

THE OUDH CIVIL COURTS ACT, 1879.

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ACT No. XIII OF 1879.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.
(Received the assent of the Governor General on the 30th July,
1879).

An Act to amend the law relating to Civil Courts
in Oudh.

WHEREAS it is expedient to amend the law relating Preamble.
to Civil Courts in Oudh; It is hereby enacted as
follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Oudh Civil Courts Short title.
Act, 1879":

It extends to all the territories for the time being Local extent.
administered by the Chief Commissioner of Oudh;
and it shall come into force on the first day of August, Commence-
1879. ment.

2. On and from that day the Acts mentioned in Repeal of
the schedule hereto annexed shall be repealed to the enactments.
extent specified in the third column thereof.

3. In this Act, "district" means the area com- "District"
prised in the local limits of the jurisdiction of the defined.
District Judge.

CHAPTER II.

CONSTITUTION OF COURTS.

4. Besides the Courts established under any other Grades of
enactment for the time being in force, there shall be Courts.
four grades of Civil Courts in Oudh (namely):—

- (1) the Court of the Munsif;
- (2) the Court of the Subordinate Judge;
- (3) the Court of the District Judge;
- (4) the Court of the Judicial Commissioner.

5. The

Number of
Judges.

5. The number of District Judges, Subordinate Judges and Munsifs to be appointed under this Act shall be fixed, and may from time to time be altered, by the Local Government.

Appointment
of officers
under Act.

6. The Judicial Commissioner shall be appointed by the Local Government, with the previous sanction of the Governor General in Council.

The District Judges, Subordinate Judges and Munsifs shall be appointed by the Local Government :

Provided that the Judicial Commissioner holding office under the Oudh Civil Courts Act, 1871, at the time this Act comes into force, shall be deemed to have been appointed under this Act.

Additional
Judges.

7. When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the Local Government may, upon the recommendation of the Judicial Commissioner, and with the previous sanction of the Governor General in Council, appoint such Additional Judges as may be requisite.

Such Additional Judges shall perform any of the duties of a Judge under chapter III of this Act that the District Judge may, with the sanction of the Judicial Commissioner, assign to them; and in the performance of such duties they shall exercise the same powers as the District Judge.

Temporary
charge of
office of Dis-
trict Judge.

8. In the event of the death 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 station at which his Court is held, the Additional Judge, or, if there is no Additional Judge attached to such Court, the Subordinate Judge holding his court at the same place, shall, without relinquishing his ordinary duties, assume charge of the Judge's office at such station ;

and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the issue of processes and the like functions ;

and shall continue in charge of the office until it is resumed by the District Judge, or assumed by an officer duly appointed thereto.

9. In the event of the death of a Subordinate Judge, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence on leave, when no person is appointed to act for him, the District Judge may transfer all or any of the proceedings pending in the Court of such Subordinate Judge either to his own Court or to the Court of a Subordinate Judge (if any) under his control.

Transfer of proceedings on death, &c., of Subordinate Judge.

All proceedings transferred under this section shall be disposed of as if they had been instituted in the Court to which they are so transferred.

10. The Court of the District Judge shall be deemed to be the principal Civil Court of original jurisdiction in the district over which his jurisdiction extends.

Principal Civil Court of original jurisdiction.

The control over all the Civil Courts in such district is invested in the said District Judge, but subject to the general control of the Judicial Commissioner.

Control over Civil Courts.

11. The Judicial Commissioner and the District Judges, Subordinate Judges and Munsifs shall appoint the ministerial officers of their respective Courts:

Appointment of ministerial officers of Courts.

Provided that, in the case of the Subordinate Judges and Munsifs, such appointments shall require the sanction of the District Judge to whose control they are respectively subject.

12. The Judicial Commissioner or any District Judge may transfer any ministerial officer from any Court under his control to any other Court under his control.

Transfer of ministerial officers.

13. Every Court under this Act shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

Seals of Courts.

14. The Local Government may fix, and from time to time alter, the place or places at which any Court under this Act is to be held.

Place of sitting of Courts.

15. The Local Government may from time to time, by notification in the official Gazette, invest such persons as it thinks fit with the powers of a Munsif, subject to such restrictions in respect of the value of the subject-matter of the suit as may be deemed proper, and withdraw such jurisdiction.

Power to confer Munsif's jurisdiction.

All persons so invested shall be called "Honorary Assistant Commissioners."

All Honorary Assistant Commissioners invested with powers under the Oudh Laws Act, 1876, section forty-three, and exercising such powers at the time this Act comes into force, shall be deemed to have been invested with the like powers under this section.

CHAPTER III.

GENERAL JURISDICTION.

Power to fix local limits of jurisdiction.

16. The Local Government shall, by notification in the official Gazette, fix, and may by like notification from time to time vary, the local limits of the jurisdiction of any Civil Court or person invested with the powers of a Civil Court under this Act.

Extent of original jurisdiction of District Judge;

17. Subject to the provisions of the Code of Civil Procedure, section fifteen—

(a) the jurisdiction of a District Judge extends to all original suits cognizable by the Civil Courts;

of Subordinate Judge;

(b) the jurisdiction of a Subordinate Judge extends to all suits in which the amount or value of the subject-matter in dispute does not exceed ten thousand rupees; and

of Munsif.

(c) the jurisdiction of a Munsif extends to all suits in which such amount or value does not exceed five hundred rupees:

Provided that the Local Government may from time to time, by notification in the official Gazette, confer upon any Munsif jurisdiction in suits in which the amount or value of the subject-matter in dispute exceeds five hundred rupees but does not exceed one thousand rupees,

and may by like notification withdraw such jurisdiction.

Appeals from Munsifs and Subordinate Judges.

18. Appeals from the decrees and orders of Munsifs and Subordinate Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the District Judge:

Provided

Provided that the Judicial Commissioner may from time to time, subject to such restrictions as he thinks fit, order that all or any of the appeals from the decrees and orders of a Munsif shall be preferred to such Subordinate Judge as may be mentioned in the order; and such appeals shall thereupon be preferred accordingly.

19. Every District Judge may from time to time, subject to the orders of the Judicial Commissioner, refer to any Subordinate Judge under his control any appeals pending before him from the decrees and orders of Munsifs; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

Power to refer to Subordinate Judge appeals from Munsifs.

The District Judge may withdraw any appeals so referred, and hear and dispose of appeals so withdrawn.

20. Appeals from the decrees and orders of District Judges and Additional Judges in original suits and proceedings shall, when such appeals are allowed by law, lie to the Judicial Commissioner.

Appeals from District and Additional Judges.

21. When the decision of a Subordinate Judge, District Judge or Additional Judge passed in appeal confirms the decree or order of the Court of first instance, such decision shall, subject to the provisions of the Code of Civil Procedure, section six hundred and twenty-two, be final; but when such decision reverses or modifies such decree or order, the Judicial Commissioner may receive a second appeal if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, he is of opinion that a further consideration of the case is requisite for the ends of justice.

When Judicial Commissioner may receive second appeal.

22. For the purposes of sections eighteen to twenty-one (both inclusive), all decrees, orders and decisions passed before the date on which this Act comes into force shall be deemed—

Appeals from decrees, &c., passed before Act comes into force.

(a) if passed by a Commissioner,—to have been passed by a District Judge;

(b) if passed by a Deputy Commissioner or the Civil Judge of Lucknow, or by an Assistant or Extra-Assistant Commissioner in exercise of enhanced

powers

powers conferred under the Oudh Civil Courts Act, 1871, section eleven, clause two,—to have been passed by a Subordinate Judge; and

(e) if passed by an Assistant or Extra-Assistant Commissioner otherwise than as aforesaid, or by a Tahsildár,—to have been passed by a Munsif.

Presiding officer of Court not to try suit, &c., in which he is interested.

23. No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself, or shall adjudicate upon any proceeding connected with or arising out of such suit or appeal.

Mode of disposing of such suit, &c.

When any such suit, appeal or proceeding comes before any such presiding 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.

The superior Court shall thereupon dispose of the case in the manner prescribed by section twenty-five of the Code of Civil Procedure.

In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall report the fact to the Local Government, which may transfer the case to the High Court of the North-Western Provinces for disposal, or appoint an officer to be an Additional Judicial Commissioner for the disposal of the case.

CHAPTER IV.

SPECIAL JURISDICTION.

Power to invest with Small Cause Court jurisdiction.

24. The Local Government may invest, within such local limits as it from time to time fixes, any District Judge, Additional Judge or Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Munsif with similar jurisdiction up to the amount of fifty rupees; and may, whenever it thinks fit, withdraw such jurisdiction from the Judge or Munsif so invested.

25. The

25. The Judicial Commissioner may from time to time, by order, authorize any District Judge to transfer to a Subordinate Judge or Munsif under the control of such District Judge any of the proceedings next hereinafter mentioned, or any class of such proceedings specified in such order, and then pending, or thereafter instituted, before such District Judge.

Power to transfer to Subordinate Judge or Munsif certain proceedings pending before District Judge.

The proceedings herein referred to are the following (that is to say):—

(1) Proceedings under Act XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*), or Act IX of 1861 (*to amend the law relating to minors*).

(2) Applications for permission to sue or appeal as a pauper.

(3) Applications for certificates under Act XXVII of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*).

The District Judge may withdraw any proceedings so transferred, and may either dispose of them himself, or, with the sanction of the Judicial Commissioner, transfer them to any other Subordinate Judge or Munsif under his control.

26. Subject to the provisions of the last clause of section twenty-five all proceedings transferred under that section shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in like cases:

Disposal of proceedings so transferred.

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge.

An appeal from his order thereon shall lie to the Judicial Commissioner, if an appeal from the decision of the District Judge in such proceedings is allowed by the law in force for the time being.

27. For the purposes of the Indian Divorce Act, the Judicial Commissioner shall, throughout the said territories

Jurisdiction under Divorce Act.

territories to which this Act applies, be deemed to be the Commissioner of the Division.

CHAPTER V.

MISCONDUCT OF OFFICERS.

Suspension and removal of Judicial Commissioner.
Suspension or removal of subordinate judicial officers by Local Government.
Suspension of Subordinate Judge or Munsif by Judicial Commissioner.

28. The Judicial Commissioner may, with the previous sanction of the Governor General in Council, be suspended or removed by the Local Government.

29. Any District Judge, Additional Judge, Subordinate Judge or Munsif may be suspended or removed by the Local Government.

30. The Judicial Commissioner may, whenever he sees urgent necessity for so doing, suspend any Subordinate Judge or Munsif under his control.

Whenever the Judicial Commissioner exercises this power, he shall forthwith report to the Local Government the circumstances of the suspension, and the Local Government shall make such order thereon as it thinks fit.

Suspension of Munsif by District Judge.

31. Any District Judge may, whenever he sees urgent necessity for so doing, suspend any Munsif under his control.

Whenever the District Judge suspends any such Munsif, he shall forthwith send to the Local Government, through the Judicial Commissioner, a full report of the case, with the evidence (if any); and the Local Government shall make such order thereon as it thinks fit.

Removal, &c., of ministerial officers of Judicial Commissioner's Court.
Removal, &c., of ministerial officers of Judges' Courts.

32. The Judicial Commissioner may remove or suspend the ministerial officers of his Court, or fine them in an amount not exceeding one month's salary.

33. The Judicial Commissioner, and, subject only to the general control of the Judicial Commissioner, the Judges of the District Courts, may remove or suspend the ministerial officers of such Courts, or fine them in an amount not exceeding one month's salary.

34. Any

34. Any Subordinate Judge or Munsif may, by order, remove or suspend from office, or fine in an amount not exceeding one month's salary, any ministerial officer of his Court who is guilty of any misconduct or neglect in the performance of the duties of his office. And the District Judge, subject only to the general control of the Judicial Commissioner, may, on appeal or otherwise, reverse or modify every such order.

Removal, &c.,
of ministerial
officers of
Subordinate
Judges' and
Munsifs'
Courts.

The Judicial Commissioner (or the District Judge within whose jurisdiction such Court is situate) may by order suspend or remove any such ministerial officer.

35. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary.

Recovery of
fines.

CHAPTER VI.

MISCELLANEOUS.

36. The Judicial Commissioner may from time to time, with the previous sanction of the Local Government, make rules—

Petition-
writers.

(a) declaring what persons shall be permitted to practise as petition-writers in the Civil Courts of Oudh; and

(b) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section shall be punished with fine which may extend to fifty rupees.

37. When a mortgagee shall, under or by virtue of a mortgage executed before the thirteenth of February, 1844, have obtained possession of any land comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Bar of re-
demption-
suits when
mortgage
executed be-
fore 13th
February,
1844.

Redemption-suits not barred where fixed term for redemption had not expired before 13th February, 1856.

Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth day of February, 1856: provided that, if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

Vacations.

38. Subject to such orders as may from time to time be issued by the Governor General in Council, and to the approval of the Local Government, the Judicial Commissioner shall prepare a list of days to be observed in each year as close holidays in the Court subordinate to him.

Such list shall be published in the local official Gazette, and the said days shall be observed accordingly.

Pending proceedings.

39. All cases pending before the Judicial Commissioner under the Oudh Laws Act, 1876, section twenty-eight, on the first day of August, 1879, shall be disposed of as if this Act had not been passed,

and all other proceedings pending on that day shall be heard and disposed of by the Courts established under this Act that would have had jurisdiction if they had been in existence when such proceedings were instituted.

For the purposes of this section, all appeals pending on the said day shall—

(a) if preferred from the decrees, orders or decisions of Commissioners,—be deemed to be appeals from District Judges;

(b) if preferred from the decrees, orders or decisions of Deputy Commissioners or the Civil Judge of Lucknow or of Assistant Commissioners, or Extra-Assistant Commissioners acting in exercise of enhanced powers conferred under the Oudh Civil Courts Act, 1871, section eleven, clause two,—be deemed to be appeals from Subordinate Judges; and

(c) if

1879.]

Oudh Civil Courts.

(c) if preferred from the decrees or orders of Assistant Commissioners or Extra-Assistant Commissioners otherwise acting or of Tahsildárs,—be deemed to be appeals from Munsifs.

SCHEDULE.

ACTS REPEALED.

(See section 3.)

Number and year.	Title of Act.	Extent of repeal.
Act X of 1870 ...	The Land Acquisition Act, 1870.	So much of section 3 as declares the Commissioner of a Division to be a principal Civil Court of original jurisdiction in Oudh.
Act XXXII of 1871	The Oudh Civil Courts Act, 1871.	The whole Act, except section 40.
Act XVIII of 1876 ...	The Oudh Laws Act, 1876.	Sections 21, 28 and 43.
Act XIV of 1878 ...	An Act to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.	Section 3.