Civil Procedure Code & Limitation Act

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

KSLU LL.B. Study Bundle

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Notes Version: **v1.0**

August 2026

Contents

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

How to Use These Notes

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

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

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

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

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

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

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

The 10 Rules That Win Marks

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

> ***Disclaimer.*** *A study aid, not a substitute for the bare Acts (the Code of Civil Procedure, 1908 and the Limitation Act, 1963) and prescribed texts. Cross-check every section/Order/Rule against the official text.*

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

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In this unit.

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

Table of Contents

1. Procedural vs Substantive Law; History, Extent & Definitions

Previous Year Questions

- **[Short Note]** Distinguish between substantive law and procedural law. *(2017, 2025)* ★
- **[Short Note]** History, extent and scheme of the Code of Civil Procedure, 1908. *(2017, 2025)* ★
- **[Short Note]** Define “decree”, “order” and “judgment” under the CPC. *(2025)* ★

The Hook

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

What is the difference between substantive and procedural law?

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

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

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

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

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

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

Structure of the Code. CPC has two parts:

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

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

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

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

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

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

◈ WORKED EXAMPLE — Is it a decree or an order?

Facts. A sues B to recover ₹2,00,000. The court, in one and the same case, (i) refuses B's request for more time to file evidence, and (ii) finally holds B liable and directs him to pay ₹2,00,000.

Rule. A **decree** [s.2(2)] conclusively determines the rights of the parties on the matter in controversy; anything that is a formal decision but *not* a decree is an **order** [s.2(14)].

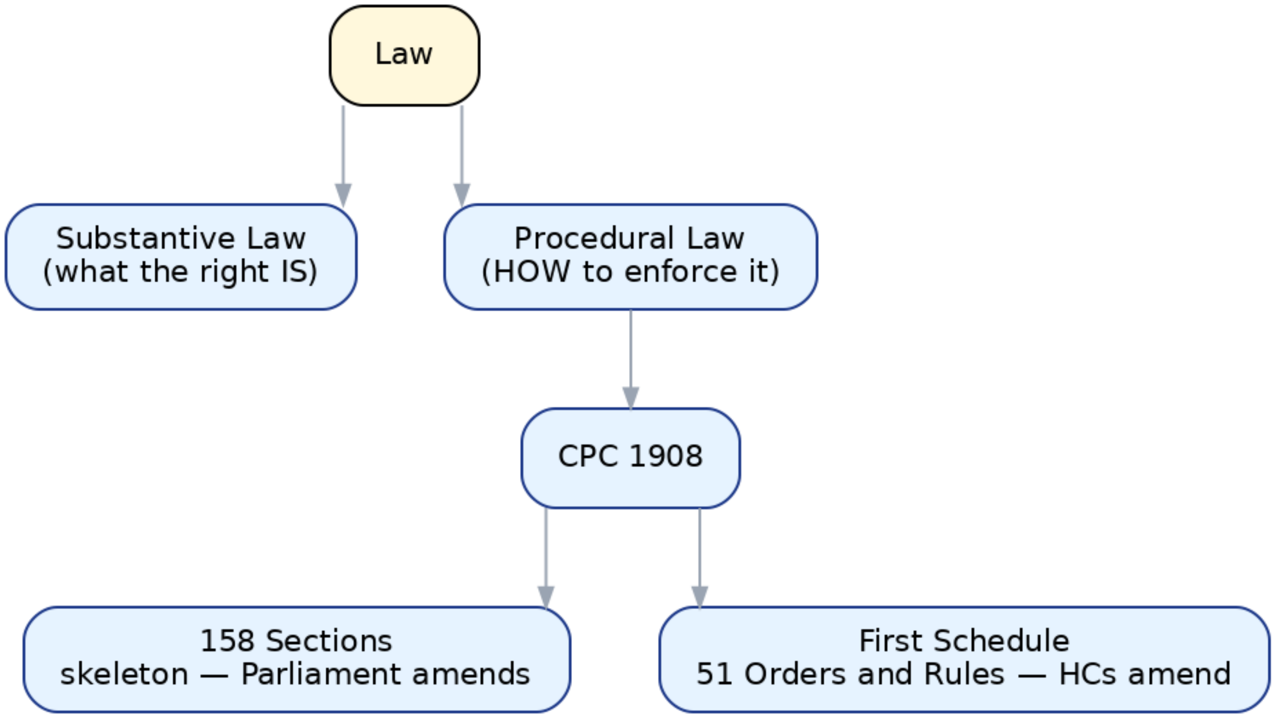
Apply. Decision (i) does not decide who owes what — it only manages the procedure — so it is an **order**. Decision (ii) conclusively determines the parties' rights on the main dispute, so it is a **decree**.

Conclusion. The refusal of time is an order; the final money adjudication is a decree — and it is the decree, not the order, that A can execute and B can normally appeal.

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

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

The Visual



Case Laws

- ***Ganga Bai v Vijay Kumar (1974)*** — the right to sue is inherent, but the right to appeal is a creature of statute; CPC governs the procedural framework of both.
- ***Thakur Prasad v Fakirullah (1894)*** — CPC is exhaustive on matters it expressly deals with; courts cannot ignore its procedure.

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

Previous Year Questions

- **[16M]** Define jurisdiction. Explain the different kinds of jurisdiction of civil courts. *(2014, 2015, 2016, 2017, 2019, 2021, 2022, 2023, 2024, 2025, 2026)* ★★★
- **[Short Note]** Distinguish between lack of jurisdiction and irregular exercise of jurisdiction. *(2016, 2021, 2023)* ★★
- **[Problem]** A decree is passed by a court which had no pecuniary jurisdiction; is the decree valid? *(applied ×2)* ★★

The Hook

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

What is jurisdiction, and what are its kinds?

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

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

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

appeals from the decisions of lower courts. A District Court has both; a High Court has both plus writ jurisdiction.

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

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

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

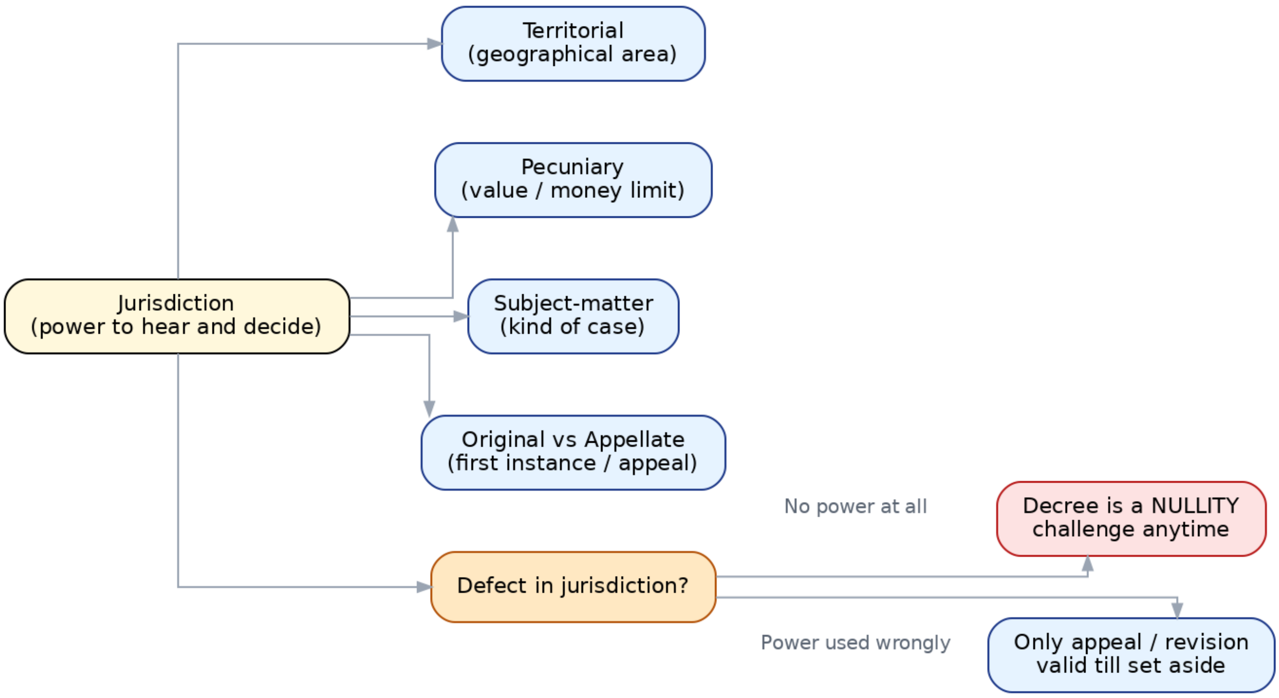
> ◈ **WORKED EXAMPLE — The wrong-grade court**
>
> **Facts.** A files a suit worth ₹8,00,000 in a court whose pecuniary limit is ₹5,00,000. The court decides the suit in A's favour. B later challenges the decree in execution, saying the court had no pecuniary jurisdiction.
>
> **Rule.** A decree passed **wholly without jurisdiction** (subject-matter or pecuniary) is a **nullity** and may be attacked at any stage [*Kiran Singh v Chaman Paswan* (1954)]; but a *mere* over/under-valuation objection is separately controlled by s.21, which needs prejudice to be shown.
>
> **Apply.** The court had **no** competence to try an ₹8,00,000 suit at all, so the adjudication is a nullity in the true sense — unless the only defect is valuation, in which case s.21 requires B to show the error caused a **failure of justice** and that he raised it early.
>
> **Conclusion.** If it is a genuine absence of pecuniary power, the decree is void and unenforceable; if it is a bare valuation error raised late with no prejudice, s.21 saves it. Always spot which of the two the facts describe.

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

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

> ✎ **EXAM TIP — Never stop at "jurisdiction = power of the court"**
>
> **The trap.** Most candidates define jurisdiction in one line, list the four kinds as bare nouns, and stop — losing half the marks on a 16-mark question.
>
> **What to write.** Define it, then give the **four kinds with one concrete example each**, and finish with the **lack vs irregular exercise** distinction anchored to *Kiran Singh v Chaman Paswan (1954)* — "a decree without jurisdiction is a nullity, challengeable at any time".
>
> **Why it scores.** The examiner is really testing whether you know a *void* decree from a merely *wrong* one — that single contrast is the difference between a pass and a first.

The Visual



Case Laws

- ***Kiran Singh v Chaman Paswan (1954)*** — a decree passed without jurisdiction is a nullity; its invalidity can be set up at any stage.
- ***Official Trustee v Sachindra Nath Chatterjee (1969)*** — jurisdiction means not only the authority to hear a case but the authority to grant the specific relief prayed for.
- ***Hriday Nath Roy v Ram Chandra Barna Sarma (1921)*** — an elaborate exposition of the meaning of "jurisdiction".

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

> **Previous Year Questions**
>
> - **[16M]** "Civil courts have jurisdiction to try all suits of a civil nature except those barred." Explain with reference to s.9. *(2014, 2016, 2021)* ★
> - **[Short Note]** Suits of a civil nature. *(2014, 2016, 2021)* ★
> - **[Problem]** A suit is filed over the right to a religious office carrying fees; is it a suit of a civil nature? *(applied ×1)* ★

The Hook

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

What does "suit of a civil nature" mean?

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

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

- **Explanation I.** A suit in which the right to **property** or to an **office** is contested **is** a suit of a civil nature, *even if* that right depends entirely on the decision of questions about **religious rites or ceremonies**. So a fight over a temple's *funds or office* is civil, even though a religious question must be answered on the way.
- **Explanation II.** It makes no difference whether or not any **fees are attached** to the office, or whether it is attached to a particular place. This closes an old loophole about honorary religious offices.

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

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

1. **Expressly barred.** A statute may **in so many words** send the matter to another forum and oust the civil court — e.g. tax disputes to tax tribunals, industrial disputes to labour courts. The bar is written into the special Act.
2. **Impliedly barred.** The bar is **not stated** but follows by necessary implication — where a statute creates a **new right and provides a special remedy/forum** for it, that special remedy is taken to be exclusive. Courts do **not** infer such a bar lightly; the exclusion must be **explicitly expressed or clearly implied** (*Dhulabhai v State of M.P.* (1969)).

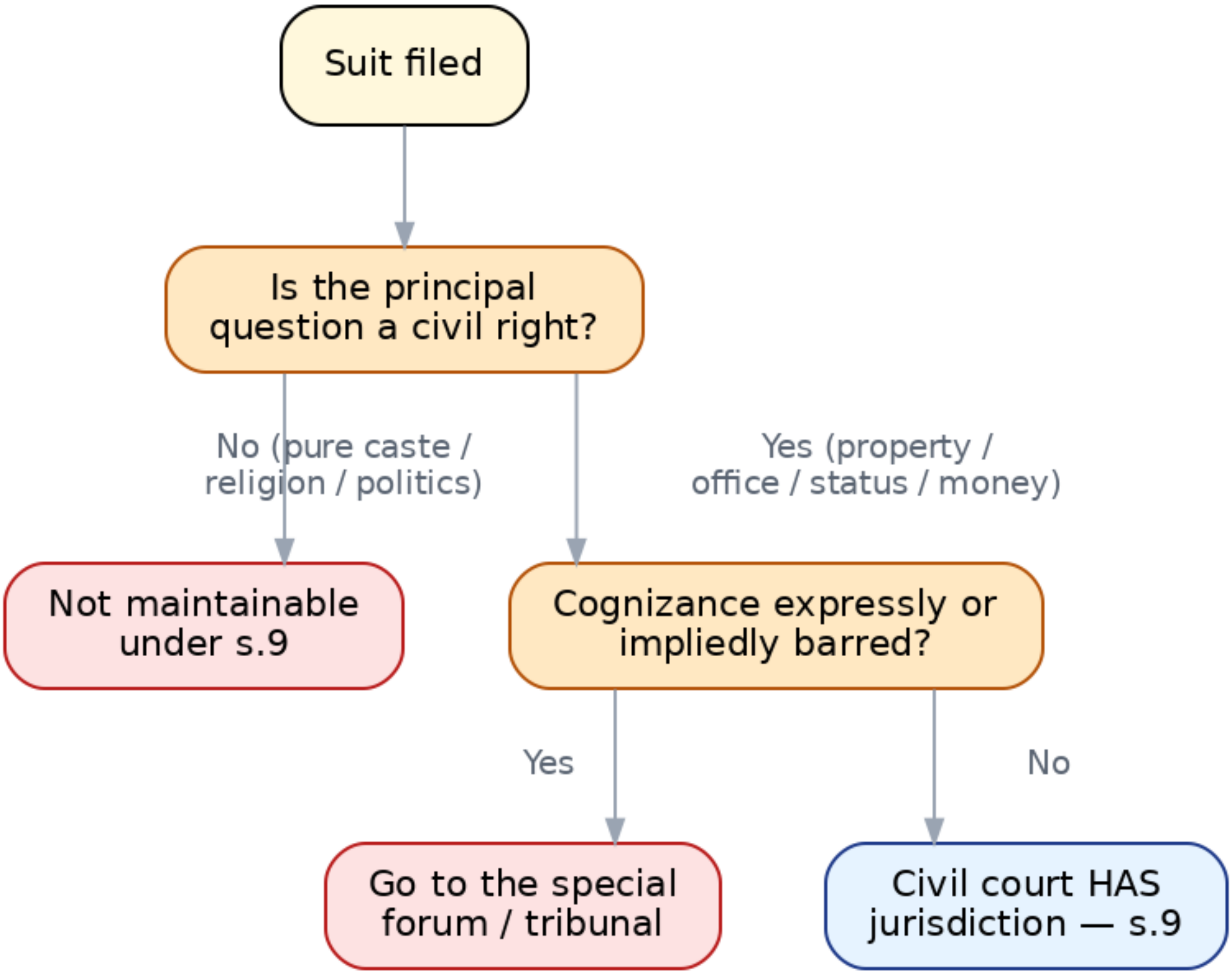
> **▶ KEY POINT**
>
> A crucial safeguard: even where jurisdiction is barred, a civil court can still examine whether the special tribunal acted **without jurisdiction** or in breach of **fundamental principles of judicial procedure** — the bar is never a blank cheque (*Secretary of State v Mask & Co.*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

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

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

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

The Visual



Case Laws

- ***Most Rev. P.M.A. Metropolitan v Moran Mar Marthoma (1995)*** — s.9 is expansive; a dispute over church property/office is civil despite religious overtones.
- ***Dhulabhai v State of Madhya Pradesh (1969)*** — laid down the principles governing when a statute excludes the jurisdiction of civil courts.
- ***Secretary of State v Mask & Co. (1940)*** — exclusion of civil jurisdiction is not readily inferred; even when barred, the court may check fundamental procedural breaches.

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

Previous Year Questions

- **[16M]** Explain the doctrine of *res sub judice* and the conditions for staying a suit under s.10. *(2014, 2016, 2020, 2021, 2022, 2023, 2025, 2026)* ★★★
- **[Short Note]** Stay of suit / res sub judice. *(2014, 2016, 2020, 2021, 2022, 2023, 2025, 2026)* ★★★
- **[Short Note]** Distinguish res sub judice from res judicata. *(2022, 2023)* ★★

The Hook

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

What is res sub judice?

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

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

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

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

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

- Section 10 stays the **trial**, not the whole proceeding. The later court can still pass **interim/interlocutory orders** (e.g. an injunction, appointment of a receiver) to protect the parties. In *Indian Bank (1998)* the Court held that the s.10 bar on "trial" does **not** paralyse the court from making interim orders, and does not apply to a **summary suit** under Order 37 until leave to defend is granted.
- The **object** is to protect a defendant from two vexatious parallel trials and to avoid conflicting decrees — not to help a plaintiff delay.
- Section 10 is **mandatory** in form ("no court shall proceed"), but parties may **consent to waive** it, and the court retains power to **consolidate** the two suits instead of staying one — consolidation actually serves the same purpose better.
- **Explanation to s.10** — the **pendency of a suit in a foreign court does not** prevent an Indian court from trying a suit founded on the same cause of action.

Res sub judice vs res judicata — keep them apart:

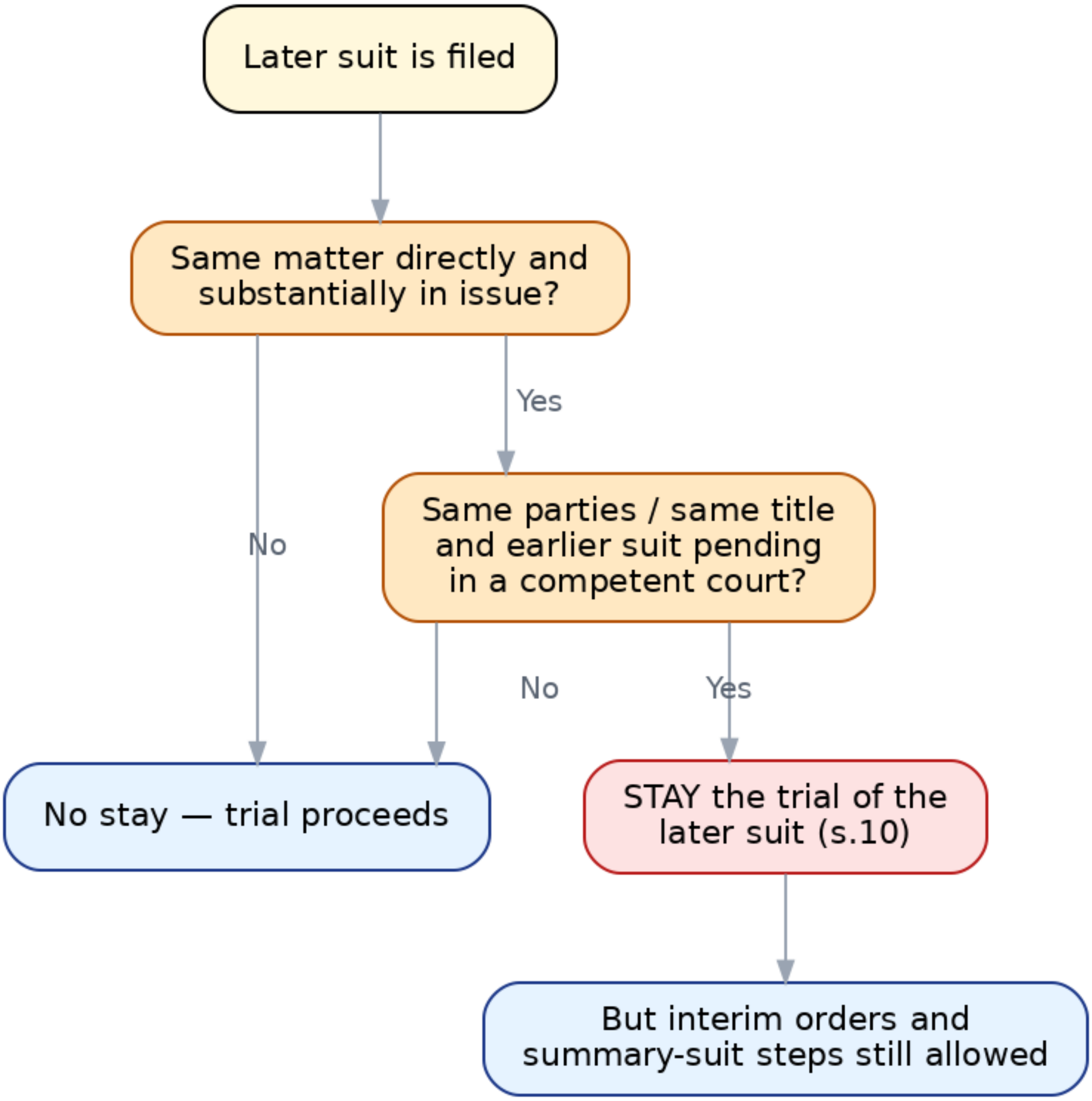
- **Res sub judice (s.10)** applies when the earlier suit is **still pending** → the remedy is a **stay** (pause).
- **Res judicata (s.11)** applies when the earlier suit has been **finally decided** → the remedy is a **bar** (the later suit cannot be tried at all).

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

> ***Section 10:*** *"No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same title where such suit is pending in the same or any other Court in India having jurisdiction to grant the relief claimed, or in any Court beyond the limits of India established or continued by the Central Government and having like jurisdiction, or before the Supreme Court."*

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

The Visual



Case Laws

- ***Indian Bank v Maharashtra State Coop. Marketing Federation (1998)*** — "trial" in s.10 does not bar interim orders, and s.10 does not apply to a summary suit until leave to defend is granted.
- ***National Institute of Mental Health v C. Parameshwara (2005)*** — the object of s. 10 is to prevent two parallel trials on the same matter and conflicting decisions.

- ***Escorts Construction Equipment Ltd. v Action Construction Equipment (1999)*** — the whole subject-matter of the two suits must be the same for s.10 to apply.

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

Previous Year Questions

- **[16M]** Define res judicata. State and explain the conditions for its application under s.11. *(2014, 2015, 2018, 2021, 2022, 2023, 2024, 2025, 2026)* ★★★
- **[Short Note]** Constructive res judicata. *(2014, 2015, 2018, 2021, 2022, 2023, 2024, 2025, 2026)* ★★★
- **[Problem]** X sues for possession on the ground of ownership (dismissed) and files a fresh suit on adverse possession; is the second suit barred? *(applied ×1)* ★★

The Hook

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

What is res judicata?

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

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

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

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

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

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

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

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

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

◈ **WORKED EXAMPLE — Ownership lost, adverse possession tried next**

Facts. X sues to recover a plot claiming he is the **owner**. The suit is dismissed on the merits. X then files a **fresh** suit for the same plot, this time claiming title by **adverse possession**.

Rule. Section 11 with Explanation IV (constructive res judicata) bars not only grounds actually raised but every ground of attack that **might and ought to have been** raised in the earlier suit.

Apply. Adverse possession over the same plot was a ground X could and should have pleaded in the first suit to establish his right to possession. Failing to raise it does not create a new cause of action — the subject and relief are identical.

Conclusion. The second suit is **barred by constructive res judicata**. A new *argument* about the same claim is not a new *suit*.

Variant. Contrast the "different capacity" problem: if X first sued **as legal heir** (and lost) and later sues **as trustee** of the same property, s.11 does **not** bar him, because he litigates under a **different title/capacity**.

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

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

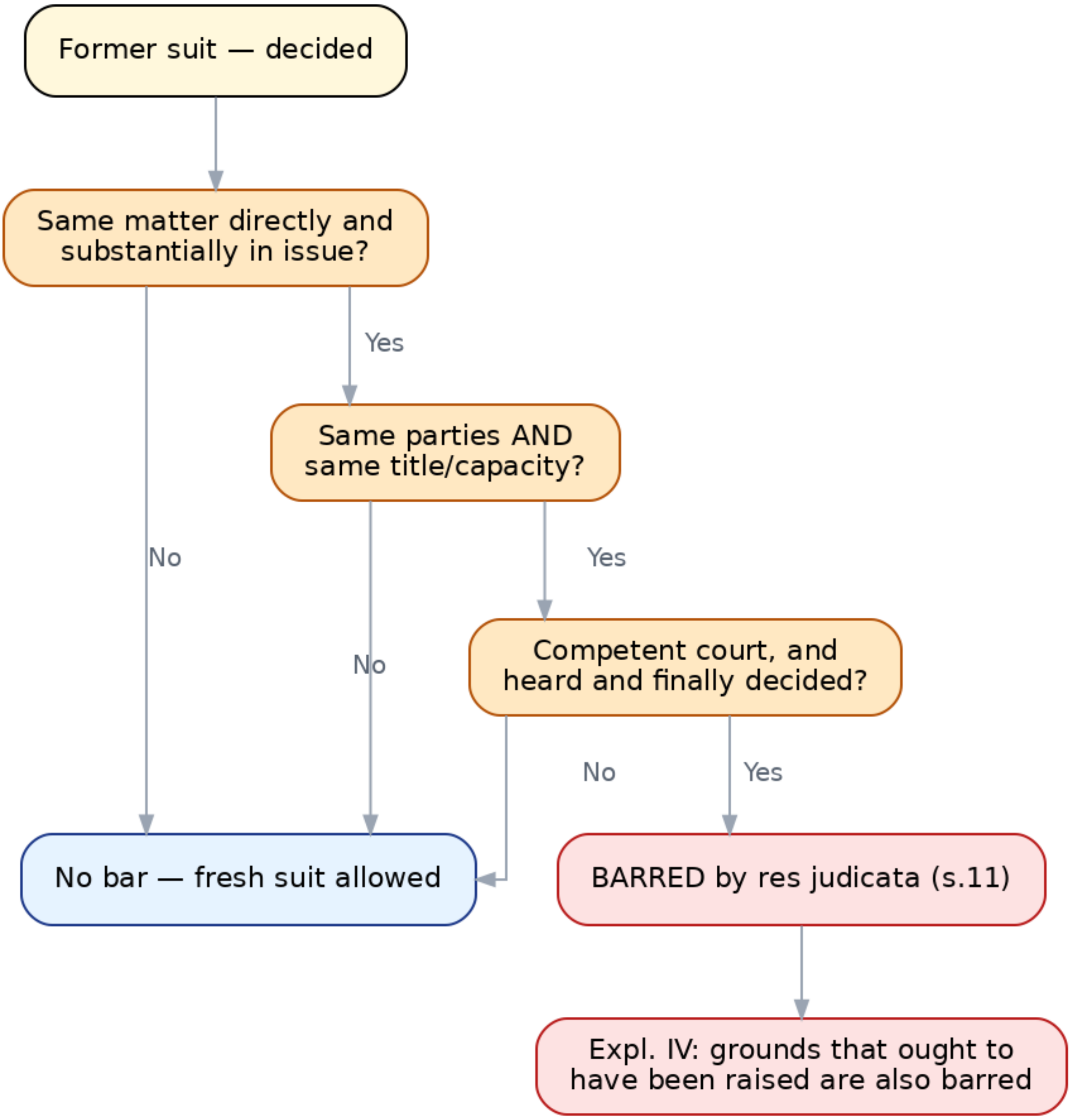
✎ **EXAM TIP — Don't confuse "same party" with "same title"**

The trap. Candidates see the *same person* on both sides and jump to "res judicata applies", forgetting the person may be suing in a **different capacity**.

What to write. State condition 2 precisely — "same parties **litigating under the same title**" — and give the example: a claim as *legal heir* and a claim as *trustee* are **different titles**, so the bar does not apply.

Why it scores. The 2014 "trust property — heir then trustee" problem is decided entirely on this distinction; spotting it shows the examiner you can *apply*, not just recite.

The Visual



Case Laws

- ***Satyadhyan Ghosal v Deorajin Debi (1960)*** — res judicata embodies the principle that litigation must reach finality; a decided matter binds.
- ***Daryao v State of U.P. (1961)*** — res judicata is a rule of public policy and applies to writ petitions under Arts. 32 and 226.
- ***Gulabchand Chhotalal Parikh v State of Gujarat (1965)*** — the general principle of res judicata can operate even between a writ proceeding and a later suit.

- ***Direct Recruit Class II Engineering Officers' Assn. v State of Maharashtra (1990)*** — constructive res judicata (Expl. IV) bars grounds that could and ought to have been taken earlier.

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6. Foreign Judgments (ss.13–14)

> **Previous Year Questions**
>
> - **[16M]** When is a foreign judgment conclusive? Explain the exceptions under s.13. *(2015, 2018, 2019, 2021, 2022, 2023, 2024, 2025)* ★★★
> - **[Short Note]** Foreign judgment / presumption under s.14. *(2015, 2018, 2019, 2021, 2022, 2023, 2024, 2025)* ★★★
> - **[Problem]** A sues B in a foreign court (dismissed) and re-sues in India on the same cause; is the fresh suit barred? *(applied ×3)* ★★★

The Hook

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

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

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

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

1. **Not a competent court** — it was **not** pronounced by a court of competent jurisdiction (the foreign court had no jurisdiction that Indian law recognises over the parties or subject-matter).
2. **Not on the merits** — it was **not given on the merits** of the case (e.g. decided by default, or dismissed on a technicality without examining the real dispute).

3. **Wrong view of law** — it appears **on the face of the proceedings** to be founded on an **incorrect view of international law** or a **refusal to recognise the law of India** where Indian law applied.
4. **Natural justice breached** — the proceedings were **opposed to natural justice** (e.g. a party got no notice, no fair hearing, or a biased judge).
5. **Obtained by fraud** — the judgment was **obtained by fraud** (fraud unravels everything; a judgment procured by fraud is a nullity everywhere).
6. **Breach of Indian law** — it **sustains a claim founded on a breach of any law in force in India** (e.g. enforcing a gaming or smuggling contract void in India).

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

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

▶ **KEY POINT**

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

◈ **WORKED EXAMPLE — Dismissed abroad, re-sued in India**

Facts. A sues B in a competent English court on a contract debt. After a full trial, the court dismisses A’s claim on the merits. A then files a fresh suit in India against B on the **same** debt.

Rule. Under s.13, a foreign judgment pronounced by a competent court **on the merits** is conclusive between the parties and bars a fresh Indian suit on the same cause — unless one of the six exceptions applies.

Apply. The English court was competent and decided **on the merits**; none of exceptions (c)–(f) is shown. So the judgment is conclusive.

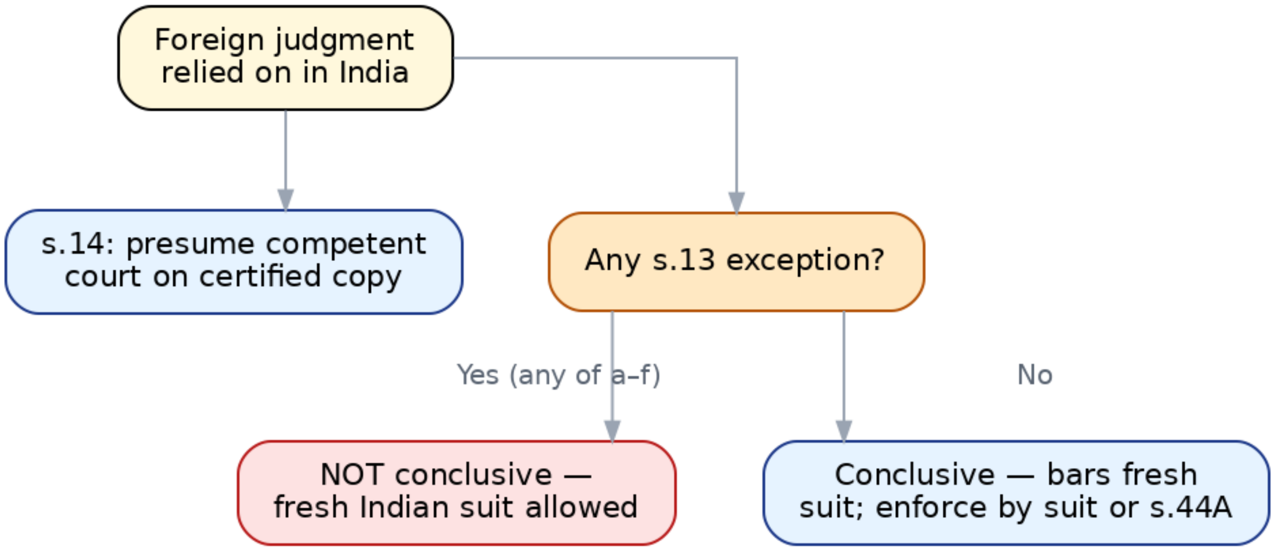
Conclusion. A’s fresh Indian suit is **barred** by the conclusive foreign judgment.

Decoy. The examiner plants “a foreign dismissal is irrelevant in India”. It is wrong — a merits dismissal by a competent foreign court is very much conclusive here. But **flip the facts**: if the foreign court had dismissed the suit **for default** or **want of jurisdiction**, that is **not on the merits**, exception (b) applies, and A’s Indian suit would **not** be barred.

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

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

The Visual



Case Laws

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

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

Previous Year Questions

- **[16M]** Explain the rules regarding the place of suing under the CPC (ss.15–20). *(2014, 2015, 2016, 2018, 2019, 2021, 2022, 2023, 2024, 2025, 2026)* ★★★
- **[Problem]** A beats B at place-2; B resides at place-1; where may B sue? *(2016, 2023, 2024)* ★★★
- **[Problem]** A defamatory item is printed at place-1 and circulated in places 2–4; where may B sue? *(2016, 2019, 2021, 2025)* ★★★
- **[Problem]** At the argument stage, D objects to territorial jurisdiction; is the objection good? *(2019, 2024, 2026)* ★★

The Hook

Two friends quarrel: A, of Bengaluru, assaults B when B visits Mysuru. B goes home and wonders — *do I have to chase A all the way to Bengaluru to sue?* The place-of-suing sections answer exactly this everyday problem, and they are the **single most examined problem-area** of Unit I — one long essay and roughly **seventeen** fact problems across the papers.

Where must a suit be filed?

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

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

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

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

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

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

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

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

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

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

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

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

◈ WORKED EXAMPLE — Assault, and defamation by newspaper

Facts. (i) A, resident of place-1, assaults B at place-2. (ii) A prints a defamatory article at place-1; the newspaper is circulated and read in places 2, 3 and 4. Where may B sue in each case?

Rule. Section 19 gives a wrong-to-the-person plaintiff the **option** of suing where the wrong was done **or** where the defendant resides. For defamation, the wrong (publication) is complete **wherever the matter is read**, and each such place gives a cause of action under ss.19/20.

Apply. (i) The assault happened at place-2 and A resides at place-1 — B may sue at **either** place-2 or place-1. (ii) Defamation is "published" wherever it is read, so a cause of action arises at **every place of circulation** — places 2, 3 and 4 — as well as where A resides/printed.

Conclusion. (i) B may sue at place-1 **or** place-2. (ii) B may sue at any of places 1–4.

Decoy. "Sue only where the defendant resides" (case i) and "sue only where it was printed" (case ii) are the planted wrong answers — both ignore the plaintiff's option and the place-of-publication rule.

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

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

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

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

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

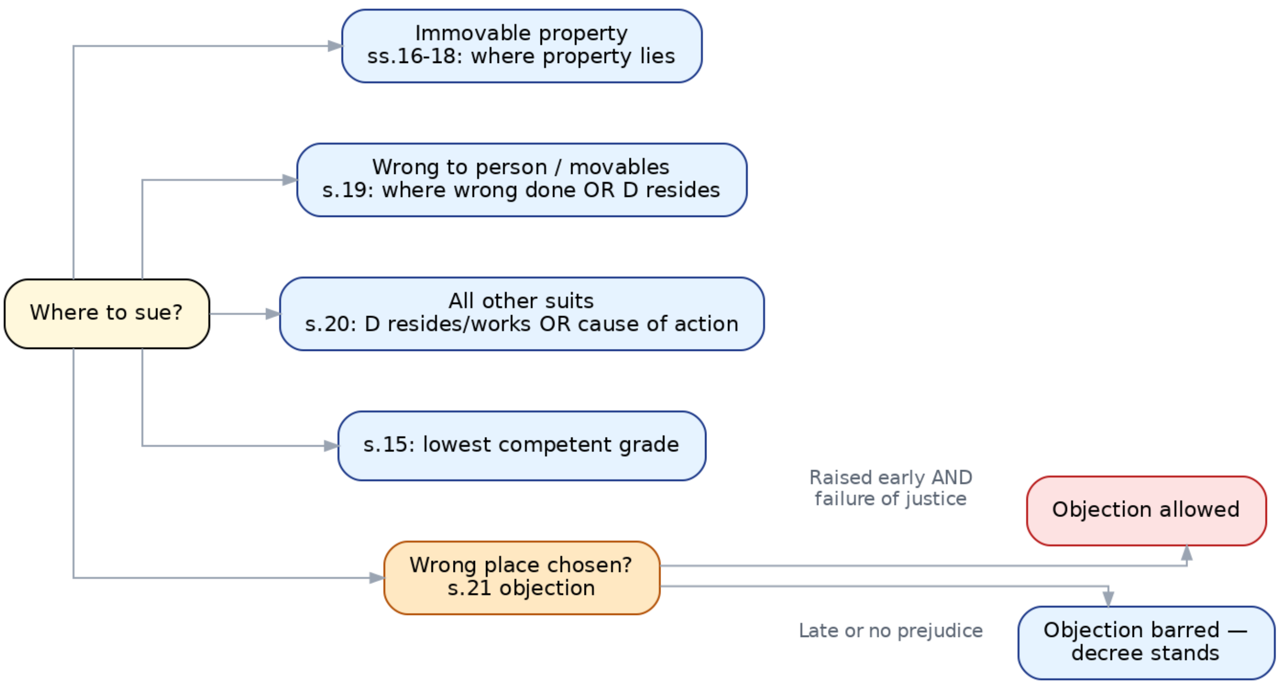
In Simple Terms: For ordinary suits (money, contracts), sue where the defendant lives or works, or where the dispute (the cause of action) arose — and a company can be sued where the branch that dealt with you is located.

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

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

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

The Visual



Case Laws

- ***Kiran Singh v Chaman Paswan (1954)*** — a mere territorial/pecuniary objection is controlled by s.21 and needs prejudice; a total want of jurisdiction is a nullity.
- ***Hakam Singh v Gammon (India) Ltd. (1971)*** — where two courts have jurisdiction, the parties may by contract confine suits to one of them; such an ouster clause is valid.
- ***A.B.C. Laminart Pvt. Ltd. v A.P. Agencies (1989)*** — a jurisdiction clause naming one competent court excludes the others; use of words like "only/alone/exclusive" clinches it.
- ***Harshad Chiman Lal Modi v DLF Universal Ltd. (2005)*** — s.16 territorial jurisdiction over immovable property cannot be waived or conferred by consent.

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8. Transfer of Cases (ss.22–25)

Previous Year Questions

- **[16M]** Explain the powers of courts to transfer and withdraw suits under ss.22–25. *(2014, 2015, 2017, 2021, 2022, 2023, 2024, 2025, 2026)* ★★★
- **[Short Note]** Power of the Supreme Court to transfer cases (s.25). *(2014, 2015, 2017, 2021, 2022, 2023, 2024, 2025, 2026)* ★★★
- **[Problem]** A wife with no income, unable to travel, seeks transfer of the suit filed by her husband to a court near her home. *(2022–2026, many)* ★★★

The Hook

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

When and how can a case be transferred?

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

Section 22 — transfer on a party's application. Where a suit may be instituted in **more than one court** and is filed in one of them, the **defendant** may apply — at the

earliest possible opportunity, after notice to the other side — to have it transferred to another competent court. The court decides on the **balance of convenience** (where witnesses live, expense, etc.).

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

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

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

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

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

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

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

> ▶ **KEY POINT**
>
> In the recurring matrimonial problem, courts lean in favour of the **wife's** convenience — she often has no independent income and small children — but this is a **guideline, not an automatic rule**; the court still weighs the overall balance (*Kulwinder Kaur v Kandi Friends Education Trust (2008)* lists the governing factors).

⚠ **CAUTION**

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

◈ **WORKED EXAMPLE — The wife’s transfer application**

Facts. X files a matrimonial suit against his wife Y at place-1 (X’s city). Y lives at place-2 in another State, has no independent income, and cannot travel with a small child. Y applies to transfer the suit to a court at place-2.

Rule. Under ss.24/25 a court may transfer a case on the **balance of convenience** and the **ends of justice**; where the transfer is **across States**, only the **Supreme Court (s.25)** can order it, while within a State the **District/High Court (s.24)** can.

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

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

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

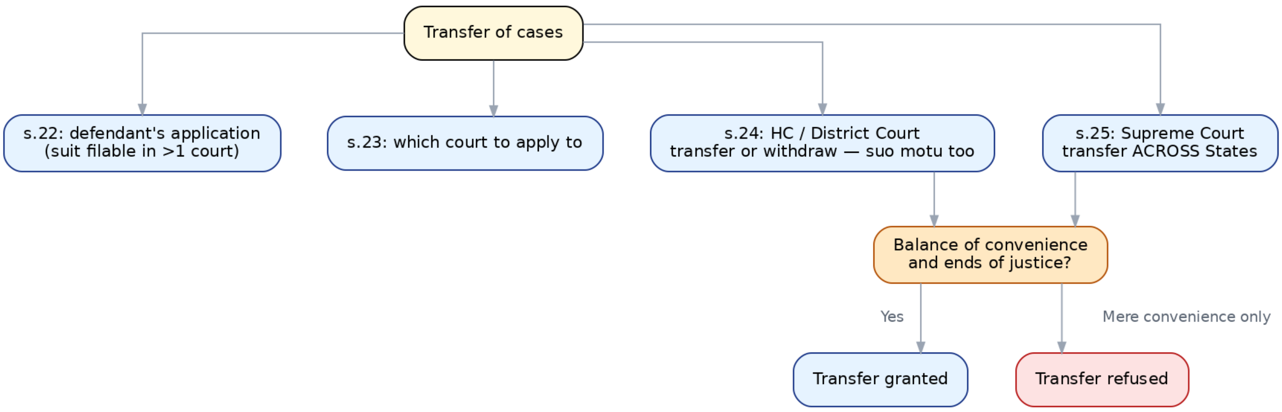
Section 24(1): *“On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the High Court or the District Court may at any stage— (a) transfer any suit, appeal or other proceeding pending before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

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

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

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

The Visual



Case Laws

- ***Guda Vijayalakshmi v Guda Ramachandra Sekhara Sastry (1981)*** — s.25 transfer power applies to matrimonial matters; related proceedings should be tried together to avoid conflicting decrees.
- ***Kulwinder Kaur v Kandi Friends Education Trust (2008)*** — sets out the factors governing transfer under s.24 — convenience, expense, fair trial, ends of justice.
- ***Maneka Sanjay Gandhi v Rani Jethmalani (1979)*** — assurance of a fair and impartial trial is the primary consideration in any transfer.
- ***Durgesh Sharma v Jayshree (2008)*** — a High Court cannot transfer a case from a court in one State to a court in another State; only the Supreme Court under s.25 can.

Landmark Cases — in Brief

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

Facts.

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

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A question decided at an earlier stage of the same litigation was sought to be reopened at a later stage.

Issue.

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

Held.

The principle of res judicata rests on the need for **finality** in litigation — once a court of competent jurisdiction decides a matter, the parties are bound and cannot reopen it.

Why it matters.

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

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

Facts.

A suit was undervalued and filed in a court of a grade not competent to try it at that value; the defect was raised only later.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A contract provided that disputes would be subject to the jurisdiction of the courts of a particular city, though more than one court otherwise had jurisdiction.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A husband obtained a divorce from a foreign court in a State where neither spouse was domiciled, then relied on it in India.

Issue.

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

Held.

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

Why it matters.

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

[C-6] Dhulabhai v State of Madhya Pradesh (1969) — when civil jurisdiction is excluded

Facts.

A challenge to the levy of sales tax was met with the plea that the special taxing statute barred the civil court's jurisdiction.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A long-running dispute within a church over control of parishes, offices and properties came before the civil courts.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A summary suit under Order 37 was sought to be stayed under s.10 because an ordinary suit on the same matter was pending.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A matter decided in a writ proceeding was sought to be re-litigated in a subsequent civil suit.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A contract clause named the courts of one place; the parties disputed whether it excluded other competent courts.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A husband obtained a divorce decree from a foreign court that had no real jurisdiction over the parties and misrepresented his domicile.

Issue.

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

Held.

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

Why it matters.

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

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

Facts.

A wife’s maintenance suit in Andhra Pradesh and the husband’s divorce petition in Rajasthan were pending in different States.

Issue.

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

Held.

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

Why it matters.

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

Quick Revision & Case Law Table

One-line memory hooks

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

Master Case List for Unit 1

Case	Topic	One-line ratio
[C-3] Kiran Singh v Chaman Paswan (1954)	Jurisdiction / Place of suing	Decree without jurisdiction is a nullity; s.21 objection needs prejudice.
[C-2] Satyadhyan Ghosal v Deorajin Debi (1960)	Res judicata	Res judicata secures finality; a decided matter binds.
[C-1] Daryao v State of U.P. (1961)	Res judicata	Res judicata is public policy; applies to writ petitions.

Case	Topic	One-line ratio
[C-9] Gulabchand Chhotalal Parikh v State of Gujarat (1965)	Res judicata	General principle of res judicata can bar a later suit after a writ.
[C-6] Dhulabhai v State of M.P. (1969)	Suits of a civil nature	Principles for when a statute excludes civil-court jurisdiction.
[C-4] Hakam Singh v Gammon (India) Ltd. (1971)	Place of suing	Ouster clause to one competent court is valid.
[C-11] Satya v Teja Singh (1975)	Foreign judgments	Foreign divorce by an incompetent court not recognised (s.13).
[C-12] Guda Vijayalakshmi v Guda R.S. Sastry (1981)	Transfer of cases	Supreme Court may transfer matrimonial cases across States under s.25.
[C-10] A.B.C. Laminart v A.P. Agencies (1989)	Place of suing	A jurisdiction clause excludes other competent courts.
[C-5] Y. Narasimha Rao v Y. Venkata Lakshmi (1991)	Foreign judgments	Foreign matrimonial decree conclusive only if competent and on merits.
[C-7] P.M.A. Metropolitan v Moran Mar Marthoma (1995)	Suits of a civil nature	s.9 read expansively; property/office disputes are civil.
[C-8] Indian Bank v Maharashtra State Coop. Federation (1998)	Res sub judice	“Trial” in s.10 does not bar interim orders or summary suits pre-leave.

End of Unit 1.