

Enhancement of Pecuniary Jurisdiction of Civil Courts

Report No. 36

Enhancement of Pecuniary Jurisdiction of Civil Courts

While examining a reference from the Ministry of Law, Justice and Human Rights to consider enhancement in the pecuniary appellate Jurisdiction of District Courts in the country to lessen the workload on the High Courts, the Commission found the Courts of Senior Civil Judge, and Majlis-e-Shoora exercising original jurisdiction without limit are also over burdened because of low pecuniary original Jurisdiction of Civil Judges IInd class and IIIrd class under the Civil Courts Ordinance 1962, and of the Qazi under the Baluchistan Civil Disputes (Shariat Application) Regulation 1976.

The High Court is empowered to fix pecuniary jurisdiction of civil judges under Section 9 of West Pakistan Civil Courts Ordinance 1962. The pecuniary jurisdiction of Qazi and Majlis-e-Shura under the Balochistan Civil Disputes (Shariat Application) Regulation 1976, and the Qazi under the Dastur-ul-Amal Diwani Kalat is fixed by their respective laws. The present pecuniary jurisdiction of civil judges fixed by their respective High Courts of the four provinces and of the Qazi and Majlis-e-Shura under their respective laws is as under:-

Punjab

Civil Judge 1st Class	unlimited.
Civil Judge IIInd Class	rupees five lac
Civil Judge IIIrd Class	rupees one lac

NWFP

Civil Judge 1st Class	unlimited
Civil Judge IIInd Class	rupees fifty thousand
Civil Judge IIIrd Class	rupees twenty thousand

Baluchistan

Civil Judge Ist Class	unlimited
Civil Judge IIInd Class	rupees fifteen thousand
Civil Judge IIIrd Class	rupees five thousand
Qazi Court (Dastur-ul-Amal Diwani Kalat)	unlimited
Qazi Court (Tribal Area)	rupees fifty thousand
Majlis-e-Shoora (Tribal Area)	exceeding rupees fifty thousand

Sindh

Civil Judge Ist Class (excluding Karachi)	unlimited
Senior Civil Judge/Ist Class (Karachi)	rupees five lac
Civil Judge IInd Class	rupees fifty thousand
Civil Judge IIIrd Class	rupees twenty five thousand

The frequent devaluation of rupee and high rate of inflation have increased the value of property/goods etc. due to which the valuation of suits have also registered increase. This has vitiated earlier enhancement of pecuniary jurisdiction of Civil Judges IInd and IIIrd Class, causing pendency in the Court of Civil Judge Ist Class. Limited pecuniary jurisdiction of Senior Civil Judge/ Ist Class Karachi is causing pendency in the High Court of Sindh. Same would be the position of Majlis-e-Shura by limited jurisdiction of Qazi in Tribal Area of Balochistan. Views of Provincial High Courts were solicited for enhancement of pecuniary jurisdiction of civil judges which supported the proposal.

Mr Justice Raja Fayyaz Ahmed, Chief Justice of High Court of Balochistan/Member, Pakistan Law Commission proposed enhancement of pecuniary jurisdiction of Civil Judge IInd and IIIrd Class as well as Qazi Court in the Tribal Area by conferring unlimited jurisdiction upon the Qazi in the Tribal Area at a par with Qazi at Kalat or the Civil Judge Ist Class in rest of the province. The views by the honourable Chief Justice, High Court of Balochistan are as follows:-

“Under the provisions of Section 9 of the Civil Courts Ordinance 1962, the pecuniary limits of jurisdiction of the Civil Judges are left to be determined by the High Court. Presently in Balochistan, the pecuniary jurisdiction of Civil Judges IInd Class exercising jurisdiction in original suits or proceedings extends, where the valuation of subject matter or amount claimed in suit does not exceed Rs. 15,000/- whereas the Civil Judges invested with the powers of IIIrd Class have the jurisdiction to adjudicate upon suits, valuation whereof does not exceed Rs.

5,000/-. However keeping in view the ever increasing rate of inflation and to allow the aforesaid category of Civil Suits to be dealt with by Civil Judges of IInd and IIIrd Class, the pecuniary jurisdiction is suggested to be enhanced to that of Rs. 50,000/- and Rs. 25,000/- respectively. This would also curtail the large pendency before the 1st Class Civil Judges. Furthermore, it is proposed that the pecuniary jurisdiction of the Civil Judges of IInd and IIIrd Class may be revised/enhanced and indexed on periodical basis after the expiry of every three years in juxtaposition with inflation.

In Dastur-ul-Amal Diwani, Kalat 1952, the pecuniary jurisdiction of Qazi Courts is unlimited and appeal lies to Majlis-e-Shoora and revision to the High Court, whereas under Section 4 of the Balochistan Civil Disputes (Shariat

Application) Regulation 1976, (applicable in the tribal areas of Balochistan), the pecuniary jurisdiction of Qazi Courts does not exceed Rs. 50,000/- and also does not enjoy the powers to adjudicate upon the matters which are against the Federal Government or a Provincial Government or a Local Authority or a Public Corporation or a Public Servant acting in discharge of his duty and all suits exceeding valuation of Rs. 50,000/- are filed before the Majlis-e-Shoora being court of the original civil jurisdiction and from decision of Majlis-e-Shoora, appeal directly lies to the High Court. To remove such anomaly and disparity between the Courts functioning under Dastur-ul-Amal, Diwani Kalat and Balochistan Civil Disputes (Shariat Application) Regulation 1976, (extended to the Tribal Area of Balochistan), the pecuniary jurisdiction of Qazis working in that area should also be enhanced to that of Qazis working under Dastur-ul-Amal Diwani Kalat and be also invested with the powers to adjudicate upon all matters whether be against the Federal Government or Provincial Government or a Local Authority or a Public Corporation or a Public Servant and between private parties; and in all matters appeal should lie to the Majlis-e-Shoora and thereafter revision to the High Court. For this purpose amendments in the relevant law are to be made.”

The unlimited pecuniary jurisdiction of Qazi Court under Dastur-ul-Amal Diwani Kalat is provided under its Section 20, and the pecuniary jurisdiction of the Qazi Court and Majlis-e-Shoora established in tribal areas under the Balochistan Civil Disputes (Shariat Application) Regulation 1976 is fixed under its Section 4. In nutshell the Chief Justice of Balochistan made

recommendations with regard to enhancing jurisdiction of Civil Judges of IInd & IIIrd Class and of the Qazi under the Balochistan Civil Disputes (Shariat Application) Regulation 1976 to bring it par with the Civil Judge Ist Class in settled districts and Qazi under Dastur-ul-Amal Diwani Kalat also with jurisdiction to try the cases in which a Government is a party.

Similarly, the Peshawar High Court have supported the proposed enhancement of pecuniary jurisdiction of the Civil Courts in the Province of NWFP. The views of the High Court read as follows:

“It may be added that eversince no increase has been made in the jurisdiction of the said courts which has resulted in increase of workload in the courts of Civil Judges Ist Class. Keeping in view the rapid devaluation and inflationary trend, this Court would propose enhancement of the jurisdiction of Civil Judges-II Class in the Province to the extent of Rs. 5 lacs in line with the increase already made by the Province of Punjab. Though at present there is no Civil Judge-III Class in the Province, yet the determination of the jurisdiction of Civil Judges-III Class is indeed necessary for the new entrants in the judiciary who are expected to join the service in the near future. The jurisdiction of Civil Judge-III Class was lastly raised in 1984 to Rs. 20,000”.

The Lahore High Court vide notification dated 21-3-2000 has recently increased the pecuniary jurisdiction of Civil Judges of IInd and IIIrd Class in Punjab to rupees five lac and one lac respectively which is higher than the pecuniary jurisdiction of their counter parts in other provinces.

Under Section 7 of the Sindh Civil Courts Ordinance 1962 the High Court of Sindh possesses original jurisdiction in civil suits of the value exceeding rupees five lac for the Karachi Districts. The High Court of Sindh has proposed the following enhancement of jurisdiction of civil judges in the Sindh province.

- (a) Civil Judge Ist Class Karachi = rupees thirty lac
- (b) Civil Judge IInd Class = rupees one lac
(all over the Province)
- (c) Civil Judge IIIrd Class = rupees fifty thousand
(all over the Province)

The High Court has also approved a proposal of constituting only two categories of Civil Judges in the Province of Sindh namely, (i) Senior Civil Judge; and (ii) Civil Judge. The Senior Civil Judge will have unlimited pecuniary jurisdiction except at Karachi while the Civil Judge will have jurisdiction to try suits/matters of the pecuniary value of rupees one lac. The High Court is now going to move the Provincial Government for new classification of the civil judges in the Province. The Commission may consider the proposed two classes of civil judges for the province of Sindh.

The High Court is empowered to enhance the pecuniary jurisdiction of civil judges under Section 9 of the Civil Courts Ordinance 1962. However, for the proposed enhancement in the jurisdiction of Civil Judge Ist Class Karachi to-wards suits for or against the government under Section 24 Sindh Civil Courts Ordinance 1962 and, in the jurisdiction of Qazi Court under the Balochistan Civil Disputes (Shariat Application) Regulation 1976, their would require amendments in the respective statutes. Section 24 Sindh Civil Courts Ordinance also requires to be amended for enhancement of original jurisdiction of District Judge Karachi as proposed by the High Court of Sindh which would also enhance the pecuniary jurisdiction of Civil Judge 1st Class Karachi as provided therein. For enhancement of pecuniary ordinary jurisdiction of Civil Judges the respective High Courts will issue orders/notifications under Section 9 of the Civil Courts Ordinance.

The Commission in its meeting on 30th March 2002 considered the enhancement of pecuniary jurisdiction of civil judges and the Qazi Court in the Tribal Area, and recommended the High Courts to notify it for their respective provinces as given at Appendix- I.

The Commission also recommended the Government of Baluchistan to amend the Baluchistan Civil Disputes (Shariat Application) Regulations 1976 to enhance the pecuniary original Jurisdiction of Qazi Court. Draft amendments in the Baluchistan Civil Disputes (Shariat Application) Regulations 1976 is at Appendix - II.

Appendix -I

Civil Courts

Pecuniary Jurisdiction

Enhancement proposed by	Existing jurisdiction	Proposed enhancement
1. Peshawar High Court (i) Civil Judge IInd Class (ii) Civil Judge IIIrd Class	Rupees fifty thousands Rupees twenty-five thousands	Rupees five lac Rupees one lac
2. High Court of Sindh (i) Senior Civil Judge Karachi (ii) Civil Judge IInd Class (iii) Civil Judge IIIrd Class	 Rupees five lac Rupees fifty thousands Rupees twenty-five thousands	 Rupees thirty lac Rupees one lac Rupees fifty thousands
3. High Court of Balochistan (i) Civil Judge IInd Class (ii) Civil Judge IIIrd Class (iii) Qazi in Tribal Area	Rupees fifteen thousands Rupees five thousands Rupees fifty thousands	Rupees fifty thousands Rupees twenty five thousands Unlimited
4. Lahore High Court		
(i) Civil Judge IInd Class	Rupees five lac	No proposal in view of recent increase
(ii) Civil Judge IIIrd Class	Rupees one lac	On 21-3-2000

A

REGULATION

to amend the Baluchistan Civil Disputes (Shariat Application)

Regulation 1976.

WHEREAS it is expedient further to amend the Balochistan Civil Disputes (Shariat Application) Regulation 1976 for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by clause (4) of Article 247 of the Constitution of the Islamic Republic of Pakistan, the Governor of Balochistan with the prior approval of the President, is pleased to make the following Regulation:-

1.Short title and commencement:- This Regulation may be called the Balochistan Civil Disputes (Shariat Application) (Amendment) Regulation 2001.

(2) It shall come into force at once.

2.Amendment of Section 2, Balochistan Regulation of 1976.- In the Balochitan Civil Disputes (Shariat Application) Regulation 1976, hereinafter referred to the said Regulation, in Section 2, in Sub-section (1), the proviso shall be omitted.

3. Amendment of Section 4, Balochistan Regulation of 1976.- In the said Regulation, in Section 4, in Sub-section (1).-

(i) for clause (a) the following shall be substituted, namely:-

“(a) the Court of Qazi, which shall be the court of original jurisdiction without limit as regards the subject matter in amount or value ; and”

(ii) In clause (b) after the word “Qazi the comma and words “, and shall also be the court of original jurisdiction in respect of all disputes wherein the subject matter in amount or value exceeds fifty thousand rupees” shall be omitted.

(iii) In Sub-section (3), for the words “An appeal from “ the words “ A revision against “ shall be substituted.

Governor of Balochistan