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The Orissa Civil Courts Act, 1984

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For Statement of Objects and Reasons see Orissa Gazette, Extraordinary No. 298/5.3.1984.

An Act to consolidate and amend the law relating to Civil Courts in Orissa.

Be it enacted by the Legislature of the State of Orissa in the Thirty-fifth year of the Republic of India, as follows :

1. Short title, extent and commencement. - (1) This Act may be called the Orissa Civil Courts Act, 1984.

(2) It extends to the whole of the State of Orissa.

(3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. Classes of Civil Courts. - (1) There shall be the following classes of Civil Courts under this Act, namely:-

(a) The Court of the District Judge which shall include the Court of the Additional District Judge;

1[(b) The Court of the Civil Judge (Senior Division) which shall include the Court of the Additional Civil Judge (Senior Division) and;

(c) The Court of Civil Judge (Junior Division) which shall include the Court of Additional Civil Judge (Junior Division).]

(2) The Court of the District Judge shall be the principal Court of original civil jurisdiction in the district.

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

Explanation - For the purposes of this sub-section the expression "District Judge" shall not include an Additional District Judge.

3. Number of Courts. - The State Government may, from time to time, on the recommendation of the High Court, determine the number of Courts of District Judges, Additional District Judges, ¹[Civil Judge, (Senior Division)]

4. Vacancies in the offices of District Judge and [Civil Judge (Senior Division)]. - (1) Whenever the office of the District Judge or of the ¹[Civil Judge (Senior Division)] is vacant by reason of death, resignation or removal of the Judge, or due to any other reason, or whenever an increase in the number of Courts of District or ¹[Civil Judge, (Senior Division)] has been made under the provisions of Section 3, the vacancy may be filled up by appointment, in the case of a District Judge, by the Governor in consultation with the High Court and in the case of a ¹[Civil Judge, (Senior Division)] by the High Court.

(2) The High Court may appoint a District Judge or a ¹[Civil Judge, (Senior Division)] to discharge, for such period as it thinks fit, in addition to the functions devolving on him as such District Judge of [(Civil Judge, (Senior Division)] all or any of the functions of another District Judge or ¹[Civil Judge, (Senior Division)], as the case may be.

5. Additional Judge. - (1) Whenever the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Governor may, after consultation with the High Court, appoint such number of Additional Judges as may be necessary.

(2) The Additional Judges so appointed shall, subject to the general or special order of the High Court, discharge all or any of the functions of the District Judge as are assigned to them either under this Act or under any other law for the time being in force and in discharge of such functions they shall exercise the same powers as a District Judge.

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

7. Temporary charge of District Courts. - (1) In the event of the death, resignation, removal or transfer of a 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 and unless any other arrangement has been made by the High Court, the Additional District Judge or if an Additional District Judge is not present at that place, the senior-most judicial officer exercising civil power present and available thereat, shall, without re-

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

linquishing his, ordinary duties, assume charge of the office of the District Judge and shall continue in charge thereof, until the office is resumed by the District Judge, or assumed by an officer appointed thereto-

(2) While in charge of the office of the District Judge or the Additional District Judge or the senior-most judicial officer exercising civil powers as the case may be, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

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

Provided that the District Judge may transfer to the Court of the ¹[Civil Judge, (Senior Division)] or his successor any proceedings transferred to his or any other Court :

Provided further that in respect of proceedings not pending in the Court of ¹[Civil Judge, (Senior Division)] on the occurrence of an event referred to above and with respect to which the ¹[Civil Judge, (Senior Division)] has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

(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) The provisions contained in Sub-sections (1) and (2) shall mutatis mutandis, apply to proceedings pending in the Court of a ¹[Civil Judge, (Junior Division).]

9. Power to fix local limits of jurisdiction of Courts. - (1) The State Government, may in consultation with the High Court and by notification, fix and alter the local limits of the jurisdiction of any Civil Court established under this Act.

(2) If the same local jurisdiction is assigned to two or more ¹[Civil Judge, (Senior Division)] or two or more ¹[Civil Judge, (Junior Division)] the District Judge may, subject to any general or special orders of the High Court, assign to each at them such civil business cognizable by the ¹[Civil Judge, (Senior Divi-

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sion)] or ¹[Civil Judge, (Junior Division)], as the case may be, as he thinks fit

Provided that a decree or order passed by the ¹[Civil Judge, (Senior Division))] or ¹[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 of which the civil business is assigned by the District Judge, if the place is within the local limits fixed by the State Government under Sub-section (1).

(3) A Judge of a Court of Small Causes appointed to be also a ¹[Civil Judge, (Senior Division)] or [Civil Judge, (Junior Division)] shall be deemed to be a ¹[Civil Judge, (Senior Division)] or [Civil Judge, (Junior Division)] as the case may be, for the purposes of this section.

10. Place of sitting of Courts. - The State Government may, in consultation with the High Court and by notification, fix and alter the place of sitting at any Civil Court established under this Act.

11. Holidays and vacations. - (1) The Civil Courts in the State shall remain closed such days as the High Court, in consultation with the State Government, notifies in the official Gazette for the whole of the State or for any local area.

(2) The Civil Courts shall have three vacations each year viz., Summer, Dasera and winter and the total period of the three vacations inclusive of Sundays and other holidays falling within them shall not exceed sixty days and the High Court shall fix the period of each vacation.

(3) Notwithstanding anything contained in this Act at in the Code of Civil Procedure, 1908 (5 of 1908) the High Court may, by general or special order, make such arrangement as it deems fit for the disposal of urgent matters arising during the vacations.

(4) The jurisdiction of the Vacation Judge shall extend to such matters as the High Court may, by order, determine.

(5) Notwithstanding any arrangement made under Sub-section (3) or Sub-section (4) all the Civil Courts shall, for the purpose of Limitation Act, 1963 (36 of 1963) be deemed to be closed during the three vacations.

(6) A judicial act done by a Civil Court on a holiday notified as such shall not be invalid by reason only of its having been done on such holiday unless it has caused prejudice to any party.

12. Seals of Courts. - Every Civil Court established under this Act shall use a seal of such form and dimensions as are prescribed by the High Court.

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

13. Continuance of proceedings of Courts ceasing to have jurisdiction. - (1) Where any Civil Court established under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceedings 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 :

Provided that if such proceeding relates to a part-heard case it shall continue in the file of the Court ceasing to have jurisdiction up to the stage of delivery of the judgement.

(2) Nothing in this section shall apply to cases for which provision is made in Sections 36, 37 and 114, and Rule 1 of Order XLVII in Schedule I to the Code of Civil Procedure, 1908 (5 of 1908) or in any other enactment for the time being in force.

14. 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 District Judge or 1[Civil Judge, (Senior Division)] extends subject to the provisions of Section 15 of the Code of Civil Procedure, 1908 (5 of 1908) to all original suits for the time being cognizable by Civil Courts.

15. Extent of jurisdiction of [Civil Judge (Junior Division)]. - Save as aforesaid, the jurisdiction of a [Civil Judge (Junior Division)] extends to all like suits of which the value does not exceed four thousand rupees.

(2) The High Court may, by notification, with respect to any [Civil Judge (Junior Division)] named therein, direct that his jurisdiction shall extend to all like suits of such value not exceeding ten thousand rupees as may be specified in the notification.

16. Appeals. - (1) Save as otherwise provided by any enactment for the time being in force,-

- (a) an appeal from a decree or order of a District Judge or Additional District Judge shall lie to the High Court ;
- (b) an appeal shall not lie to the High Court from a decree or order of an Additional District Judge in any case, in which if the same had been made by the District Judge and appeal Would not lie to the High Court.

(2) Save as aforesaid, an appeal from the decree or order of a [Civil Judge (Senior Division)] shall lie-

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

- (a) to a 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, did not exceed [one lakh rupees] ; and
- (b) to the High Court, in any other case.

(3) Save as aforesaid, an appeal from the decree or order of a ¹[Civil Judge, (Junior Division)] shall lie to the District Judge.

(4) Where the function of receiving any appeals which lie to the District Judge under Sub-section (2) or Sub-section (3) has been assigned to an Additional District Judge, the appeals may be preferred in the Court of such Additional District Judge.

(5) The High Court may, by notification, direct that any or all appeals referred to in Sub-section (3) shall be preferred in the Court of any ¹[Civil Judge (Senior Division)] mentioned in the notification, and the appeals shall thereupon, be preferred accordingly.

17. Power to transfer to [Civil Judge (Senior Division)] appeals from ¹[Civil Judge, (Junior Division)]. - (1) Any appeal pending before a District Judge from the decree or order of a [Civil Judge (Junior Division)] may be transferred by the District Judge to any [Civil Judge (Senior Division)] under his administrative control.

(2) The 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 District Judge.

18. Proceedings under Indian Succession Act, 1925. - (1) The High Court may, by general or special order, authorise any [Civil Judge (Senior Division)] to take cognizance of or any District Judge to transfer to a [Civil Judge (Senior Division)] under his administrative control, any proceedings or class of proceedings under the Indian Succession Act, 1925 (39 of 1925) which cannot be disposed of by a District Delegate.

Explanation - "District Delegate" means a District Delegate within the meaning of Section 265 of the Indian Succession Act, 1925 (39 of 1925).

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

(2) The District Judge may withdraw any proceedings referred to in Sub-section (1) to his own file and may dispose of them himself or may transfer them to a competent Court under his administrative control.

(3) Proceedings taken cognizance of by or transferred to a Civil Judge (Senior Divisions) shall be disposed of by him according to the rules applicable to like proceedings when dealt with by the District Judge.

19. Conferring jurisdiction under Small Cause Courts Act. - The High Court may by notification, confer, within such local limits as it thinks, fit upon any ¹[Civil Judge (Senior Division)] or ¹[Civil Judge (Junior Division)] the jurisdiction to try suits under the Provincial Small Cause Courts Act, 1887 (9 of 1887) up to such amount as it may deem proper but not exceeding in the case of a ¹[Civil Judge (Senior Division)], the value of two thousand and five hundred rupees and in the case of a ¹[Civil Judge (Junior Division)] one thousand rupees.

20. Investing ¹[Civil Judge (Senior Division)] with powers under certain Acts. - (1) The High Court may, by notification, invest any ¹[Civil Judge (Senior Division)] within such local limits and subject to such pecuniary limitations as it may deem fit, with all or any of the powers of a District Judge under any of the following Acts, namely :

- (i) Indian Divorce Act, 1869 (4 of 1869);
- (ii) The Guardians and Wards Act, 1890 (8 of 1890);
- (iii) The Hindu Minority and Guardianship Act, 1956 (32 of 1956); and
- (iv) The Indian Lunacy Act, 1912 (4 of 1912).

(2) An appeal against every order made by [Civil Judge (Senior Division)] by virtue of the powers conferred upon him under Sub-section (1) shall lie to-

- (i) the District Court when the amount or value of the subject matter is less than twenty-five thousand rupees; and
- (ii) the High Court in other cases.

(3) An appeal against every order of the District Judge passed in an appeal under Sub-section (2) shall lie to the High Court under the rules con-

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993

tained in the Code of Civil Procedure, 1908 (5 of 1908) applicable to appeals from appellate decrees.

21. Powers of Civil Courts to other officers. - (1) The State Government may, after consultation with the High Court, invest any officer with the powers of any Civil Court under this Act by name or by virtue of office.

(2) Where the place at which the Court of such officer invested with powers under Sub-section (1) is to be held has not been fixed under Section 10, he may hold Court at any place within the local limits of his jurisdiction.

(3) Nothing in Sections 3, 4, 5, 7 or 8 shall apply to such officer, but all 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.

22. Rule of decisions. - (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 personal law of the parties, be they Hindus or Mohammedans, as the case may be, 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 by Sub-section (1) or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

23. Judge not to try suits in which he is personally 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 Court under this Act shall not hear 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 (2) comes before any such officer, he 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 of 1908).

1. Substituted vide O.G.E. No 1647, dt. 21.12.1993