

**THE
PUNJAB/SINDH/N.W.F.P. /BALOCHISTAN CIVIL COUR
ORDINANCE, 1962**

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THE
PUNJAB/SINDH/N.W.F.P./BALOCHISTAN CIVIL COURTS
ORDINANCE, 1962

(II OF 1962)

[8th January, 1962]

An Ordinance to amend and
consolidate the law relating to Civil Courts
in the Province of Punjab/Sindh/N.W.F.P./Balochistan.

Preamble. WHEREAS it is expedient to amend and consolidate the law relating to Civil Courts in the Province of Punjab/Sindh/N.W.F.P/Balochistan;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance.

CHAPTER I

PRELIMINARY

1. Short title, extent and Commencement. (1) This Ordinance may be called the West Pakistan Civil Courts Ordinance, 1962.

(2) It extends to whole of the Province of West Pakistan.

(3) It shall come into force at once in the Divisions of Bahawalpur, Dera Ismail Khan, Hyderabad, Khairpur, Lahore, Multan, Peshawar, Quetta. Rawalpindi and Sargodha and the District of Karachi, and in the remaining parts of the Province or any specified area or areas thereof, it shall come into force on such date as Government may, by notification in the official Gazette, appoint in this behalf.

2. Definitions. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

(a) **Government** means the Government of West Pakistan;

(b) **High Court** means the High Court of West Pakistan;

(c) **Land** means land which is not occupied as the site of any building in a town or village and is occupied or has been left for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes the sites of buildings and other structures on such lands;

(d) **Land suit** means a suit relating to land or to any right or interest in land;

(e) **prescribed** means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887;

- (f) **Small Cause** means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887;
- (g) **Unclassed suit** means a suit which is neither a small cause nor a land suit; and
- (h) **value** used with reference to a suit means the amount or value of the subject-matter of the suit.

CHAPTER II

CIVIL COURTS

3. Classes of Courts. Besides the Court of Small Causes established under Provincial Small Cause Courts Act, 1887, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:-

- (a) The Court of the District Judge;
- (b) the Court of the Additional District Judge; and
- (c) the Court of the Civil Judge.

4. Civil Districts. For the purposes of Ordinance, Government may, by notification, divide the Province into civil districts, fix the limits of such districts and determine the headquarters of each such district.

5. District Judges. Government shall, in consultation with the High Court, appoint as many persons as it thinks necessary to be District Judges and post a District Judge to each district:

Provided that the same person may be appointed to be District Judge of two or more districts.

6. Additional District Judges. (1) Government may, in consultation with the High Court, appoint as many Additional District Judges as may be necessary.

(2) An Additional District Judge shall discharge such functions of a District Judge as the District Judge may assign to him, and in the discharge of those functions he shall exercise the same powers as the District Judge.

7. Original jurisdiction of District Judges in suits. Except as otherwise provided by any enactment for the time being in force, the Court of the District Judge shall have jurisdiction in original civil suits without limit as regards the value.

8. Civil Judges. Government may, in consultation with High Court:-

- (a) fix the number of Civil Judges to be appointed;
- (b) make rules prescribing qualifications for recruitment of persons as Civil Judges; and
- (c) appoint as many Civil Judges as may be deemed necessary.

Civil Courts Ordinance, 1962

S. 8-Pecuniary Jurisdiction-Court passing order having no pecuniary JurisdictionSuch order, held, ultra vires and set aside. 1980 C L C 589

9. Pecuniary limits of jurisdiction of Civil Judges. The jurisdiction to be exercised in original civil suits as regards the value by any person appointed to be a Civil Judge shall be determined by the High Court either by including him in a class or otherwise as it thinks fit.

Court Decisions

S. 9 - Civil Procedure Code, 1908, O.VII. R. 10 - Pecuniary limits of Jurisdiction of Civil Courts - Decision of the matter beyond pecuniary Jurisdiction - Validity - Where Trial Court had come to the conclusion that the suit was wrongly filed before the Court as the same was beyond its pecuniary Jurisdiction, the Court should have returned the plaint under O.VII, R.10, C.P.C. to the applicant for its presentation before the competent Court having pecuniary Jurisdiction in the matter rather than to dismiss the same - Suit was dismissed by the Court on merits which had no Jurisdiction in the matter - Lower Appellate Court had rightly observed that the Trial Court should have returned the plaint - Judgment passed by the Lower Appellate Court did not suffer from any illegality or infirmity - High Court refused to interfere, **2001 MLD 1154**

Civil Court Ordinance 1962

S. 9 - Civil Procedure Code, 1908, O.VII. R. 10 - Pecuniary limits of Jurisdiction of Civil Courts - Decision of the matter beyond pecuniary Jurisdiction - Validity - Where Trial Court had come to the conclusion that the suit was wrongly filed before the Court as the same was beyond its pecuniary Jurisdiction, the Court should have returned the plaint under O.VII, R.10, C.P.C. to the applicant for its presentation before the competent Court having pecuniary Jurisdiction in the matter rather than to dismiss the same - Suit was dismissed by the Court on merits which had no Jurisdiction in the matter - Lower Appellate Court had rightly observed that the Trial Court should have returned the plaint - Judgment passed by the Lower Appellate Court did not suffer from any illegality or infirmity - High Court refused to interfere, **2001 MLD 1154**

Civil Courts Ordinance, 1962

S. 9-Pecuniary Jurisdiction of Civil Court-Subject-matter of the suit was beyond Rs.50,000 which was adjudicated by Civil Court-Suit was decreed in the favour of the plaintiff and appeal was dismissed by the Lower Appellate Court-Defendant raised the plea of lack of Jurisdiction on behalf of the Courts below-_-Validity-From the evidence available on record it was apparent that the subject-matter of the suit pertained to assets worth of several lacs of Rupees much beyond the Jurisdiction of the Trial Court which was only up to Rs.50,000---Subject-matter of the suit was beyond the pecuniary Jurisdiction of the Trial Court and the Trial Court proceeded without Jurisdiction---Judgment and decree passed by the Lower Appellate Court was set aside with costs. 2002 C L C 1382

AIR 1949 PC 156; PLD 1964 (W.P.) Kar. 149; PLD 1983 Kar. 510; P.L.J.1984 Pesh. 28; NLR 1995 UC 87; 1997 MLD 385; 1998 MLD 3; 1999 MLD 1084; 1999 CLC 195 and 1999 YLR 1788 ref.

S.9- Value of suit for purpose of court-fee-Pecuniary Jurisdiction of Court -Determination---Value of suit for 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 C L C 1382

PLD 1972 Kar. 251; PLD 1959 Kar. 802; PLD 1964 Kar. 386 and PLD 1971 Kar. 682 ref.

Civil Courts Ordinance, 1962, S. 18-Forum of appeal from orders and decrees of civil Courts-Leave to appeal granted to consider whether the decision of S.C in IILah.i Bakhsh and others v. Mst. Bilqees Begum P L D 1985 S C 393 would not govern the present case. P L D 1987 S.C284

Civil Courts Ordinance, 1962

S.9Suits Valuation Act, 1887, S.3--Court Fees Act, 1870, S.7--Pre--emption suit--Civil Court--Pecuniary Jurisdiction--Pre-emption suit--Market value--Actual price at which land was sold was less than pecuniary Jurisdiction of trial Court when suit was instituted--Not proved from record that market value of land was more than-the amount of actual sale nor any such issue was framed nor parties were given any opportunity to lead evidence on this point--Value of subject-matter if increased, during pendency of suit, Court, held, would not lose Jurisdiction--Jurisdiction once assumed was not taken away by increase in value of subject-matter and Court could proceed with adjudication of suit--Mere fact that land was shown to have been sold at a larger amount, would not necessarily mean that it was its market value - 1986 M L D 342

P L D 1965 Lah.359 and P L D 1962 Dacca 14 rel.

Civil Courts Ordinance, 1962

S.9.Suits Valuation Act, 1887, S.3--Pre-emption suit--Civil Court--Pecuniary Jurisdiction--Court would not turn away a suit simply because its Jurisdiction was doubtful--Fact that some stray statement or admission had been made by parties or witnesses and had been referred to in judgment Would not amount to an adjudication of market value. 1986 M L D 342

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S. 9--Pecuniary Jurisdiction of Civil Court Subject-matter of the suit was beyond Rs.50,000 which was adjudicated by Civil Court Suit was decreed in the favour of the plaintiff and appeal was dismissed by the Lower Appellate Court--Defendant raised the plea of lack of Jurisdiction on behalf of the Courts below--Validity--From the evidence available on record it was apparent that the subject-matter of the suit pertained to assets worth of several lacs of Rupees much beyond the Jurisdiction of the Trial Court which was only up to Rs.50,000--Subject-matter of the suit was beyond the pecuniary Jurisdiction of the Trial Court and the Trial Court proceeded without Jurisdiction--Judgment and decree passed by the Lower Appellate Court was set aside with costs. 2002 C L C 1382

Lord Porter, Sir Madhavan Nair and Sir John Beaumont v: The Hindu Religious Endowments Board, Madras AIR 1949 PC 156; S. Zafar Ahmed v. Abdul Khaliq PLD 1964 (W.P.) Kar. 149; Farid Khan v. Atiqur Rehman and another PLD 1983 Kar. 510; Tila Muhammad v. Maqsood and 3 others P.L.J.1984 Pesh. 28; Abdul Shakoor v. Hafiz Muhammad Rafique NLR 1995 UC 87; Shafi, Muhammad and others v. Mst. Rasheeda Bibi through Attorney Qameruddin 1997 MLD 385; Waheed Gul v. Mst. Saida Jan 1998 MLD 3; Province of Punjab through Collector, Mianwali v. Muhammad Hassan and another 1999 MLD 1084; Riasat Ali and 3 others v. Ch. Muhammad Mushtaq Ahmed Sindhu and 2 others 1999 CLC 195 and Fateh Muhammad v. Barkat Ali 1999 YLR 1788 ref.

S. 9---Pecuniary jurisdiction of Civil Court---Subject-matter of the suit was beyond Rs.50,000 which was adjudicated by Civil Court---Suit was decreed in the favour of the plaintiff and appeal was dismissed by the Lower Appellate Court---Defendant raised the plea of lack of jurisdiction on behalf of the Courts below--Validity---From the evidence available on record it was apparent that the subject-matter of the suit pertained to assets worth of several lacs of Rupees much beyond the jurisdiction of the Trial Court which was only up to Rs.50,000---Subject-matter of the suit was beyond the pecuniary jurisdiction of the Trial Court and the Trial Court proceeded without jurisdiction---Judgment and decree passed by the Lower Appellate Court was set aside with costs. 2002 C L C 1382

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S. 9—Pecuniary limits of jurisdiction of Civil Courts—Decision of the matter beyond pecuniary jurisdiction—Validity—Where Trial Court had come to the conclusion that the suit was wrongly filed before the Court as the same was beyond its pecuniary jurisdiction, the Court should have returned the plaint under O.VII, R.10, C.P.C. to the applicant for its presentation before the competent Court having pecuniary jurisdiction in the matter rather than to dismiss the same—Suit was dismissed by the Court on merits which had no jurisdiction in the matter—Lower Appellate Court had rightly observed that the Trial Court should have returned the plaint—2001 MLD 1154

S.9-Pre-emption suit--Civil Court--Pecuniary jurisdiction--Pre-emption suit--Market value--Actual price at which land was sold was less than pecuniary jurisdiction of trial Court when suit was instituted--Not proved from record that market value of land was more than the amount of actual sale nor any such issue was framed nor parties were given any opportunity to lead evidence on this point--Value of subject-matter if increased, during pendency of suit, Court, held, would not lose jurisdiction--Jurisdiction once assumed was not taken away by increase in value of subject-matter and Court could proceed with adjudication of suit--Mere fact that land was shown to have been sold at a larger amount, would not necessarily mean that it was its market value - 1986 M L D 342

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S.9.--Suits Valuation Act, 1887, S.3--Pre-emption suit--Civil Court--Pecuniary jurisdiction--Court would not turn away a suit simply because its jurisdiction was doubtful--Fact that some stray statement or admission had been made by parties or witnesses and had been referred to in judgment Would not amount to an adjudication of market value. 1986 M L D 342

S.9-Suits Valuation Act, 1887, S.3-Court Fees Act, 1870, S.7-Pre-emption suit-Civil Court-Pecuniary jurisdiction--Pre-emption suit-Market value-Actual price at which land was sold was less than pecuniary jurisdiction of trial Court when suit was instituted--Not proved from record that market value of land was more than-the amount of actual sale nor any such issue was framed nor parties were given any opportunity to lead evidence on this point--Value of subject-matter if increased, during pendency of suit, Court, held, would not lose jurisdiction--Jurisdiction once assumed was not taken away by increase in value of subject-matter and Court could proceed with adjudication of suit--Mere fact that land was shown to have been sold at a larger amount, would not necessarily mean that it was its market value-1986 M L D 342

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Pecuniary jurisdiction of Civil Court---Subject-matter of the suit was beyond Rs.50,000 which was adjudicated by Civil Court---Suit was decreed in the favour of the plaintiff and appeal was dismissed by the Lower Appellate Court---Defendant raised the plea of lack of jurisdiction on behalf of the Courts below--_-Validity---From the evidence available on record it was apparent that the subject-matter of the suit pertained to assets worth of several lacs of Rupees much beyond the jurisdiction of the Trial Court which was only up to Rs.50,000--Subject-matter of the suit was beyond the pecuniary jurisdiction of the Trial Court and the Trial Court proceeded without jurisdiction--Judgment and decree passed by the Lower Appellate Court was set aside with costs. **2002 C L C 1382**

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10. Local Limits of jurisdiction. (1) The local limits of jurisdiction of a Civil Judge shall be such as the High Court may define.

(2) When the High Court posts a Civil Judge to a district, the local limits of the district shall in the absence of any direction to the contrary, be deemed to be the local limits of his jurisdiction.

Court Decisions

Ordinarily local limits of jurisdiction of Civil Judge posted in District to be co-extensive with local limits of that District but in case of any direction to contrary, local limits to be in accordance with such direction. **PLJ 1984 Lah. 306.**

11. Power to invest Civil Judges with Small Cause Courts jurisdiction. The High Court may, by notification, within such local limits as it thinks fit, confer upon any Civil Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits, cognizable by such Courts, up to such value not exceeding one thousand rupees as it thinks fit.

S.11--Civil Courts Ordinance, 1962, S.9--Value of suit for purpose of court-fee--Pecuniary Jurisdiction of Court -- Determination--Value of suit for 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 C L C 1382

Acharya Davendra Prasad Ji and 2 others v. Tirthdas and 10 others PLD 1972 Kar. 251; Imamuddin and another v. Abdul Ghani PLD 1959 Kar. 802; S. Zafar Ahmed v. Abdul Khaliq PLD 1964 Kar. 386 and Muhammad Sadiq v. Haji Ahmed & Company and Badrul Islam v. Qamarul Islam and 4 others PLD 1971 Kar. 682 ref.

12. Exercise by Civil Judges of jurisdiction of District Court in certain proceedings. (1) Notwithstanding anything contained in the Succession Act, 1925, the High Court may, by general or special order, authorise any Civil Judge to take cognizance of or any District Judge to transfer to a Civil Judge under his control, any proceedings or class of proceedings under the said Act.

(2) The District Judge may withdraw any such proceedings taken cognizance of by or transferred to a Civil Judge and may either himself dispose of or transfer them to a Court under his control competent to dispose of them:

Provided that nothing herein contained shall empower a District Judge to withdraw such proceedings as have been specifically transferred from his Court by the High Court.

(3) Proceedings taken cognizance of by or transferred to a Civil Judge, as the case may be, under this section, shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge.

13. Places of sitting of Courts. (1) The High Court may fix the place or places at which any Court under this Ordinance is to be held.

(2) The place or places so fixed may be beyond the local limits of jurisdiction of the Court.

(3) Except as may be otherwise provide by any order this section, a Court under this Ordinance may be held at any place within the local limits of its jurisdiction.

14. Control of Courts Presiding Officers. (1) All Civil Courts in the area to which this Ordinance extends shall be subordinate to the High Court, and, subject to the general superintendence and control of the High Court, the District Judge shall have control over all Civil Courts within the local limits of his jurisdiction.

- (2) The posting of Civil Judges shall be made by the High Court.

15. Power to distribute business. Notwithstanding anything contained in the Code of Civil Procedure, 1908, every District Judge may by written order direct that any civil business cognizable by his Court and the Courts under his control shall be distributed among such Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its jurisdiction.

16. Delegation of Powers by District Judges. A District Judge may, with the previous sanction of the High Court, delegate, in respect of any specified portion of the district to any Civil Judge in the district, his power under sections 14 and 15 of this Ordinance and the powers of the District Court under section 24 of the Code of Civil Procedure, 1908, and such power may be exercised by such Civil Judge subject to the general control of the District Judge.

CHAPTER III

JURISDICTION IN CIVIL APPEALS

17. Appeals from District Judges or Additional District Judges. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional District Judge exercising original jurisdiction shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional District Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

18. Appeals from Civil Judges. (1) Save as aforesaid, an appeal from a decree or order of a Civil Judge shall lie:-

- (a) to the High Court if the value of the original suit in which the decree or order was made exceeds ¹[twenty five hundred thousand] rupees; and
- (b) to the District Judge in any other case.

(2) Where the function of receiving any appeal which lies to the District Judge under the last preceding sub-section has been assigned to an Additional District Judge, the appeals may be preferred to the Additional District Judge,

(3) The High Court may, by notification, direct that appeals lying to the District Judge from all or any of the decree or order passed in any criminal suit by any Civil Judge shall be referred to such other Civil Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly, and the Court of such Civil Judge shall be deemed to be a District Court for the purposes of appeals so preferred.

Legal Amendments

1. Substituted by the Punjab Civil Courts (amendment) Ordinance, 2002.

Court Decisions

S. 18--Court Fees Act, 1870, S. 7(x)Suits Valuation Act, 1887, S. 8Specific Relief Act, 1877, S. 12--Civil Procedure Code, 1908, Ss. 96 & 100--Forum of appeal--Valuation of plaint--On appeal filed by plaintiff-appellant against order of trial Court partially rejecting his plaint, first appellate Court, finding value of subject-matter in dispute beyond its pecuniary Jurisdiction and returning memorandum of appeal to appellate for presentation to proper Court--Appellant who clubbed his two claims i.e. claim of specific performance and claim of recovery of a certain amount in alternative, bifurcating same for purpose of forum of appeal when value of original suit alone formed basis and which showed that appeal lay to High Court only and not to District Judge--View taken by First appellate Court, held, was unexceptionable.

1986 C L C 126

Civil Courts Ordinance, 1962, S. 18-Forum of appeal from orders and decrees of civil Courts--Leave to appeal granted to consider whether the decision of S.C in IILah.i Bakhsh acid others v. Mst. Bilqees Begum P L D 1985 S C 393 would not govern the present case. P L D 1987 S.C284

S. 18-Civil Procedure Code, 1908, O. XX, R. 14Suits Valuation Act, 1887, Ss. 8 & I I -Punjab Pre-emption Act, 1913, S. 15Suit for pre-emption in respect of agricultural land-Forum of appealSuit valued for purpose of Jurisdiction at Rs. 200 and in decreeSheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which Jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in

subject-matter of sale - Rule laid down in IILah.i Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. **P L D 1987 S.C284**
P L D 1985 S C 393 rel.

S. 18. Suits Valuation Act (VI of 1887), S. 11--Court Fees Act, 1870, S.7--Civil Procedure Code, 1908, O VII, R. 11 Forum of appeal determined by valuation entered in plaint - Trial Court not giving any finding about correct Jurisdictional value for purpose of suit--Forum of appeal would be one on basis of valuation as stated in plaint in circumstance. **P L D 1987 Lah.512**
P L D 1966 SC 461; PLD 1976 Lah.1; PLD 1985 SC 393 and 1987 S C M R 1139 ref.

S.18-Forum of appeal, determination of Suit for possession of land-Value of original suit-Determining factor-For ascertaining the forum of appeals in such suit under S.18 of the Civil Courts Ordinance, 1962, value of the original suit as determined under the rules framed under S.3 of Suits Valuation Act, 1887, for purposes of Jurisdiction is the determining factor and not the market value. 2001 Y L R 1859

Civil Courts Ordinance, 1962

S. 18-Civil Procedure Code, 1908, O. XX, R. 14 Suits Valuation Act, 1887, Ss. 8 & I I -Punjab Pre-emption Act, 1913, S. 15 Suit for pre-emption in respect of agricultural land-Forum of appeal Suit valued for purpose of Jurisdiction at Rs. 200 and in decree Sheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which Jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in IILah.i Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. **P L D 1987 S.C284**
P L D 1985 S C 393 rel.

Civil Courts Ordinance, 1962

S.18--Court Fees Act, 1870, S.7-Suits Valuation Act, 1887, S.8-Forum of appeal-Determination-Valuation for appellate forum had to be determined in view of S.18 of the Civil Courts Ordinance, 1962. 2002 S C M R 801
PLD 1999 Quetta 36 rel.

Civil Courts Ordinance, 1962

S.18-Court Fees Act, 1870, S.7(v) Suits Valuation Act, 1887, S.8-Constitution of Pakistan, 1973, Art .185(3)S.C granted leave to appeal to consider, whether in a situation, when for the relief of partition, the suit had not been valued at all for purposes of Jurisdiction or court-fee, the Court would be competent to make reference to any other proved document available on record, and if not so, whether Appellate Court had not travelled beyond its Jurisdiction under S.18 of Civil Courts Ordinance, 1962. 2002 S C M R 801
PLD 1999 Quetta 36 and 1999 SCMR 394 ref.

Civil Courts Ordinance, 1962

S. 18-Court Fees Act, 1870, S. 7, para. (v), cl. Pre-emption suit-Appeal, forum of Section 18, Civil Courts Ordinance, 1962 does not require determination of forum of appeal on basis of sale price or market value of land Section merely requires determination on basis of value of suit-Notional value fixed in pre-emption suit - Determines forum of appeal P L D 1976 Lah.1

Civil Courts Ordinance, 1962

S. 18(1) read with S. 2-Appeal, forum of-To be decided according to value of suit-Amount of decree passed-Not relevant consideration

The important thing to be noted is "value of the original suit" occurring in section 18(1) Value is defined in clause of section 2 of the Ordinance as " 'Value' used with reference to a suit means the amount or value of the subject-matter of the suit". It is manifest that the forum of appeal is to be decided according to the value of the suit. It means that irrespective of what may be the amount for which decree is passed, the appeal will lie in the Court according to the value of the suit. P L D 1976 Lah.1

Civil Courts Ordinance, 1962

Ss. 18 [as amended by Punjab Civil Courts (Amendment) Ordinance (XX of 1978), S. 2] read with Suits Valuation Act, 1887, S. 3 and High Court (Lah..) Rules and Orders, Vol. 1, Chap. 3-D-Appeal, forum of-Jurisdictional value-Land assessed to land revenue-Market value, held, cannot be Jurisdictional value for determining forum of appeal-[Muhammad Siddiq v. Haji Ahmad & Co. P L L 1967 Kar. 468 held not applicable . 1980 C L C 1059

P L D 1960 Lab. 1088 ; P L D 1964 Pesh. 228 AND P L D 1976 Lah.1

P L D 1967 Kar. 468 . ref

Civil Courts Ordinance, 1962

S. 18 Suits Valuation Act, 1887, S. 3-Forum of appeal-Determination of-Determination of Jurisdictional value of suit sought to be resolved by reference to S. 3 of Suits Valuation Act 1887 and rules framed thereunder or on basis of sale price/ market value of suit land-Held, Jurisdictional value of suit was to be determined by S. 3 of Suits Valuation Act 1887 and not by sale price/market value of suit property-Appeal from Judgment and decree of trial Court was returned to appellant for presentation to competent Court in circumstances. P L D 1985 Lah.494
P L D 1960 Lah.1088 ; P L D 1976 Lah.1.; 1974 S C M R 188 and P L D 1976 Lah.1 ref.

Punjab Civil Courts Ordinance, 1962

S. 18Suits Valuation Act, 1887, S. 3-Determination of forum of appeal S.C taking prima facie view of matter and giving no final determination Such leave refusing order, held, could not alter legal position settled in string of rulings.[Precedent]. P L D 1985 Lah.494

S. 18 and Suits Valuation Act, 1887 S. 2 Court-fees- Declaratory suit-Notional value of subject-matter Suit cannot be valued at different amounts for purposes of first appeal and second appeal-Value given in decree less than Rs. 2,000, second appeal not competent being barred under S. 102, C. P. C.-Notional value taken as value of subject-matter of suit for purposes of S. 18 of Ordinance 1962, held, same notional value must also be taken as value for purposes of S. 102, C. P. C.Suits Valuation Act, 1887, S. 9.- 1983 C L C 580

S.18...Civil Procedure Code, 1908, S.96...Appeal...Maintainability...Pecuniary Jurisdiction of District Judge ...Pre-emption suit...-Agricultural land.Suit was valued on the basis of land revenue...Value in the plaint was fixed at Rs. 4,052 being 30 times of the Land Revenue assessed...Validity...District Judge was competent to entertain such appeal and to decide the same accordingly. 2000 Y L R 610
PLD 1985 SC 393 ref.

Civil Courts Ordinance, 1962

S. 18-Court Fees Act, 1870, S. 7, para. (v), cl. Pre-emption suit-Appeal, forum of Section 18, Civil Courts Ordinance, 1962 does not require determination of forum of appeal on basis of sale price or market value of land Section merely requires determination on basis of value of suit-Notional value fixed in pre-emption suit - Determines forum of appeal - Punjab Pre-emption Act (I of 1913), S. 21.

The forum of the appeal is determined under section 18 of the Civil Courts Ordinance, 1962, and it does not lay anywhere that the forum of appeal is to be determined on the basis of the sale price or the market value of the land in dispute but only says that it is to be determined on the basis of the value of the suit. The value of the suit in such a case being the one which is notionally fixed the same determines the forum. P L D 1976 Lah. 1

Iftikhar Ali and others v. Thakar Singh and another 83 P R 19121 TeJa Singh v. Sundar Singh A I R 1914 Lah. 432 and Jagdesh Ram v. Mt. Chintv and others A I R 1936 Lah. 133 rel.

Civil Courts Ordinance, 1962

Ss. 18 [as amended by Punjab Civil Courts (Amendment) Ordinance (XX of 1978), S. 2] read with Suits Valuation Act, 1887, S. 3 and High Court (Lah.) Rules and Orders, Vol. 1, Chap. 3-D-Appeal, forum of-Jurisdictional value-Land assessed to land revenue-Market value, held, cannot be Jurisdictional value for determining forum of appeal. 1980 C L C 1059

Mumtaz Begum v. Zulfiqar Ali P L D 1960 Lab. 1088 and Muqarrab Khan v. Muhammad Anwar Khan P L D 1964 Pesh. 228 and Sadar Din v. Elahi Bakhah P L D 1976 Lah. 1 ref

Civil Courts Ordinance, 1962

S. 18 Suits Valuation Act, 1887, S. 3-Forum of appeal-Determination of-Determination of Jurisdictional value of suit sought to be resolved by reference to S. 3 of Suits Valuation Act 1887 and rules framed thereunder or on basis of sale price/ market value of suit land-Held, Jurisdictional value of suit was to be determined by S. 3 of Suits Valuation Act 1887 and not by sale price/market value of suit property-Appeal from Judgment and decree of trial Court was returned to appellant for presentation to competent Court in circumstances. P L D 1985 Lah. 494

Mumtaz Begum v. Ch. Zulffqar Ali P L D 1960 Lah. 1088 ; Sadar Din v. Elahi Bakhsh and another P L D 1976 Lah. 1.; Nazar Hussain v. Faqir Muhammad 1974 S C M R 188 and P L D 1976 Lah. 1 ref.

S. 18Suits Valuation Act, 1887, S. 3-Determination of forum of appealS.C.taking prima facie view of matter and giving no final determinationSuch leave refusing order, held, could not alter legal position settled in string of rulings. P L D 1985 Lah. 494

S.18-Forum of appeal, determination of Suit for possession of land-Value of original suit-Determining factor-For ascertaining the forum of appeals in such suit under S.18 of the Civil Courts Ordinance, 1962, value of the original suit as determined under the rules framed under S.3 of Suits Valuation Act, 1887, for purposes of Jurisdiction is the determining factor and not the market value. 2001 Y L R 1859

S. 18-Civil Procedure Code, 1908, O. XX, R. 14Suits Valuation Act, 1887, Ss. 8 & I I -Punjab Pre-emption Act, 1913, S. 15Suit for pre-emption in respect of agricultural land-Forum of appeal Suit valued for purpose of Jurisdiction at Rs. 200 and in decree Sheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through

pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which Jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in Illahi Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. P L D 1987 S.C.284
 Illahi Bakhsh and others v. Mst. Bilqees Begum P L D 1985 S C 393 rel.

S.18-Court Fees Act, 1870, S.7Suits Valuation Act, 1887, S.8--Forum of appeal--Determination--Valuation for appellate forum had to be determined in view of S.18 of the Civil Courts Ordinance, 1962. 2002 S C M R 801
 PLD 1999 Quetta 36 rel.

Civil Courts Ordinance, 1962

S.18--Court Fees Act, 1870, S.7(v)Suits Valuation Act, 1887, S.8--Constitution of Pakistan, 1973, Art .185(3)S.C.granted leave to appeal to consider, whether in a situation, when for the relief of partition, the suit had not been valued at all for purposes of Jurisdiction or court-fee, the Court would be competent to make reference to any other proved document available on record, and if not so, whether Appellate Court had not travelled beyond its Jurisdiction under S.18 of Civil Courts Ordinance, 1962. 2002 S C M R 801
 PLD 1999 Quetta 36 and 1999 SCMR 394 ref.

Civil Courts Ordinance, 1962

S. 18-Civil Procedure Code, 1908, O. XX, R. 14Suits Valuation Act, 1887, Ss. 8 & II -Punjab Pre-emption Act, 1913, S. 15Suit for pre-emption in respect of agricultural land-Forum of appealSuit valued for purpose of Jurisdiction at Rs. 200 and in decreeSheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which Jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in Illahi Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. P L D 1987 S.C.284
 Illahi Bakhsh and others v. Mst. Bilqees Begum P L D 1985 S C 393 rel.

S. 18 Suits Valuation Act (VI of 1887), S. 11-Court Fees Act, 1870, S.7-Civil Procedure Code, 1908, O VII, R. 11Forum of appeal determined by valuation entered in plaint—Trial Court not giving any finding about correct Jurisdictional value for purpose of suit-Forum of appeal would be one on basis of valuation as stated in plaint in circumstance. P L D 1987 Lah. 512

Babu Jan Muhammad and others v. Dr. Abdul Ghafoor and others P L D 1966 SC 461; Sadar Din v. Elahi Bakhsh and another PLD 1976 Lah. 1; Illahi Bakhsh and others v. Mst. Bilqees Begum PLD 1985 SC 393 and Abdul Majid and others v . Muhammad Walayat Khan 1987 S C M R 1139 ref.

S.18-Forum of appeal, determination ofSuit for possession of land-Value of original suit-Determining factor-For ascertaining the forum of appeals in such suit under S.18 of the Civil Courts Ordinance, 1962, value of the original suit as determined under the rules framed under S.3 of Suits Valuation Act, 1887, for purposes of Jurisdiction is the determining factor and not the market value. 2001 Y L R 1859

S. 18-Court Fees Act (VII of 1870), S. 7(x)Suits Valuation Act (VII of 1887), S. 8Specific Relief Act, 1877, S. 12-Civil Procedure Code (V of 1908), Ss. 96 & 100-Forum of appeal-Valuation of plaint-On appeal filed by plaintiff-appellant against order of trial Court partially rejecting his plaint, first appellate Court, finding value of subJect-matter in dispute beyond its pecuniary Jurisdiction and returning memorandum of appeal to appellate for presentation to proper Court-Appellant who clubbed his two claims i.e. claim of specific performance and claim of recovery of a certain amount in alternative, bifurcating same for purpose of forum of appeal when value of original suit alone formed basis and which showed that appeal lay to High Court only and not to District Judge-View taken by First appellate Court, held, was unexceptionable. 1986 C L C 126

Civil Courts Ordinance (II of 1962), S.18--Civil Procedure Code, 1908, S:96--Appeal--Maintainability--Pecuniary Jurisdiction of District Judge --Pre-emption suit--Agricultural landSuit was valued on the basis of land revenue--Value in the plaint was fixed at Rs. 4,052 being 30 times of the Land Revenue assessed--Validity--District Judge was competent to entertain such appeal and to decide the same accordingly. 2000 Y L R 610

S. 18—Forum of appeal – Determination—Forum of appeal is to be determined according to the value of the suit as mentioned into the plaint and no according to the market value of the property fixed by Trial Court. **PLD 2003 Pesh. 46**

S. 18—Limitation Act (IX of 1908), Ss. 5 & 14—Wrong forum of appeal – Negligence of counsel—Appeal against judgment and decree passed by the Trial Court was filed in High Court which was returned to be filed before lower Appellate Court as the value of appeal was to be determined according to the value of plaint fixed by the plaintiff—Lower Appellate Court dismissed the Appeal as being time-barred—Contention of petitioner was that as the appeal was pending before the High Court, therefore, lower Appellate Court had wrongly dismissed the appeal as time-barred-Validity—Wrong ill-advice of the Counsel being not a valid ground for Condonation of delay, lower Appellate Court had rightly dismissed the appeal filed by the petitioner—No illegality or material irregularity existed in the judgment and decree passed by the Courts below warranting interference by High Court in circumstances. **PLD 2003 Pesh. 46**

S. 18 - Forum of appeal-Determination of-Determination of jurisdictional value of suit sought to be resolved by reference to S. 3 of Suits Valuation Act 1887 and rules framed thereunder or on basis of sale price/ market value of suit land-Held, jurisdictional value of suit was . to be determined by S. 3 of Snits Valuation Act_ 1887 and not by sale price/market value of suit property-Appeal from judgment and decree of trial Court was returned to appellant for presentation to competent Court in circumstances. P L D 1985 Lah.. 494

P L D 1960 Lah.. 1088 ; P L D 1976 Lah.. 1.; 1974 S C M R 188 and P L D 1976 Lah.. 1 ref.

S. 18- Determination of forum of appeal-S.Ctaking prima facie view of matter and giving no final determination-Such leave refusing order, held, could not alter legal position settled in string of rulings. P L D 1985 Lah.. 494

S. 18- Appeal, forum of-Section 18, West Pakistan Civil Courts Ordinance, 1962 does not require determination of forum of appeal on basis of sale price or market value of land-Section merely requires determination on basis of value of suit-Notional value fixed in pre-emption suit - Determines forum of appeal . P L D 1976 Lah.. 1

S. 18 Appeal, forum of-Jurisdictional value-Land assessed to land revenue-Market value, held, cannot be jurisdictional value for determining forum of appeal-[Muhammad Siddiq v. Haji Ahmad & Co. P L L 1967 Kar. 468 held not applicable . 1980 C L C 1059

P L D 1960 Lab. 1088 ; P L D 1964 Pesh. 228 AND P L D 1976 Lah.. 1 P L D 1967 Kar. 468 . ref

S.18 Forum of appeal---Determination---Valuation for appellate forum had to be determined in view of S.18 of the West Pakistan Civil Courts Ordinance, 1962. 2002 S C M R 801

PLD 1999 Quetta 36 rel.

S.18--- S.C granted leave to appeal to consider, whether in a situation, when for the relief of partition, the suit had not been valued at all for purposes of jurisdiction or court-fee, the Court would be competent to make reference to any other proved document available on record, and if not so, whether Appellate Court had not travelled beyond its jurisdiction under S.18 of West Pakistan Civil Courts Ordinance, 1962. 2002 S C M R 801

PLD 1999 Quetta 36 and 1999 SCMR 394 ref.

S. 18- Forum of appeal-Suit valued for purpose of jurisdiction at Rs. 200 and in decree-sheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in IILah.i Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. P L D 1987 S.C284

P L D 1985 S C 393 rel.

S.18---Forum of appeal, determination of--Suit for possession of land---Value of original suit---Determining factor---For ascertaining the forum of appeals in such suit under S.18 of the West Pakistan Civil Courts Ordinance, 1962, value of the original suit as determined under the rules framed under S.3 of Suits Valuation Act, 1887, for purposes of jurisdiction is the determining factor and not the market value. 2001 Y L R 1859

S. 18- Forum of appeal-Suit valued for purpose of jurisdiction at Rs. 200 and in decree-sheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in IILah.i Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. P L D 1987 S.C 284

P L D 1985 S C 393 rel.

S. 18-- Forum of appeal determined by valuation entered in plaint—Trial Court not giving any finding about correct jurisdictional value for purpose of suit--Forum of appeal would be one on basis of valuation as stated in plaint in circumstance. P L D 1987 Lah.. 512

P L D 1966 SC 461; PLD 1976 Lah.. 1; PLD 1985 SC 393 and 1987 S C M R 1139 ref.

S. 18-- Forum of appeal--Valuation of plaint--On appeal filed by plaintiff-appellant against order of trial Court partially rejecting his plaint, first appellate Court, finding value of subject-matter in dispute beyond its pecuniary jurisdiction and returning memorandum of appeal to appellate for presentation to proper Court--Appellant who clubbed his two claims i.e. claim of specific performance and claim of recovery of a certain amount in alternative, bifurcating same for purpose of

forum of appeal when value of original suit alone formed basis and which showed that appeal lay to High Court only and not to District Judge--View taken by First appellate Court, held, was unexceptionable. 1986 C L C 126

S. 18. Appeal incompetently filed before District Judge who had no pecuniary jurisdiction to entertain the same heard and decided such appeal. Validity, District Judge admittedly had no pecuniary jurisdiction to entertain appeal placed before him. District Judge in such case could either refuse to proceed with the case or return memo of appeal or dismiss the same but he could not dispose of that appeal on merits. Judgment and decree rendered by such Court was thus nullity in the eye of law. Memo of appeal was thus returned to petitioner to do the needful. PLJ 1999 Lah. 458.

S. 18- Appeal, forum of-Section 18, West Pakistan Civil Courts Ordinance, 1962 does not require determination of forum of appeal on basis of sale price or market value of land-Section merely requires determination on basis of value of suit-Notional value fixed in pre-emption suit - Determines forum of appeal - Punjab Pre-emption Act (I of 1913), S. 21. P L D 1976 Lah. 1

S.18-Court Fees Act, 1870, S.7--Suits Valuation Act, 1887, S.8--Forum of appeal--Determination--Valuation for appellate forum had to be determined in view of S.18 of the West Pakistan Civil Courts Ordinance, 1962. 2002 S C M R 801
PLD 1999 Quetta 36 rel.

S. 18 - Forum of appeal from orders and decrees of civil Courts-Leave to appeal granted to consider whether the decision of S.C in Illahi Bakhsh acid others v. Mst. Bilqees Begum P L D 1985 S C 393 would not govern the present case. P L D 1987 S.C 284

S. 18- Forum of appeal-Suit valued for purpose of jurisdiction at Rs. 200 and in decree-sheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in Illahi Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge- P L D 1987 S.C 284

S. 18 - Non obstante clause in S. 14 of Act, 1964-Meaning and scope-Expression "non obstante" means "notwithstanding" or "in spite of"-Object of opening words in S. 14 of West Pakistan Family Courts, 1964 is (i) to exclude application of Suits Valuation Act, 1887 which determines value of suit for purpose of jurisdiction, and (ii) Punjab Civil Courts Ordinance (II of 1962), S. 18 which determines forum of appeal-Determination of pecuniary jurisdiction by appellate Court with reference to Suits Valuation Act, 1887 and Punjab Civil Courts Ordinance, 1962 was therefore erroneous - Appellate Court, held, could hear appeal-Case remanded to appellate Court to hear appeal and decide on merits according to law within specified time. P L D 1985 Lah. 491
P L D 1972 Kar. 401 ; P L D 1981 S C 454 and P L D 1979 Lah. 603 ref.

S. 18 - Forum of appeal-Determination of-Determination of jurisdictional value of suit sought to be resolved by reference to S. 3 of Suits Valuation Act 1887 and rules framed thereunder or on basis of sale price/ market value of suit land-Held, jurisdictional value of suit was . to be determined by S. 3 of Snits Valuation Act_ 1887 and not by sale price/market value of suit property-Appeal from judgment and decree of trial Court was returned to appellant for presentation to competent Court in circumstances. P L D 1985 Lah. 494
P L D 1960 Lah. 1088 ; P L D 1976 Lah. 1.; 1974 S C M R 188 and P L D 1976 Lah. 1 ref.

S. 18 - Determination of forum of appeal- S.C taking prima facie view of matter and giving no final determination-Such leave refusing order, held, could not alter legal position settled in string of rulings .P L D 1985 Lah.

S. 18-Civil Procedure Code, 1908, O. XX, R. 14-Suits Valuation Act, 1887, Ss. 8 & II -Punjab Pre-emption Act, 1913, S. 15-Suit for pre-emption in respect of agricultural land-Forum of appeal-Suit valued for purpose of jurisdiction at Rs. 200 and in decree-sheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in Illahi Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. P L D 1987 S.C 284
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S. 18- Forum of appeal determined by valuation entered in plaint—Trial Court not giving any finding about correct jurisdictional value for purpose of suit-Forum of appeal would be one on basis of valuation as stated in plaint in circumstance. P L D 1987 Lah. 512

P L D 1966 SC 461; PLD 1976 Lah. 1; PLD 1985 SC 393 and 1987 S C M R 1139 ref.

S. 18- Forum of appeal-Valuation of plaint-On appeal filed by plaintiff-appellant against order of trial Court partially rejecting his plaint, first appellate Court, finding value of subject-matter in dispute beyond its pecuniary jurisdiction and returning memorandum of appeal to appellate for presentation to proper Court-Appellant who clubbed his two claims i.e. claim of specific performance and claim of recovery of a certain amount in alternative, bifurcating same for purpose of forum of appeal when value of original suit alone formed basis and which showed that appeal lay to High Court only and not to District Judge-View taken by First appellate Court, held, was unexceptionable. 1986 C L C 126

S.18- Forum of appeal--Determination--Valuation for appellate forum had to be determined in view of S.18 of the West Pakistan Civil Courts Ordinance, 1962. 2002 S C M R 801

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S.18--Court Fees Act, 1870, S.7(v) --Suits Valuation Act, 1887, S.8--Constitution of Pakistan, 1973, Art .185(3) --S.C granted leave to appeal to consider, whether in a situation, when for the relief of partition, the suit had not been valued at all for purposes of jurisdiction or court-fee, the Court would be competent to make reference to any other proved document available on record, and if not so, whether Appellate Court had not travelled beyond its jurisdiction under S.18 of West Pakistan Civil Courts Ordinance, 1962. 2002 S C M R 801

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Forum of appeal-Determination of - For ascertaining the forum of appeals in such suit under S.18 of the West Pakistan Civil Courts Ordinance, 1962, value of the original suit as determined under the rules framed under S.3 of Suits Valuation Act, 1887, for purposes of jurisdiction is the determining factor and not the market value. **2001 Y L R 1859**

Determination of jurisdictional value of suit sought to be resolved by reference to S. 3 of Suits Valuation Act 1887 and rules framed thereunder or on basis of sale price/ market value of suit land-Held, jurisdictional value of suit was . to be determined by S. 3 of Snits Valuation Act_ 1887 and not by sale price/market value of suit property-Appeal from judgment and decree of trial Court was returned to appellant for presentation to competent Court in circumstances. **P L D 1985 Lah.. 494**

P L D 1960 Lah.. 1088 ; P L D 1976 Lah.. 1.; 1974 S C M R 188 and P L D 1976 Lah.. 1 ref.

Valuation for appellate forum had to be determined in view of S.18 of the West Pakistan Civil Courts Ordinance, 1962. **2002 S C M R 801**

PLD 1999 Quetta 36 rel

S.C taking prima facie view of matter and giving no final determination-Such leave refusing order, held, could not alter legal position settled in string of rulings. **P L D 1985 Lah.. 494**

Section 18, West Pakistan Civil Courts Ordinance, 1962 does not require determination of forum of appeal on basis of sale price or market value of land-Section merely requires determination on basis of value of suit-Notional value fixed in pre-emption suit - Determines forum of appeal . **P L D 1976 Lah.. 1**

Appeal incompetently filed before District Judge who had no pecuniary jurisdiction to entertain the same heard and decided such appeal. Validity, District Judge admittedly had no pecuniary jurisdiction to entertain appeal placed before him. District Judge in. such case could either refuse to proceed with the case or return memo of appeal or dismiss the same but he could not dispose of that appeal on merits. Judgment and decree rendered by such Court was thus nullity in the eye of law. Memo of appeal was thus returned to petitioner to do the needful. **PLJ 1999 Lah. 458.**

Determination of jurisdictional value of suit sought to be resolved by reference to S. 3 of Suits Valuation Act 1887 and rules framed thereunder or on basis of sale price/ market value of suit land-Held, jurisdictional value of suit was . to be determined by S. 3 of Snits Valuation Act_ 1887 and not by sale price/market value of

suit property-Appeal from judgment and decree of trial Court was returned to appellant for presentation to competent Court in circumstances. **P L D 1985 Lah. 494**

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Forum of appeal determined by valuation entered in plaint—Trial Court not giving any finding about correct jurisdictional value for purpose of suit-Forum of appeal would be one on basis of valuation as stated in plaint in circumstance. **P L D 1987 Lah. 512**

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Suit valued for purpose of jurisdiction at Rs. 200 and in decree-sheet value shown as Rs. 25,000-Trial Court passing decree in favour of appellant for possession through pre-emption directing that he would be liable to deposit a total sum of Rs. 95,999 comprising Rs. 25,000 as sale price and Rs. 70,999 as value of improvements made on land - Appellant depositing Rs. 25,000 towards sale price but challenging decision of Court as regards payment of amount towards improvements-Decree having been passed in suit of which jurisdictional value was determined and fixed, forum of appeal would not be altered merely because the aggrieved plain tiff/pre-emptor sought to challenge decision of original Court in respect of claim regarding improvements made in subject-matter of sale - Rule laid down in IILah.i Bakhsh's case P L D 1985 S C 393, held, governed the case and, therefore, High Court rightly declined to entertain appeal on basis that the value of the suit in which decree was passed was such that the appeal lay to District Judge-Appeal dismissed. **P L D 1987 S.C284**

P L D 1985 S C 393 rel.

Forum of appeal determined by valuation entered in plaint—Trial Court not giving any finding about correct jurisdictional value for purpose of suit--Forum of appeal would be one on basis of valuation as stated in plaint in circumstance. **P L D 1987 Lah.. 512**

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Jurisdictional value-Land assessed to land revenue-Market value, held, cannot be jurisdictional value for determining forum of appeal-P L D 1967 Kar. 468 held not applicable . **1980 C L C 1059**

P L D 1960 Lab. 1088 ; P L D 1964 Pesh. 228 AND P L D 1976 Lah.. 1 P L D 1967 Kar. 468 . ref

Non obstante clause in S. 14 of Act, 1964-Meaning and scope-Expression "non obstante" means "notwithstanding" or "in spite of"-Object of opening words in S. 14 of West Pakistan Family Courts, 1964 is (i) to exclude application of Suits Valuation Act, 1887 which determines value of suit for purpose of jurisdiction, and (ii) Punjab Civil Courts Ordinance (II of 1962), S. 18 which determines forum of appeal-Determination of pecuniary jurisdiction by appellate Court with reference to Suits Valuation Act, 1887 and Punjab Civil Courts Ordinance, 1962 was therefore erroneous -Appellate Court, held, could hear appeal-Case remanded to appellate Court to hear appeal and decide on merits according to law within specified time. **P L D 1985 Lah. 491**

P L D 1972 Kar. 401 ; P L D 1981 S C 454 and P L D 1979 Lah. 603 ref.

CHAPTER IV

SUPPLEMENTAL PROVISIONS

19. Continuance of powers of officers. Whenever any person holding an office in the service of the State who has been invested with any powers under this Ordinance throughout any local area is transferred or posted at any subsequent time to an equal or higher office of the same nature within a like local area, he shall, unless the High Court otherwise directs or has otherwise directed, exercise the same powers in the local area to which he is so transferred or posted.

20. Provisions regarding petition-writers. The High Court, in consultation with the Board of Revenue, West Pakistan, may make rules consistent with this Ordinance and any other enactment for the time being in force:-

- (a) declaring what persons shall be permitted to act as petitions writers in Courts;
- (b) regulating the issue of licences to such persons, the conduct of business by them and the scale of fees to be charged by them; and
- (c) determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.

21. Temporary vacancy of office of District Judge. In the event of the death of a District Judge or of his being prevented from performing his duties by illness or other cause, the Additional District Judge, if any, or in the absence of the Additional District Judge from the District, the senior most of the Civil Judges at the headquarters, shall assume charge of the district without interruption of his ordinary jurisdiction, and while so in charge shall perform the duties of the District Judge with respect to the filing of suits and appeal, receiving pleading, execution of processes and the like, and shall be designated Additional District Judge or Civil Judge as the case may be, in charge of the district and shall continue in such charge until the office of the District Judge has been resumed by an officer duly appointed thereto.

Ss. 21, 22. Civil Courts Ordinance, 1962 Negotiable instrument. Suit for recovery of money. Defendant being served in Jail. applied for leave to appear and defend within 10 days of service effected. Petition filed before Addlll ; Distt: Judge as Distt: Judge was on leave. Distt : Judge dismissed application as not filed within specified time and before proper forum. Distt : Judge forgot that under his own orders passed with reference to section 21 and 22 of Civil Courts Ordinance, 1962. he had already delegated his powers to Additional District Judge who was fully authorised and empowered to receive all such documetns in his behalf. Powers exercised by such delegatee are not confined to any normal or summary powers exercised by District Judge but are related to powers exercised by District Judge simpliciter. All powers exercised under Order 37 CPC are powers of District Judge and do fall under C.P.C. and thus can with all convenience be delegated with reference to section 21 and 22 of Civil Courts Ordinance. Orders of District Judge are patently wrong and he has failed to exercise Jurisdiction vested in him. P.L.J.1996 Pesh. 305 = 1996 MLD 2167.

22. Delegation of powers of the District Judge. Any District Judge, leaving the headquarters and proceeding on duty to any place within his jurisdiction or in the event of his absence from the district on leave may delegate to the Additional District Judge or in the absence of an Additional District Judge to the Senior most of the Civil Judges at the headquarters, the powers of performing any of the duties enumerated in Section

21 that may be emergent; and such officer shall be designated Additional District Judge or Civil Judge, as the case may be, in charge of the district.

Ss. 21, 22. Civil Courts Ordinance, 1962 Negotiable instrument. Suit for recovery of money. Defendant being served in Jail. applied for leave to appear and defend within 10 days of service effected. Petition filed before Addll ; Distt: Judge as Distt: Judge was on leave. Distt : Judge dismissed application as not filed within specified time and before proper forum. Distt : Judge forgot that under his own orders passed with reference to section 21 and 22 of Civil Courts Ordinance, 1962. he had already delegated his powers to Additional District Judge who was fully authorised and empowered to receive all such documets in his behalf. Powers exercised by such delegatee are not confined to any normal or summary powers exercised by District Judge but are related to powers exercised by District Judge simpliciter. All powers exercised under Order 37 CPC are powers of District Judge and do fall under C.P.C. and thus can with all convenience be delegated with reference to section 21 and 22 of Civil Courts Ordinance. Orders of District Judge are patently wrong and he has failed to exercise Jurisdiction vested in him. P.L.J.1996 Pesh. 305 = 1996 MLD 2167.

23. Temporary vacancy of Civil Judges. In the event of the death, suspension or temporary absence of any Civil Judge, the District Judge may empower any other Civil Judge of the District to perform the duties of the Judge of the vacated Civil Court, either at the place of such Court or of his own Court, but in every such case the registers and records of the two Courts shall be kept separately.

24. Civil Court having unlimited jurisdiction regarding value to try suits against the State and its servants in their official capacity. No Civil Court not having jurisdiction in original suits without limit as regards value and no Court of the Small Causes shall receive, entertain or register any suit in which Pakistan or any of its Provinces or public officer as defined in clause (17) of section 2 of the Code of Civil Procedure, 1908, in his official capacity is party:

Provided that in the Karachi District any such suit, if the value thereof does not exceed twenty-five thousand rupees, may be instituted in the Court of the District Judge, the Additional District Judge of the First Class, and in the High Court where the value of the suit exceeds twenty-five thousand rupees.

(2) In every such case the plaintiff shall be referred to the Court of the Civil Judge having jurisdiction in original suits without limit as regard value and such suits shall be instituted only in the Court of such Civil Judge and shall be heard at the headquarters of the district.

(2-A) Notwithstanding anything contained in sub-sections (1) and (2) in the Karachi District, any such suit, if the value thereof does not exceed twenty-five thousand rupees, may be instituted in and be tried by the Court of the District Judge, the Additional District Judge or Civil Judge of the First Class, and where the value of the suit exceeds twenty five thousand rupees, it shall be instituted in and be tried by the High Court.

(2-B) The High Court may transfer any civil suit, whether instituted before or after the coming into force of the West Pakistan Civil Courts (Amendment) Act, 1963 and whether pending before it or in any other Court, which under the provisions of sub-section (2-A) may be tried by a Civil Court constituted under this Ordinance, to such Civil Court, and such suit shall thereupon be tried by such Civil Court.

(3) Nothing in this section shall be deemed to apply to a suit relating to the affairs of a Government Railway or to any suit merely because a public officer is a party thereto, in his capacity as:-

- (a) a member of a local authority; or
- (b) curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of power under:-
 - (i) Order XXXII, rule 4(4) of the Code of Civil Procedure, 1908;
 - (ii) section 195 of the Succession Act, 1925;
 - (iii) section 7, 18 or 42 of the Guardians and Wards Act, 1890; or

- (iv) any provision of any West Pakistan enactment relating to Court of Wards.

25. List of holidays. (1) Subject to such general orders as may be made by Government, the High Court shall prepare a list of days to be observed in each year as holidays in Civil Courts.

- (2) Every such list shall be published in the official Gazette.

26. Seal of the Court. Every Court shall have and use, as the occasion may arise, a circular seal two inches in diameter bearing round its circumference the title of the Court in English and Urdu script with the horns pointing upwards surmounted by a star, and the said seal shall be delivered to and kept in the custody of the presiding officer of the Court.

27. Power to frame rules. (1) The High Court may, with the approval of Government, frame rules for the purpose of carrying into effect the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, the High Court may, with the approval of Government, frame rules for all or any of the following purposes, namely:-

- (a) the supervision of all Civil Courts and their visitation and inspection;
- (b) the exercise by the District Judges of the general control vested in them over the Civil Courts in their respective districts;
- (c) the places and times for the holding of Civil Courts.
- (d) the fees to be charged for processes issued by the Civil Courts or by any officer of any such Courts;
- (e) the fees payable in any suit or proceeding in any Civil Court by any party in respect of the pleader of any party; and
- (f) the manner in which the proceedings of the Civil Courts shall be kept and recorded, the manner in which the paper books for the hearing of appeals shall be prepared and the granting of copies.

28. Repeal and savings. (1) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

(2) The districts and headquarters of districts existing for the purposes of civil justice when this Ordinance comes into force shall be deemed to have been made and determined under this Ordinance.

(3) On the commencement of this Ordinance, if any suit or appeal is pending in the High Court or any other Civil Court, which under this Ordinance is to be tried or heard by some other Court, such suit or appeal shall stand transferred to the Court competent under this Ordinance to try or hear the same.

(4)

- (i) The District Judges;
- (ii) the Additional Judges, the Joint Judges and the Assistant Judges; and
- (iii) the First Class Sub-ordinate Judges, the Second Class Sub-ordinate Judges, the Joint Subordinate Judges and Civil Judges, appointed under any of the enactment repealed under sub-section (1) shall, on the commencement of this Ordinance, become District Judges, Additional District Judges and Civil Judges respectively under this Ordinance, and exercise powers and jurisdiction.

(5) Notwithstanding the repeal of the enactments mentioned in the Schedule, everything done, action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, rule made and order issued under any of the provisions of the said enactment shall, if not inconsistent with the provisions of this Ordinance, continue in force and, so far as may be, be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Ordinance.

THE SCHEDULE
(ENACTMENTS REPLEAD)

(See Section 28)

Year	No.	Short Title	Extent of repeal
1	2	3	4
1918	VI	The Punjab Courts Act, 1918	The whole
1918	VI	The Punjab Courts Act, 1918 as applicable to former Bahawalpur State	The whole
1926	VII	The Sind Courts Act, 1926	The whole
1926	VII	The Sind Courts Act, 1926 as applicable to the District of Karachi	The whole except Section 8
1926	VII	The Sind Courts Act, 1926 as applicable to the District of Karachi	The whole
1931	I	North-West Frontier Province Courts Regulation, 1930	The whole
1939	VII	The British Balochistan Courts Regulation, 1939.	The whole
1952	X	The North-West Frontier Province Courts Regulation, 1952.	The whole
1952		Destoor-ul-Amal Diwani Riasat Kalat.	The whole
1956	II	The Karachi Courts Order, 1956	The whole, except clause(4)2
1959	IV	The Sind Acts (Extension to Khairpur District) Ordinance 1959.	Entry 4 of the First Schedule