

Bengal, Agra and Assam Civil Courts (Jharkhand Ammendment) Act, 2018

(Act No. 09 of 2019)

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An Act to consolidate and amend the law relating to the Civil Courts in Bengal, (the North - Western Provinces and Assam).

Whereas it is expedient to consolidate and amend the law relating to civil Courts in Bengal, (the North-Western Provinces and Assam;) It is hereby enacted as follows:

CHAPTER I Preliminary

1. Title, extent and commencement. - (1) This Act may be called the Bengal, Agra and Assam Civil Courts(Jharkhand Ammendment) Act, 2018.

(2) It extends to territories (which were on the 11th March, 1887) respectively administered by the Lieutenant- Governor of Bengal, (the Lieutenant-Governor of the North -Western Provinces and the Chief Commissioner of Assam) except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Court. and

(3) It shall come into force on the first day of July 1887.

2. (1) [Repealed].

(2) All courts constituted, appointments, nominations, rules and orders made, jurisdictions and powers conferred, and lists published under the Bengal Civil Courts Acts, 1871 or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) Any enactment or document referring to the Bengal Civil Courts Acts, 1871, or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

CHAPTER II Constitution of Civil Courts

[3. Classes of Court. - There shall be the following classes of Civil Courts under this Act, namely: (1) the Court of the Principal District Judge; (2) the Court of the District judge; (3) the Court of the Civil Judge (Senior Division)

(4) the Court of the Civil Judge (Junior Division).]

4. Number of Principal District Judges, Civil Judge (Senior Division) and Civil Judge (Junior Division). - The (State) Government may alter the number of Principal District judges, Civil Judge (Senior Division) and Civil Judge (Junior Division)s now fixed).

5. [Repealed]

6. Vacancies among District or Civil Judge (Senior Division). - (1) whenever the office of a Principal District Judge or Civil Judge (Senior Division) is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever an (an increase in the number of District or Civil Judge (Senior Division) has been made under the provisions of Section 4), the (State) Government, or as the case may be, the High Court may fill up the vacancy or appoint the District Judge or Civil Judge

(Senior Division).

(2) Nothing in this section shall be construed to prevent a State Government from appointing a Principal District Judge or Civil Judge (Senior Division) to discharge for such Principal District Judge or Civil Judge (Senior Division), all or any of the functions of another Principal District Judge or Civil Judge (Senior Division), as the case may be.

7. [Repealed].

8. District Judges. - (1) When the business pending before any Principal District Judge requires the aid of District Judges for its speedy disposal, the (State) Government may (having consulted) with the High Court, appoint such District judges as may be requisite.

(2) District Judges so appointed shall discharge any of the functions of a Principal District Judge which the Principal District Judge may assign to them, and in the discharge of those functions they shall exercise the same powers as the Principal District judge.

9. Administrative control of Courts. - Subject to the Superintendence of the High Court the Principal District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

10. Temporary charge of District Courts. - (1) In the event of the death, resignation or the removal of the Principal District Judge, or of his being incapacitated; by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge, or, if an District Judge is not present at that place, the senior Civil Judge (Senior Division) present thereat, shall, without relinquishing his ordinary duties, assume charge of the o f f i c e of the Principal District Judge, and shall continue in-charge there of until the office is resumed by the Principal District Judge or assumed by an officer appointed thereto.

(2) While in charge of the office of the Principal District Judge, the District Judge or Civil Judge (Senior Division), as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the Principal District Judge.

11. Transfer of proceedings on vacation of office of Civil Judge (Senior Division). - (1) In the event of the death, resignation or removal of a Civil Judge (Senior Division). or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the Principal District judge may , transfer all or any of the proceedings pending in the Court of the Civil Judge (Senior Division), either to his own Court or to any Court under his administrative control competent to dispose them of.

(2) Proceedings transferred under sub-Section (1) shall be disposed of as if they had been instituted in the Court to which they are so transferred.

(3) Provided that the Principal District Judge may re- transfer to the Court of the Civil Judge (Senior Division) or his successors any proceedings transferred under Sub-section. (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the court of the Civil Judge (Senior Division) on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the Principal District judge may exercise all or any of the jurisdictions of that Court.

12. [Repealed].

13. Power to fix local limits of jurisdiction of Courts. - (1) The State Government may, by notification in the official Gazette, fix and alter the local limits of the jurisdiction of any Civil Court under this Act.

(2) If the same local jurisdiction is assigned to two or more Civil Judge (Senior Division) or to two or more Civil Judge (Junior Division)s, the Principal District Judge may assign to each of them such civil business cognizable by the Civil Judge (Senior Division) or Civil Judge (Junior Division) as the case may be, as subject to any general or special order of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the Principal District Judge under sub-Section (2), to one of two or more Civil Judge (Senior Division) or to one of two or more Civil Judge (Junior Division), a decree or order passed by the Civil Judge (Senior Division) or Civil Judge (Junior Division) shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the (State) Government under sub- Section (1).

(4) A Judge of a Court of Small Causes appointed be also Civil Judge (Senior Division) or Civil Judge (Junior Division) is a Civil Judge (Senior Division) or Civil Judge (Junior Division), as the case may be, within the meaning of this section.

(5) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

14. Place of sitting of Courts. - (1) The State Government may, by notification in the Official Gazette, fix or alter the place or places, at which any Civil Court under this Act is to be held.

(2) All places at which any such courts are now held shall be deemed to have been fixed under this section.

15. Vacations of Courts. - (1) Subject to such orders as may be made by the State Government the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

(2) The list shall be published in the official Gazette.

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

16. Seal of Court. - Every Civil courts under this Act shall use a seal of such form and dimensions as are prescribed by the (State) Government.

17. Continuance of proceedings of Courts ceasing to have jurisdiction. - (1) Where any Civil Court under this Act has for any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that court had not ceased to have jurisdiction, might have been, had therein may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made (in Sections. 36, 37 and 114 of, and Rule. 1 of Order XLVII to Schedule 1 to the Code of Civil procedure, 1908) or in any other enactment for the time being in force.

CHAPTER III **Ordinary jurisdiction**

18. Extent of original jurisdiction of District or Civil Judge (Senior Division). - Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a Principal District Judge or Civil Judge (Senior Division) extends, subject to the provisions of Section 15 of the Code of Civil Procedure, [1908] to all original suits for the time being cognizable by civil courts.

19. Extent of jurisdiction of Civil Judge (Junior Division). - (1) Save as aforesaid, and subject to the provision of sub- Section (2), the jurisdiction of a Civil Judge (Junior Division) extends to all like suits of which the value does not exceed five lakh's rupees 1.

(2) The State Government may, on the recommendation of the High Court, direct, by notification in the official Gazette, with respect to any Civil Judge (Junior Division) named therein, that his jurisdiction shall extend to all like suits of such value not exceeding [seven lakh's rupees] as may be specified in the notification.

(Provided that the State Government may, by notification in the official Gazette, delegate to the High Court its power under this section).

20. Appeals from District and Additional Judge. - (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a district Judge or an District Judge shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an District Judge in any case in which, if the decree or order had been made by the Principal District Judge, an appeal would not lie to that Court.

21. Appeals from Civil Judge (Senior Division) and Civil Judge (Junior Division). - (1) Save as afore said, an appeal from a decree or order of a Civil Judge (Senior Division) shall lie-

(a) to the district Judge where the value of the original suit in which or in any proceeding arising out of which the decree or order was made was less than [twenty five lakh's rupees] and

(b) to the High Court in any other case.

(2) Save as aforesaid, an appeal from a decree or order of a Civil Judge (Junior Division) shall lie to the district Judge.

Provided that the High Court may at any time decide/direct that any Appeal of class or group of Appeals filed before it at any time, shall be transferred to Principal District Judge or District Judge, and on such decision being taken or order being passed by the High Court, such Appeal or class or group of Appeals shall so stand transferred to such a transferee court which shall hear and dispose of such an Appeal or class or group of Appeals, as if, the same had been filed before it under clause (a)

(3) Where the function of receiving any appeals which lie to the Principal District Judge under sub-Section (1) or sub-Section . (2) has been assigned to District Judge, the appeals may be preferred to the District judge.

(4) The High Court may, with the previous sanction of the (State) Government, direct, by notification in the official Gazette, that appeals lying to the Principal District judge under sub-Section (2) from all or any of the decrees or orders of any Civil Judge (Junior Division) shall be preferred to the Court of such Civil Judge (Senior Division) as may be mentioned in the notification, and the appeals shall thereupon be

CHAPTER IV **Special jurisdiction**

22. Power to transfer to Civil Judge (Senior Division), appeals from Civil Judge (Junior Division)s. - (1) A Principal District Judge may transfer to any Civil Judge (Senior Division) Under his administrative control any appeals pending before him from the decrees or orders of Civil Judge (Junior Division)s.

(2) The Principal district Judge may withdraw any appeal so transferred and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the Principal District Judge.

23. Exercise by Civil Judge (Senior Division) or Civil Judge (Junior Division) of jurisdiction of District

Court in certain proceedings. - (1) The High Court may, by general or special order, authorize any Civil Judge (Senior Division) or Civil Judge (Junior Division) to take Cognizance of, or any Principal District judge to transfer to a Civil Judge (Senior Division) or Civil Judge (Junior Division) under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The Proceedings referred to in sub-Section (1) are the following, namely:

(a) Proceedings under Bengal Regulation 5, 1799 (to limit the interference of the Zila and City Courts of Diwani Adalat in the Execution of wills and administrations to the estates of persons dying intestate).

(b) [Repealed].

(c) [Repealed]

(d) Proceedings under the Indian Succession Act, 1925 which cannot be disposed of by District Delegates; and

(e) [Repealed].

(3) The Principal District Judge may withdraw any such proceeding taken cognizance of by, or transferred to, a Civil Judge (Senior Division) or Civil Judge (Junior Division), and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

24. Disposal of proceedings referred to in last foregoing section. - (1) Proceedings taken cognizance of by, or transferred to a Civil Judge (Senior Division) or Civil Judge (Junior Division), as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the Principal District Judge:

Provided that an appeal from an order of a Civil Judge (Junior Division) in any such proceedings shall lie to the Principal District Judge:

(2) An appeal from the order of the Principal District Judge on the appeal from the order of the Civil Judge (Junior Division) under this section shall lie to the High Court if a further appeal from the order of the Principal District Judge is allowed by the law for the time being in force.

25. Power to invest Civil Judge (Senior Division) and Civil Judge (Junior Division) with Small Causes Court jurisdiction. - The (State) Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any Civil Judge (Senior Division) or Civil Judge (Junior Division) the jurisdiction of a Judge of a Court of small Causes under the Provincial Small Cause Courts Act, 1887 for the trial of suits cognizable by such Courts up to such value not exceeding (one thousand and five hundred rupees) in the case of a Civil Judge (Senior Division) or (one thousand rupees) in the case of a Civil Judge (Junior Division) as it thinks fit, and may withdraw any jurisdiction so conferred;

Provided that the (State) Government may by notification in the official Gazette delegate to the High Court its powers under this section.

CHAPTERS V

Misfeasance

26. [Repealed]

27. [Repealed]

28. [Repealed]

29. [Repealed]

CHAPTERS VI Ministerial Officers

30. [Repealed]

31. [Repealed]

32. [Repealed]

33. [Repealed]

34. [Repealed]

35. [Repealed]

CHAPTER VII Supplemental provisions

36. Power to confer powers of Civil Courts on officers. - (1) The (State) Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office-

(a) any officer in the Chotanagpur, (Sambalpur), (Jalpaiguri of Darjeeling District), (or in any part of the territories administered by the Chief Commissioner of Assam, except the district of Sylhet) or

(b) After consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the State Government.

(2) Nothing in (Sections 4, 5,6,8,10 or 11) applies to any officer so invested, but all the other provisions of this Act, shall so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where in the territories mentioned in Clause (a) of sub-Section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a Civil Judge (Junior Division) the officers invested with the powers of a Principal District Judge may, with the previous sanction of the State Government, delegate his functions under sub-Section. (2) of Section 13 to the officer invested with the powers of a Civil Judge (Senior Division) or to one of the officers invested with the powers of a Civil Judge (Junior Division).

(4) Where the place at which the Court of an officer invested with powers under sub-Section (1) is to be held has not been fixed under Section 14 , the Court may be held at any place within the local limits of its jurisdiction.

37. Certain decisions to be according to law. - (1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan Law in cases where the parties are Muhammadans, and the Hindu Law in cases where the parties are Hindus shall form the rule of decision except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for in sub-Section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and goods conscience.

38. Judges not to try suits in which they are interested. - (1) The presiding officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested.

(2) The presiding officer of an Appellate Civil Court under this Act, shall not try an appeal against a decree or order passed by himself in another capacity.

(3) When any such suit, proceeding or appeal as is referred to in sub-Section (1) or sub - Section (2) , comes before any such officer, the officer shall forthwith transmit the record of the case to the Court to which he is immediately subordinate with a report of the circumstances attending the reference.

(4) The superior Court shall thereupon dispose of the case under Section 24 of the Code of Civil Procedure, 1908.

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

39. Subordination of Courts to District Court. - For the purpose of the last foregoing section, the presiding officer of a Court subject to the administrative control of the Principal District Judge shall be deemed to be immediately subordinate to the Court of the District and for the purpose of the Code of Civil Procedure, 1908 the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the Principal District Judge.

40. Application of Act to State Courts of Small Causes. - (1) This section, and Sections. 15, 32 , 37, 38 and 39 apply to Court of Small Causes constituted under the Provincial Small Causes Courts Act, 1887.

(2) Save as provided by that Act, the other sections of this Act do not apply to those Courts.

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