

All about immoveable property

While filing a case involving immoveable property, its location and value have to be taken into account to ascertain jurisdiction

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htestates LEGAL REMEDIES

When filing a case concerning immovable property, it is important to file the case in a court of competent jurisdiction for early resolution of disputes and avoid unnecessary delays. Matters relating to the jurisdiction of courts are provided for in the Code of Civil Procedure, 1908 ('CPC').

The jurisdiction limits of each court, ie, its power to decide a case or issue an order or a judgment, is clearly defined under CPC. For cases involving immovable property, to ascertain the appropriate court, both territorial jurisdiction and pecuniary jurisdiction have to be considered.

Territorial jurisdiction refers to the local or geographical limits within which a court can validly exercise its jurisdiction. A court has no power to try or decide a case involving rights and interests in immovable property not situated within its local limits. For instance, the courts of Delhi cannot decide a case instituted for partition of immovable property located

outside Delhi. In such a case, the correct forum would be the district court or high court (depending on pecuniary jurisdiction) in whose local limits such immovable property is located.

The value of the subject matter of the case, ie, immovable property, is also relevant for determining the courts that would be competent and where the case would lay for that subject matter. For instance, in Delhi, as per the Delhi High Court Act, 1966, cases for immovable property valued at ₹20 lakh or more are to be instituted in the High Court and such cases would be dealt with under its original jurisdiction. Cases involving immovable property of value less than ₹20 lakh have to be instituted in lower courts and any appeals arising from the lower court decision will be decided by the High Court. The limit of pecuniary jurisdiction varies from state to state.

Thus, while filing a case involv-

ing immoveable property, two factors have to be kept in mind. First, the location of the property to ascertain the territorial jurisdiction. Second, the value of property to ascertain the pecuniary jurisdiction. On the basis of the territorial and pecuniary jurisdiction, it is ascertained which is the appropriate court.

If any portion of an immovable property is located within the local limits of two or more states or regions within a state, then the case may be filed in either of these courts. However, in such a case, the limit of pecuniary jurisdiction has to be kept in mind. Thus, in the above given example, if the property is located partly in Uttar Pradesh and partly in Delhi, then courts in either state can try the case, depending on the pecuniary limit according to the value of the property. In the case of Ritu Sharma and another vs Sandeep Sharma and others (2011), the Delhi High Court clarified that if the subject matter of the case involves two or more immovable properties, the case may be instituted in either of the courts that has competent territorial and pecu-



niary jurisdiction.

In a case concerning immovable property filed in a court that does not have jurisdiction, such court may return the complaint and direct the litigant to file the case in the appropriate court. Filing property-related cases in a court having competent jurisdiction is essential to save time and obtain speedy redressal of grievances.

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WHY ARE CASES FILED?

- For the recovery of immovable property
- For recovery of rents or profits from immovable property
- For the partition of immovable property
- For foreclosure, sale or redemption in the case of a mortgage of or charge upon immovable property
- For the determination of any other right to or interest in immovable property
- For compensation for any other liability arising out of wrong relating to immovable property such as trespass, nuisance, etc

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