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Unit-2

Topic : Jurisdiction of the Supreme Court

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Unit-II Judicial System in India

Appeal in constitutional matters-

Article 132(1) of the Constitution an appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceedings, if the High Court certifies under Article 134-A that the case involves a substantial question of law as to interpretation of this Constitution.

Following conditions are necessary for the grant of certificate by High Court under Article 132(1):

- 1) The order appealed must be against a judgment, decree or final order passed by High Court in civil, criminal or other proceedings.
 - 2) Sufficient question of law must be involved as to interpretation of Constitution.
 - 3) If High Court grants certificate under Article 134-A it would be heard by the Supreme Court.
- ❖ The scope of words 'other proceedings' is very wide. It includes not only civil and criminal matters but also revenue proceedings. Therefore, proceedings conducted under the Sales Tax Act or the Income Tax etc. are also included in it.
 - ❖ If there is a difference of opinion in respect of any question of law among High Courts and there is no clear view of Supreme Court on that point then the question would be substantial question of law.
 - ❖ An appeal would lie to the Supreme Court from the decision of single judge. But it can be done only in exceptional cases where direct appeal to the Supreme Court is necessary.

Appeal in Civil Matters (Article 133)-

1. An appeal shall lie to the Supreme Court from any judgment, decree or final order in a civil proceeding of a High Court in the territory of India. If the High Court certifies under Article 134-A
 - a) That the case involves a substantial question of law of general importance; and
 - b) That in the opinion of the High Court the said question needs to be decided by the Supreme Court.
2. Article 132, any party appealing to the Supreme Court under clause (1) may urge as one of the grounds in such appeal that a substantial question of law as to the interpretation of this Constitution has been wrongly decided.
3. No appeal shall, unless Parliament by law otherwise provides, lie to the Supreme Court from the judgment, decree or final order of one judge of a High Court.

Civil Proceedings – The expression of “Civil Proceeding” means proceedings through which party asserts the existence of his civil rights. Through this proceeding a person seeks appropriate relief from the court of law. Civil rights are legal rights therefore they are enforceable by Law. A proceeding before High Court under Article 226 for a grant of writ constitutes a civil proceedings.

Appeal in Criminal Cases (Article 134)-

- 1) An appeal shall lie to the Supreme Court from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India if the High Court:
 - a) Has on appeal reversed and order of acquittal of an accused person and sentenced him to death; or
 - b) Has withdrawn for trial before itself any case from any court subordinate to its authority and has in such trial convicted the accused person and sentenced him to death; or
 - c) Certifies under Article 134-A that the case is a fit one for appeal to the Supreme Court:

An appeal under sub-clause © shall lie subject to such provisions as may be made in that behalf under clause (1) of Article 145 and to such conditions as the High Court may establish or require.

- 2) Parliament may by law confer on the Supreme Court any further powers to entertain and hear appeals from any judgment, final order or sentence in a criminal proceeding of a High Court in the territory of India subject to such conditions and limitations as may be specified in such law.

Thus according to Article 134 an appeal lies to the Supreme Court any judgment final order or sentence in a Criminal Proceeding of a High Court in the territory of India in the following two ways:

- i. Without certificate of High Court
- ii. With the certificate of High Court

Under Article 134(1)

The Supreme Court would entertain appeals from the High Court only on above mentioned principles. Article 134 provides limited criminal appellate jurisdiction to the Supreme Court.

Certificate for appeal to Supreme Court (Article 134-A)

Every High Court, passing or making a judgment, decree, final order or sentence referred to in clause(1) of Article 132 or clause (1) of Article 133 or clause (1) of Article 134

- a) May, if it deems fit so to do, on its own motion; and
- b) Shall, if an oral application is made, by or on behalf of the party aggrieved, immediately after the passing or making of such judgment, decree, final order or sentence.



Thank You