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## B. VALUE OF THE SUBJECT-MATTER OF SUITS FOR THE PURPOSES OF APPEAL

1. Under the Punjab Courts Act, 1918, the number of appeals in a suit and the Court of Appeal are determined partly by the nature of the suit and partly by its value, and serious inconvenience results to Judges of Superior Courts, as well as to suitors, when the record of the original Court does not disclose the value of the suit.

The value of the suit as fixed by the plaintiff or as determined by the Court in the event of its being disputed should, therefore, be always stated on the face of the final judgment and the decree in the suit for the information of the parties and of the Court of Appeal.

The term "value", as used in the Punjab Courts Act with reference to a suit means the amount or value of the subject-matter of the suit.

2. When the copies filed with memorandum of appeal do not disclose the value, the Appellate Court should, if in doubt, send for the record, which may show the value, and should act accordingly. In all cases in which the record does not show the value, the Appellate Court must ascertain and determine whether the value of the suit as instituted (not the value of the subject-matter of appeal), does or does not exceed the limits of its appellate jurisdiction.

3. When either the appellate or the respondent takes exception to the valuation determined by the lower Court, the point must be decided like any other point taken in appeal, or by way of cross-objection. It should be noted, however, that, according to Section 11 of the Suits Valuation Act, no objection as to valuation can be entertained in appeal unless it was taken in the trial Court before the issues were framed and unless the Appellate Court is satisfied (for reasons to be recorded in writing) that the suit was not properly valued, and that the mistake in valuation had prejudicially affected the disposal of the suit on merits. This rule applies in all cases of erroneous valuation whether the valuation is fixed by any statute or rules thereunder or in any other manner (see *Sardar Khan v. Mt. Aisha Bibi*, AIR 1925 Lah. 290; 6 Lah. 105 (FB)).

4. The valuation of a suit for redemption of a mortgage is not regulated by statute or any enactment and would, therefore, depend

upon the subject-matter, which in such a suit is the amount which the mortgagor should, before recovering the mortgaged property, pay to the mortgagee. The amount depends not on the valuation originally given by the plaintiff (which can only be considered to be tentative), but on the amount as determined by the Court. It is the amount so determined, therefore, that determines the forum of appeal. If, for example the plaintiff sues for redemption on payment of Rs.5,000, while the mortgagee claims Rs. 10,000, and the Court decrees the suit on payment of Rs. 7,000, the appeal will lie to the High Court, and not the District Court (*Jaswant Ram v. Moti Ram*, AIR 1926 Lah. 376; 7 Lah. 570 (FB)). If, on the other hand, the decree had been passed on payment of a sum less than Rs.5,000, the appeal would have been entertainable by the district Court, and the mere fact that the mortgagee claimed Rs. 10,000 would not have affected the question of jurisdiction for the purposes of appeal, *Dayal Singh v. Ram Rakha*, 1912 Pun. Rec No. 54; 14 Ind. Cas. 78.

5. Similarly, in a suit for the amount found to be due after taking accounts, it is not the tentative valuation of the plaintiff, but the amount found to be due and decreed by the Court, that determines the forum of appeal (*Budhamal v. Rallia Ram*, AIR 1928 Lah. 157; 9 Lah. 23).

### **C. MANNER OF DETERMINING THE VALUE OF LAND FOR PURPOSES OF JURISDICTION IN CERTAIN CLASSES OF SUITS (SECTION 3, SUITS VALUATION ACT)**

The following are the rules made by the Local Government, under the power conferred by Section 3 of the Suits Valuation Act, 1887, and published as Punjab Government Notification No. 255, dated the 4th March, 1889, for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, Section 7, paragraphs v and vi, and paragraph x, clause (d).

1. In suits for the possession of land the value of the land, for purposes of jurisdiction, shall be held to be as follows:--

- (a) Where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government or forms part of such an estate, and annual revenue payable for such part is recorded in the Collector's register, and such revenue is permanently settled,--sixty times the revenue assessed on the land.

- (b) Where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid, and revenue is settled, but not permanently,--thirty times the revenue so payable.

**Explanation to clause (b).** Where the land is a fractional share or a portion or part of an estate, and the land revenue payable for such part is recorded in the Collector's register, and such revenue is not permanently settled, the value, for purposes of jurisdiction, shall be held to be thirty times such portion of the revenue recorded in respect of that part as may be rateably payable in respect of the share or portion.

**Illustration.** (1) In a suit for possession of a one-third share of the entire holding of ten ghumaons forming part of an estate, and recorded as paying Rs. 20 annual revenue, the value of the land, for the purposes of jurisdiction, is one-third of thirty times Rs. 20, or Rs. 200;

- (2) In a suit for possession of one ghumaon out of the same holding the value of the land is one-tenth of thirty times Rs. 20, or Rs. 60.

(c) Where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue, and net profits have arisen from the land during the year next before the date of presenting the plaints, fifteen times such net profits. But where no such net profits have arisen therefrom the market-value.

(d) Where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and does not come under clause (a), (b) or (c) of this rule, the market-value of the land.

(e) Where the subject-matter is a garden, the market-value of the garden.

#### COMMENTS

**Pre-emption suit.** Under this Rule, thirty times revenue payable is to be the value for the purpose of jurisdiction in pre-emption cases. [PLJ 2002 Lah. 785].

2. In suits to enforce a right of pre-emption in land, the value of the land, for the purposes of jurisdiction, shall be calculated by the preceding rules.

3. When the land or interest in suit falls partly under one and partly under another, of the classes enumerated in Rule 1, the value of the land in each class shall be separately calculated.

4. In the application of the above rules the word "land" includes all such rights, e.g., shares in village common and in wells as are accessory to the land in suit, and the word "revenue" as used in the preceding rules when applied to land irrigated from canals, shall be held to include owners' rate for the year next before the date of presentation of plaint, or half the occupier's rate for the same period in cases in which no owners' rate is chargeable.

5. In suits for specific performance of an award so far as the award relates to land, the market-value of the land.

6. Suits relating to a life-interest in land and suits relating to an occupancy right shall, for purposes of jurisdiction, be deemed to be half of the value provided for suits for possession under Rule 1.

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**D. SCHEDULE SHOWING THE VALUE OF SUITS FOR PURPOSES OF COMPUTING COURT-FEES, AND OF DETERMINING THE JURISDICTION OF THE COURTS RESPECTIVELY**

Value of Suits for the purpose of computing Court-fees under the Court-fees Act, 1870			Value for the purpose of determining the jurisdiction of the Court, under the suits Valuation Act, 1887, and the rules and directions made thereunder	
Court-fees Act	Nature of suit	Value for Court-fees purposes	Suits Valuation Act and Rules	Value for purposes of Jurisdiction
1	2	3	4	5
Section paragraph (i)	7. In suits for money.	<i>Ad valorem</i> , according to the amount claimed	Section 8	The same as in column 3.
Section paragraph (ii)	7. In suits for maintenance and annuities or other sums payable periodically.	<i>Ad valorem</i> , on ten times the amount claimed to be payable for one year.	Ditto	Ditto
Section paragraph (iii)	7. In suits for movable property other than money where the subject-matter has a value.	According to such value at the date of presenting the plaint.	Ditto	Ditto
Section paragraph (iv)	7. In suits—  (a) for movable property where the subject-matter has no market value. (b) to enforce the right to share in any property on the ground that it is joint family property.	<i>Ad valorem</i> , according to the amount at which the relief sought is valued in Plaint or memorandum of appeal; such value must be stated.   Ditto	(a) Ditto  (b) As regards land—section 4 and rules under section 3.  In other cases the same as in (a).	(a) the value of the relief sought as stated in the plaint.  (b) The value of the relief sought as stated in the plaint, but not exceeding the value of the land under the rules.  The same as in (a).

(c) to obtain a declaratory decree or order where consequential relief is prayed.

*Ad valorem*, according to the amount at which the relief sought is valued in the plaint or memorandum of appeal; such value must be stated.

(d) to obtain an injunction;

Ditto

(c) The same as in (b). (c) the same as in (b), subject to rule 2, Part (E), of this Appendix, under section 9 of the Suits Valuation Act.

(d) Ditto subject to rule 4, Part (E), of this Appendix, under section 9 of the Suits Valuation Act.

Section paragraph (iv)

7. (e) for a right to some benefit (not herein otherwise provided for) to arise out of land; and

Ditto

(e) The same as in (a).

(e) the same as in (a).

(f) for account.

Ditto

(f) The same as in (a), subject to rule 3, Part (E), of this Appendix and section 9.

Section paragraph (v)

7. In suits for the possession of land, houses and gardens—according to the value of the subject-matter; and such value shall be deemed to be—where the subject-matter is land, and—

*Ad valorem*, on ten times the revenue payable.

(a) Section 3, Suits Valuation Act, and rule 1, clauses (a) and (b), and Rules 3 and 6 of Part (C) of this Appendix.

(a) where the land forms an entire estate or a definite share of an estate paying annual revenue to Government; or forms part of such an estate and is recorded in the collector's register as separately assessed with such revenue; and such revenue is permanently settled.

(b) where the land forms an entire estate, or a definite share of an estate paying annual revenue to Government, or forms part of such estate and is recorded as aforesaid; and such revenue is settled but not permanently.

Section paragraph (v)

7.

(c) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue;

and net profit have arisen from the land during the year next before the date of presenting the plaint;

but where no such net profits have arisen therefrom;

(d) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate, and is not separately assessed as above-mentioned.

(e) where the subject-matter is a house or garden.

Ditto

(b) Section 3, Suits Valuation Act, and Rule 1, clauses (a) and (b), and Rules 3 and 6, of Part (C) of this Appendix. (b) If the revenue is not permanently settled—thirty times the revenue assessed on such land.

Ad valorem, on fifteen times the net profits.

(c) Rule 1 (c), and Rules 3 and 6 of Part (C) of this Appendix. (c) Fifteen times the net profits.

Ad valorem on, value fixed by Court with reference to value of similar land in the neighbourhood.

Rule 1, clause (d) and Rules 3 and 6 of Part (C) of this Appendix. The market value.

Market-value of the land.

(d) Rule 1, clause (d) and Rules 3 and 6 of Part (C) of this Appendix.

Ditto

According to the market-value of the house or garden.

(e) Section 3, Rule 1, clause (e) and Rule 3 and 6 of Part (C) of this Appendix. (e) In the case of garden, the market-value. In the case of a house, the market-value presumably but this must be left to judicial decision.

Section 7. In suits to enforce a right of pre-emption.

According to the value (computed in accordance with paragraph V of this section) of the land, house or garden in respect of which the right is claimed.

The same as for section 7, paragraph V, and Rule 2, of section 3 and Part (C) of this Appendix.

As for section 7, paragraph V, except as to a house, for which as above.

Section 7. In suits for the interest of an assignee of land revenue.

Fifteen times the net profits as such for the year next before the date of presenting the plaint.

Section 8.

The same as in column 3.

Section 7. In suits to set aside an attachment of land or of an interest in land or revenue.

According to the amount for which the land or interest was attached.

Section 8.

The amount for which attached, not exceeding the value of the land or interest.

According to general principles of Court-fee valuation and jurisdiction at value in clauses (viii) and (ix) should be identical.

Section 3, and rules so far as they apply.

The case of attachment of a house is not provided for and must be left to judicial decision.

Provided that where such amount exceeds the value of the land or interest, the amount or fee shall be computed as if the suit were for the possession of such land or interest.

Section 7. In suits against a mortgagee for the recovery of the property mortgaged, and in suits by the mortgagee to foreclose the mortgage;

According to the principal money expressed to be secured by the instrument of mortgage.

Section 8 does not apply.

No provisions is made, and the value must be left to judicial decision.

or, where the mortgage is made by conditional sale, to have the sale declared absolute.



Section paragraph (x)	In suits for specific performance—	(a) Section 8 consideration.	(a) The same as in column 3.
7.	(a) of a contract of sale.	According to the amount of the consideration.	(a) The same as in column 3.
	(b) of a contract of mortgage.	According to the amount agreed to be secured.	(b) Ditto
	(c) of a contract of lease.	On the amount recoverable in the first year.	(c) Ditto
	(d) of an award.	According to the amount or value of the property in dispute.	(d) As regards land, as valued by the rules under section 3, vide rule 5. In regard to other property presumably the market-value but this is left to judicial decision as section 7 does no apply.
	In suits between landlord and tenant as described in clauses (a) to 9f) inclusive.	Amount of rent for the preceding year.	Note.—The suits in this paragraph mostly fall under the Punjab Tenancy and Land Revenue Acts; where any such suit falls under the Civil Law, the value for Court-fee purposes would be one year's rent, and for jurisdiction the same. The paragraph appears only to relate to land.
Schedule Article 13.	II Miscellaneous applications and petitions.	As fixed in each case.	No jurisdiction value necessary.
Schedule Article 14.	II Petition under Native Converts Marriage Dissolution Act.	Fixed value of stamp required—Rs. 5.	Ditto

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11. **Meaning of memorandum of appeal in each of the following suits:—**

1.—To alter or set aside a summary decision or order of any of the Civil Court not established by Letters Patent or of any Revenue Court.

The Court-fees Act lays down a minimum fixed fee of Rs. 10.

But in rule 1 of this Appendix, Part E of the High Cot. under powers conferred by section 9 of the Suits Valuation Act, VII of 1926, and with the previous sanction of the Provincial Government, has directed that suits of the nature described under head V and certain suits falling within the scope of head VI of Article 17, Schedule II, of the Court-fees Act, shall, for the purposes of that Act, be treated as if their subject-matter were of the value of Rs. 200 on which the fee is Rs. 15 under Punjab Act, VII of 1922, as amended by the Punjab Court-fees ((Second Amendment) Act, 1926 (VI of 1926)).

As to land-section 4a and section 3 and rules. Other suits not provided for

- II.—To alter or cancel any entry in a register of the names of proprietors of revenue paying estates.
- III.—To obtain a declaratory decree where no consequential relief is prayed.
- IV.—To set aside an award

Ditto

Ditto

Ditto

Section 9, Rule 5,  
Chapter X of this volume.

V.—To set aside an adoption.

Section 9, rule 1 (iv),  
Chapter X of H. C. Rules  
and Orders, Vol. 1

Ditto

VI.—Every other suit where it is not possible to estimate at a money value the subject-matter in dispute, and which is not otherwise provided for by this Act.

Section 4 and section and rules, and section 9, rules 1 and 5 Chapter X of H. C. Rules and Orders, Vol. 1.

Same as in column 3, and failing this where no value is expressed, it must be left to judicial decision.

Schedule Article 18. II. Application under Schedule II, paragraphs 17 and 18 of the Code of Civil Procedure, 1908.

As to land, section 4, Section 9, rule 5, Part (E) of this Appendix.

As in column 4.

Schedule Article 19. II. Agreement under Order XXXVI, Rule 1 of the same Code.

Fixed, value of stamp required Rs.10.

Ditto

Ditto

Schedule Article 20. II. Every petition under the Divorce Act, except petitions under section 44 of the same Act, and every memorandum of appeal under section 55 of the same Act.

Fixed, value of stamp required Rs.20.

Note.—The Court having jurisdiction is specified in the special laws in question.

Schedule Article 21. II. Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act, 1936.

Fixed, value stamp required Rs.20.

Section 9, rule 2, Part (E) of this Appendix.

As in column 4.

Schedule Article 22. II. Plaint or memorandum of appeal in a suit by a reversioner under the Punjab Customary law for a declaration in respect of an alienation of ancestral land.

Fixed, value stamp required Rs.20.

Section 9, rule 2, Part (E) of this Appendix.

As in column 4.