

Revisiting Small Cause Courts Act

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The Small Cause Courts Act 1887 was brought to regulate small issues and matters by the assigned courts. It is no doubt that the law was brought with the purpose of resolving disputes of small nature in a convenient manner. The first and foremost task is to determine matters considered ‘small causes’. Section 15 of the Act provides two-fold criteria in this respect. First, suits of civil nature in which the pecuniary value does not exceed twenty five thousand taka shall be cognizable by this court. However, the government may direct the court to take cognizance of any suit up to thirty thousand taka. Second, suits which are listed in the second schedule under the Act are exempted from the jurisdiction of the court even if value remains within the limit of pecuniary jurisdiction. The schedule encompassed forty four categories of issues to be excluded from the jurisdiction of this Court.

The higher threshold determined for the pecuniary jurisdiction under the Act is the substantial focus of the present writing. The writer opines that it is high time to revise and revisit this value in order to bring the Act within the pace of society and making it convenient for the common people. The Law Commission of Bangladesh made recommendations twice regarding this Act. In 2005, it proposed for increasing the pecuniary value. However, the Commission recommended repealing the Act in its 2018 recommendation.

Historically, the pecuniary ceiling had been revised from time to time. For instance, Rs. 500 was the highest cognizable value up to 1962 and maximised the said amount to 1,000 Rs which was again raised to taka 2500 by the Law Reforms Ordinance in 1978. In the year of 1983, the said amount was further increased to 12000 taka by Ordinance No. III. Finally, the last ever

amendment in raising the amount was made in 1990 which fixed 25000 taka to be cognizable by the Small Cause Courts. Conversely, the existing amount of 30000 taka was 15000 taka before 1990, 6000 taka before 1983 and 2000 taka before 1978. At first it was actually Rs 1000 and started amending in 1962 onwards.

The purpose of bringing this gradual change in the law was to highlight that the attempt was always there on the part of the law makers to bring the Act in line with the then societal requirements and levels. The existing amount was fixed almost thirty years back. The cardinal question is how far the amount settled in the said year is going to be relevant after nearly thirty years whereas the value of objects and materials in the society has been quadrupled or even much more. This is a reflection of how the jurisdictional access of the Small Cause Courts has been shrinking over the time.

In 2005, the Law Commission recommended to maximise the monetary value up to 60000 and 70000 taka which is currently 25000 and 30000 taka respectively. The author draws the attention of concerned authorities to put serious thought on the pecuniary value particularly what could be the amount suitable today considering the socio-economic status of the country reached nearly after thirty years.

At present, mostly suits under this Act are brought by the landlords related to non-payment of house rent. In its 2018 report, the Law Commission highlighted that due to absence of specific time limitation to resolve disputes, parties have been experiencing difficulties in continuing the suit. It has been revealed in the survey of the Commission that from 1st January 2008 till 31 December 2017, 4661 suits were instituted under the Act, 2597 suits were settled and 4317 suits were pending before the Small Cause Courts. Considering this number, author observes that the Act is still very much relevant and also updating the Act would be more viable option than repealing. The basic feature in terms of serving the purpose of any law is to update that piece of legislation as far the demands of time and with the flow of society. The present Act lacks this feature which is concerning. Thus, updating rather than repealing would be sustainable option.

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