

Sikkim Civil Court Act, 1978

SIKKIM

India

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Act 9 of 1978

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Sikkim Civil Court Act, 1978(Sikkim Act No. 9 of 1978)Last Updated 12th March, 2020[Dated 31.3.1978.]An Act to consolidate the law relating to Civil courts subordinate to the high court in the State of Sikkim Whereas it is expedient to consolidate the law relating to Civil courts subordinate to the High court in the State of Sikkim;It is hereby enacted in the Twenty-ninth Year of the republic of India by the Legislature of Sikkim as follows:-

Chapter I

. Preliminary

1. Short title and Commencement.

(1)This Act may be called the Sikkim Civil courts Act, 1978.(2)It shall come into force on such date as the State Government may by, Notification in the Official Gazette appoint.

Chapter II

Constitution of Civil Courts

2. Classes of Courts.

- Besides the High Court and the Courts constituted under any other law for the time Being in force, there shall be the following classes of Civil courts, namely:- (1)the court of the District Judge;(2)the court of the Additional district Judge; and(3)the Court of the civil Judge.

3. Number of Judges.

- The State Government may increase or otherwise alter the number of the District Judge, the Additional District judge and the Civil Judge now fixed.

4. Vacancies among District or Civil Judges.

(1) whenever the office of any Judge is vacant by reason of the death, resignation, removal of the judge or other cause, or whenever an increase in the number of Judge or Judges has been made under the provisions of Section 3, the High Court or, as the case may be, the State Government may fill up the vacancy or make the appointments. (2) Nothing in this Section shall prevent the State Government from appointing a Civil Judge to discharge, for such period as it thinks fit, in addition to the functions devolving on him as such Civil judge, all or any of the functions of the court of any other Civil Judge.

5. Additional District Judge.

(1) If by reason of any increase in the business in the Court of the District Judge or for any other reason, the Government thinks fit so to do, it may, in consultation with the High Court, appoint such Additional District Judges as may be requisite, in accordance with the provisions of Article 233 of the Constitution of India. (2) Additional District Judges so appointed shall discharge any of the functions of The District Judge which the District Judge may assign to them and in the Discharge of those functions, shall exercise the same powers as the District Judge.

6. Administrative Control of courts.

- Subject to the provisions of the Constitution of India, the District Judge shall have administrative control over all the Civil Courts under this Act.

7. Temporary charge of the District Court.

(1) In the event of the death, resignation or removal of the District Judge, or his absence from the place at which his court is held, the senior Additional District Judge present thereat, or if, an Additional District Judge is not present at that place the Senior Civil 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. (2) While in charge of the office of the district Judge, the Additional District Judge or the Civil Judge, as the case may be, may, subject to any rules and to any general or special direction which the High Court may make in this behalf, exercise any of the powers of the District Judge.

8. Transfer of Proceeding on vacation of office office of Additional District Judge.

(1)In the event or the death, resignation or removal of an Additional District Judge, or his being incapacitated by illness or otherwise for the performance of his duties, or his absence from the place at which his Court is held, the District of Judge may transfer all or any of the proceedings pending in the Court of the Additional District Judge either to his own court or to the Court of any other Additional District Judge.(2)The District Judge may re-transfer to the court of the Additional district Judge, or his successor any proceeding transferred under sub-section 910 to his own Court or the Court of any other Additional District Judge.

9. Transfer to proceedings Or vacation of office of Civil Judge.

(1)In the event of the death, resignation or removal of a Civil Judge, or of his being incapacitated by illness or otherwise for the 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 Civil 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 if they had been instituted in the Court to which they are so transferred.(3)The District Judge may re-transfer to the Court of the Civil Judge or his successor any proceedings transferred under sub-section (1) to his own or any other Court.(4)For the purpose of proceedings which are not pending in the court of the Civil Judge and with respect of which that Court has exclusive jurisdiction, the district Judge may exercise all or any of the jurisdiction of that Court on the occurrence of an event referred to in sub-section (1).

10. Power to fix local limits of jurisdiction of Courts.

(1)The State Govt. may, in consultation with the High Court, by notification on 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 Civil Judges, the Judges, the District Judge may, subject to any general or special orders of the High Court, assign to each of the m such Civil business cognizable by a Civil Judge and arising from such local area within the local jurisdiction, as he thinks fit.(3)When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one or two or more Civil Judges, a decree or order passed by the Civil 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 State Government.(4)The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this Section.

11. Place of sitting of Courts.

(1)The State Government may, in consultation with the High court, 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.(2)All

places at which any such courts are now held shall be deemed to have Been fixed under this section.

12. Vacation of Court.

(1)The days to be observed in each year as closed holidays in the Civil Courts under this Act shall be in accordance with the list as may be prepared by the High Court for the purpose.(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.

13. Seals of Courts.

(1)Every Civil Court under this Act shall use a seal of such from and dimension as are prescribed by the High Court.(2)Until seals are prescribed under sub-section (1) the Civil Courts under this Act shall continue to use such seals as are now used by such Courts.

14. Continuance of proceeDing of Court Ceasing to have jurisdiction.

(1)where and Civil court under this Act has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have had therein, may be had in the court to which the business of the former Court has been transferred.(2)Nothing in this Section applied to ceases for which provisions have been or Are made in any other law for the time being in force.

Chapter III

. Jurisdiction of Courts

15. Extend of original jurisdiction of District Judge.

- Save as otherwise provided in any law for the time being in force, the jurisdiction of a District Judge extends to all original suits for the time being Cognizable by Civil Courts.

16. Extent of Jurisdiction of Civil Judge.

(1)Save as aforesaid and subject to the provisions of sub-section (2), the jurisdiction of a Civil Judge shall extend to all suits of which the value does not exceed ten thousand rupees.(2)The State Government may, on the recommendation of the High Court, direct, by notification in the Official Gazette, with respect to any Civil Judge named therein that his jurisdiction shall extend to all like suits of such value value not exceeding twenty thousand rupees as may be specified in then notification:Provided that the State Government may, by notification in the Official Gazette, delegate to the High Court its power under this Section.

17. Appeal from District and Additional District Judges.

(1)Save as otherwise provided in any law for the time being in force, an appeal from a decree or order of the District Judge or an Additional District 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 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.

18. Appeals from Civil Judge.

(1)Save as aforesaid, an appeal from a decree or order of a Civil Judge shall lie;(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 five thousand rupees, and(b)to the high Court in any other cases .(2)Where the function of receiving any appeals which lie to the District Judge under sub-section (1) has been assigned to an Additional District Judge, the appeal's may be preferred to the Additional District Judge.

Chapter IV Supplementary Provisions

19. Judges not to try suits in which they are interested.

(1)the presiding Officer of a Civil court under this Act shall not try any suit or other proceeding to which he is a party or in which he is personally 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 District Judge with a report of the circumstances attending the reference.(4)The District Judge shall thereupon dispose of the case himself or transfer the case to any other Court of competent jurisdiction.

20. Savings.

- All Civil courts, except the high Court of Sikkim exercising jurisdiction in the State of Sikkim immediately before the commencement of this Act shall deem to have been duly constituted and to be exercising jurisdiction under the provision of this Act and all appointments, nominations rules and orders made, jurisdiction and powers conferred and all other actions done or taken relating to such Civil courts, or purporting expressly or impliedly to have been so made, conferred, done or taken under the provisions of this Act.

21. Repeal.

- All laws including rules, regulations, notifications, orders or instructions, in force immediately before the commencement of this Act, in so far they are inconsistent with the provisions of this Act shall to the extent of such inconsistency, cease to have effect and stand repealed from the date of such commencement.