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Commercial courts in India: how they work and whether they have delivered

The Commercial Courts Act, 2015 promised faster business dispute resolution. A guide to its key features, including pre-institution mediation and case management.

The Commercial Courts Act, 2015 was India's attempt to create a fast lane for business disputes. Anyone advising a company on a contract dispute needs to know how it works.

What counts as a commercial dispute

The Act defines the term widely. It covers disputes arising from ordinary transactions of merchants, bankers and traders, construction and infrastructure contracts, joint venture and shareholder agreements, intellectual property, insurance, distribution and franchise agreements, and more. The dispute must be of a "specified value", which since 2018 is three lakh rupees or more.

The structure

- Commercial Courts at the district level.
- Commercial Divisions in High Courts that exercise ordinary original civil jurisdiction.
- Commercial Appellate Divisions to hear appeals.

What makes the procedure different

Pre-institution mediation. Under section 12A, a suit that does not seek urgent interim relief cannot be filed unless the plaintiff has first attempted mediation. The Supreme Court has held this requirement to be mandatory.

Strict timelines for pleadings. A written statement must be filed within 120 days of service of summons, after which the right is forfeited.

Disclosure and inspection. Parties must disclose all relevant documents at the start, with a statement of truth.

Case management hearings. The court fixes a timetable for the trial.

Summary judgment. A claim or defence with no real prospect of success can be decided without a full trial.

Costs. The general rule is that the unsuccessful party pays.

Has it delivered?

The design is sound, and where courts have applied it firmly, disputes have moved faster. The difficulties are practical:

- Many commercial courts also carry ordinary civil work.
- Vacancies and transfers interrupt part-heard trials.
- Pre-institution mediation is too often a formality.
- Case management timetables slip.
- Infrastructure and trained staff vary widely between States.

Getting the most from the Act

- Draft the plaint with complete disclosure. Late documents are hard to bring in.
- Prepare seriously for mediation. A real attempt can end the dispute in weeks.
- Consider summary judgment early where the defence is thin.
- Hold the other side to timelines.
- Brief clients on costs exposure.

The next step

Dedicated judges with commercial experience, stable tenures, proper facilities and published disposal data would allow the Act to do what Parliament intended. For investors watching India, a working commercial court is among the most persuasive facts the country can offer.

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