

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE SATHISH NINAN
&
THE HONOURABLE MR.JUSTICE C.S.DIAS
&
THE HONOURABLE MRS. JUSTICE C.S. SUDHA

Wednesday, the 24th day of September 2025 / 2nd Aswina, 1947

ICR (CRP) NO.11/2025 IN CRP NO. 133 OF 2024

OS 206/2023 OF ASSISTANT SESSIONS COURT/PRINCIPAL SUB COURT / COMMERCIAL COURT,
PALAKKAD, PALAKKAD

REVISION PETITIONER/PETITIONER IN IA NO.6/2024/DEFENDANT IN OS 206/2023::

ABDULLAKUTTY HAJI, AGED 66 YEARS S/O. THAPPY ABOOBACKER, THAPPY
HOUSE, PALATHINGAL, ULLANAM POST, NEDUVA VILLAGE TIRURANGADI TALUK,
MALAPPURAM, PIN - 679573

BY ADVS.M/S.B.KRISHNAN & R.PARTHASARATHY

RESPONDENT/RESPONDENT IN IA NO.6/2024/PLAINTIFF IN OS NO.206/2023::

H. MUSHTAFA AGED 55 YEARS S/O. HUSSAINAR, BAITHUL MINAR, NADAKAVU,
AKATETHARA, PALAKKAD, PIN - 678008

BY ADVS.P.B.KRISHNAN, SENIOR ADVOCATE ALONG WITH M/S.P.B.SUBRAMANIAN,
SABU GEORGE, L.RAJESH NARAYAN MANU VYASAN PETER, B.ANUSREE, MEERA P.
AISWARYA MOHAN

This ICR in CRP having come up for orders on 24.09.2025, the court
on the same day passed the following;



C. R.

SATHISH NINAN,
C.S.DIAS &
C.S.SUDHA, JJ.

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Dated this the 24th day of September, 2025

O R D E R

Sathish Ninan, J.

“Whether the valuation for the purpose of payment of court fees under the Kerala Court Fees and Suits Valuation Act, 1959, is to determine the specified value of the property under Section 12(1)(c) of the Commercial Courts Act, 2015”; answer is sought on a reference by a Division Bench. In *Surendran v. Kunhimoosa (2021 SCC OnLine Ker 9808)* and *Hindusthan Petroleum Corporation Mumbai & Anr. v. Muhammed Illiyas & Ors. (2022 (6) KHC 68)* it was held that the valuation for the purpose of court fees under the Kerala Court Fees & Suits Valuation Act (for short “Court Fees Act”) shall follow suit as the valuation for the purpose of jurisdiction under the Commercial Courts Act (for short “CC Act”).

2. We had the advantage of the materials provided and the elaborate arguments of the learned counsel Sri.B.Krishnan and Sri.P.B.Subramanyan who appeared for the respective parties.

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3. The CC Act 2015 stipulates that all suits relating to a commercial dispute of a specified value is to be tried by a commercial court (vide Section 6). The object underlying the CC Act is, speedy resolution of commercial disputes. A suit, to be tried by a Commercial Court, has to satisfy the twin requirements of being a “commercial dispute” and of “specified value”. Section 6 of the CC Act reads thus: -

*“6. **Jurisdiction of commercial Court.**— The commercial Court shall have jurisdiction to try all suits and applications relating to a commercial dispute of a Specified Value arising out of the entire territory of the State over which it has been vested territorial jurisdiction.*

Explanation.— For the purposes of this section, a commercial dispute shall be considered to arise out of the entire territory of the State over which a Commercial Court has been vested jurisdiction, if the suit or application relating to such commercial dispute has been instituted as per the provisions of sections 16 to 20 of the Code of Civil Procedure, 1908 (5 of 1908).”

Section 2(1)(c) of the CC Act defines a commercial dispute thus:-

*“2. **Definitions.**— (1) In this Act, unless the context otherwise requires,—*

(a) xxxxx

(b) xxxxx

(c) “Commercial dispute” means a dispute arising out of—

(i) Ordinary transactions of merchants, bankers, financiers and traders such as those relating to mercantile documents, including enforcement and interpretation of such documents;

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- (ii) export or import of merchandise or services;*
- (iii) issues relating to admiralty and maritime law;*
- (iv) transactions relating to aircraft, aircraft engines, aircraft equipment and helicopters, including sales, leasing and financing of the same;*
- (v) carriage of goods;*
- (vi) construction and infrastructure contracts, including tenders;*
- (vii) agreements relating to immovable property used exclusively in trade or commerce;*
- (viii) franchising agreements;*
- (ix) distribution and licensing agreements;*
- (x) management and consultancy agreements;*
- (xi) joint venture agreements;*
- (xii) shareholders agreements;*
- (xiii) subscription and investment agreements pertaining to the services industry including outsourcing services and financial services;*
- (xiv) mercantile agency and mercantile usage;*
- (xv) partnership agreements;*
- (xvi) technology development agreements;*
- (xvii) intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;*
- (xviii) agreements for sale of goods or provision of services;*
- (xix) exploitation of oil and gas reserves or other natural resources including electromagnetic spectrum;*
- (xx) insurance and re-insurance;*
- (xxi) contracts of agency relating to any of the above; and*

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(xxii) such other commercial disputes as may be notified by the Central Government.

Explanation.—A commercial dispute shall not cease to be a commercial dispute merely because—

(a) it also involves action for recovery of immovable property or for realisation of monies out of immovable property given as security or involves any other relief pertaining to immovable property;

(b) one of the contracting parties is the State or any of its agencies or instrumentalities, or a private body carrying out public functions.”

Section 2(1)(i) of the CC Act defines “specified value”.

“(i) “Specified Value”, in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 which shall not be less than three lakh rupees or such higher value, as may be notified by the Central Government.”

“Specified value” is the value of the subject matter of the suit, determined in accordance with Section 12. The minimum threshold value should not be less than Rupees three lakh or such higher amount as may be notified by the Central Government. Evidently, the determination of the “specified value” is to be in accordance with Section 12. Section 12 of the CC Act reads thus: -

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“12. Determination of Specified Value.—*(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—*

(a) Where the relief sought in a suit or application is for recovery of money, the money sought to be recovered in the suit or application inclusive of interest, if any, computed up to the date of filing of the suit or application, as the case may be, shall be taken into account for determining such Specified Value;

(b) where the relief sought in a suit, appeal or application relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining such specified Value;

(c) where the relief sought in a suit, appeal or application relates to immovable property or to a right therein, the market value of the immovable property, as on the date of filing of the suit, appeal or application, as the case may be, shall be taken into account for determining Specified Value; and

(d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account determining Specified Value;

(2) The aggregate value of the claim and counter-claim, if any, as set out in the statement of claim and the counter-claim, if any, in an arbitration of a commercial dispute shall be the basis for determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or commercial Court, as the case may be.

(3) No appeal or civil revision application under section 115 of the Code of Civil Procedure, 1908 (5 of 1908), as the case may be, shall lie from an order of a Commercial division or commercial Court finding that it has jurisdiction to hear a commercial dispute under this Act. ”

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The Section provides the manner of determination of the “specified value” of the subject matter of the Commercial dispute.

4. Determination of the “specified value” of the subject matter of the suit is of significance. This is so since, as noticed, even if the dispute satisfies the definition of a commercial dispute under the CC Act, unless the value of the subject matter of the commercial dispute is of “specified value”, the suit will not fall within the jurisdiction of the commercial court. In such case, the suit will lie only before the ordinary civil court.

5. In *Surendran v. Kunhimoosa (supra)* and *Hindusthan Petroleum Corporation Mumbai & Anr. v. Muhammed Illiyas & Ors. (supra)*, a learned single Judge and a learned Division Bench of this Court adopted the view that, the valuation for the purpose of court fees would determine the valuation for the purpose of ascertaining the specified value under the CC Act; in other words, valuation for the purpose of court fees under the Court Fees is to be adopted as the “specified value” under the CC Act. Both judgments have placed reliance on the judgments of the High Court of Delhi in *Soni Dave v.*

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M/s Trans Asian Industries Expositions Private Limited (AIR 2016 Del 186) and that of the High Court of Karnataka in *Fine Footwear Private Limited v. Skechers USA Inc and Another (2019 SCC OnLine Kar 1024)*.

6. In *Soni Dave's case (supra)* it was held that Section 12 of the CC Act did not intend to provide separate modes for the determination of valuation of the suit for the purpose of jurisdiction and for the purpose of court fees. It was observed that adopting such an interpretation could lead to incongruity between the Court Fees Act and CC Act. It was held that Section 12 of the CC Act has to be read harmoniously with the Court Fees Act and that when the relief claimed relates to immovable property, the valuation reckoned for the purpose of court fees would be the "specified value" under the CC Act. It was observed that valuation based on the market value of the immovable property would be the "specified value" only in suits where the Court Fees Act provides for valuation based on market value. In essence, the court was of the opinion that valuation for the purpose of court fees under the Court Fees and Suit Valuation Act shall be the specified value under the CC Act.

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7. In *Fine Footwear's case (supra)*, the court held that what decides jurisdiction is, the nature of the claim brought. In a suit for injunction simplicitor, it is the value of the relief claimed, and not the value of the property, which determines jurisdiction. It was held that the proper method is to value the suit for the purpose of court fees first, and take that value for the purpose of jurisdiction. It was held that the value for the relief sought, determines the jurisdiction. The court explained that,

“Subject matter is not the same thing as property. Subject matter is the substance for adjudication and it has reference to the right which the plaintiff seek to enforce and the valuation of the suit depends upon the value of the subject matter...”

Surendran's case (supra) was a suit for mandatory injunction to direct the defendant to vacate the plaintiff schedule building and for damages for use and occupation. The court referred to Section 27(c) of the Court Fees Act which provide that, whether the subject matter of the suit has a market value or not, the fee is to be computed on the amount at which the relief sought is valued in the plaint. The court proceeded to observe: -

“..... In a suit for injunction simplicitor, it is the value of the relief claimed and not the value of the property involved that determines the jurisdiction. “Subject matter” is the substance for adjudication and has reference to the right which

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the plaintiff seeks to enforce and the valuation of the suit depends upon the value of the subject matter.”

The court concluded thus,

“..... In respect of suits where the valuation under the Court Fees Act is based on anything other than market value of the immovable property, the valuation under the Court Fees Act should be the basis for deciding the pecuniary jurisdiction.”

Hindusthan Petroleum Corporation's case (supra) was a suit by a landlord against the tenant for eviction, on termination of lease. Section 43 of the Court Fees Act provided the manner of determination of the court fee. Under the section, the valuation was to be on the immediately preceding year's rental value and not on the market value of the immovable property. The court adopted the view that, valuation for the purpose of court fee decides the specified value under the CC Act.

8. In the judgments referred to above, it has been first concluded that the “subject matter” of the suit is not the property, but it is the value of the right which the plaintiff seeks to enforce. A Full Bench of this Court in **Victoria v. Yesuraj Kumar and Ors. (2017 (5) KHC 319)** has elaborately discussed on the meaning of the term “subject matter” in the context of valuing a

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suit. It would suffice to refer to the same. The discussions read thus: -

“30. Before moving to resolve the issues raised, we shall interpret meaning of the term “subject matter”, which is relevant in this context. Black's law Dictionary (8th Edition) defines “subject matter” in the following terms :

“subject matter. The issue presented for consideration; the thing in which a right or duty has been asserted; the thing in dispute;”

The Law lexicon by Sri.P.Ramanatha Aiyar (2nd Edition) defines “subject matter” in the following words:

“subject-matter. The “subject-matter” involved in a litigation is the right which one party claims as against the other and demands the judgment of the Court upon it.

The matter in a dispute; matter presented for consideration (S. 18(1), Indian Evidence Act).

“SUBJECT-MATTER” is equivalent to the phrase “cause of action.”

The subject matter of a suit cannot be equated with the property in respect of which the parties quarrel. The term 'subject-matter' includes the cause of action also. (Civil Procedure Code O. 23 R.1)”

Whether a particular thing is the subject matter of a suit is primarily a question of fact depending upon the circumstances in each case. Even though a matter is not strictly the subject matter of a suit, it may relate to or have a reference to the suit and then it would form part of the consideration.

31. In Vallabh Das v. Madanlal (MANU/SC/0367/1970 : AIR 1970 SC 987), which was later followed by the Supreme Court in N.R. Narayan Swamy v. B. Francis Jagan (MANU/SC/0404/2001 : (2001) 6 SCC 473), the Apex Court held thus :

“..... The expression “subject matter” is not defined in the Civil Procedure Code. It does not mean property. That expression

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has a reference to a right in the property which the plaintiff seeks to enforce. That expression includes the cause of action and the relief claimed”

The Full Bench concluded thus:

“33. To sum up this point, we are of the clear view that subject matter of a suit is not the property in respect of which the suit is laid. It may be the cause of action in some cases. It may be the right which one party claims against the other, demanding a pronouncement by the court. In general, the expression has a reference to a right in the property, which the plaintiff seeks to enforce and, therefore it includes the cause of action and the relief claimed.”

Therefore, it is beyond cavil that the “subject matter” of a suit is not the property in respect of which the suit is laid; it refers to the right, the relief claimed, and even the cause of action.

9. Bearing the above in mind, we proceed to consider how the “specified value of the subject matter of the commercial dispute” is to be determined under the CC Act. As was noticed supra, Section 12 of the CC Act provides for the manner of determination of the specified value of the subject matter of the commercial dispute. The Section is to be understood bearing in mind that,

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the word “subject matter” occurring therein refers to, the right claimed. The Section says that the specified value of such right claimed in the commercial dispute is to be determined in the manner set forth in clauses (a), (b), (c), and (d) thereunder. Section 12(1) provides four classes or categories of properties; clause (a) relates to a claim for money, clause (b) relates to movable property, clause (c) relates to immovable property, and clause (d) relates to intangible rights. Noticeably, the classification is based on the nature of the property viz. money, movable property, immovable property and intangibles.

10. When the claim is for recovery of money, going by Section 12(1)(a), the money claimed, including the interest as on the date of filing of the suit, is to be the specified value. When the claim relates to movable property or to a right therein, the market value of the movable property as on the date of filing of the suit determines the specified value. Similarly, when the relief in the suit relates to an immovable property or of a right therein, the market value of the immovable property as on the date of the suit determines the specified value. The other classes of properties which are intangible and not covered by

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clauses 12(1) (a) to (c), fall within category - 4 under clause 12(1)(d), and their specified value is the market value of the intangible right claimed by the plaintiff. Evidently, it relates to intangible assets/property, the other classes of properties having been dealt with in the foregoing clauses. It is significant to note that the sub-clauses mention, “market value” when the claim relates to movables, immovables or intangibles.

11. It is also relevant to note that, under Section 12(1), it is the property in respect of which the suit is instituted which is given significance and not the relief claimed. Section 12(1)(c), with which we are primarily concerned, provides, “...where the reliefs sought in the suit relates to immovable property or to a right therein..”. Reference to the property is expressed in the broadest possible terms and takes within its sweep all suits relating to immovable property or to a right therein. There is no scope for any restriction based on the nature of the relief claimed. If the relief sought relates to immovable property or to a right therein, the market value of the property will determine the specified value of the subject matter of the commercial dispute. Such suits would include even a suit

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for injunction, around which the main argument centers. There is no warrant to exclude such relief from the scope of Section 12(1)(c) since the relief “relates to immovable property”. Identical is the wording in Section 12(1)(b) regarding “movable property”. The sub-clauses to section 12(1) are to be understood accordingly.

12. A perusal of the Court Fees Act indicates that it provides for computation of court fee based on the reliefs claimed in the suit and not on the nature of the property. With regard to movable property or immovable property there could be various reliefs. Under the Court Fees Act, valuation for the purpose of court fees is not on the basis whether it is movable property, immovable property or any other intangible property. It is based on the nature of the reliefs claimed. This is apparently at variance with the mode of determination of the value of the subject matter of a commercial dispute under the CC Act. However, such valuation under the CC Act is only for the purpose of determining the specified value and consequently, the valuation for the purpose of jurisdiction.

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13. The judgments referred to supra which have taken the view that valuation for the purpose of court fee shall be the specified value, have observed that any other interpretation would result in inconsistency/incongruity between the Courts Fees Act and CC Act with regard to the mode of valuation. However, to such apprehension, Section 53(1) of the Court Fees Act provides a complete answer. The section reads thus: -

“53. Suits not otherwise provided for.—(1) In a suit as to whose value for the purpose of determining the jurisdiction of Courts, specific provision is not otherwise made in this Act or in any other law, value for that purpose and value for the purpose of computing the fee payable under this Act shall be the same.”

Therein it has been explicitly stated that when a specific provision is not made in the Court Fees Act or in any other law, then, valuation for jurisdiction and valuation for court fee under the Court Fees Act shall be the same. If “any other law” provides mode for determining valuation for the purpose of jurisdiction, then that mode has to be adopted. The CC Act provides specific mode for determination of the value of the subject matter for the purpose of jurisdiction. The same has to prevail for valuation with regard to the jurisdiction, in other

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words, to determine the specified value. Of course, valuation for the purpose of court fees is to be as provided under the Court Fees Act. There is no inconsistency or incongruity in referring to CC Act for the purpose of valuation for jurisdiction and to the Court Fees Act for valuation for payment of court fee. The above is only in accordance with the express provision under Section 53(1) of the Court Fees Act.

14. In *Bharat Bhushan Gupta v. Pratap Narain Verma & anr.* [(2022) 8 SCC 333], the Apex Court held that it is the nature of the relief claimed in the plaint which is decisive of the valuation of the suit and not the market value. It was held, *"Such a proposition, for suit valuation on the market value of the property involved, irrespective of the nature of relief claimed, if accepted, would render the whole scheme of the Court Fees Act concerning suit valuation with reference to the nature of relief going haywire."* The Apex Court was considering the issue of valuation based on the provisions of the Court Fees Act. We have noticed that, regarding valuation, the scheme of the CC Act, unlike that of the Court Fees Act, is structured property-wise and not relief-wise.

15. For the reasons above, we are unable to concur with the view adopted in *Surendran's case* and *Hindusthan Petroleum Corporation's case*

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(*supra*) that, valuation under the Court Fees Act for the purpose of court fee determines the specified value under the CC Act.

Accordingly, the reference is answered holding that, to determine the specified value under Section 12(1)(c) of the CC Act, the valuation for the purpose of court fees under the Court Fees Act is not determinative, and that the valuation for ascertainment of the specified value is to be on the market value of the immovable property.



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P.S. To Judge