

*The Commercial Courts, Commercial Division and Commercial Appellate Division of  
High courts (Amendment) Act 2018*

Pranam to all present

Presenter :- Indu Sharma  
2<sup>nd</sup> Additional Senior Civil Judge  
Dehradun



# *The Commercial Courts, Commercial Division and Commercial Appellate Division of High courts (Amendment) Act 2018*

## *Overview of the Amendment*

- Prior the amendment in the act the name is *Commercial courts Act, 2015*
- *The amendment bill was introduced by Legislative Department in Lok Sabha on 23<sup>rd</sup> July 2018 and passed on 01<sup>st</sup> August 2018, then passed by Rajya Sabha on 10<sup>th</sup> August 2018*
- *President assent 20<sup>th</sup> August 2018*
- *Act no 28 of 2018*
- *Come into force on 3<sup>rd</sup> may 2018*



## **Salient Features of the Amendment Act 2018**

- 1. Minimum Value of dispute (pecuniary jurisdiction) reduced to INR 3,00,000/-
- 2. Commercial courts split in two level :—
  - (i) District Judge Level
  - (ii) Below District Judge Level
- 3. Commercial Appellate Courts introduced
- 4. Mandatory pre-institution mediation prescribed
- 5. Government to appoint commercial court judges



## Jurisdiction

Pecuniary ---- Section 6 read with Section 2(1)(i) -- Specified Value

Territorial ----- Section 1(2) read with Explanation of Section 6

Subject Matter-- Section 6 read with Section 2(1)(c)-- Commercial Dispute

## Establishment of Commercial Court

### **Where High Court have Ordinary Original Civil Jurisdiction :-**

Commercial Court of D.J./A.D.J.

Commercial Division

Commercial Appellate Division

### **Where High Court have No Ordinary Original Civil Jurisdiction :-**

Commercial Court Below the level of D.J.

Commercial appellate court At District Level Of D.J.

Commercial Division

Commercial Appellate Division



**Ordinary Original Civil Jurisdiction Means**  
when a court has power to hear the fresh case.

**Only five High court have this Jurisdiction--**

- Delhi,
- Bombay,
- Calcutta,
- Madras,
- Himanchal Pradesh.

it means only five high courts have Ordinary original Civil Jurisdiction and remaining high courts have no Ordinary original Civil Jurisdiction.



## Appointment of Judge of Commercial Court

Earlier, the state government could appoint those judges only with the concurrence of Chief Justice of the High Court. Whereas, after the amendments, the state government has the power to appoint such judges even without the concurrence of the chief justice of the high courts.  
section 3(3) :- “State Government shall” word substituted by “State Government may”

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### **Amendment to incorporate a New Section 12A in the Act**

Where a suit no urgent interim relief, the plaintiff has to undergo pre-institution mediation.

In this regard, authorities constituted under Legal Services Authorities Act, 1987 will be notified and such authority shall complete the process of mediation.

Mediation will complete within three months from the date of application.

The settlement arrived at by such mediation shall have the status and effect of an arbitral award under section 30(4) of the Arbitration and Conciliation Act, 1996.



Prior to amendment if in any civil suit filed in civil court, defendant filed counter claim of commercial dispute of one crore, the case will be transferred to commercial court according to sec 9 but this section repealed by this amendment.

S.N.	Prior to Amendment	Post amendment
1	Sec 2(1)(i) specified Value:- One crore (10,000,000/=)	Atleast Three Lakh (3,00,000/=)
2	Establishment of court	<u>Under high court having ordinary original jurisdiction</u> -- commercial Court of D.J./A.D.J., Commercial Division, Commercial Appellate Division <u>Under high court having no ordinary original jurisdiction</u> --commercial Court Below the level of D.J., Commercial appellate court At District Level Of D.J., Commercial Division, Commercial Appellate Division
3	No provision for Pre institution litigation	Sec 12A inserted for Pre Institution Litigation



**Thanks**

