

The Orissa High Court Order, 1948

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Rule THE-ORISSA-HIGH-COURT-ORDER-1948 of 1948

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The Orissa High Court Order, 1948Published vide Notification No. S.O. No. 10/30.4.1948No. S.O. 10 dated 30.4.1948. - The following under made by the Governor General, is published for general information. Whereas the Orissa Legislative Assembly have on the third day of March, 1948, presented an address to the Governor of Orissa for submission to the Governor-General that a High Court be constituted for the province of Orissa and the said address has been submitted to the Governor-General; Now, therefore, in the exercise of the powers conferred by Sub-section (1) of Section 229 of the Government of India Act, 1935, as adopted by the India Provisional Constitution (Amendment) Order, 1948, the Governor-General is pleased to make the following order :

1.

(1) This order may be cited as the Orissa High Court Order, 1948. (2) It shall come into force on the date of its publication in the Gazette of India.

2.

(1) The interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament. (2) In this Order "the Act" means the Government of India Act, 1835, as for the time being in force in the Dominion of India.

3.

(1) As from the fifty day of July, 1948 (hereinafter referred to as "the prescribed day") there shall be a High Court for the Province of Orissa which shall be a Court of Record shall consist of a Chief Justice and such other Judges as the Governor-General may from time to time, whether before or after the prescribed day appoint in accordance with the provisions of Section 220 of the Act : Provided that any appointment so made before the prescribed day shall not take effect till the prescribed day. (2) The said High Court is hereinafter referred to as "the High Court of Orissa."

4.

The High Court of Orissa shall have, in respect of the territories for the time being included in the Province of Orissa, all such original, appellate and other jurisdiction as under the law in force immediately before the prescribed day is exercisable in respect of the said territories or any part thereof by the High Court in Patna.

5.

(1)The High Court of Orissa shall have the like power to approve, admit enroll, remove and suspend Advocates and Attorneys and to make rules with respect to Advocates and Attorneys as are under the law in force immediately before the prescribed day exercisable by the High Court in Patna.(2)The right of audience in the High Court of Orissa shall be regulated in accordance with the like principles as immediately before the prescribed day are in force with respect to the right of audience in the High Court in Patna :Provided that subject to any rule made or direction given by the High Court of Orissa in exercise of the powers conferred by this Article any person who immediately before the prescribed day, is an Advocate entitled to practice or an Attorney entitled to act in the High Court in Patna shall be recognised as an Advocate or an Attorney entitled to practise or to act, as the case may be, in the High Court of Orissa.

6.

Subject to the provisions of this Order, the law in force immediately before the prescribed day with respect to practice and procedure in the High Court in Patna, shall, with the necessary modifications, apply in relation to the High Court of Orissa and accordingly that High Court shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the prescribed day exercisable by High Court in Patna:Provided that any rules or orders which are in force immediately before the prescribed day with respect to practice and procedure in the High Court in Patna shall, until varied or revoked by rules or orders made by the High Court of Orissa apply with the necessary modifications in relation to practice and procedure in the High Court of Orissa as if made by that Court.

7.

(1)The High Court of Orissa shall have a seal of such form and design as the Chief Justice may direct.(2)The law in force immediately before the prescribed day with respect to the custody of the seal of the High Court in Patna shall, with the necessary modifications, apply with respect to the custody of the seal of High Court of Orissa.

8.

The law in force immediately before the prescribed day with respect to the form of writs and other processes used, issued or awarded by the High Court in Patna shall, with the necessary

modifications apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Orissa.

9.

The law in force immediately before the prescribed day relating to the powers of the Chief Justice, single judge and division Courts of the High Court in Patna with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modifications apply in relation to the High Court of Orissa.

10.

The High Court of Orissa and the Judges and division Courts thereof shall sit at such places in the Province of Orissa as the Chief Justice may with the approval of the Governor of Orissa appoint.

11.

The law in force immediately before the prescribed day relating to appeals to His Majesty in Council or to the Federal Court from the High Court in Patna and the Judges and division Courts thereof shall with the necessary modifications apply in relation to the High Court of Orissa.

12.

(1) Except as hereinafter provided the High Court in Patna shall, on and after the prescribed day have no jurisdiction in respect of the Province of Orissa. (2) Notwithstanding anything contained in paragraph (1) of this Article or in Article 4 - (a) the High Court in Patna shall have the like jurisdiction to hear and determine any appeal from, or to review any order of a Judge of that High Court, whether on its original or appellate side, as if this order had not been made, and the High Court of Orissa shall have no jurisdiction to hear or determine any such appeal or to review any such order; and (b) the High Court in Patna shall have the like jurisdiction to hear and dispose of any application for leave to appeal to His Majesty in Council or the Federal Court from an order of that High Court as it would have if his order had not been made, and the High Court of Orissa shall have no jurisdiction to hear or dispose of any such application. (3) All proceeding pending in the High Court in Patna immediately before the prescribed day, other than proceedings with respect to which that High Court retains jurisdiction by virtue of paragraph (2) of this Article, shall, where the Court of origin is situated in the Province of Orissa, stand transferred by virtue of this order to the High Court of Orissa. (4) Any order made by the High Court in Patna - (a) in any proceedings with respect to which that High Court retains jurisdiction by virtue of paragraph (2) of this Article, or (b) before the prescribed day in any proceedings transferred to the High Court of Orissa by virtue of paragraph (3) of this Article, shall for all purposes have effect, not only as an order of the High Court in Patna, but also as an order made by the High Court of Orissa. (5) For the purposes of this Article, proceedings shall be deemed to be pending in a Court until that Court has disposed of all issues between the parties, including any issue with respect to the taxation of the costs of the

proceedings.(6)Reference in this Article to a High Court shall be construed as including references to a Judge or division Court thereof and references to an order made by the Court or a Judge shall be construed as including references to a sentence, judgement or decree passed or made by the that Court or Judges.

13.

Nothing in this Order shall prejudice the application to the High Court of Orissa any relevant provision of the Act, and this Order shall have effect subject to any provision that may be made on or after the prescribed day with respect to that High Court by any Legislature or authority having power to make such provision.