

Kerala Civil Courts Act, 1957

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Act 1 of 1957

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Kerala Civil Courts Act, 1957(Act No. 1 of 1957)Last Updated 21st November, 2019An act to consolidate and amend the law relating to civil courts in the State of Kerala, subordinate to the High Court of Kerala.Preamble. - Whereas it is expedient to consolidate and amend the laws relating to civil courts in the State of Kerala, subordinate to the High Court of Kerala;Be it enacted as follows:-

Part I – Preliminary

1. Short title, extent and commencement.

(1)This act may be called the Kerala Civil Courts Act, 1957.(2)It extends to the whole of the State of Kerala.(3)It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

Part II – Establishment and Constitution of Subordinate Civil Courts

2. Classes of subordinate civil courts.

- In addition to the courts established under any other law for the time being in force, there shall be the following classes of civil courts in the State, namely:-(i)the court of a District Judge (hereinafter referred to as the District Court);(ii)the court of a Subordinate Judge (hereinafter referred to as the subordinate Judge's Court);(iii)the court of a Munsiff (hereinafter referred to as the Munsiff's Court).

3. Establishment of District court.

(1)For the purposes of this Act, the Government may, by notification in the Gazette divide the State into civil districts (hereinafter referred to as districts) and alter the limit or the number of such districts.(2)The Government shall establish a District Court for each district and a Judge (hereinafter called the District Judge) shall be appointed to such court.

4. Appointment of Additional District Judges.

(1)When the state of business pending before a District Court so requires, one or more Additional District Judges may be appointed to that court for such period as is deemed necessary.(2)An Additional District Judge shall discharge all or any of the functions of the District Judge under this Act in respect of all matters which the District Judge may assign to him, or which under the provision of section 7 may be instituted before him and in the discharge of those functions he shall exercise the same powers as the District Judge.

5. Establishment of Subordinate Judge's Courts and Munsiff's Courts.

(1)The Government may, in consultation with the High Court, establish in each district such number of Subordinate Judge's Courts and Munsiff's Courts as they deem necessary.(2)The Government may, in consultation with the High Court, fix, and from time to time vary, by notification in the Gazette, the number of Subordinate Judges to be appointed for a subordinate Judge's Court or the number of Munsiffs to be appointed for a Munsiff's Court.

6. Principal and Additional Subordinate Judge and Munsiff.

(1)When more than one Subordinate Judge is appointed to a Subordinate Judge's Court, or more than one Munsiff is appointed to a Munsiff's Court, one of the Subordinate Judges or Munsiffs shall be appointed the Principal Subordinate Judge or the Principal Munsiff and the others Additional Subordinate Judges or Additional Munsiffs, as the case may be.(2)Each of the Judges or Munsiffs appointed to a Subordinate Judge's Court or a Munsiff's court may exercise all or any of the powers conferred on the court by this Act or any other law for the time being in force.(3)Subject to the general or special orders of the District Judge, the Principal Subordinate Judge or the Principal Munsiff may from time to time make such arrangements as he thinks fit for the distribution of the business of the court among the various Judges or Munsiffs thereof.

7. Courts location.

(1)The place or places at which any court referred to in section 2 shall be held, may be fixed, and may from time to time, be altered by the Government in consultation with the High Court.(2)The High Court may, with the approval of the Government, direct by notification in the Gazette that all or any class of proceedings arising in a specified local area in a district which would ordinarily be instituted in the District Court, may be instituted before an Additional District Judge of that court

sitting in a place other than the place where the District Judges sits.

8. Seal of court.

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

Part III – Jurisdiction

9. Local Units of jurisdiction of Subordinate Judge's Courts.

- The Government shall fix, and may from time to time vary, the local limits of the jurisdiction of any Subordinate Judge's Court in consultation with the High Court.

10. Local Limits of jurisdiction of Munsiffs Courts.

- The Government shall fix and may from time to time vary the local limits of the jurisdiction of any Munsiff's Court in consultation with the High Court

11. Jurisdiction of District Court and Subordinate Judge's Court in original suits.

(1)The Jurisdiction of a District Court or a Subordinate Judge's court extends, subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), to all original suits and proceeding of a civil nature.(2)The jurisdiction of a Munsiff's Court extends to all like suits and proceedings not otherwise exempted from its cognisance of which the amount or value of the subject-matter does not exceed one lakh rupees

12. Appeals from decrees and orders of District Court or Subordinate Judge's Court.

- Save as provided in section 13 regular and special appeals shall, when such appeals are allowed by law, lie from the decrees or orders of a District Court or a Subordinate Judge's Court to the High Court.

13. Appellate jurisdiction of District Court and Subordinate Judge's Court.

(1)Appeals from the decrees and orders of a Munsiff's Court and where the amount or value of the subject matter of the suit does not exceed two lakhs rupee ; from the original decrees and orders of a Subordinate Judge's Court shall, when such appeals are allowed by law, lie to the District Court :Provided that whenever a Subordinate Judge's Court is established in any district at a place other than the place where the District Court is stationed, appeals from the decrees or orders of the

Munsiff's Courts within the local limits of the jurisdiction of such Subordinate Judge's Court may be preferred in such Subordinate Judge's Court: Provided further that the district court may remove to itself from time to time appeals so preferred and dispose of them itself or may, subject to the orders of the High Court, refer any appeals from the decrees and orders of Munsiff's Courts preferred in the District Court to any Subordinate Judge's Court within the District. (2) The provisions of Subsection (1) shall apply to original decrees and orders of a Subordinate Judge's Court passed after the commencement of the Kerala Civil Courts (Amendment) Act, 1959, notwithstanding the fact that the suits in respect of which such decrees and orders have been passed were instituted before such commencement.

14. Power to require witness or partly to make oath or affirmation.

- 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.

15. Judges not to try suits in which they are interested; or to try appeals from decrees passed by them in other capacities.

(1) No District Judge, Subordinate Judge or Munsiff shall try any suit, proceeding or other case to which he is a party or in which he is personally interested. (2) No District Judge or Subordinate Judge shall hear any appeal against a decree or order passed by himself. (3) When any such suit, proceeding, case or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer, he shall transmit forthwith the record of such suit, proceeding, case or appeal, as the case may be, to the court to which he is immediately subordinate with the report of the circumstances attending the reference. (4) The superior court may transfer the suit, proceeding, case or appeal either to itself or to any court under its administrative control competent to decide it.

Part IV – Miscellaneous

16. Temporary discharge of duties of District Judge.

- 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 Additional District Judge or the Additional District Judge or the senior Subordinate Judge or the Subordinate Judge, as the case may be, 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.

17. District Judge to control civil courts of district.

- Subject to the other provisions of this Act and to the rule 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.

18. Investiture of District or Subordinate Judge or Munsiff with small cause jurisdiction.

- The High Court may, by notification in the Gazette, invest within such local limits as it shall from time to time appoint, any District or Subordinate Judge with the jurisdiction of a Judge of a Court of small Causes for the trial of suit cognizable by such courts up to the amount of one thousand and five hundred rupees, and any Munsiff with the same jurisdiction up to the amount of one thousand rupees.

19. Adjournment of civil court.

(1)The High Court may permit the civil courts under its control to adjourn from time to time for periods not exceeding in the aggregate sixty days in each year.(2)During the adjournment of a civil court, the High Court shall nominate a District Judge for each District, who shall have the power to make provisional orders on all urgent matters and for such purpose, appeals, plaints and petitions and other matters which would ordinarily be presented to such civil court shall be received in the District Court and any such order shall, except on matters to be presented in the District Court itself, remain in force until such matter has been heard and decided by the court having jurisdiction and in the case of orders passed on matters to be presented in the District Court itself, such order shall be an order passed by a court having jurisdiction.

20. Duties of ministerial Officers.

- The ministerial officers of a court shall perform such duties as may from time to time be imposed upon them by the presiding officer of the court.

20A. A Maintenance of forms, books and registers by civil courts.

(1)The High Court may in consultation with the Government, direct that the civil courts subordinate to it shall maintain such forms, books and registers as may be specified by it in the interests of the public. The High Court may make rules specifying the particulars which such forms, books and registers shall contain.(2)The Government may, for discharging their functions and responsibilities, require through the High court, the civil courts subordinate to the High Court to furnish to the Government such particulars and information relating to the working of Courts and other matters as they may call for from them from time to time.

20B. Constitution and functions of Committees.

(1)The High Court may constitute a committee for each civil court subordinate to it or for two or more of such courts.(2)The functions of the Committee may include, among other things,-(i)the dissemination by means of publicity, advice and instruction of legal knowledge to the general public;(ii)the making of recommendations to the High Court or to the Government, regarding the improvements to be made to court buildings, amenities to be provided for the litigant public and lawyers and other matters of a similar nature;(iii)the bringing to the notice of the High Court the activities of the staff of the court in the discharge of their duties with a view to stamp out corruption and reporting to the Government specific cases of corruption, if any, for appropriate action; and(iv)the provision of facilities for the closer association between the members of the Bar and the Bench in considering matters of common concern.(3)The committee shall discharge such other functions as are assigned to it from time to time by the High Court.(4)The rules regulating the constitution of committees shall be such as may be prescribed by the Government in consultation with the High Court.

20C. Rules to be laid before the Legislative Assembly.

- Every rule made under this laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. Amendment of Acts XI of 1089 and XV of 1950.

(1)in the Land Acquisition Act, (XI of 1089) -(a)for the words "District Court" wherever they occur, the word "court" shall be substituted;(b)in Section 3, after clause (c-1), the following clause shall be inserted, namely: -(c-2) The expression "court" means the District Court unless the Government have appointed (as they are hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the court under this Act;".(2)In the Travancore-Cochin Hindu Religious Institutions Act, 1950 (XV of 1950), sub-section (2) of section 55 and sub-section (2) of section 124 shall be omitted; and sub-section (1) of section 55 and sub-section (1) of section 124 shall be renumbered as section 55 and section 124 respectively.

22. Repeal and savings.

(1)The Madras Civil Courts Act, 1873 (Madras Act III of 1873), as in force in the Malabar district referred to in sub-section (2) of section 5 of the State Reorganisation Act, 1956 (3 of 1956), and the Travancore-cochin Civil Courts Act, 1951 (XXII of 1951), are hereby repealed.(2)Notwithstanding anything contained in sub-section (1), all courts constituted, appointments made, limits fixed and

jurisdiction and powers conferred under any Act hereby repealed shall, so far as may be consistent with this Act, be deemed to have been constituted, made fixed and conferred under this Act.(3)Notwithstanding anything contained in sub-section (1) or sub-section (2), all District Judges, Subordinate Judges and District Munsiffs, who immediately before the commencement of this Act, were empowered by or under the Travancore-Cochin Civil Courts Act, 1951, to hear and determine certain classes of suits as small cause shall continue to exercise such power in respect of such classes of suits in accordance with the provisions of the said Civil courts Act as if such provisions were not repealed.