

APPENDIX-2

THE ASSAM HIGH COURT (JURISDICTION OVER DISTRICT COUNCIL COURTS) ORDER, 1954*

1.(1) This Order may be cited as the Assam High Court (Jurisdiction over District Courts) Order, 1954.

(2) It shall come in to force at once.

2. In this Order-

(a) "Advocate-General" means the Advocate-General of Assam;

(b) "Autonomous District" means a tribal area deemed as such under paragraph 1(1) of the Sixth Schedule to the Constitution of India;

(c) "Constitution" means the Constitution of India;

(d) "District Council" means the District Council of an Autonomous District constituted under the provisions of the Sixth Schedule to the Constitution and in Accordance with the Assam Autonomous Districts (Constitution of District Council) Rules, 1951;

(e) "District Council Court" means a District Council Court Constituted under the provisions of sub-paragraph (2) of paragraph 4 of the Sixth Schedule to the Constitution;

(f) "Governor" means the Governor of Assam;

(g) "High Court" means the High Court of Assam;

(h) "Government Advocate" means the Government Advocate appointed by the Government of Assam;

(i) "Subordinate District Council Court" means a Subordinate District Council Court constituted under the provisions of sub-paragraph (1) of paragraph 4 of the Sixth Schedule to the constitution and includes an Additional Subordinate District Council Court;

(j) "Village Court" means a Village Court constituted under the provisions of Sub-paragraph (1) of paragraph 4 of the Sixth Schedule to the Constitution.

3. An appeal against a final order or decision of District Council Court in a civil suit where the valuation of the suit is Rs.1,000 or more, shall lie to the High Court:

Provided that such appeal shall be presented within ninety days from the date of the order or decision appealed against, exclusive of the time requisite for obtaining a copy of the said order or decision;

Provided further that the High Court may admit an appeal filed beyond the

* Framed under Notification No. TAD/R-11/53/23, dated 16.1.1954, published in the Assam Gazette, Part II-A, dated 20.1.1954, p.61

period of limitation if the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within the specified period.

Explanation-The term "suit" includes execution proceedings.¹

4.(1) In criminal case an appeal shall lie to the High Court from an order of conviction of the District Council Court awarding a sentence of six months' imprisonment or upwards.

(2) An appeal under sub-CI. (1) shall be presented within sixty days of the date of order appealed against excluding the time needed for obtaining a copy of the order:

Provided that the High Court may admit an appeal filed beyond the period of limitation if the appellant satisfies the Court that he had sufficient cause for not preferring the appeal within the specified period.

5.(1) The Governor may direct the Government Advocate to present an appeal to the High Court against any order of acquittal by the District Council Court.

(2) Such appeals must be presented within ninety days from the date of the order appealed against excluding the time requisite for obtaining a copy of the order.

6. The High Court may, on application or otherwise, call for the proceedings of any civil or criminal case decided by or pending in any court in the autonomous district constituted under the provisions of sub-paragraphs(1) and (2) of paragraph 4 of the Sixth Schedule to the Constitution (hereinafter called the court of the District Council) and passed such orders as it may deem fit.²

7.(1) Whenever it is made to appear to the High Court —

(a) that a fair and impartial inquiry, trial or adjudication cannot be had in any Court of District Council; or

(b) that some question of law, tribal or otherwise of unusual difficulty is

Note 1: As held in *Pachunga Vs. Mrs. Zokhumi*, (1989) 2 GLJ (NOC) 8: (1989) 2 GLR 428, in a second appeal, the High Court may treat it as a First Appeal and can enter into the facts of the case for the purpose of re-appreciation of evidence on record.

Note 2: As held in the case of *Kaldis Mary Khar Kangor Vs. Ka Theirit Lyngdoh*, AIR 1969 A & N 92, this rule provides for revision without any restriction. The High Court while exercising revisional powers will be entitled to go into the facts like an appellate court. The matter of deciding the scope of jurisdiction power of the High Court under this Order will not be governed by any spirit of the provisions for revision laid down in the Codes. In the matter of revision under rule 36 of the Administration of Justice and Police Rules, the High Court has very wide powers. There is no reason to make a distinction between revisional powers of the High Court in criminal matters and in Civil matters respectively. As held in *Ka Phir Mai Lyngdoh Vs. Ka Thermal Lyngdoh*. 1960 ILR 477 (Assam), it is a privilege of the High Court to interfere in revision when on perusing the records it comes to the conclusion that justice has not been done between the parties. Scope of Rule 6 was also discussed.

likely to arise; or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry in to or trial of the same; or

(d) that an order under this clause will tend to the general convenience of the parties or witnesses; or

(e) that such an order is expedient for the ends of justice or is required by the provision of any law applicable to the case;

it may order —

(i) that any offence be inquired into or tried or a suit be adjudicated by any Court other than the Court of origin;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from any one Court to any other Court of equal or superior jurisdiction;

(iii) that any particular appeal be transferred to be heard itself.

(2) The High Court may act either on the report of the Lower Court or on the application of a party interested or on its own initiative.

(3) Every application for the exercise of the powers conferred by this clause shall be made by motion, which shall except, when the applicant is the Advocate-General or Government Advocate, be supported by an affidavit or affirmation.

(4) When an accused person makes an application under this rule, the High Court may direct him to execute a bond with or without sureties on the condition that he will, if so ordered, pay any amount which the High Court may, under this clause, award by way of compensation to the person opposing the application.

(5) Every accused person making any such application shall give to the Government Advocate or accredited representative of the District Council, as the case may be, notice in writing of the application together with a copy of the grounds on which it is made: and no order shall be made on the merits of the application, unless at least forty eight hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where any application for the exercise of the power conferred by this clause is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case.

(7) If, before the argument (if any) for the admission of an appeal begins, or in the case of an appeal admitted before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this clause, the Court shall upon such party executing, if so required a bond without sureties, of an amount not exceeding two hundred rupees that he

will make such application within a reasonable time to be fixed by the Court postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.

(8) The High Court before which an appeal in a civil suit is filed, may before admitting the appeal, order the deposit by the appellant of all reasonable expenditure likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses, and if the appellant be a judgment debtor may also order security to be given for part of the whole of the decretal amount.

(9) The decree of the High Court in a civil case shall be transferred to the Court passing the original order for execution as a decree of its own.
