

THE CIVIL COURTS ACT, 1887

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THE CIVIL COURTS ACT, 1887

ACT NO. XII OF 1887

[11th March 1887]

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

WHEREAS it is expedient to consolidate and amend the law relating to Civil Courts in Bangladesh;

It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

Title, extent and commencement

1. (1) This Act may be called the ¹[* * *] Civil Courts Act.

(2) It extends to Bangladesh except such portions ²[thereof] as for the time being are not subject to the ordinary civil jurisdiction of the High Court Division ³[* * *]; and

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

2. (1) [*Repealed by the Amendment Act, 1891 (Act No. XII of 1891).*]

(2) [*Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.*]

* Throughout this Act, except otherwise provided, the words “Bangladesh”, “Government”, “Taka” and “High Court Division” were substituted, for the words “East Pakistan”, “Provincial Government”, “rupees” and “High Court” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The words “East Bengal” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word “thereof” was substituted, for the words “of that province” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The words “of East Pakistan” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(3) Any enactment or document referring to the Bengal Civil Courts Act, 1871, ¹[or East Bengal Civil Court Act] or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.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

²[3. There shall be following classes of Civil Courts, Classes of Civil Courts
namely:—

- (a) the Court of the District Judge;
- (b) the Court of the Additional District Judge;
- (c) the Court of the Joint District Judge;
- (d) the Court of the Senior Assistant Judge; and
- (e) the Court of the Assistant Judge.]

³[4. The Government may alter the number of District Judges, Additional District Judges, Joint District Judges, Senior Assistant Judges and Assistant Judges now fixed.] Number of Judges

5. [Repealed by the Decentralization Act, 1914 (Act No. IV of 1914).]

6. (1) Whenever the office of District Judge or ⁴[Joint District] Judge is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever an increase in the number of District or ⁴[Joint District] Judges has been made under the provisions of section 4, the Government or, as the case Vacancies among District or Joint District Judges

¹ The words “or East Bengal Civil Court Act” were inserted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Section 3 was substituted, for section 3 by section 2 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

³ Section 4 was substituted, for section 3 by section 3 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁴ The words “Joint District” were substituted, for the word “Subordinate” by section 4 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

may be, the High Court Division may fill up the vacancy or appoint the Additional District Judges or ¹[Joint District] Judges.

(2) Nothing in this section shall be construed to prevent a Government from appointing a District Judge or ¹[Joint District] Judge to discharge, for such period as it thinks fit, in addition to the functions devolving on him as such District Judge or ¹[Joint District] Judge, all or any of the functions of another District Judge or ¹[Joint District] Judge, as the case may be.

7. [Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.]

Additional
District Judges

8. (1) When the business pending before any District Judge requires the aid of ²[Additional District] Judges for its speedy disposal, the Government may, having consulted the High Court Division, appoint such ²[Additional District] Judges as may be requisite.

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

Administrative
control of
Courts

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

¹ The words “Joint District” were substituted, for the word “Subordinate” by section 4 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

² The words “Additional District” were substituted, for the word “Additional” by section 5 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

10. (1) In the event of the death, resignation or removal 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 place at which his Court is held, the ¹[Additional District] Judges, or, if an ¹[Additional District] Judge is not present at that place, the senior ²[Joint District] Judge present thereat, shall, without relinquishing 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.

Temporary charge of District Court

(2) While in charge of the office of the District Judge, the ¹[Additional District] Judge or ²[Joint District] Judge, as the case may be, may, subject to any rules which the High Court Division may make in this behalf, exercise any of the powers of the District Judge.

11. (1) In the event of the death, resignation or removal of a ²[Joint 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 may transfer all or any of the proceedings pending in the Court of the ²[Joint District] Judge either to his own Court or to any Court under his administrative control competent to dispose of them.

Transfer of proceedings on vacation of office of Joint District Judge

(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:

¹ The words “Additional District” were substituted, for the word “Additional” by section 6 of the Civil Courts (Amendment) Act, 2001 (Act No XLIX of 2001).

² The words “Joint District” were substituted, for the word “Subordinate” by sections 6 and 7 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

Provided that the District Judge may re-transfer to the Court of the ¹[Joint District] Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(3) For the purposes of proceedings which are not pending in the Court of the ¹[Joint District] Judge on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

12. *[Omitted by the Government of India (Adaptation of Indian Laws) Order, 1937.]*

Power to fix local limits of jurisdiction of Courts

13. (1) The 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 ¹[Joint District] Judges or to two or more ²[Senior Assistant Judges or Assistant Judges], the District Judge may assign to each of them such civil business cognizable by the ¹[Joint District] Judge or ³[Senior Assistant Judge or Assistant Judge], as the case may be, as, subject to any general or special orders of the High Court Division, he thinks fit.

¹ The words “Joint District” were substituted, for the word “Subordinate” by sections 7 and 8 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

² The words “Senior Assistant Judges or Assistant Judges” were substituted, for the words “Assistant Judges” by section 8 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

³ The words “Senior Assistant Judge or Assistant Judge” were substituted, for the words “Assistant Judge” by section 8 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one of two or more ¹[Joint District] Judges or to one of two or more ²[Senior Assistant Judges or Assistant Judges], a decree or order passed by the ¹[Joint District] Judge or ³[Senior Assistant Judge or Assistant Judge] 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 Government under sub-section (I).

(4) A Judge of a Court of Small Causes appointed to be also a ⁴[Joint District Judge or Senior Assistant Judge or Assistant Judge] is a Joint District Judge or Senior Assistant Judge or Assistant Judge, 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. (1) The Government may, by notification in the official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.

Place of sitting
of Courts

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

¹ The words "Joint District" were substituted, for the word "Subordinate" by section 8 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

² The words "Senior Assistant Judges or Assistant Judges" were substituted, for the words "Assistant Judges" by section 8 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

³ The words "Senior Assistant Judge or Assistant Judge" were substituted, for the words "Assistant Judge" by section 8 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁴ The words "Joint District Judge or Senior Assistant Judge or Assistant Judge is a Joint District Judge or Senior Assistant Judge or Assistant Judge" were substituted, for the words "Subordinate Judge or Assistant Judge is a Subordinate Judge or Assistant Judge" by section 8 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

Vacations of
Courts

15. (1) Subject to such orders as may be made by the Government the High Court Division shall prepare a list of days to be observed in each year as closed 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.

Seals of Courts

16. Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the Government.

Continuance of
proceedings of
Courts ceasing
to have
jurisdiction

17. (1) Where any Civil Court 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.

(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 in Schedule I to the Code of Civil Procedure, 1908, or in any other enactment for the time being in force.

CHAPTER III

ORDINARY JURISDICTION

Extent of
original
jurisdiction of
District or Joint
District Judge

18. Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or ¹[Joint District] Judge 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.

¹ The words "Joint District" were substituted, for the word "Subordinate" by section 9 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

¹[**19.** Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a Senior Assistant Judge and an Assistant Judge shall extend to all suits of which the value does not exceed four lac Taka and two lac Taka respectively.]

Extent of jurisdiction of Senior Assistant Judge, etc.

20. (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 ²[Additional District] Judge shall lie to the High Court Division.

³[Appeal from District and Additional District Judges]

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

21. (1) Save as aforesaid, an appeal from a decree or order of a ⁴[Joint District] Judge shall lie—

⁵[Appeal from Joint District Judge, etc.]

(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 did not exceed ⁶[five lac Taka] and

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

¹ Section 19 was substituted, for the former section 19 by section 10 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

² The words “Additional District” were substituted, for the word “Additional” by section 11 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

³ The marginal heading was substituted, for the former marginal heading by section 11 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁴ The words “Joint District” were substituted, for the word “Subordinate” by section 12 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001),.

⁵ The marginal heading was substituted, for the former marginal heading by section 12 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁶ The words “Five lac Taka” were substituted, for the words “one lac and thirty thousand Taka” by section 12 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

(2) Save as aforesaid, an appeal from a decree or order of a ¹[Senior Assistant Judge or an Assistant Judge] shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an ²[Additional District] Judge, the appeals may be preferred to the ²[Additional District] Judge.

(4) The High Court Division may, with the previous sanction of the Government, direct, by notification in the official Gazette, that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any ¹[Senior Assistant Judge or an Assistant Judge], shall be preferred to the Court of such ³[Joint District] Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

CHAPTER IV

SPECIAL JURISDICTION

⁴[Power of District Judge to transfer appeals]

22.(1) A District Judge may transfer to any ³[Joint District] Judge under his administrative control any appeals pending before him from the decrees or orders of ⁵[Senior Assistant Judges or Assistant Judges].

¹ The words "Senior Assistant Judge or an Assistant Judge" were substituted, for the words "Assistant Judge" by section 12 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

² The words "Additional District" were substituted, for the word "Additional" by section 12 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

³ The words "Joint District" were substituted, for the word "Subordinate" by sections 12 and 13 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁴ The marginal heading was substituted, for marginal heading by section 13 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁵ The words "Senior Assistant Judges or Assistant Judges" were substituted, for the words "Assistant Judges" by section 13 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

(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.

23.(1) The High Court Division may, by general or special order, authorise any ¹[Joint District] Judge or ²[Senior Assistant Judge or Assistant Judge] to take cognizance of, or any District Judge to transfer to a ¹[Joint District] Judge or ²[Senior Assistant Judge or Assistant Judge] under his administrative control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

Exercise by
Joint District
Judge or Senior
Assistant Judge
or Assistant
Judge of
Jurisdiction of
District Court
in certain
proceedings

(2) The proceedings referred to in sub-section (1) are the following, namely:—

- (a) Proceedings under the Bengal Wills and Intestacy Regulation, 1799;
- (b) and (c) [*Repealed by the Guardians and Wards Act, 1890 (Act VIII of 1890).*]
- (d) Proceedings under the Succession Act, 1925, which cannot be disposed of by District Delegates; and

¹ The words “Joint District” were substituted, for the word “Subordinate” by section 14 (ka) of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

² The words “Senior Assistant Judge or Assistant Judge” were substituted by section 14 (ka), for the words “Assistant Judge” of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a ¹[Joint District] Judge or ²[Senior Assistant Judge or Assistant Judge], and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

Disposal of proceedings referred to in last foregoing section

24. (1) Proceedings taken cognizance of by, or transferred to, a ¹[Joint District] Judge or ²[Senior Assistant Judge or Assistant Judge], 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 ²[Senior Assistant Judge or Assistant Judge] in any such proceeding shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the Appeal from the order of the ²[Senior Assistant Judge or Assistant Judge] under this section shall lie to the High Court Division if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

Power to invest Joint District Judges and

25. The Government may, by notification in the official Gazette, confer, within such local limits as it thinks fit, upon any ¹[Joint District] Judge or ²[Senior Assistant Judge or Assistant Judge] the jurisdiction of a Judge of a Court of Small Causes under the ³[* * *] Small Cause Courts Act, 1887, for the trial of

¹ The words “Joint District” were substituted, for the word “Subordinate” by sections 14, 15 and 16 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

² The words “Senior Assistant Judge or Assistant Judge” were substituted, for the words “Assistant Judge” by sections 14, 15 and 16 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

³ The word “Provincial” was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

suits, cognizable by such Courts, up to such value not exceeding ¹[twenty thousand Taka in the case of a ²[Joint District] Judge or ten thousand Taka in the case of ³[a Senior Assistant Judge or six thousand Taka in the case of an Assistant Judge]] as it thinks fit, and may withdraw any jurisdiction so conferred:

⁴[Senior Assistant Judges or Assistant Judges] with Small Cause Court jurisdiction

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

⁵[25A. Where in any other law for the time being in force any reference is made to Additional Judge, or Subordinate Judge, or Assistant Judge, the reference shall be construed respectively as to Additional District Judge, or Joint District Judge, or Senior Assistant Judge or Assistant Judge as the case may be.]

Reference of Judges in other laws.

¹ The words, brackets and figures “twenty thousand Taka in the case of a Subordinate Judge or ten thousand Taka in the case of an Assistant Judge whose jurisdiction has been extended under sub-section (2) of section 19 or six thousand Taka in the case of any other Assistant Judge” were substituted, for the words, brackets and figure “ten thousand Taka in the case of a Subordinate Judge or five thousand Taka in the case of an Assistant Judge whose jurisdiction has been extended under sub-section (2) of section 19 or three thousand Taka in the case of any other Assistant Judge” by section 4 of the Civil Courts (Amendment) Act, 1990 (Act No. XLVIII of 1990).

² The words “Joint District” were substituted, for the word “Subordinate” by section 16 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

³ The words “a Senior Assistant Judge or six thousand Taka in the case of an Assistant Judge” were substituted, for the words “an Assistant Judge whose jurisdiction has been extended under sub-section (2) of section 19 or six thousand Taka in the case of any other Assistant Judge” by section 16 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁴ In the marginal heading the words “Senior Assistant Judges or Assistant Judges” were substituted, for the words “Assistant Judges” by section 16 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

⁵ Section 25A was inserted by section 17 of the Civil Courts (Amendment) Act, 2001 (Act No. XLIX of 2001).

26-35. [*Omitted by the 1st Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.*]

CHAPTER VII

SUPPLEMENTAL PROVISIONS

Power to confer powers of Civil Courts on officers

36. (1) The Government may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

Clause (a) [*Omitted by the Governor General Order 4 of 1949, Schedule.*]

(b) after consultation with the High Court Division any officer serving in any part of the territories to which this Act extends and belonging to a class defined in this behalf by the 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) [*Omitted by East Pakistan (Amendment) Ordinance, 1962 (Ordinance No. XIII of 1962).*]

(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.

Certain decisions to be according to local law

37.(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 ¹[Muslim] law in cases where the parties are ¹[Muslim], 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 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.

38. (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.

Judges not to try suits in which they are 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 ²[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 Division.

¹ The word “Muslim” was substituted, for the word “Muhammadan” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, figures and comma “section 24 of the Code of Civil Procedure, 1908” were substituted, for the words and figure “section 25 of the Code of Civil Procedure” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Subordination
of Courts to
District Court

39. For the purposes 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 purposes 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 District Judge.

Application of
Act to Courts
of Small
Causes

40. (1) This section and sections 15, 32, 37, 38 and 39 apply to Courts of Small Causes constituted under the ¹[* * *] Small Cause Courts Act, 1887.

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

¹ The word "Provincial" was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).