

THE BOMBAY CIVIL COURTS' ACT, 1869

ARRANGEMENT OF SECTIONS

Preamble.

SECTIONS

PART I.—*Preliminary.*

1. Short title. Extent of Act.
2. [*Repealed.*].

PART II.—*Districts and Sadr Stations.*

3. Alteration and creation of Districts.
4. Position of Sadr station.

PART III.—*District Courts.*

5. District Judges.
First District Judges.
6. Situation of District Court.
7. Original jurisdiction of District Judge.
8. His appellate jurisdiction.
9. Control and inspection of Courts.
10. Writs and orders. Reports and returns.
11. Seal of District Judge.

PART IV.—*Joint Judges.*

12. Power to appoint Joint Judges.
13. Enactments applying to District Judge to apply to Joint Judge. Joint Judge's seal.

PART V.—*Assistant Judges.*

14. Power to appoint Assistant Judges.
15. Situation of Assistant Judge's Court.
16. Original jurisdiction of Assistant Judge.
17. Appellate jurisdiction of Assistant Judge.
18. Continuance of Assistant Judge's appellate jurisdiction.
19. Power to invest Assistant Judge with powers of District Judge.
20. Assistant Judge to use seal of District Judge.

PART VI.—*Subordinate Judges.*

21. Number of Subordinate Civil Courts.
22. Appointment of Subordinate Judges.
- 22A. Power to fix local limits of Jurisdiction of Subordinate Judges.
23. Situation of Subordinate Courts.
24. Classes of Subordinate Judges.
Jurisdiction of Subordinate Judge of first class.
Jurisdiction of Subordinate Judge of second class.
25. Special jurisdiction of Subordinate Judge of first class.

* Subject to verification and confirmation by the Department.

SECTIONS

26. Appeals from his decision.
27. Appellate jurisdiction of Subordinate Judge of first class.
28. Power to invest Subordinate Judges with small cause powers.
29. Seal of Subordinate Judge.
30. [*Repealed.*].
31. [*Repealed.*].
32. Reference of Government suits.

Removal or suspension.

33. Commission of enquiry into alleged misconduct.
34. Suspension of Subordinate Judges by High Court or District Judge.
Saving of power of Government to suspend or dismiss.

PART VII.—*Temporary vacancies.*

35. Temporary vacancy of office of District Judge.
36. Delegation of powers of District Judge.
37. Temporary vacancy of office of Subordinate Judge.

PART VIII.—*Ministerial Officers.*

38. Appointment, etc., of ministerial officers.
39. Duties of ministerial officers.
40. Power to appoint Clerks of the Courts.

PART IX.—*Miscellaneous.*

41. Rules for keeping proceedings.
42. Fees for process.
43. Sittings of Courts.
Vacation.

SCHEDULE.—[*Repealed.*].

THE BOMBAY CIVIL COURTS' ACT, 1869

ACT NO. 14 OF 1869

[19th March, 1869.]

An Act to consolidate and amend the law relating to the District and Subordinate Civil Courts in the Presidency of Bombay.

Preamble.—Whereas it is expedient to consolidate and amend the law relating to the District and other subordinate Civil Courts in the Presidency of Bombay; It is hereby enacted as follows:—

PART I.—*Preliminary.*

1. Short title. Extent of Act.—This Act may be called “The Bombay Civil Courts’ Act, 1869,” and extends only to the territories (other than Sind) under the Government of the Governor of Bombay in Council in which the Code of Civil Procedure is now in force. But the Governor of Bombay in Council may, by notification in the Government Gazette, extend this Act to any other of the territories under such Government in which the said Code is not in force, or to Sind.

2. [Repeal of enactments].—*Rep. by the Obsolete enactments Act, 1870 (14 of 1870), s. 1 and Schedule, Part II (w.e.f. 5-4-1870).*

PART II.—*Districts and Sadr Stations.*

3. Alteration and creation of Districts.—The Governor of Bombay in Council may from time to time, by notification in the Government Gazette, alter the limits of existing Zilas (which shall hereafter be called Districts) and create new Districts for the purposes of this Act.

4. Position of Sadr station.—The Governor of Bombay in Council may also from time to time, by notification in the Government Gazette, alter the position of the Sadr station in any District, and fix the position of the Sadr station in any new District.

PART III.—*District Courts.*

5. District Judges.—There shall be in each District a District Court presided over by a Judge to be called the District Judge. He shall be appointed by the Governor of Bombay in Council by whose authority only he shall be liable to be suspended or removed from his appointment.

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6. Situation of District Court.—The District Judge shall ordinarily hold the District Court at the Sadr station in his District, but may, with the previous sanction of the High Court, hold it elsewhere within the District.

7. Original jurisdiction of District Judge.—The District Court shall be the principal Court of original civil jurisdiction in the District, within the meaning of the Code of Civil Procedure.

8. His appellate jurisdiction.—Except as provided in sections sixteen, seventeen and twenty-six, the District Court shall be the Court of Appeal from all decrees and orders passed by the Subordinate Courts from which an appeal lies under any law for the time being in force.

9. Control and inspection of Courts.—The District Judge shall have general control over all the Civil Courts and their establishments within the District, and it shall be his duty to inspect, or to cause one of his Assistants to inspect, the proceedings of all the Courts subordinate to him, and to give such directions with respect to matters not provided for by law as he may think necessary. The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

1. The second paragraph of s. 5 rep. by Act 12 of 1876, s. 1 and Schedule, Part I (w.e.f. 11-4-1876).

10. Writs and orders. Reports and returns.—The District Judge shall obey all writs, orders, or processes issued to him by the High Court, and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require. He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the Governor of Bombay in Council.

11. Seal of District Judge.—The District Judge shall use a circular seal two inches in diameter, which shall bear thereon the Royal Arms with the following inscription in English and the principal language of the District—“District Court of _____.”

PART IV.—Joint Judges.

12. Power to appoint Joint Judges.—The Governor of Bombay in Council may, with the previous sanction of the Governor General of India in Council, appoint in any District a Joint Judge who shall be invested with co-extensive powers and a concurrent jurisdiction with the District Judge, except that he shall not keep a file of civil suits and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to the Joint Judge by order of the High Court.

When the appointment of a Joint Judge shall have been sanctioned by the Governor General of India in Council, the Governor of Bombay in Council may, so long as such sanction continues in force, appoint a successor to such Joint Judge in case his office becomes vacant, or transfer such Joint Judge from one District to another; and in such other District the Joint Judge so transferred shall have the same powers as he had in the former District.

13. Enactments applying to District Judge to apply to Joint Judge. Joint Judge’s seal.—All Regulations and Acts now or hereafter in force and applying to a District Judge shall be deemed to apply also to the Joint Judge; and the seal of the Joint Judge shall be the same as is used by the District Judge.

PART V.—Assistant Judges.

14. Power to appoint Assistant Judges.—The Governor of Bombay in Council, under the general control of the Governor General of India in Council, may appoint one or more Assistants to the District Judge, and may suspend or remove from his appointment any Assistant so appointed.

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15. Situation of Assistant Judge’s Court.—An Assistant Judge shall ordinarily hold his Court at the same place as the District Judge, but he may hold his Court elsewhere within the District, whenever the District Judge shall, with the previous sanction of the High Court, direct him so to do.

16. Original jurisdiction of Assistant Judge.—The District Judge may refer to any Assistant Judge subordinate to him original suits of which the subject-matter does not amount to ten thousand rupees in amount or value, and miscellaneous applications not being of the nature of appeals. The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications. Where the Assistant Judge’s decrees and orders in such cases are appealable, the appeal shall lie to the District Judge or to the High Court according as the amount or value of the subject-matter does not exceed or exceeds five thousand rupees.

The Assistant Judge shall, when directed by the District Judge so to do, also take evidence on applications for certificates under ²*** Act No. XX of 1864 (*for making better provision for the care of the persons and property of minors in the Presidency of Bombay*), and shall forward it with his opinion thereon for the final orders of the District Judge.

17. Appellate jurisdiction of Assistant Judge.—The Governor of Bombay in Council may, by notification in the Government Gazette, empower any Assistant Judge to try such appeals from the decrees and orders of the subordinate Courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

1. The second paragraph of s. 14 rep. by Act 12 of 1876, s. 1 and Schedule, Part I (w.e.f. 11-4-1876).
 2. Certain words repealed by Act 7 of 1889, s. 2 and the First Schedule (w.e.f. 8-3-1889).

Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

18. Continuance of Assistant Judge's appellate jurisdiction.—A person filling the office of Assistant Judge, on whom the power of hearing appeals has once been conferred under section seventeen, shall continue to have this power so long and so often as he may fill the office of Assistant Judge, without reference to the District in which he may be employed; provided that the Governor of Bombay in Council may, by notification in the Government Gazette, at any time withdraw such power.

19. Power to invest Assistant Judge with powers of District Judge.—The Governor of Bombay in Council may, by notification in the Government Gazette, invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a District, and may, by like notification, from time to time determine and alter the limits of such Part.

The jurisdiction of an Assistant Judge so invested shall *pro tanto* exclude the jurisdiction of the District Judge from within the said limits.

Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the Governor of Bombay in Council, and may, with the previous sanction of the High Court, hold it at any other place within such limits.

20. Assistant Judge to use seal of District Judge.—Every Assistant Judge shall use the seal of the District Judge to whom he is Assistant.

PART VI.—*Subordinate Judges.*

21. Number of Subordinate Civil Courts.—There shall be in each District so many Civil Courts subordinate to the District Court as the Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct.

22. Appointment of Subordinate Judges.—The Judges of such subordinate Courts shall be appointed by the Governor of Bombay in Council, and shall be called Subordinate Judges.

No person shall be appointed a Subordinate Judge unless he be a subject of the Queen who has practised five years as an Advocate of a High Court in India or as a Vakil in the High Court of Judicature in Bombay, or who has qualified for the duties of a Subordinate Judge according to such tests as may for the time being be prescribed by such High Court, or who has taken the degree of Bachelor of Laws in the University of Bombay.

The tests so prescribed by the High Court shall be notified in the Government Gazette.

¹[**22A. Power to fix local limits of jurisdiction of Subordinate Judges.**—The Governor of Bombay in Council may, by notification in the Official Gazette, fix, and, by a like notification, from time to time alter, the local limits of the ordinary jurisdiction of the Subordinate Judges.]

23. Situation of Subordinate Courts.—The Subordinate Judges shall hold their Courts at such place or places as the Governor of Bombay in Council may from time to time appoint, within the local limits of their respective jurisdictions. Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Subordinate Judge shall hold his Court at each of such places, and the Subordinate Judge shall cause such days to be duly notified throughout the local limits of his jurisdiction.

The same person may be the Judge of more than one Subordinate Court; and in such cases the District Judge shall, subject to the control of the High Court, prescribe rules for regulating the time during which the Subordinate Judge shall sit in each Court.

The Judge of any Subordinate Court may, with the previous sanction of the High Court, be deputed by the District Judge to the Court of another Subordinate Judge for the purpose of assisting him in the disposal of the suits on his file.

1. Ins. by Act 9 of 1880, s. 2 (w.e.f. 30-4-1880).

24. Classes of Subordinate Judges.—The Subordinate Judges shall be of two classes.

Jurisdiction of Subordinate Judge of first class.—The jurisdiction of a Subordinate Judge of the first class extends to all original suits and proceedings of a civil nature.

Jurisdiction of Subordinate Judge of second class.—The jurisdiction of a Subordinate Judge of the second class extends to all original suits and proceedings of a civil nature wherein the subject-matter does not exceed in amount or value five thousand rupees.

25. Special jurisdiction of Subordinate Judge of first class.—A Subordinate Judge of the first class, in addition to his ordinary jurisdiction, shall exercise a special jurisdiction in respect of such suits and proceedings of a civil nature wherein the subject-matter exceeds five thousand rupees in amount or value as may arise within the local jurisdictions of the Courts in the District presided over by Subordinate Judges of the second class.

In Districts to which more than one Subordinate Judge of the first class have been appointed, the District Judge, subject to the orders of the High Court, shall assign to each the local limits within which his said special jurisdiction is to be exercised.

26. Appeals from his decision.—In all suits decided by a Subordinate Judge^{1***} of which the amount or value of the subject-matter exceeds five thousand rupees, the appeal from his decision shall be direct to the High Court.

27. Appellate jurisdiction of Subordinate Judge of first class.—The Governor of Bombay in Council may invest any Subordinate Judge of the first class with power to hear appeals from such decrees and orders of Subordinate Courts as may be referred to him by the Judge of the District.

Decrees and orders so passed in appeal by a Subordinate Judge of the first class shall have the same force as if passed by a District Judge.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

28. Power to invest Subordinate Judges with small cause powers.—The Governor of Bombay in Council may invest, within such local limits as he shall from time to time appoint, any Subordinate Judge of the first class with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts up to the amount of five hundred rupees, and any Subordinate Judge of the second class with the same jurisdiction up to the amount of fifty rupees.

The Governor of Bombay in Council may, whenever he thinks fit, withdraw such jurisdiction from any Subordinate Judge so invested.

29. Seal of Subordinate Judge.—Each Subordinate Judge shall use a seal one inch and a half in diameter, bearing the Royal Crown with the following inscription in English and the principal language of the District—“Subordinate Judge of .”

30. [*First Subordinate Judges of first class*].—*Rep. by the Obsolete Enactments Act, 1876 (12 of 1876), s. 1 and Schedule, Part I (w.e.f. 11-4-1876).*

31. [*Pending proceedings*].—*Rep. by s. 1 and Schedule, Part I, ibid. (w.e.f. 11-4-1876).*

32. Reference of Government suits.—²[No Subordinate Judge or Court of Small Causes shall receive or register a suit in which the Government or any officer of Government in his official capacity is a party, but in every such case such Judge or Court shall refer the plaintiff to the District Judge, in whose Court alone (subject to the provisions of section nineteen) such suit shall be instituted.]

1. The words “of the first class in the exercise of his ordinary and special original jurisdiction” omitted by Act 28 of 1930, s. 2 (w.e.f. 25-7-1930).

2. Subs. by Act 10 of 1876, s. 15, for certain words (w.e.f. 28-3-1876).

¹[Provided that nothing in this section shall be deemed to apply to any suit merely because—

(a) a municipal corporation constituted under Bombay Act No. VI of 1873, or any other enactment for the time being in force, is a party to such suit and an officer of Government is in his official capacity a member of such corporation, or

(b) an officer of a Court appointed under the Code of Civil Procedure, section 456, last paragraph,
^{2***} a party to such suit.]

Removal or suspension.

33. Commission of enquiry into alleged misconduct.—Whenever the High Court is of opinion that there are good grounds for making a formal and public enquiry into the truth of any imputation of misconduct by any Subordinate Judge, the High Court may appoint a Commissioner or Commissioners for the purpose of holding such an enquiry, and on the receipt of his or their report may order that the Subordinate Judge be removed or suspended from office, or reduced to a lower class.

The provisions of Act No. XXXVII of 1850 (for regulating enquiries into the behaviour of public servants) shall apply to enquiries under this section, the powers conferred by that Act on the Government being exercised by the High Court.

34. Suspension of Subordinate Judges by High Court or District Judge.—The High Court may suspend any Subordinate Judge from office pending the result of an enquiry into his behaviour under this section.

Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any Subordinate Judge under his control. But whenever the District Judge suspends any such Subordinate Judge, he shall forthwith report the case for the orders of the High Court.

Saving of power of Government to suspend or dismiss.—Nothing in this section or in section thirty-three shall be held to interfere with the right of Government to suspend, or remove from office, any Subordinate Judge at their discretion.

PART VII.—*Temporary vacancies.*

35. Temporary vacancy of office of District Judge.—In the event of the death of the District Judge or of his being prevented from performing his duties by illness or other casualty, or of his absence from his District on leave, the first in rank of the Assistant Judges in the District, or in the absence from the District of an Assistant Judge the first in rank of the Subordinate Judges, shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like, and shall be designated Assistant Judge or Subordinate Judge, as the case may be, in charge of the District, and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

36. Delegation of powers of District Judge.—Any District Judge leaving the Sadr station and proceeding on duty to any place within his District, may delegate to an Assistant Judge, or in the absence of an Assistant Judge to a Subordinate Judge at the Sadr station, the power of performing such of the duties enumerated in section thirty-five as may be emergent; and such officer shall be designated Assistant or Subordinate Judge, as the case may be, in charge of the Sadr station.

37. Temporary vacancy of office of Subordinate Judge.—In the event of the death, suspension or temporary absence of any Subordinate Judge, the District Judge may empower the Judge of any Subordinate Court of the same District to perform the duties of the Judge of the vacated Subordinate Court, either at the place of such Court or of his own Court; but in every such case the Registers and Records of the two Courts shall be kept distinct.

1. Added by Act 15 of 1880, s. 3 (w.e.f. 3-11-1880).

2. Certain words rep. by Act 12 of 1891, s. 2 and the First Schedule, Part I (w.e.f. 21-3-1891).

PART VIII.—*Ministerial Officers.*

38. Appointment, etc., of ministerial officers.—All ministerial officers of the Civil Courts in each District shall be appointed, and may be fined, suspended or dismissed by the District Judge, subject to such rules as the High Court may from time to time prescribe:

Provided that the Judge of every Subordinate Court may, subject to the like rules, appoint the ministerial officers of such Court, whose salaries do not exceed rupees ten per mensem, and may by order find, suspend or dismiss any ministerial officer of such Court who is guilty of any misconduct or neglect in the performance of the duties of his office. Every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the Criminal Courts subordinate thereto, shall apply to all appeals under this section.

Nothing in this section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

39. Duties of ministerial officers.—The duties of the said ministerial officers shall be regulated by such rules as the High Court may from time to time prescribe.

40. Power to appoint Clerks of the Courts.—The Governor of Bombay in Council may, under the general control of the Governor General of India in Council, appoint to any Civil Court under this Act a Clerk of the Court who, in addition to such duties as may from time to time be prescribed by the High Court, may receive and register plaints, and shall refer such as he may consider should be refused for the orders of the Judge of the Court, and may sign all processes, and authenticate copies of papers.

PART IX.—*Miscellaneous.*

41. Rules for keeping proceedings.—The proceedings of each Civil Court shall be kept and recorded according to such rules as the High Court may from time to time prescribe. The High Court shall also lay down rules under which copies of papers may be granted.

42. Fees for process.—The High Court shall from time to time, with the sanction of the Governor of Bombay in Council, prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of such Court.

Tables of the fees so prescribed shall be published in the Government Gazette.

43. Sittings of Courts.—The District and Subordinate Courts shall sit from day to day, except on Sundays, New Year's Day, Good Friday, Christmas Day, and Her Majesty's Birth Day, and such other days as may be sanctioned for each or every District by the High Court.

Vacation.—The High Court may also permit the Civil Courts under its control to adjourn for a period or periods not exceeding in the whole six weeks in each year.

[*SCHEDULE*].—*Rep. by the Obsolete enactments Act, 1870 (14 of 1870), s. 1 and Schedule, Part II (w.e.f. 5-4-1870).*