

BENGAL, AGRA AND ASSAM CIVIL COURT ACT, 1887

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CHAPTER 11 Constitution of Civil Courts 3. Classes of Courts. There shall be the following classes of Civil Courts under this Act, namely (1) the Court of the District Judge (2) the Court of the Additional Judge; (3) the Court of the Assistant District Judge; and (4) the Court of the Munsif. NOTES In item (3) of the section the words "Subordinate Judge" have been substituted by the words "Assistant District Judge" by Assam Act XII of 1967. When other Acts refer to Civil Courts, they do not refer to some other Civil Courts; they refer to the Courts which are known as Civil Courts under this Under this section, the court of the Munsif, Additional Judge or Assistant District Judge, is one court though there may be more than one Assistant District Judge or as such. It is open for the High Court and in some cases to Government, for mere administrative purposes to say that for exercising the jurisdiction of the Munsif in the there may be one or more but every Munsif is a Munsif for the district. although by an administrative order he exercises jurisdiction over a limited part of the district. Section 3 lays down classes of Civil Courts and as such the Registrar of a High Court is not authorised to determine the question covered by Rule 5 of Order 22 C. Gyant Devi v. Lakshmi Devi, 13 75 Pat 133. Number of District Judges, Subordinate Judges and Munsifs. The State Government may alter the number of District Judges, Subordinate Judges and Munsifs now fixed

5. Number of Munsifs. C Repealed by the Decree Act, 1914 (4 of 1914). Vacancies among District or Subordinate Judges. (1) Whenever the office of District Judge or Subordinate Judge is vacant by

reason of the death, resignation or removal of the Judge or other cause, or whenever an increase the number of District or Subordinate Judges 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 additional District Judge or Subordinate Judge. (2) Nothing in this section shall be construed to prevent a State Government from appointing a District Judge or Subordinate Judge to discharge for such period as it thinks fit, in addition to the functions devolving on him as such District Judge, or Subordinate Judge, all or any of the functions of another District Judge, or Subordinate Judge, as the case may be. NOTES In Assam there is no separate class of Court of Additional District Judge. The Additional District Judge appointed in that area under Section 6 (1) of this Act must, therefore, be deemed to be a division Court of the District Judge and not a separate and distinct Court of its own. C Sagar v. Nalein Choudhury, AIR 1970 Assam and Nagaland 111 j. The power of transfer of all District Judges is vested in High Court by virtue of Article 235 of the Constitution.

7. Vacancies among Munsifs.— C Repealed by the Adaptation of Laws Order, 1937

8. Additional Judges. When the business pending before any District Judge requires aid of Additional Judges for its speedy disposal, the State Government may, having consulted with the High Court, appoint such Additional Judges as may be requisite. (2) Additional Judges so appointed shall discharge any of the functions, of a District Judge which District Judge may assign to them, and, in the discharge of those functions they shall exercise the same powers as the District Judge. NOTES The power to transfer class or a particular case under this section is not barred. C Bijan Kumar Bose v. Gouri Bose, AIR 1975 Pat 1312. There is no Additional Judge in Assam.

9. Administrative control of Court.— 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, NOTES For administrative control over subordinate Courts, reference may be made to Civil Rules and Orders (Volume 1), Chapter 33. This section places all Civil Courts in a district under administrative control of District Judge, within the local limits of his jurisdiction. 10. Temporary charge of District Judge. (1) If the death, resignation or of his being of the District Judge is not present/ place of the senior Additional Judge present thereat; shall, Without relinquishing ordinary duties, assume Charge of the District and shall Continue In charge thereof. until the office is resumed. (2) While in charge of the office of the District Judge, the Additional, Judge, or Subordinate, Judge 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. NOTES The senior Subordinate judge, Without relinquishing his ordinary duties, may, so assume temporary charge of the District Judge subject however, to any rules which High Court may make to exercise any of the powers of the District Judge. There being no Judge in Assam the exclusive power of a District Judge cannot be assumed by the Transfer of proceedings on vacation or office of the Subordinate In the event of the death, resignation or removal of a Subordinate Judge, or of his being by illness or otherwise for the performance of his duties, or of his absence from the place at which the District Court is held. the District Judge may transfer all or any of the proceedings pending in the Court of the Subordinate Judge, either to his own Court or to any Court. under his administrative control competent to dispose of them. (2) Proceedings transferred under sub-section (1) shall, be disposed of as they have been in the Court to which they are so transferred. (3) Provided that the District Judge may refer to the Court of the Subordinate Judge or his successors any proceedings under sub-section (1) to his own Court or any other Court. (4) For the proceedings which are not in the Court of the Subordinate Judge on the occurrence of any event referred to in sub-section (1), and in that respect, to which that Court has exclusive jurisdiction, the exercise all or any, of the jurisdiction of NOTES In absence of Assistant District Judge competent to hear an appeal from the District Court? Munsiff C Manglal Jarnunlal (Assam; and Nagaland 122_7. District Judge : may that Court; e, the District or Agarwallai. 2 12. Temporary charge of District Judge by the Adaptation of Order of 19 13. Power to fix local limits of jurisdiction of District Judge.— (1) The State Government may, by notification in the official Gazette, fix and the local limits of the jurisdiction of any Civil Court under this (2) If the same local jurisdiction is assigned to two or more Subordinate Judges or more Munsiffs, the District Judge may assign each of them such civil business cognizable, by the Subordinate Judge or Munsiff as the case may be as sub-ject to general or special orders of the High Court he

t.}o.ink.\$ f i. t. (3) When civil business arising in any local area j. s .Jned by the District Judge under sub—sect-ion to one or two or more Subordinate Judges or t.Q one or two or more Munsis, a decree or order passed by the Subordinate Judge or Munsif shall not be invalid by reason only the case in which it was made having arisen in part in a place beyond the local area if . that place -i. s within the local limits fixed by the Stat-e Gove.r.ntneni Sub—section (1) (4) The Judge OE a Court of: Causes appointed to be Subordinate or as the case may be, within the meaning t luis sect. ion. v— (5) The present local limits of the juri\$dicÅt..i-on OE every Civil Court under this Act shall be deemed •to -nave been fixed under this section. NOTES An order under Section 13 (2) does not affect a transfer OE jurisdiction, because it merely distributes e as a natter o F: administrative convenience and with reference certain local areas, the civil business amongst. each of which has jurisdiction over the area. But where the State Government. has conferred on him a particular jurisdiction that cannot'. be divested by District Judge. The District Judge cay-jnoi•. fake the jurisdiction of a Court to execute a decree passed by -it, when i. t -t. 5 the only Court which can execute It under t.llē• p.covi-\$j-ions of Section 38 read with Section 37 OE the Procedure Code. Where the trial Judge who t.riod the case at Gauhatl, had juvsdiction to try the case at. Tezpur and vice versa, the fact that he did not try the case at- Tezpur but at Gauhati would not make the order or judgement invalid for that. CAIR 1952 Assam 883. The Supreme Court held in Tr:i.otJi. iiTat.h v. Indian Iron and Steel Co. Ltd. c AIR 1963 SC 2053 that the labour Courts con— stituted under the industrial Disputes Act have no comparison wit-Yi court--5 csnstltuted under this Act. The Allahabad High Court held in Nand Kishore v. Mool Chandra L AIR 1966 All 6133 that Section 31 of the Arbitration Act does; .nnt•. District Judge Erom exercising his of transfer under Section 13, or under the provisions of C. P. C. (1) The State Government 14. Place of sitting of Courts. may by notification in Gazette, fix or alter the place or places which Civil (2•urt under this Act is held (2) any such courts are now hdd, shall be deezned to have been fixed under this section. It. is not Ehe actual sitting on s a particular day that determines the situation of the Court but the situation Is de— termined by the placed of sitting as required by the Law for that purpose

15. Vacations Nil? Subject to such orders as may be raade by the State t,i-ae High Court shall, prepare a list of days to be observed in each year as holidays in the Civil Courts.(2) The list. *hall be published in the official Gazette. (3) A judicial aet done by a Civil Court on a day spec-t— f. •-i.ed in bhe list shall not be invalid by reason only of: j. iz.s having been done on that day. NOTES Under the Negotiable T.nstél.unents Act, when a day is deal red to be a holiday, the Eligh Court may also by a notification declare a holiday Eor the Civil Courts subordinate to it under t.?l-i.g 3eeti.on

16. Seals OE Court-.—LVery Civil Court. under this Act shall use a seal OE such Eorn and dimensions as are prescribed by the State Government

17. Continuance of Courts ceasing to have // jurisdiction.any Civil Court under this Act has Yf for any cause ceased have jurisdiet.fc•tl with respect t.o any case, any proceeding in relation to that case which, if that. Court have not have Jurisdiction, might have been, had the case thej.-e.iti may be had in the court to vvhich the bugi— ness OE e—he mnner Court has been transferred. (2) Nothing j.n section applies to cases from which provision iG made in Sections 36, 37 ana 114 of, and Rule 1 of 11 Order XLVII in Schedule 1 or In any other enact.mnt to the Code of Civil Procedure, f.or t'.Lrne being force. NOTES Under the circumstances when the court which passed 190B, the decree 15 abolished, It Is the court to which Its business Is transferred Is competent to execute the decree

CHAPTER 111 ORDINARY JURISDICTION 18. Extent of original jur.t\$d.tot.lon of District or as otherwise provided by any enactment Eor the time being In force. the jurisdiction OE a Distri ct Judge or Subordinate Judge extends, subj ect to the provisions OE Section 15 of the Code of Civil Procedure, 1908 to all original SUItS {or the time being cognizable by C.Lv11 Courts. NOTES The figu.t@ "1908" has been Inserted by Assam Act VI of 1935. (1) Save as aforaa± 19. Extent. of jurlsd&ctlon of Mansi. E. and subject to the provision of sub-section (2), the jurisdic-tio OE a muuq8fmextendg to all like suits of whldi the value does no exceed thousand rupees. (2) The State Government may, oe the recorrnendatlon OE thé High Court, direct, by notificatloninRthe official Gazette with respect to any hansif namea there-Ln that hig shall extend t.o all Ilke suits of such value not exceeding A ve t.b)u— sand rupees as may specified in the not•.lflcatå.on : Provided that the State Goveernent may, by notification In the official Gazette, delegate to the High Court Its powers unde this Sect-Lon. NOTES The sub—clause (b) In sub—section (2) hag been deleted by Assam Act IX of 1965 and by the same Assam Act, Sub— clause (a) has been merged

In sub—section (2) and for the words "one thousand" occurring in sub—section (1) the words "three thousand" have been substituted, and In sub—section (2) for the words "five" the "five have been substituted.

20. Appeals from District and Subordinate Judges.—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 Additional Judge shall lie to the High Court. (2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which if the decree or order has been made by the District Judge, an appeal would not lie to that Court. **NOTES** This section does not give right of appeal from every order of a District Judge to the High Court. It only deals with form of appeal. In Assam there is no Additional Judge at present

21. Appeals from Subordinate Judges and as aforesaid, an appeal from a decree or order of a Subordinate Judge shall lie— (a) to the District Judge where the value of the original suit in or in any proceeding arising out of which the decree or order was made did not exceed thousand rupees. (b) to the High Court in any other case. (2) Save as aforesaid, an appeal from a decree or an order of a Subordinate Judge shall lie to the District Judge. (3) Where the function of receiving any appeals which to the District Judge under sub—section (1) or sub—section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge. (4) The High Court may, with the previous sanction of the State Government direct, by notification in the official Gazette that appeals lying in the District Judge under Sub—section (2) from all or any of the decrees or orders of any Subordinate Judge shall be preferred to the Court of such Subordinate Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly. **NOTES** In clause (a) of sub—section (1), for the words "five thousand rupees" the words "seven thousand rupees" have been substituted by Assam Act IX of 1965, and these provisions shall apply irrespective of the fact that suits, proceedings, decrees or orders out of which the appeals referred to therein arise were instituted or made prior to the commencement of Assam Act IX 1965. Under Section 5 (2) of the said Assam Amendment Act, notwithstanding anything to the contrary contained in the Limitation Act, 1963, an appeal from a decree or order made before commencement of this Amendment Act, which but for the provision of such Act, could have been preferred before the High Court within ninety days from the date of such decree or order shall be before the District Judge, within the said period. Nothing in this Act shall be deemed to affect any appeal instituted to the commencement of such Act. It is true that an appeal from an original order or decree of the Court of Munsiff shall lie to the Assistant District Judge even then on the occurrence of an event under Section 11 (4) of the Act, a District Judge may exercise all or any jurisdiction of the Court of Assistant District Judge. *Gabgillal, Agarwal v. Jamunalal Ararwala*, AIR 1971 Assam and Nagaland 1222

CHAPTER IV SPECIAL JURISDICTION **22. Power to transfer to Subordinate Judges, appeals from a District Judge may transfer to any Subordinate Judge under his administrative control any appeals pending before him from the decrees or orders of Munsiff.** (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 rule applicable to like appeals when disposed of by the District Judge. **NOTES** A District Judge, to whom an appeal is preferred under Section 21 against an order of the Munsiff, has power to transfer the appeal to a Subordinate Judge and the latter has the jurisdiction to dispose of the appeal

23. Exercise by Subordinate Judge or Munsiff of jurisdiction of District Court.—In certain cases the High Court may, by general or special order, authorize Subordinate Judge (or Munsiff) to take cognizance of, or any District Judge to transfer to a Subordinate Judge or Munsiff under his administrative control, any of the proceedings next hereinafter mentioned or a 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 Zilla and City Courts of Diwani Adalat in the execution of wills and administration of the estates of persons dying intestate) (d) Proceedings under the Indian Succession Act, 1925 which cannot be disposed of by District Delegates; and (e) References by Collectors under paragraph 5 of the Third Schedule to the Code of Civil Procedure, 1908. (3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Judge or Munsiff and may

either himself dispose of them or transfer them to a Court* under his administrative control competent to dispose of them. NOT@S This section has been amended by Assam Act VI of 1935

24. Disposal of proceedings referred to in last fore—going section. Proceedings taken cognizance of by, or transferred to, a Subordinate Judge Munsif, 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 District Judge; Provided that an appeal from an order of a Munsif in any such proceedings shall lie to the District Judge. (2) An appeal from the order of the District Judge on the appeal from the order of a Munsif under this section shall lie to the High Court if a further appeal from the order of District Judge is allowed by the law for the time being in force

25. Power to invest Subordinate Judges and Munsifs with Small Causes Court State may, not,—In the official Gazette, confer, with such local limits as it thinks upon any Subordinate Judge or Munsif the jurisdiction of a Judge of Court of Small Causes under the Provincial Small Cause Act, 1887 for the trial of suits cognizable by such Courts up to such value not exceeding seven hundred and fifty rupees in the case of a Subordinate Judge or three hundred rupees in the case of a Munsif as it thinks 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. NOTES Section 25 1B amended by Assam Act VI of 1935. C Chapters V and VI containing Sections 26 to 29 and 30 to 35 have been repealed CHAPTER VII PROVISIONS Power to confer powers Of Courts on (1) The State, Government may Invest with these any Civil Court under this Act, by name, or in "virtue (a) of the provisions of the Nagpur or Samba or Jalpaiguri or Darjeeling District or any part of the State of Assam or (b) after consultation with the High Court; any officer serving in any other part of to this Act extends and belongs to a class defined in the behalf by the State Government. (2) The provisions of sections 4, 5, 6, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

39. Subordination Of Courts District Courts—For the purpose of the last foregoing section, the presiding officer of a court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and for the purpose of the Code 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 District Judge

40. Application OE Aet to Provincial Courts of Snail This section, and Sections 15, 31'37.38 and 39 apply to the Court of Causes constituted under the Provincial Causes Courts Act, 1887. (2) Save as provided by this Act, the other sections this do not apply to those Coures.

