

*The Commercial Courts,  
Commercial Division  
&  
Commercial Appellate Division  
of High Courts  
Ordinance, 2015*

Presentation by  
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For M/s. Acelegal™



# ORDINANCE TO :

Provide for constitution  
of :

- i) Commercial Court
  - ii) Commercial Division
  - iii) Commercial  
Appellate Division
- In High Court

For Adjudication :

- i) Commercial Disputes
- ii) Of Specified values
- iii) For Matter connected  
herewith
- iv) Or Incidental thereto.

# COMMERCIAL DISPUTE MEANS :

- Goods and Services both
- Transaction documents :
  - (i) Enforcement (Termination Eviction) - Specific Performance
  - (ii) Interpretation (Lease or Leave and License)
- **Construction** and Infrastructure contracts including tenders
- Joint Venture agreements
- Shareholders agreements



- Partnership agreements
- Start ups
- Intellectual property rights – trademarks, copyrights, patents, design etc.
- Contract of agency – POA covered.
- Other commercial disputes as may be notified by Central Government –  
**(Open Clause)**
- Contracting party is State or its agencies or instrumentalities or a private body carrying out public functions – **Even dispute with CIDCO covered.**



# SPECIFIED VALUE

- Value of subject matter of suit as determined in **section 12** shall not be less than Rs.1 crore.

Matter	Calculation of value
Recovery of money	Principle + Interest Upto the date of filing of suit
Movable Property	Market value
Immovable Property	Market value
Intangible Property	Market value as estimated by the Plaintiff
Counter claim	Aggregate value of the claim and counter-claim

# COMMERCIAL COURTS (CC) COMMERCIAL DIVISION(CD) COMMERCIAL APPELLATE DIVISION (CAD)

	Commercial Courts	Commercial Division	Commercial Appellate Division
Constitution	<p>(i) By State Government (ii) In consultation with HC (iii) At District level. Determine number of courts Determine local limits. (S.3)</p> <p>No CC for territory which has Original Ordinary Civil Jurisdiction.</p>	<p>The Chief Justice of HC to appoint a Single Judge of HC to be judge. (S.4)</p>	<p>Chief Justice of HC constitute Division Bench of Judges of HC having experience in dealing with commercial disputes to be judges of CAD. (S.5)</p>

	Commercial Courts	Commercial Division	Commercial Appellate Division
Jurisdiction	Suits / applications instituted as per provisions of section 16 to 20 of CPC.	Suits / applications of specified value filed in HC of Ordinary Original Civil Jurisdiction.	Order passed by CC & CD (S.13)

# ADDITIONAL POINTS :

- Bar against revision application or petition against interlocutory order
- Transfer of suit by Civil Court to CC if counter-claim in a commercial dispute is of Specified value.
- Not to entertain any suit in respect of which jurisdiction of Civil court is either expressly or impliedly barred under any other law for the time being in force.



# JURISDICTION IN RESPECT OF **ARBITRATION** MATTERS

Matters relating to	To be heard and disposed of by
International Commercial Arbitration	Commercial Appellate Division
Other than International Commercial Arbitration + Filed on <b>Original Side</b> of HC	Commercial Appellate Division
Other than International Commercial Arbitration + Filed in <b>District Court</b>	Commercial Court



# APPEALS

- Aggrieved by decision of Commercial Court and Commercial Division of HC ;
- **Appeal** to Commercial Appellate Division ;
- **Within 60 days** from the date of order.
- Under Order XLIII of CPC and Section 37 of Arbitration and Conciliation Act, 1996.
- Appeal to be **disposed** of **within 6 months** from the date of filing of such appeal.

# TRANSFER OF PENDING SUITS

- All suits and proceedings
- Including applications under Arbitration and Conciliation Act, 1996
- Relating to Commercial dispute of Specified value



"I've got two C's and a B pending appeal."

Pending before	Transferred to
HC - Commercial Division has been constituted	Commercial Division
Any Civil Court in any District - Commercial Court has been constituted	Commercial Court

- In case of transfer - provisions of this Ordinance shall apply.
- CD and CC may hold management hearings to prescribe new timelines or issue further directions for speedy and efficacious disposal of suits or application in accordance with Order 14-A of CPC.
- Commercial Appellate Division of HC - on application by any party - withdraw suits or proceedings - before the court where it is pending - and transfer the same for disposal to CC or CD.



# MISCELLANEOUS



- Transparency – Collection and disclosure of data e.g. pendency of case, number of cases, update every month, publish on website of relevant HC.
- Power of HC to issue directions to supplement the provisions of Chapter II of CPC.
- State Govt. to provide necessary infrastructure facilities.

- State Govt. in consultation with HC provide training and continuous education to judges.
- The provisions of this Ordinance has overriding effect.
- Central Government has power to remove difficulties by passing order published in Official Gazette.

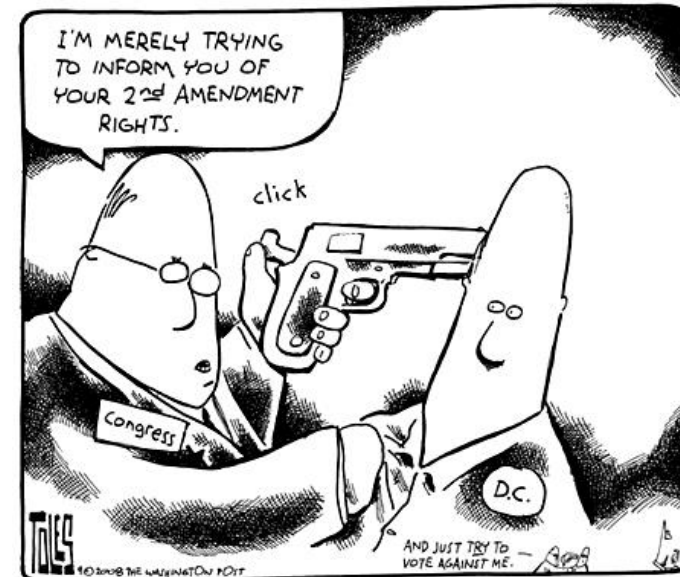
# AMENDMENTS TO THE PROVISIONS OF CPC

- Provisions of CPC stands amended in the manner as specified in the Schedule.
- Commercial Division and Commercial Courts to follow provisions of CPC as amended.
- Amended provisions of CPC shall prevail over all other provisions.



- 1<sup>st</sup> Schedule in Order V, Rule 1 : **Written submission** to be filed by Defendant within **30 days**. **Extendable to 120 days** along with a reason to be recorded in writing and payment of cost.
- **Order XVIII, Rule 2** : **Written arguments** shall indicate the provisions of laws and citation of judgments including copies of such judgments.
- 1st Schedule in Order VIII, Rule 3A : **Written submission by Defendant shall state allegations, he :**

- (i) Denies in the complaints - along with reasons ;
- (ii) Is unable to admit ;
- (iii) Requires the Plaintiff to prove ;
- (iv) Allegations Admitted.





- If the defendant in his written submission **disputes** :

<b>Disputes</b>	<b>State with Reason along with his own Statement</b>
Jurisdiction of the Court	Court ought to have jurisdiction
Plaintiff's valuation of the Suit	Own valuation of the Suit

- The Defendant shall file a **list of documents** and **photocopies** of all documents including **documents referred to** and **relied** along with written submission / counter-claim.

## Order XI

- (i) The Plaintiff shall file a **list of documents** and **photocopies** of all documents including **documents referred to** and **relied** by Plaintiff along with **plaint**.
- (ii) In case of **urgent filing** -
  - plaintiff can seek leave to rely on additional documents ;
  - to be filed within 30 days of filing of suit ;
  - along with declaration on oath that the Plaintiff has produced all documents.

- 1<sup>st</sup> Schedule in Order VI, Rule 3A : Forms for pleading have been prescribed under High Court Rules or Practice Directions.
- 1<sup>st</sup> Schedule in Order VIII, Rule 5, Sub-Rule (1) after 1<sup>st</sup> Proviso :  
*“Provided further, that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this Order, shall be taken to be admitted except as against a person under disability.”*
- 1<sup>st</sup> Schedule in Order VI, Rule 15A : Pleadings can be amended as per manner prescribed.

- 1<sup>st</sup> Schedule in Order VI, Rule 15A : Every pleading to be **verified** by an **affidavit** as prescribed in the Appendix.
- **Affidavit** : signed by Party or Authorised person.
- Order XIX after Rule 3 : **Affidavit shall state** :
  - (i) Which of the statements in it are made from the deponent's own knowledge and which are matters of information or belief ; and
  - (ii) The source for any matters of information or belief.

- 1<sup>st</sup> Schedule in Order VII, Rule 2A : If Plaintiff seeks interest :
- The plaint shall **contain a statement** to that effect.
- **State :**
  - (i) Terms of contract ;
  - (ii) Under which Act ; and
  - (iii) Some other basis – state the basis.
- **Pleadings shall state :**
  - (i) The rate at which interest is claimed ;
  - (ii) The date from which it is claimed ;
  - (iii) The date to which it is calculated ;
  - (iv) The total amount of interest claimed to the date of calculation ; and
  - (v) The daily rate at which interest accrues after that date.

## Order XV-A :

- 1<sup>st</sup> Case Management **Hearing** (CMH) – held not later than **4 weeks** from the date of filing of affidavit of admission / denial of documents.
- Court shall ensure that **arguments are closed** not later than **6 months** from 1<sup>st</sup> CMH.
- **Parties to be present** if the Court is of a view that there is a possibility of **settlement**.
- **No adjournment for not presence of Advocate**, provided there is a justified reason and on **payment of cost**.
- **Order XX, Rule 1 : Order** to be passed **within 90 days** of conclusion of arguments, pronounce judgment & copies shall be **sent through email** or otherwise.

*Thanking you,  
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