurisdiction- the question whether the particular case is within its jurisdiction must be decided by the alleged civil court alone- Court's inherent power to decide its own jurisdiction – ***A.R Anutalay v. Nayak.***

**Importance of jurisdiction** : What happens when court passes a judgment without jurisdiction? Such decree is a *coram non judice*- decree is non est in law – ***Chief Engineer, Hydel Project v. Ravindernath.***

**(Brain Tickle !** When parties to the suit agree upon the jurisdiction can the decree passed by court of wrong jurisdiction be upheld ? Such want of jurisdiction goes to root of the case- cannot be cured by consent of parties – ***Kiran Singh vs Chaman Paswan.***)

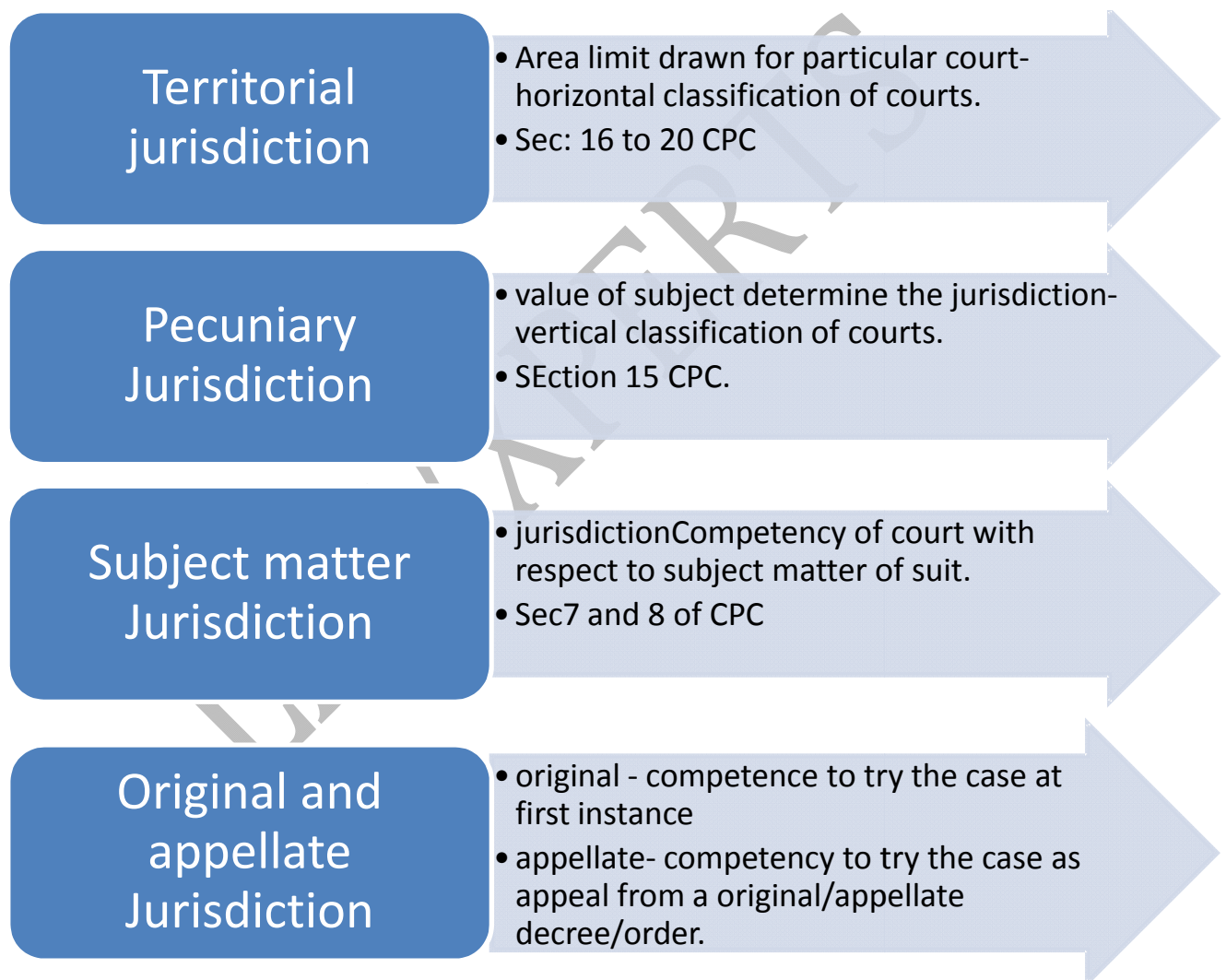
**Base material for deciding jurisdiction** :- Averments on the plaint and not the defence in written statement- ***Abdulla Bin Ali v. Gallapa***

**Section 9 of CPC**- ( Note- not overriding provision- its subjective provision) A civil court has jurisdiction – if the suit is of civil nature + cognisance not barred impliedly or expressly - well explained in ***P.M.A. Metropolitan V. Moran Mar Marthoma, AIR 1995 SC 2001.***

✚ ***Civil nature*** ?- principal question relates to determination of civil rights and enforcement thereof.

- ✚ **Expressly barred** – barred by any enactment in force- *Umrao Singh v. Bahwathi Singh*.
- ✚ **Impliedly barred** - barred by general principles of law – explanation - where a specific remedy is provided in a statute, the claimant cannot skip this forum and avail in other forum – *Priemer Automobiles v. Kamlekar Shantaram*.

### Dimensions of jurisdiction:

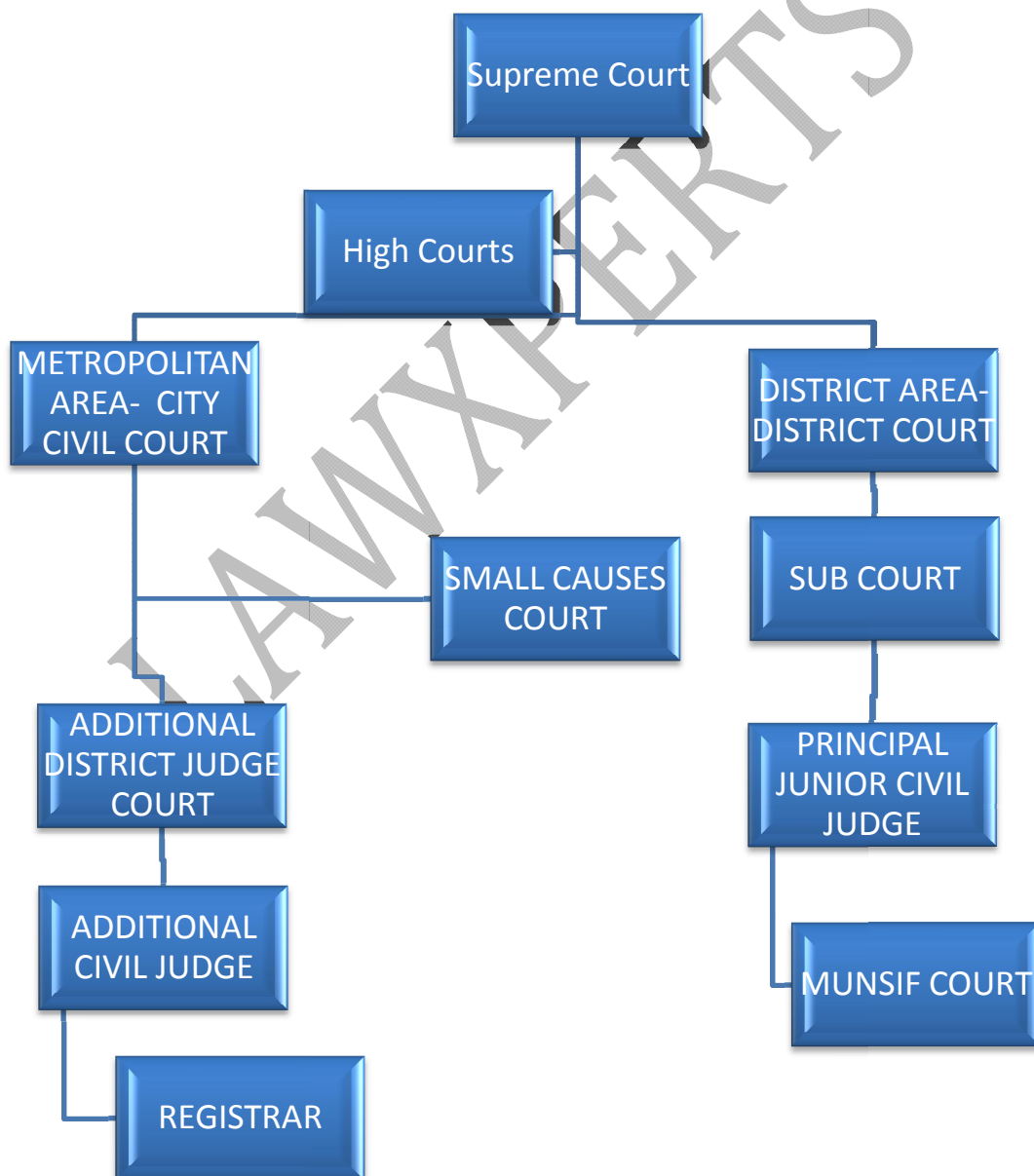


**Burden of proof** – the person who oust the jurisdiction- must prove the same

**Benefit of doubt on jurisdiction** – leads to assumption of jurisdiction- *Kamala Mills ltd v. State of Bombay*.

**Objection as to jurisdiction** – sec 21 CPC – objection to jurisdiction can be raised only when – objection is raised in first instance court + there is consequential failure of justice. In Execution Court – objection must be done at earliest possible opportunity. Analysed in *Kiran Singh v. Chaman Paswan*. (Brain Tickle ! When objection as to jurisdiction cannot be raised in appeal can a fresh suit be filled to that effect? No! Its barred by sec 21A – amendment 1976.)

**Hierarchy of Civil Courts:** Subordination of court sec: 3



**Expected Questions:**

- 1) “No Civil Court has power to alter/ enlarge its jurisdiction but can decide on its jurisdiction”- Comment.
- 2) Can a objection as to jurisdiction be raised in appeal and under what circumstances it is justifiable?
- 3) Can consent of parties take away or confer jurisdiction to civil courts?
- 4) Differentiate incompetent jurisdiction and irregular jurisdiction.
- 5) Explain the value of pleadings for deciding jurisdiction issue .

**NOTE: FOR SUBJECTIVE ANALYSIS ON EACH TYPE OF JURISDICTION AND OTHER PRACTICAL APPROACH ON JURISDICTION WAIT FOR OUR NOTES!**

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