

# The Himachal Pradesh Courts Act, 1976

HIMACHAL PRADESH

India

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### Act 23 of 1976

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The Himachal Pradesh Courts Act, 1976 Act No. 23 of 1976 (Received the assent of the Governor on the 26th May, 1976 and was published in R.H.P., Extra, dated the 4th June, 1976 at page 1275-1282) An Act to enact a law relating to Courts in Himachal Pradesh. Be it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-seventh Year of the Republic of India as follows :- Part - I Preliminary

### 1. Short title, extent and commencement.

(1) This Act may be called the Himachal Pradesh Courts Act, 1976. (2) It shall extend to the whole of Himachal Pradesh. (3) It shall come into force at once.

### 2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context, -(a) "civil district" or "district" means the local limits of the jurisdiction of a Principal Civil Court of original jurisdiction; (b) "District Judge" shall include an Additional District Judge; (c) "Government" or "State Government" means the Government of Himachal Pradesh; (d) "High Court" means the High Court of Himachal Pradesh; (e) "Official Gazette" means the Rajpatra, Himachal Pradesh; and (f) "Small Cause" means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887 (9 of 1887). Part - II Chapter I Subordinate Civil Courts

### 3. Classes of Courts.

- Besides the Courts of Small Causes established under the Provincial Small Cause Courts Act, 1887 (9 of 1887). and the Courts established under any other enactment for the time being in force there shall be the following classes of Subordinate Civil Courts in Himachal Pradesh : -(a) [the Court of Distt. Judge [Substituted vide Act No. 14 of 2003 dated 13-8-2003 amendment of Government on 11-8-2003 and also Civil Judge (Sr. Division) and Civil Judge (Jr. Division) has been substituted for

'Subordinate Judge' wherever occurs in the act.](b)[ the Court of Senior Civil Judge; and(c)the Court of Civil Judge.]]

#### **4. Civil Districts**

(1)For the purpose of this Act, the State , Government shall by notification in the Official Gazette, divide the Himachal Pradesh into civil districts and may alter the limits or the number of these districts and may determine the headquarters of each such district for the purpose of locating the administrative officers of the District Judge.(2)The civil districts existing in the State at the commencement of this Act, shall be deemed to have been former under this Act.

#### **5. District Judges.**

- The State Government shall, after consultation with the High Court, appoint as many persons as it thinks necessary to be District Judges and the High Court shall post one such person to each district as District judge of that district:Provided that the same person may, if the High Court thinks fit, be appointed to be the District Judge of two or more districts.

#### **6. Additional District Judge.**

(1)When the business pending before the Court of any District Judge requires the aid of an Additional Judge or Judges for its speedy disposal, the State Government may, after consultation with the High Court, appoint such Additional District Judges as may be necessary.(2)An Additional District Judge so appointed shall discharge any of the functions of a District Judge which the High Court or the District Judge may assign to him and in the discharge of his functions he shall exercise the same powers as the District Judge.

**7. [ Assignment of functions of District Judge to Additional District Judge.  
[Substituted 'two lakhs' for 'fifty thousand rupees' vide Act No. 16 of 1984  
Section 2 and subsequently Substituted 'five lakhs' for 'two lakhs' vide Act  
No. 1 of 1995, Section 2 and further subs 'ten lakhs' for 'five lakhs' vide Act  
No. 16 of 2001, dated 19-9-2001 vide notification No. III/PJ/1-2001 dated  
1-4-2005 and extended to Additional Distt. Judge also.]**

- The High Court or the District Judge may assign to an Additional District Judge any of the functions of the District Judge including the functions of receiving and registering cases and appeals, which, but for such assignment of functions could be instituted in the Court of District Judge and in the discharge of those functions the Additional District Judge shall, notwithstanding anything contained in the Act, exercise the same - powers as the District Judge.]

## **8. [ Subordinate Judge. [Substituted by the H.P. High Court vide their letter No. HHC/PJ/93-1, dated : 03-10-2013.]**

- The State Government may from time to time after consultation with the High Court, fix the number of Civil Judges to be appointed.]

## **9. District Court to be principal Civil Court of original jurisdiction.**

- The Court of the District Judge shall be deemed to be the District Court or principal Civil Court of original jurisdiction in the district.

## **10. Original Jurisdiction of Civil Courts**

:-District Judge's/Addl. District Judge.I. The court of District Judge/Additional District Judge shall have the pecuniary jurisdiction in all original Civil Suits the value of which does not exceed [Rs. 30,00,000/- (Rupees Thirty lacs)] [The word i.e. exceeds Rs. 10,00,000/- (Rupees Ten Lacs.) but' deleted vide H.P. Highcourt Shimla, Letter No. HHC/PJ/93-1 dated 25.10.2013]

## **11. Original Limits of Civil Judge :.**

-II. Civil Judge (Senior Division)The Court of civil judge (Senior Division) shall exercise the jurisdiction in all original Civil Suits the value of which exceeds Rs. 20,00,000/- (Rupees Twenty Lacs) but does not exceed Rs. 20,00,000/- (Rupees Twenty Lacs).III. Civil Judge (Junior Division)The court of civil judge (Junior Division) shall exercise the jurisdiction in all original Civil Suits the value of which does not exceed Rs. 10,00,000/- (Rupees ten lacs).

## **12. Local limits of jurisdiction.**

(1)The local limits of the jurisdiction of a civil judge shall be such as the High Court may define.(2)When the High Court posts a Civil Judge to a district, the local limits of the district shall, in the absence of any direction to the contrary, be deemed to the local limits of his jurisdiction.

## **13. Power to invest Civil Judge with Small Cause Court jurisdiction.**

- The High Court may, by notification in the Official Gazette confer within such local limits as it thinks fit, upon any Civil Judge, the jurisdiction of a Judge of a Court of Small Cause under the Provincial Small Cause Court Act, 1887 (9 of 1887), for the trial of suits, cognizable by such Court, upto such value not exceeding two thousand rupees as it thinks fit, and may withdraw any jurisdiction so conferred.

#### **14. [ Exercise by Civil Judge of jurisdiction of District Court in certain proceedings. ['Civil Judge' Substituted for Subordinate Judge vide Act No. 14 of 2003 dated 13-8-2003.]**

(1)The High Court may by general or special order and subject to the provisions of any other law for the time being in force, authorise any Civil Judge to take cognizance of, and any District Judge to transfer to such a Subordinate Judge under his control, any proceedings or any class of proceedings, specified in such order under : (a)the Indian Succession Act, 1925 (39 of 1925)(b)the Guardians and Wards Act, 1890 (8 of 1890), and(c)the Provincial Insolvency Act, 1920 (5 of 1920)(2)The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to a Civil Judge and may either-himself dispose of them or transfer them to by other Court under this control competent to disposed of the same.(3)Proceedings taken cognizance of layer transferred to Sub-ordinate Judge, as the case may De, under this section shall be disposed of by him, subject to the rules applicable like proceedings in the Court of the District judge.]

#### **15. Place of sitting of Court.**

(1)The High Court may fix the place or places at which any Court under this Act is to be held.(2)The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.(3)Except as may be otherwise provided by any order under this section, a Court under this Act may be held at any place within the local limits of its jurisdiction

#### **16. Control of Courts.**

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

#### **17. Power to distribute business.**

- Notwithstanding anything, obtained in the Code of Civil Procedure (5 of 1908), every District Judge may by written order direct that any civil business cognizable by his Court and the Courts under his control shall be distributed among such Courts in such manner as he thinks fit :Provided that no direction issued under this Section shall empower any Court to exercise any powers or deal with any business beyond the limits of its jurisdiction.

#### **18. [ Ministerial officers of Courts. [Substituted vide amendment, H.P. Rajpatra, dated 25-9-2009, Substituted 'twenty five thousand' for 'ten thousand rupees vide ordinance No. 1 of 1980. replaced by H.P. Act No. 10 of 1980 and subs Rs. fifty thousand rupees vide Act No. 16 of 1984 Section 3 and further substituted 'two lakhs rupees' for 'fifty thousand rupees' vide Act No. 10 of 1995, Section 3.]**

(1)The ministerial officers of; the District Court other than Superintendent of the Court shall be appointed by the District Judge. The Superintendent of the District Court shall be appointed by the High Court.(2)The ministerial officers of Civil Courts, under the control of the District Judge, shall be appointed by the District Judge.(3)Every appointment under this section shall be subject to such rules the High Court with the prior approval of the Government may make in this behalf.(4)Any, order passed by a District Judge under this section shall; be liable to be reversed or modified by the High Court.]

## **19. Delegation of District Judge's Powers.**

- A District Judge, may with the previous sanction of the High Court, delegate to any Civil - Judge in the district, the power conferred on him by section 18(2) of this Act to be, exercised by the Civil Judge in any specified portion of the Himachal Pradesh Courts Act 1976.

## **Chapter II**

## **Appellate and Revisional Jurisdiction in Civil Cases**

## **20. Appeals from District Judges or Additional District judges.**

(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 Additional District Judge exercising original jurisdiction shall be 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.

## **21. Appeals from Civil Judges.**

(1)Save as aforesaid, an appeal from decree or order of Civil Judge shall lie -(a)to the District Judge where the value of the original suit in which the decree or order was made did not exceed [Ten Lakh rupees] [Substituted for 'Five Lakh' vide H.P. Rajpatra dated 25th September 2009.](b)to the High Court in any other case.(2)Where the function of receiving appeals which lie to the District Judge under sub-section (1) has been assigned to an Additional District Judge, the appeals may be preferred to the Additional District Judge.(3)The High Court may by notification direct that appeals lying to the District Court from all or any of the decree or orders passed in an original suit by any Civil Judge shall be preferred to such other Civil Judge , as may be mentioned in the notification and the appeals shall thereupon be preferred accordingly and the Court of such other Subordinate Judge, shall be deemed to be a District Court for the purposes of all appeals so preferred.

## **21A. Power of the Chief Justice to transfer pending appeals and proceedings to Subordinate Civil Courts.**

(1)The Chief Justice of the High Court of Himachal Pradesh may transfer an suit, appeal or

proceedings, which is or are pending before the High Court of Himachal Pradesh immediately before the commencement of the Himachal Pradesh Courts (Amendment) Act, 1994 to such a subordinate Civil Court in Himachal Pradesh which would have jurisdiction to entertain such suit, appeal or proceedings, had such suit, appeal or proceedings been institute or filed for the first time after such commencement.

## **22. Power to transfer to a Civil Judge appeals from other Civil Judges.**

(1)A District Judge may transfer any appeal pending before him from the decrees or orders of Civil Judges to any other Civil Judge under his administrative control competent to dispose of the same.(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 the same.(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.(4)The powers conferred by this section shall be exercised subject to such general or special orders as may from time to time be issued in this behalf by the High Court.

## **Chapter III Supplementary Provisions**

### **23. Mode of conferring powers.**

- Except as otherwise provided by this Part, any power that may be conferred by the High Court on any person under this Part may be conferred on such person either by name ; or by virtue of office.

### **24. Continuance of powers of officers.**

- Whenever any person holding an office in the service of Government who has been invested with any power under this Part throughout any local area is transferred or posted at any sub-sequent time to an equal or higher office of the same nature within a like local area, he shall, unless the High Court otherwise directs or has otherwise directed, exercise the same powers in the local area to which he is so transferred or posted.

### **25. Provisions regarding petition writers.**

- The High Court may from time to time make rules consistent with this Act and any other enactment for the time being in force.(a)declaring what persons shall be permitted to act as petition writer in the Courts subordinate thereto ;(b)regulating the issue of licences to such persons, the conduct of business by them, and the scale of fees to be charged by them; and(c)determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.

## **26. Control of list of holidays.**

(1)The High Courts shall prepare a list of days to be observed in each year as holidays in Civil Courts subordinate thereto.(2)Every such list shall be published in the Official Gazette

## **27. Seal.**

- Every Court constituted under this act shall use a seal of such form and design as are or may be prescribed by the High Court.

## **27A. [ Certain provisions to over-ride other laws. [Added vide Act No. 16 of 1984, Section 5.]**

- The amendments made in this Act by the Himachal Pradesh Court (Amendment) Act, 1984 shall have effect notwithstanding anything inconsistent therewith contained in sub-section (3) of section 17 of the Delhi High Court Act, 1966 and in section 23 of the State of Himachal Pradesh Act, 1970.]

## **28. Temporary vacancies of office of District Judge.**

- In the event of absence of the District Judge or in the event of a vacancy in that office for whatever reason, the Additional District Judge or if there are more than one Additional District Judges present, the first in rank of them and in the case there be no Additional district judges present, the first in the rank among the Civil Judges present, shall in addition his own duties, discharge the functions of the District Judge with respect to the filing of the suits and appeals, receiving pleadings, miscellaneous applications and the like, as also with respect to the distribution thereof.

## **29. Power to make rules.**

(1)The High Court may from time to time make rules consistent with this Act and any other law for the time being in force for the purpose of carrying into effect the provisions of this Act.(2)In particular and without prejudice to the generally of the powers conferred by sub-section (1) such rules may provide for all or any of the following matters :(a)for the supervision of all Courts subordinate to the High Court and their visitation and inspection ;(b)for the translation of any paper in the High Court, for the preparation of paper books for the hearing of appeals and the copying or, printing of any such papers or translation and the recovery from the persons at whose instance or on whose behalf papers are filed, of the expenses thereby incurred :(c)the fees to be charged for processes issued by the Civil Courts, or by any officer of any such Court and the fee payable in any suit for proceeding in any such Court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceedings ;(d)the manner in which the proceedings of Civil Court should be kept and recorded, the manner in which paper books for the hearing of appeals shall be prepared and the granting of copies;(e)all matters relating to officers of Court.

### **30. Repeal and savings.**

(1) The Punjab Courts Act, 1918 (6 of 1918) as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 (31 of 1966) and the Himachal Pradesh (Courts) Order, 1948 as in force in the areas comprised in Himachal Pradesh immediately before 1st November 1966 are hereby repealed :