

THE MADRAS CIVIL COURTS' ACT, 1873.

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SCHEDULE.—*Enactments repealed.*

ACT No. III OF 1873.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the
21st January 1873).*

An Act to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the Civil Courts of the Madras Presidency subordinate to the High Court; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be called "The Madras Civil Courts' Act, 1873":

Local extent.

It extends to all the territories for the time being under the government of the Governor of Fort St. George in Council, except the Tracts respectively under the jurisdiction of the Agents for Ganjam and Vizagapatam;

Commencement.

And it shall come into force on the first day of March 1873.

Repeal of enactments.

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 On and from that day the enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of such schedule.

PART II.

ESTABLISHMENT AND CONSTITUTION OF CIVIL COURTS.

Number of District Courts.

3. The number of District (heretofore designated Zila) Courts to be established or continued under this Act,

Act, shall be fixed, and may from time to time be altered, by the Local Government :

Provided that no increase to the number of such Courts shall be made by such Government without the previous sanction of the Governor General in Council.

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

Number of Subordinate Judges and District Munsifs.

Provided that no addition to the number of such officers shall be made by such Government without the previous sanction of the Governor General in Council.

5. The place at which any Court under this Act shall be held may be fixed, and may, from time to time, be altered,

Court's locality.

in the case of a District Court or a Subordinate Judge's Court, by the Local Government,

in the case of a District Munsif's Court, by the High Court.

6. Whenever the office of the Judge of a District Court (hereinafter called a 'District Judge') or of a Subordinate Judge under this Act is vacant,

Appointment to vacancy in office of District Judge or Subordinate Judge.

or whenever the Governor General in Council has sanctioned an addition to the number of District Judges or Subordinate Judges under the provisions of section three or section four,

the Local Government shall appoint to the office such duly qualified person as it thinks proper.

7. Whenever the office of a District Munsif under this Act is vacant,

Appointment to vacancy in office of District Munsif.

or whenever the Governor General in Council has sanctioned an addition to the number of District Munsifs under the provisions of section four,

the High Court shall appoint to the office such person as it thinks fit :

Provided that he possesses the qualifications for the time being required by the rules in this behalf which the High Court, with the previous sanction of the

Local

Local Government, are hereby empowered to make and alter.

Publication of appointments.

Every appointment made under this section shall be published in the same manner as appointments made by the Local Government.

Annulment of appointments.

The Local Government may, for good and sufficient reason, annul any appointment made under this section.

District Courts, Subordinate Judges, and District Munsifs.

8. The present Zila Courts, Principal Sadr Amíns, and District Munsifs, shall be respectively the first "District Courts," "Subordinate Judges," and "District Munsifs" under this Act.

Seal of Court.

9. 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.

PART III.

JURISDICTION.

Local limits of jurisdiction of District Court or Subordinate Judge.

10. The Local Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any District Judge or Subordinate Judge under this Act :

Local limits of jurisdiction of each of several Subordinate Judges.

Provided that, where more than one Subordinate Judge is appointed to any district, the District Judge may assign to each such Subordinate Judge the local limits of his particular jurisdiction within such district.

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

Local jurisdiction of District Munsifs.

11. The High Court shall fix, and may from time to time modify, the local jurisdiction of District Munsifs.

Jurisdiction of District Judge or Subordinate Judge in original suits.

12. The jurisdiction of a District Judge or a Subordinate Judge extends, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature.

Jurisdiction of District Munsif.

The jurisdiction of a District Munsif extends to all like suits and proceedings, not otherwise exempted from his cognizance, of which the amount or value of

the

the subject-matter does not exceed two thousand five hundred rupees.

13. Regular or special appeals, or appeals under Madras Regulation XI of 1832, section nine, shall, when such appeals are allowed by law, lie from the decrees and orders of a District Court to the High Court.

Appeals from decrees of District Courts.

Appeals from the decrees and orders of Subordinate Judges and District Munsifs shall, when such appeals are allowed by law, lie to the District Court, except when the amount or value of the subject-matter of the suit exceeds rupees five thousand, in which case the appeal shall lie to the High Court :

Appellate jurisdiction of District Court.

Provided that, whenever a Subordinate Judge's Court is established in any District at a place remote from the station of the District Court, the High Court may, with the previous sanction of the Local Government, direct that appeals from the decrees or orders of District Munsifs within the local limits of the jurisdiction of such Subordinate Judge be preferred in the Court of the latter :

Appellate jurisdiction of Subordinate Judge.

Provided also, that the District Judge may remove to his own Court, from time to time, appeals so preferred, and dispose of them himself, or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of District Munsifs, preferred in the District Court, to any Subordinate Judge within the District.

Disposal of appeal by District Judge.

14. When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes of the jurisdiction conferred by this Act, be fixed in manner provided by the Court Fees Act, 1870, section seven, clause v.

Valuation of suits for immovable property.

15. Every Court under this Act may require a witness or party to any suit or other proceeding pending in such Court to make such oath or affirmation as is prescribed by the law for the time being in force.

Power to require witness or party to make oath or affirmation.

16. Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution,

Law administered by Courts to Natives.

(a.) the

(a.) the Muhammadan law in cases where the parties are Muhammadans,

and the Hindú law in cases where the parties are Hindús, or

(b.) any custom (if such there be) having the force of law and governing the parties or property concerned,

shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished.

(c.) In cases where no specific rule exists, the Court shall act according to justice, equity and good conscience.

Judges not to try suits in which they are interested;

17. No District Judge, Subordinate Judge or District Munsif, shall try any suit to or in which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

nor to try appeals from decrees passed by them in other capacities.

No District Judge or Subordinate Judge, shall try any appeal against a decree or order passed by himself in another capacity.

Mode of disposing of such suits and appeals.

When any such suit, proceeding or appeal comes before any such officer, he shall report the circumstances to the Court to which he is immediately subordinate.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section six.

Nothing in the last preceding clause of this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

PART IV.

MISCONDUCT OF JUDGES.

Suspension of Judge by Local Government.

18. Any District Judge, Subordinate Judge, or District Munsif may, for any misconduct, be suspended or removed by the Local Government.

19. The

19. The High Court may, whenever it sees urgent necessity for so doing, suspend a Subordinate Judge pending the orders of the Local Government.

Suspension of Subordinate Judge by High Court.

The High Court shall immediately report the circumstances of such suspension, and the Local Government shall make such order thereon as it thinks fit.

20. The High Court may suspend any District Munsif who is alleged to have misconducted himself, or may appoint a commission for enquiring into his alleged misconduct.

Suspension of District Munsif by High Court. Commission of Inquiry.

The provisions of Act No. XXXVII of 1850 (*for regulating enquiries into the behaviour of public servants*) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

Exercise by High Court of powers conferred on Government by Act XXXVII of 1850.

On receiving the report of the result of any such enquiry, the High Court may, if it think fit, remove the Munsif from office, or suspend him, or reduce him to a lower grade.

21. The District Judge may suspend from office, whenever he sees urgent necessity for so doing, any District Munsif under his control.

Suspension of District Munsif by District Judge.

Whenever a District Judge exercises the power conferred by this section, he shall forthwith send to the High Court a full report of the circumstances of the case, together with the evidence, if any, and the High Court shall make such order thereon as it thinks fit.

Report to High Court.

PART V.

MINISTERIAL OFFICERS.

22. The Ministerial Officers of the District Courts shall be appointed, and may be suspended or removed, by the Judges of such Courts, whose orders in such matters shall be final.

Appointment, suspension or removal of Ministerial Officers of District Courts.

23. The

Appointment,
&c. of Ministerial Officers
of Subordinate Courts.

23. The Ministerial Officers of the Courts of the Subordinate Judges and District Munsifs shall be appointed, and may be suspended or removed from office, by such Subordinate Judges and District Munsifs, respectively, subject to the approval or confirmation of the District Judge within whose jurisdiction such Courts are situate.

Rules regulating such appointments.

24. Every appointment under this Part shall be made subject to such rules as the Local Government from time to time prescribes on this behalf.

Duties of Ministerial Officers.

Every person appointed under this Part shall perform such duties as may from time to time be imposed upon him by the presiding officer of the Court to which he belongs.

Present Ministerial Officers.

The present Ministerial Officers of the Courts under this Act shall be deemed to have been appointed under this Part.

PART VI.

MISCELLANEOUS.

Temporary discharge of duties of District Judge.

25. In the event of the death of the District Judge,
or of his being incapacitated by illness or otherwise for the performance of his duties,

or of his absence from the station in which his Court is held,

the senior Subordinate Judge of the District shall, without interruption to his ordinary duties, assume charge of the District Judge's office, and shall discharge such of the current duties thereof as are connected with the filing of suits and appeals, the execution of processes and the like,

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

District Judge may nominate to vacancy in office of District Munsif.

26. The District Judge, on the occurrence within his district of any vacancy in the office of District Munsif may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office ;

and

and he shall at once report to the High Court the occurrence of every such vacancy and such appointment.

27. Subject to the other provisions of this Act and to the rules for the time being in force and prescribed by the High Court in this behalf, the general control over all the Civil Courts under this Act in any District is vested in the District Judge.

District Judge to control Civil Courts of District.

28. The Local Government may, by notification in the official Gazette, invest, within such local limits as it shall from time to time appoint,

Investiture of Subordinate Judge with Small Cause jurisdiction.

any 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 rupees five hundred,

and any District Munsif with the same jurisdiction up to the amount of rupees fifty,

Investiture of District Munsif with similar jurisdiction.

and may, by like notification, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

29. Section fifty-one of Act No. XI of 1865 shall be read as if, for the words "Principal Sudder Ameen," the words "Subordinate Judge" were substituted.

Power to invest Small Cause Court Judge with powers of Subordinate Judge.

Sections one, eight, nine, ten and twelve of Madras Act No. I of 1868 (*for the appointment of a Commissioner for the administration of civil and criminal justice and for the superintendence and collection of the revenues on the Neilgherry Hills*) shall be read as if, for the words 'Civil' and 'Zillah', used therein with reference to a Civil or Zillah Judge or Court, the word 'District' was substituted, and as if, for the words "Principal Sudder Ameen," the words 'Subordinate Judge' were substituted.

Amendment of Madras Act I of 1868.

But save as provided in this section nothing herein contained shall be deemed to affect the said Madras Act.

30. The High Court may permit the Civil Courts under its control to adjourn from time to time for periods not exceeding in the aggregate two months in each year.

Vacation.

SCHEDULE.

SCHEDULE

[Referred to in section 2.]

I—MADRAS REGULATIONS.

Number and year of Regulation.	Title of Regulation.	Extent of repeal.
Regulation II of 1802 ...	A Regulation for establishing and defining the Jurisdiction of the Courts of Adawlut, or Courts of Judicature, for the Trial of Civil Suits in the first instance, in the British Territories immediately subject to the Presidency of Fort St. George.	So much as has not been repealed.
Regulation III of 1802 ..	A Regulation for receiving, trying and deciding suits or complaints declared cognizable in the Courts of Adawlut established in the several zillahs immediately subject to the Presidency of Fort St. George.	The unrepealed part of section seven. The unrepealed part of the first clause of section sixteen.
Regulation XII of 1802..	A Regulation for the appointment of the Ministerial Officers of the Civil and Criminal Courts of Judicature.	So much as has not been repealed.
Regulation III of 1816 ..	A Regulation for rescinding Regulation VI of 1806, and for authorizing the Courts of Sudder and Foudarry Adawlut to sanction the occasional Adjournment of the Civil and Criminal Courts under the Presidency of Fort St. George.	So much as has not been repealed.
Regulation VI of 1816...	A Regulation for reducing into one Regulation, the Rules which have been passed regarding the Office of Native Commissioners; for modifying and extending their Powers in the Trial and Decision of Civil Suits; and for authorizing them, under the designation of District Moonsifs, to discharge certain additional Duties.	So much as has not been repealed.
Regulation VII of 1816	A Regulation for authorizing District Moonsifs to assemble District Panchayets for the Adjudication of Civil Suits for Real and Personal Property, without limitation as to Amount or Value,	The whole.

SCHEDULE,—*continued.*I.—MADRAS REGULATIONS,—*concluded.*

Number and year of Regulation.	Title of Regulation.	Extent of repeal.
Regulation II of 1821 ...	within their respective jurisdictions; and for defining the Powers and Authority to be vested in such District Panchayets. A Regulation for extending the Jurisdiction of the Registers, Sudder Ameens, and District Moonsifs, and for the more effectual checking of Abuses by District Moonsifs.	So much as has not been repealed.
Regulation VII of 1827.	A Regulation for constituting the Office of Native Judge.	The whole.
Regulation II of 1828 ...	A Regulation for improving the Administration of Justice by District Moonsifs, in certain respects.	So much as has not been repealed.
Regulation I of 1829 ...	A Regulation for amending the Rules in force relative to the Trial of Appeals, and for the better securing of Impartiality in the Administration of Justice.	So much as has not been repealed.
Regulation III of 1833 ...	A Regulation for conferring upon Sudder Ameens jurisdiction in Criminal Cases, and for extending the Civil Jurisdiction of Registers, Sudder Ameens, and District Moonsifs.	So much as has not been repealed.

II.—ACTS.

Number and year of Act.	Title of Act.	Extent of repeal.
Act No. VII of 1843 ...	An Act for abolishing the Provincial Courts of Appeal and Circuit in the Presidency of Fort St. George, and for establishing new Zillah Courts to perform their functions; for establishing Courts constituted according to Regulations I and II and Regulations VII and VIII of 1827, in place of the existing Civil and Criminal Zillah Courts, and for extending the Civil jurisdiction of such Courts.	The whole Act, except sections twenty-six, forty-four and forty-seven.

SCHEDULE,—*concluded.*II.—Acts,—*concluded.*

Number and year of Act.	Title of Act.	Extent of repeal.
Act No. IX of 1844 ...	An Act for authorizing the institution of Suits in the Courts of Principal Sudder Ameen and Sudder Ameen.	So much as has not been repealed.
Madras Act No. IV of 1863.	An Act for investing certain Courts in the Presidency of Fort St. George, either wholly or in part, with the jurisdiction exercised by Courts of Small Causes established under Act XLII of 1860.	The whole.
Madras Act No. I of 1865.	An Act to provide for the alteration of the stations of Zillah Courts and limits of Districts or Zillahs in the Madras Presidency.	The whole Act, except so much of section one as empowers the Governor in Council of Fort St. George to alter the limits of existing districts.