

## **PART II**

### **OTHERS SUITS**

**7. Extent and commencement of Part II.** This part extends to the whole of Pakistan, and shall come into force on the first day of July, 1887.

**8. Court fee value and jurisdictional value to be the same in certain suits.** Where in suits other than those referred to in the Court Fees Act, 1870, Section 7, paragraph (v), (vi) and paragraph (x), clause (d), Court fees are payable ad valorem under the Court Fees Act, 1870. the value as determinable for the computation of Court fees and the value for purposes of jurisdiction shall be the same.

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## COMMENTS

**Scope.** Provision of S. 8 Suits Valuation Act, 1887, was meant for purpose determining value of suit for purpose of jurisdiction and envisaged that in all suits valued for purpose of jurisdiction would be the same which would be for the purpose of Court fee except paras (v), (vi), (ix) & of S. 7, Court Fees Act, 1870. [PLD 1991 AJ&K 50].

**Pecuniary jurisdiction of Appellate Court.** Plaint valued for the purpose Court-fee and jurisdiction at Rs. 200/-. Trial Court not directing the plaintiff to correct the valuation in the plaint, valuation as made in the plaint would be taken as the basis for determining the pecuniary jurisdiction of the trial Court as well as forum of appeal till its determination by the Court. [2001 YLR 1435].

**Suit for possession by tenant.** Suits to be valued u/S. 7(v) (xi) (e) of Court Fees Act, and S. 8 of Suits Valuation Act, Valuation for purpose of Court fee as jurisdiction-annual rental value of the property. [1997 MLD 3110].

**Suit for possession u/S. 9, Specific Relief Act.** Court fee payable on a suit for possession under S. 9, Specific Relief Act, 1870 is one half of the Court-fee and that may be attracted in suit u/S. 8 of the Specific Relief Act, 1870. Amount at which the subject property in suit is valued for which possession is claimed, determines the jurisdiction of Court and not the Court fee that may be payable. [PLD 2002 Kar. 511].

**Forum of appeal.** Valuation for appellate forum has to be determined in view of S. 18 of the W.P. Civil Courts Ordinance, 1962. [2002 SCMR 801].

**Suit of multifarious nature.** Suit of multifarious nature as envisage by S. 17 embracing two distinct cause of actions and claiming two distinctive substantive reliefs against two different sets of defendants. Each subject matter should be separate assets and Court fee paid. [1991 CLC 617].

**Suit covered by Section 7(iv)(c).** Value for purpose of jurisdiction would be the same which would be for purpose of Court fee in case of suit covered by S. 7(iv)(c) Court-Fees Act, 1870. [PLD 1991 (AJ&K) 50].

**Suit for rendition of account.** S. 7(iv)(f) is entitled to fix notional value for purpose of Court-fee which, according to S.8 of Suits Valuation Act, 1887 would also be the value for jurisdiction. When a final decree is passed only then the Court can require plaintiff to pay difference between Court-fees actually paid and fee which would have been payable on the amount decreed. [2000 CLC 1598].

**9. Determination of value of certain suits by High Court.** When the subject matter of suits of any class other than suits mentioned in the Court Fees Act, 1870, Section 7, paragraphs (v) and (vi), and paragraph (x), clause (d), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Provincial Government direct that suits of that class shall for the purposes of the Court Fees Act, 1870, and of this Act and any other enactment for the time being in

force, be treated as if their subject matter were of such value as the High Court thinks fit to specify in this behalf.

**10. [Repeal of Section 32, Punjab Courts Act, 1884 (XVIII of 1884)].** *Repealed by the Repealing and Amending Act 1891 (XII of 1891), S. 2 and Sch. 1.*

## PART III

### SUPPLEMENTAL PROVISIONS

**11. Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.** (1) Notwithstanding anything in Section 578<sup>1</sup> of the Code of Civil Procedure, an objection that by reason of the over valuation or under valuation of a suit or appeal a Court of first instance or lower Appellate Court, which had not jurisdiction with respect to the suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless--

(a) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded or in the lower appellate Court in the memorandum of appeal to that Court, or

(b) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over valued or under valued and that the over valuation or under valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(2) If the objection was taken in the manner mentioned in clause (a) of sub-section (1), but the appellate Court is not satisfied as to both the matters mentioned in the clause (b) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(3) If the objection was taken in the that manner and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

1. Now, Section 99, C.P.C., 1908.

(4) The provisions of this Section with respect to an appellate Court shall, so far as they can be made applicable, apply to Court exercising revisional jurisdiction under Section 622<sup>1</sup> of the Code of Civil Procedure or other enactment for the time being in force.

(5) This Section extends to the whole of Pakistan and shall come into force on the first day of July, 1887.

## COMMENTS

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Scope. Value of the original suit would mean the amount or value of subject-matter of the suit and forum of appeal would be decided according to value of the suit which would mean that irrespective of what may be amount for which decree is passed. Appeal will lie in the Court according to value of the suit. [PLJ 2006 Lah. 391].

**Pecuniary jurisdiction.** Section 11 of the Suits Valuation of Act provides for entertaining of objection by a party to pecuniary jurisdiction of a Court in an appeal and it provides in clear terms that such an objection would not be entertain by appellate Court unless such objection is taken in the Court of first instance. [2006 CLC 331]. Where jurisdiction of Court is not assailed on basis of incorrect jurisdictional value in written statement the same cannot be question afterwards. [1992 MLD 1301]. Complete procedure for dealing with objection leading to jurisdiction. [PLD 1996 SC. 292].

Neither defendant nor Trial Court or Appellate Court had determined original jurisdiction value and Court if disgrace with determination of jurisdiction value of the suit could pass order fixing value but that too after framing an issued and affording opportunity to parties for production of evidence Court having not done such exercise had wrongly observed that it lacked pecuniary jurisdiction to hear the appeal. [PLJ 2006 Lah. 391].

**Value of suit for the purpose of Court-fee.** Value of suit for the purpose of Court-fee does not bring a suit within the jurisdiction of the Court where the subject matter of the suit exceeds its pecuniary limits of jurisdiction. [2002 CLC 1382].

**12. Proceedings pending at commencement of Part I or Part II.** Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court:-

- (a) with respect to any suit institute before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or
- (b) with respect to any appeal arising out of any such suit.

**COMMENTS**

**Suit for recovery of possession by tenant.** Valuation of Court fee for recovery of possession to be computed according to annual rental value of the property, Valuation for the purposes of Court fees and jurisdiction would be the same. [1997 MLD 3110]. This provision will be applicable where tenant is illegally ejected by landlord. [1995 CLC 206].