



**International Journal of Biology, Pharmacy
and Allied Sciences (IJBPAS)**

'A Bridge Between Laboratory and Reader'

www.jibpas.com

**ANALYSIS OF THE DISPUTE SETTLEMENT RULES IN THE JURISDICTION OF
ENFORCEMENT AUTHORITIES IN ACCORDANCE WITH THE LAWS OF IRAN**

MOHAMMAD BIRJANDI¹, AHMAD REZA BEHNIYANFAR²

1: Master of private law, Damghan Branch, Islamic Azad University, Damghan, Iran

2: Faculty Member of Islamic Azad University, Damghan Branch

ABSTRACT

Jurisdiction of the court, the dispute resolution rules in jurisdiction and bodies dealing with the dispute settlement have such an importance and sensitivity that gives them a unique position. Since, recognizing the jurisdiction or in jurisdiction of reference in any surveying into the case to which it is referred is duty of the reference, there is always a possibility that dispute in jurisdiction may occur among the authorities. The problem unusually prolongs the process of surveying and results in a waste of time and increased costs. Currently, frequent development and lack of a comprehensive view in developing legislations and regulations disrupts the order and established foundations without resolving the weaknesses and defects of the laws. Dispute settlement rules in the jurisdiction generally are vague, likely, inefficient and incomplete. Expediting the proceedings and lack of wasting time and cost which are the apparent point and feature of formal rules. This study tried to examine the effect of efficient rules in a dispute over jurisdiction and reducing sending to the competent authority to solve the problem. So, the basic concepts in this field which are not in law or it is not defined comprehensively, such as jurisdiction, dispute in jurisdiction, types of inherent, local, relative jurisdiction and positive or negative jurisdiction dispute.

Keywords: Jurisdiction, Relative Jurisdiction, Intrinsic Jurisdiction, Local Jurisdiction

INTRODUCTION

The dispute in the court jurisdiction is one of first chapter of Code of Civil Procedure of issues that is stated in the second chapter of Public and Revolutionary Court in civil

matters. To explain the dispute in jurisdiction of court in its technical and legal or judicial status, the jurisdiction of the courts' authorities must be recognized, because according to Article 159 of the constitution, jurisdiction of each of them is recognized [1, 2]. Diagnosis of jurisdiction in addressing the claims has three states. It is properly diagnosed, or incorrectly diagnosed or not diagnosed, that there is no debate on first case. But the latter case has two states: it may go beyond the scope of authority and violated the privacy of other competent authority or an authority doesn't fulfill its duties. The same case causes dispute and the third state, the issue of adjudication is violated.

If the reference authority accepts the jurisdiction, no dispute will occur, and the aforementioned authority is in charge of dealing and if he doesn't, there will be a dispute and the key to solve it will be sending the case to an ultimate authority to act as a dispute solvent and these all depends on whether the parties to the dispute are of the same category or territory that requires a different solvent authorities, however, the ultimate authority view is forcible for the inferior [3].

Jurisdiction and its variants

One of the main areas of civil procedure is the authority which is considered in Article 159

of the constitution. This principle states that "an official reference of grievances and complaints is the court, trial and determining they jurisdiction is subject to the rule of law." [4, 6]

According to the principle, jurisdiction to deal these claims in general is done by the Court of Justice, but determining the jurisdiction of any court is done by common law and any authority is obliged to act within the jurisdiction that the law provides for it. So, jurisdiction is credit, so that it considered an authority as competent at some point in time and determines the amount and scope of its authority that in another time, it may change into the next verdict.

Definition of jurisdiction

The jurisdiction is a court's competence to matters that can be addressed and in the territory that could address to [5]. Note: in the above definition, the word "duty" is used before the word "right", but it can be said that there is no obligation to exercise it unless the right is existed. In other words, the jurisdiction is a right that is created for an authority according to the law, then applying the right requires the presence of duty.

Types of jurisdiction

The jurisdiction has various types. To realize the existence of the types of jurisdiction,

different courts and their position and what it can deal with them should be considered.

However, jurisdiction is classified in three categories: inherent, relative and local will be discussed below.

Inherent jurisdiction

Inherent jurisdiction means the absolute jurisdiction of the court that has three determinant factors: class, type and degree. The purpose of the factor class is the division of the courts criminally and civically. This factor in inherent jurisdiction is due to the division of labor. By the factor of type, we mean whether the court is public or specific because some cases require special consideration [7].

But the factor degree is related to the fact whether the court is at lower rank or it is investigation. The purpose of this factor is to investigate one case two times.

Relative jurisdiction

Relative jurisdiction is the authority of a particular court to other particular court that is similar in terms of class, type and degree. In lawsuits, relative jurisdiction is determined according to the request and in criminal cases, according to the amount of punishment.

Currently, the relative jurisdiction is only expected between the Supreme Court and Court of Appeal. Thus, the sentence of imprisonment less than ten years can be

reconsidered in the appeals court, but the sentence more than ten years is reconsidered in the Supreme Court.

Local jurisdiction

References whose relative and inherent jurisdiction has been determined, in a particular territory called jurisdiction, are allowed to address the lawsuits and disputes raised in the same area. This type of jurisdiction which is determined according to the validity of a court settlement is called local jurisdiction.

Dispute in jurisdiction and how to solve it

The difference in jurisdiction is an important issue which is considered in the second quarter from the first chapter of the Civil Procedure Code. Determining the jurisdiction of a courts with that court, so if a reference has no proper diagnosis of the jurisdiction of authority in the investigation, it will be the starting point of a dispute and dispute in jurisdiction results in prorogation of procedure and delay of entitled access to his right. Analysis of differences in jurisdiction and also studying the types and ways of causing dispute are issues that should be carefully considered [2].

CONCLUSION

Jurisdiction dispute resolution is an important and sensitive issue in the society, because not specification of the competent authority for

consideration as soon as possible causes different authorities to avoid admission of lawsuit and not entering the substantive proceedings and perhaps this will lead to the fact that people fail to achieve their legal right on time and consequently, people will have a sense of injustice in society and distrust in the judiciary. So dispute resolution in jurisdiction is important and necessary and requires the involvement of a neutral higher authority. But due to the expansion and development of various authorities, probability of a dispute in jurisdiction exists among the authorities and it is increasing and on the other hand; there is only one Supreme Court for all the population and different authorities in the country.

REFERECES

- [1] Sdrzadh doctor Seyed Mohsen Afshar, civil procedure and commercial public and revolutionary courts, SID Publications, Tehran, 1380.
- [2] The doctor Syed Jalaluddin civil, civil procedure, the first volume, The Treasure of Knowledge, Tehran, 1372.
- [3] The doctor power Wahidi, civil procedure, three volumes, published rate, Tehran, 1378.
- [4] Doctor Abdullah Shams, Civil Procedure Code, Volume I, emission levels, Tehran, 1380.

- [5] The doctor Bahram Bahrami, civil procedure act applied, Behnam Publications, Tehran, 1379.
- [6] Doctor rare men, civil procedure, Jldavl, publishing of Justice, Tehran, 1380.
- [7] Doctor Ahmad Matin office, civil procedure and commercial, Volume I, published Majd, Tehran, 1378.