

Bill Summary

The Commercial Division of High Courts Bill, 2009

The Commercial Division of High Courts Bill, 2009 was introduced in the Lok Sabha on December 16, 2009 by the Minister of Law and Justice, Shri Veerappa Moily. The Bill was passed by the Lok Sabha on December 18, 2009 and is pending in the Rajya Sabha.

- The Bill seeks to allow a High Court to constitute a commercial division of that High Court for adjudicating commercial disputes. The Judges of the division shall be High Court judges nominated by the Chief Justice of the High Court.
- The Bill specifies the types of cases that can be allocated to the commercial division of a High Court. It includes all commercial disputes of specified value pending in the High Court and appeals against orders of subordinate courts, interlocutory applications, revision application all of which are of specified value. Commercial disputes pending in subordinate courts shall be transferred to the commercial division of the High Court having jurisdiction over such courts.
- A “commercial dispute” is defined as any dispute between merchants, bankers and traders over a transaction such as interpretation of documents, export or import of merchandise, carriage of goods, distribution and licensing agreements, intellectual property, and any dispute notified by the central government.
- The commercial division shall have jurisdiction over certain commercial disputes of specified value under the Arbitration and Conciliation Act, 1996.
- The Bill defines “specified value” as the value of the subject matter of the commercial dispute which is Rs 5 crore or above as notified by the central government.
- The Bill outlines the manner in which specified value of the subject matter of a commercial dispute shall be determined.
- If there is a dispute over whether a case is a commercial dispute case or not or there is dispute over the specified value, such cases shall be decided by the commercial division of the High Court in which the case is pending.
- The commercial division of a High Court shall follow the procedure specified in the Code of Civil Procedure, 1908 except in cases provided under the Act. But certain prescribed procedures have to be followed in every case such as filing documents, affidavits, requisite fee, and counter claims of defendants.
- The commercial division may appoint an advocate with 20 years or more experience at the Bar or a judicial officer in the rank of Senior Civil judge as Commissioner to record statements in cross-examination and re-examination of parties and witnesses.
- The commercial division shall pronounce judgment within 30 days of the conclusion of argument.
- A single judge sitting in the commercial division may hold case management conferences, fix a time schedule for finalization of issues, cross-examination of witnesses, filing of submissions, record of evidence of cross-examination. However, any objection as to the admissibility of any evidence shall be decided by the Bench of two judges sitting in the commercial division.
- All decrees of the commercial division can be appealed in the Supreme Court.

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