

**Bill No. 123 of 2018**

**THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND  
COMMERCIAL APPELLATE DIVISION OF HIGH COURTS  
(AMENDMENT) BILL, 2018**

A

**BILL**

*to amend the Commercial Courts, Commercial Division and Commercial Appellate  
Division of High Courts Act, 2015.*

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as  
follows:—

**1.** (1) This Act may be called the Commercial Courts, Commercial Division and  
Commercial Appellate Division of High Courts (Amendment) Act, 2018.

5 (2) Save as otherwise provided, it shall be deemed to have come into force on the  
3rd day of May, 2018.

Short title  
and  
commence-  
ment.

Amendment of long title.	<b>2.</b> In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as the principal Act), in the long title, after the words "Commercial Courts", the words "Commercial Appellate Courts," shall be inserted.	4 of 2016.
Amendment of section 1.	<b>3.</b> In section 1 of the principal Act, for sub-section (I), the following sub-section shall be substituted, namely:—  "(I) This Act may be called the Commercial Courts Act, 2015."	5
Amendment of section 2.	<b>4.</b> In section 2 of the principal Act, in sub-section (I),—  (I) clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted, namely:—  '(a) "Commercial Appellate Courts" means the Commercial Appellate Courts designated under section 3A;';  (II) in clause (i), for the words "which shall not be less than one crore rupees", the words "which shall not be less than three lakh rupees" shall be substituted.	10
Substitution of Chapter heading.	<b>5.</b> In the principal Act, in Chapter II, for the Chapter heading, the following Chapter heading shall be substituted, namely:—  "COMMERCIAL COURTS, COMMERCIAL APPELLATE COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS".	15
Amendment of section 3.	<b>6.</b> In section 3 of the principal Act,—  (a) in sub-section (I), for the proviso, the following provisos shall be substituted, namely:—  "Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judge level:  Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary."  (b) after sub-section (I), the following sub-section shall be inserted, namely:—  "(IA) Notwithstanding anything contained in this Act, the State Government may, after consultation with the concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary."  (c) in sub-section(3),—  (i) for the words "State Government shall", the words "State Government may" shall be substituted;  (ii) for the words "Commercial Court, from amongst the cadre of Higher Judicial Service in the State", the following words shall be substituted, namely:—  "Commercial Court either at the level of District Judge or a court below the level of a District Judge."	20 25 30 35 40 45

7. After section 3 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 3A.

5 "3A. Except the territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act."

Designation of Commercial Appellate Courts.

10 8. In section 4 of the principal Act, in sub-section (1), for the words "ordinary civil jurisdiction", the words "ordinary original civil jurisdiction" shall be substituted.

Amendment of section 4.

9. Section 9 of the principal Act shall be omitted.

Omission of section 9.

10. In section 12 of the principal Act, in sub-section (1),—

Amendment of section 12.

(i) in clause (c), after the words "Specified Value;", the word "and" shall be inserted;

15 (ii) in clause (d), the word "and", occurring at the end, shall be omitted;

(iii) clause (e) shall be omitted.

11. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter IIIA.

### "CHAPTER IIIA

#### 20 PRE-INSTITUTION MEDIATION AND SETTLEMENT

12A. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

Pre-Institution Mediation and Settlement.

25 (2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre-institution mediation.

30 (3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):

Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:

35 Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

40 (5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996."

26 of 1996.

12. In section 13 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

Amendment of section 13.

"(I) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(IA) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order: 5

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996." 10  
5 of 1908.  
26 of 1996.

Amendment of section 14. **13.** In section 14 of the principal Act, for the words "Commercial Appellate Division", the words "Commercial Appellate Court and the Commercial Appellate Division" shall be substituted. 15

Amendment of section 15. **14.** In section 15 of the principal Act, in sub-section (4), for the words, figures and letter "with Order XIV-A", the words, figures and letter "with Order XV-A" shall be substituted.

Amendment of section 17. **15.** In section 17 of the principal Act, for the words "Commercial Courts" and "Commercial Court", wherever they occur, the words "Commercial Courts, Commercial Appellate Courts" shall be substituted. 20

Amendment of section 20. **16.** In section 20 of the principal Act, for the words "Commercial Court", the words "Commercial Courts, Commercial Appellate Courts" shall be substituted.

Insertion of new section 21A. **17.** After section 21 of the principal Act, the following section shall be inserted, namely:— 25

Power of Central Government to make rules. "21A. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or any of the following matters, namely:—

(a) the manner and procedure of pre-institution mediation under sub-section (1) of section 12A; 30

(b) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules made by the Central Government.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule." 35  
40

Amendment of Schedule. **18.** In the Schedule to the principal Act,— 45

(i) in Paragraph 4, in sub-paragraph (D), in item (iv),—

(a) in the opening portion, the words "after the first proviso," shall be omitted;

(b) for the words "Provided further that", the words "Provided that" shall be substituted;

(ii) in Paragraph 11, for the words "Commercial Court", the words "Commercial Court, Commercial Appellate Court" shall be substituted;

5 (iii) after Paragraph 11, the following shall be inserted and shall be deemed to have been inserted with effect from the 23rd October, 2015, namely:—

‘12. After Appendix H, the following Appendix shall be inserted, namely:—

“APPENDIX-I

10 STATEMENT OF TRUTH

(Under First Schedule, Order VI- Rule 15A and Order XI- Rule 3)

I ----- the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.

15 2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say that the statements made in -----paragraphs are true to my knowledge and statements made in -----paragraphs are based on information received which I believe to be correct and statements made in ---paragraphs are based on legal advice.

20 4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

25 5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the above-mentioned pleading comprises of a total of ---- pages, each of which has been duly signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

30 8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

35 VERIFICATION

I, ..... do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT".!

Application of provisions of this Act to cases filed on or after its commencement.  
Repeal and savings.

**19.** Save as otherwise provided, the provisions of this Act shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Act.

**20. (1)** The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 is hereby repealed.

5 Ordinance 3 of 2018.

(2) Notwithstanding the repeal of the said Ordinance, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under the corresponding provisions of this Act.

## STATEMENT OF OBJECTS AND REASONS

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 was enacted for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and for matters connected therewith or incidental thereto.

2. The global economic environment has since become increasingly competitive and to attract business at international level, India needs to further improve its ranking in the World Bank 'Doing Business Report' which, *inter alia*, considers the dispute resolution environment in the country as one of the parameters for doing business. Further, the tremendous economic development has ushered in enormous commercial activities in the country including foreign direct investments, public private partnership, etc., which has prompted initiating legislative measures for speedy settlement of commercial disputes, widen the scope of the courts to deal with commercial disputes and facilitate ease of doing business. Needless to say that early resolution of commercial disputes of even lesser value creates a positive image amongst the investors about the strong and responsive Indian legal system. It is, therefore, proposed to amend the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

3. As Parliament was not in session and immediate action was required to be taken to make necessary amendments in the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015, to further improve India's ranking in the 'Doing Business Report', the President promulgated the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018 on 3rd May, 2018.

4. It is proposed to introduce the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Bill, 2018 to replace the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018, which *inter alia*, provides for the following namely:—

(i) to reduce the specified value of commercial disputes from the existing one crore rupees to three lakh rupees, and to enable the parties to approach the lowest level of subordinate courts for speedy resolution of commercial disputes;

(ii) to enable the State Governments, with respect to the High Courts having ordinary original civil jurisdiction, to constitute commercial courts at District Judge level and to specify such pecuniary value of commercial disputes which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction of the district courts;

(iii) to enable the State Governments, except the territories over which the High Courts have ordinary original civil jurisdiction, to designate such number of Commercial Appellate Courts at district judge level to exercise the appellate jurisdiction over the commercial courts below the district judge level;

(iv) to enable the State Governments to specify such pecuniary value of a commercial dispute which shall not be less than three lakh rupees or such higher value, for the whole or part of the State; and

(v) to provide for compulsory mediation before institution of a suit, where no urgent interim relief is contemplated and for this purpose, to introduce the Pre-Institution Mediation and Settlement Mechanism and to enable the

Central Government to authorise the authorities constituted under the Legal Services Authorities Act, 1987 for this purpose.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;  
*The 17th July, 2018.*

RAVISHANKAR PRASAD.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill proposes to insert a new Chapter IIIA relating to Pre-Institution Mediation and Settlement. Sub-section (1) of proposed section 12A provides the manner and procedure for Pre-Institution mediation to be prescribed by the Central Government.

2. Clause 17 of the Bill proposes to insert a new section 21A, which relates to power of the Central Government to make rules and laying formula.

3. The matters in respect of which rules may be made under the aforesaid provisions are matters of procedure and administrative details and it is not practical to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL APPELLATE  
DIVISION OF HIGH COURTS ACT, 2015

(4 OF 2016)

An Act to provide for the constitution of Commercial Courts, Commercial Division and Commercial Appellate Division in the High Courts for adjudicating commercial disputes of specified value and matters connected therewith or incidental thereto.

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CHAPTER I

PRELIMINARY

Short title,  
extent and  
commencement.

**1.** (1) This Act may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

4 of 2016.

\* \* \* \* \*

Definitions.

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

(a) "Commercial Appellate Division" means the Commercial Appellate Division in a High Court constituted under sub-section (1) of section 5;

\* \* \* \* \*

(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 one crore rupees or such higher value, as may be notified by the Central Government.

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CHAPTER II

CONSTITUTION OF COMMERCIAL COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL  
APPELLATE DIVISIONS

Constitution  
of  
Commercial  
Courts.

**3.** (1) The State Government, may after consultation with the concerned High Court, by notification, constitute such number of Commercial Courts at District level, as it may deem necessary for the purpose of exercising the jurisdiction and powers conferred on those Courts under this Act:

Provided that no Commercial Court shall be constituted for the territory over which the High Court has ordinary original civil jurisdiction.

\* \* \* \* \*

(3) The State Government shall, with the concurrence of the Chief Justice of the High Court appoint one or more persons having experience in dealing with commercial disputes to be the Judge or Judges, of a Commercial Court, from amongst the cadre of Higher Judicial Service in the State.

Constitution  
of  
Commercial  
Division of  
High Court.

**4.** (1) In all High Courts, having ordinary civil jurisdiction, the Chief Justice of the High Court may, by order, constitute Commercial Division having one or more Benches consisting of a single Judge for the purpose of exercising the jurisdiction and powers conferred on it under this Act.

\* \* \* \* \*

5 of 1908.

9. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, in the event that a counterclaim filed in a suit before a civil court relating to a commercial dispute is of Specified Value, such suit shall be transferred by the civil court to the Commercial Division or Commercial Court, as the case may be, having territorial jurisdiction over such suit.

Transfer of suit if counterclaim in a commercial dispute is of Specified Value.

(2) In the event that such suit is not transferred in the manner contemplated in sub-section (1), the Commercial Appellate Division of the High Court exercising supervisory jurisdiction over the civil court in question may, on the application of any of the parties to the suit, withdraw such suit pending before the civil court and transfer the same for trial or disposal to the Commercial Court or Commercial Division or, as the case may be, having territorial jurisdiction over such suit, and such order of transfer shall be final and binding.

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CHAPTER III

SPECIFIED VALUE

12. (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:—

Determination of 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;

(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 for determining Specified Value; and

(e) where the counterclaim is raised in any suit, appeal or application, the value of the subject-matter of the commercial dispute in such counterclaim as on the date of the counterclaim shall be taken into account.

\* \* \* \* \*

CHAPTER IV

APPEAL

13. (1) Any person aggrieved by the decision of the Commercial Court or Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of judgement or order, as the case may be:

Appeals from decrees of Commercial Courts and Commercial Divisions.

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation, 1996.

\* \* \* \* \*

14. The Commercial Appellate Division shall endeavour to dispose of appeals filed before it within a period of six months from the date of filing of such appeal.

Expeditious disposal of appeals.

CHAPTER V

TRANSFER OF PENDING SUITS

15. (1) \* \* \* \* \*

Transfer of pending cases.

(4) The Commercial Division or Commercial Court, as the case may be, may hold case management hearings in respect of such transferred suit or application in order to prescribe new timelines or issue such further directions as may be necessary for a speedy and efficacious disposal of such suit or application in accordance with Order XIV-A of the Code of Civil Procedure, 1908:

5 of 1908.

Provided that the proviso to sub-rule (I) of Rule 1 of Order V of the Code of Civil Procedure, 1908 shall not apply to such transferred suit or application and the court may, in its discretion, prescribe a new time period within which the written statement shall be filed.

\* \* \* \* \*

CHAPTER VII

MISCELLANEOUS

Collection and disclosure of data by Commercial Courts, Commercial Divisions and Commercial Appellate Divisions.

**17.** The statistical data regarding the number of suits, applications, appeals or writ petitions filed before the Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, the pendency of such cases, the status of each case, and the number of cases disposed of, shall be maintained and updated every month by each Commercial Court, Commercial Division, Commercial Appellate Division and shall be published on the website of the relevant High Court.

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Training and continuous education.

**20.** The State Government may, in consultation with the High Court, establish necessary facilities providing for training of Judges who may be appointed to the Commercial Court, Commercial Division or the Commercial Appellate Division in a High Court.

\* \* \* \* \*

Amendment of First Schedule.

**4.** In the First Schedule to the Code,—

\* \* \* \* \*

(D) in Order VIII, —

\* \* \* \* \*

(iv) in Rule 10, after the first proviso, the following proviso shall be inserted, namely:—

Provided further that no Court shall make an order to extend the time provided under Rule 1 of this Order for filing of the written statement.

\* \* \* \* \*

Amendment of Order XX.

**11.** In Order XX of the Code, for Rule 1, the following Rule shall be substituted, namely:—

(I) The Commercial Court, Commercial Division or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.

LOK SABHA

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**BILL**

to amend the Commercial Courts, Commercial Division and Commercial Appellate  
Division of High Courts Act, 2015.

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*(Shri Ravi Shankar Prasad, Minister of Law and Justice and Electronics & IT)*