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PROPOSED INCREASE IN CITY CIVIL COURT'S PECUNIARY JURISDICTION

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Being one of the three chartered High Courts in the country, the Bombay High Court has original jurisdiction to try suits of a civil nature arising within Greater Bombay i.e., Mumbai district. Parallely, the city of Mumbai also has two City Civil Courts in Fort (having territorial jurisdiction from Colaba to Mahim and Colaba to Mulund) and Dindoshi (having territorial jurisdiction from Bandra to Dahisar) which have the power to try suits of a civil nature arising within Greater Bombay. The jurisdiction between the Bombay High Court on one hand and the City Civil Courts on the other is divided in pecuniary terms. Up until August 2012, the Bombay High Court could try suits where the valuation exceeded INR 50,000/- and any suits valued below that would be tried by the relevant City Civil Court having the requisite territorial jurisdiction. The pecuniary jurisdiction of the City Civil Court was then enhanced to INR 1 crore in September 2012. Citing the sharp increase in value of immovable properties in Mumbai since then, the Government of Maharashtra has enacted the Bombay City Civil Court (Amendment) Act, 2023 further enhancing the pecuniary jurisdiction of the City Civil Courts in Mumbai to INR 10 crores. While the amendment has received Presidential assent, however, it will not come into force immediately. As provided in section 1(2) of the Amendment Act, it will come in effect as and when the State Government notifies it in the Official Gazette.

The amendment may substantially alter the litigation landscape in the city of Mumbai and some of the key pointers regarding the same are enumerated below.

All fresh suits below INR 10 crores to be instituted in the City Civil Court

Section 3 of the Bombay City Civil Court Act, 1948 has been amended to the effect that the City Civil Courts shall have jurisdiction to receive, try and dispose of all suits and all proceedings civil in nature not exceeding INR 10 crores. Therefore, from the date notified by the State Government, suits of all nature (including commercial suits) valued below INR 10 crores will have to be instituted and filed before the relevant City Civil Court. For instance, a dispute arising out of a commercial contract executed in Mumbai or against a party residing in Mumbai where the sum involved is less than INR 10 crores will now be adjudicated by the Bombay City Civil Court and not the Bombay High Court. Even suits involving any immoveable property valued below INR 10 crores will now be adjudicated by the relevant City Civil Court.

Transfer of existing suits valued below INR 10 crores to the City Civil Courts

Section 4A of the Bombay City Civil Court Act, 1948 has now been amended to the effect that all suits pending before the Bombay High Court on the date notified by the State Government shall stand transferred to the respective City Civil Court. Therefore, even if a suit valued above INR 1 crore and below INR 10 crores is currently being tried by the Bombay

High Court, it will be transferred to the Bombay City Civil Court. Such suits will then be re-numbered, assigned to the relevant district judge or the designated commercial court at the Bombay City Civil Court as the case may be and the trial will then be resumed before the respective City Civil Court.

Jurisdiction to try suits related to certain subject matters will remain with the Bombay High Court

As specified in section 3 of the Bombay City Civil Court Act, 1948, proceedings related to admiralty, testamentary and matrimonial jurisdiction will continue to be tried by the Bombay High Court. Moreover, suits arising from special acts such as the Indian Trust Act 1882 or suits involving intellectual property rights will continue to be adjudicated by the Bombay High Court.

Amendment will not impact disputes where there is an arbitration agreement

It is also pertinent to note that in cases where the parties have executed an arbitration agreement, any future disputes will not be affected by the amendment irrespective of the value of the dispute. An application for interim reliefs under section 9 of the Arbitration and Conciliation Act, 1996 in respect of any dispute arising within the original jurisdiction of the Bombay High Court will still be maintainable before the Bombay High Court. Similarly, the power to appoint arbitrators would continue with the Bombay High Court.

Comment

While the amendment has been brought to ease the burden of the Bombay High Court's increasing case load, given the commercial nature of disputes arising in Mumbai, the City Civil Courts' infrastructure will also have to be correspondingly amped up to deal with the inflow of fresh cases as well as transferred cases to ensure that the goal of the amendment is fulfilled. Since the State Government has the power to further increase or decrease pecuniary jurisdiction of the City Civil Courts, the jurisdiction may further be enhanced in the coming years keeping in mind the growing value of contracts being executed in the city. Therefore, for parties to ensure certainty of forum in case of a dispute, it may be advisable to incorporate suitable arbitration clauses in contracts executed in Mumbai or involving parties from Mumbai.

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