

L. A. Bill No. 49 of 1958

**THE KERALA CIVIL COURTS (AMENDMENT)
BILL, 1958**

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BILL

to amend the Kerala Civil Courts Act, 1957.

Preamble.—WHEREAS it is expedient to amend the Kerala Civil Courts Act, 1957, for the purposes hereinafters appearing ;

BE it enacted in the Ninth Year of the Republic of India as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Civil Courts (Amendment) Act, 1958.

(2) It shall come into force at once.

2. *Amendment of section 7.*—For sub-section (1) of section 7 of the Kerala Civil Courts Act, 1957 (Act I of 1957), hereinafter referred to as the Principal Act, the following sub-section shall be substituted, namely :—

“(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.”

3. *Amendment of section 13.*—Section 13 of the Principal Act shall be renumbered as sub-section (1) of that section and—

(i) in sub-section (1) as so renumbered, in the first proviso for the words “Provided that” the words “Provided further that” shall be substituted and before that proviso the following proviso shall be inserted, namely :—

“Provided that the Government may, by notification in the Gazette, invest any District Court with the power to admit, here and decide appeals from original decrees and orders of a Subordinate Judge’s Court where the amount or value of the subject matter of the suit in which the decree or order has been passed does not exceed ten thousand rupees.”

(ii) after sub-section (1), as so renumbered the following sub-sections shall be inserted, namely :—

“(2) The provisions of sub-section (1) shall apply to original decrees and orders of a Subordinate Judge’s Court in respect of suits instituted before the 15th February, 1957, where such decrees and orders were passed after the commencement of the Kerala Civil Courts (Amendment) Act, 1958.

(3) Where a District Court is invested with powers under the first proviso to sub-section (1), all appeals arising from the original decrees and orders in respect of such suits passed after the date of such investiture by a Subordinate Judge’s Court shall lie to that District Court notwithstanding the fact that the suit was instituted in the Subordinate Judge’s Court before the date of such investiture.”

4. *Insertion of new sections 20 A and 20 B.*—After section 20 of the Principal Act, the following sections shall be inserted, namely :—

“20 A. *Maintenance of books by Civil Courts.*—The Civil Courts subordinate to the High Court shall maintain such books as the Government may, in consultation with the High Court, prescribe in the interest of the public.

20 B. *Constitution of Administrative Advisory Committees.* The Government may, in consultation with the High Court, constitute a Committee called Administrative Advisory Committee for each Civil Court subordinate to the High Court consisting of not more than five members with the Presiding Officer of the Court as the Chairman, two representatives of the Bar Association concerned and the other members to be nominated by the Presiding Officer of the Court. The Committee may make recommendations to the Government through the High Court regarding improvements to be made to the Court building, amenities to be provided for the litigant public and the lawyers and other matters of a similar nature. The Committee may also perform such other functions as the High Court or the Government may by general or special order direct. The term of the Committee shall be 3 years.”

STATEMENT OF OBJECTS AND REASONS.

Section 13 of the Kerala Civil Courts Act, 1957, provides that, where the amount or value of the subject matter of the suit does not exceed Rs. 7,500 appeals from original decrees and orders of a Subordinate Judge’s Court shall, when such appeals are allowed by law, lie to the District Court. Hence direct appeals from original decrees and orders of a Subordinate Judge’s Court will lie to the High Court only where the amount or value of the subject matter of the suit exceeds Rs. 7,500. Before the Kerala Civil Courts Act, 1957, came into force, the corresponding pecuniary limits under the Travancore-Cochin

Civil Courts Act, 1951 and the Madras Civil Courts Act, 1873, which were in force in the Travancore-Cochin and Malabar areas of the State were Rs. 3,000 and Rs. 5,000 respectively.

2. In a recent decision, the High Court of Kerala has held that section 13 of the Kerala Civil Courts Act, 1957, will have no application to suits instituted in Subordinate Judge's Courts before the commencement of the Kerala Civil Courts Act, 1957, irrespective of the date when the decree or order was passed. The result of this decision would be that the enlargement of the appellate jurisdiction of the District Courts contemplated by the said provision will remain a dead-letter for some years to come. Hence it is considered necessary that the section should be amended so that the provision may apply to original decrees and orders of Subordinate Judge's Courts passed after the date from which the amendment comes into force, notwithstanding the fact that suits in such cases were instituted before the commencement of the Kerala Civil Courts Act, 1957.

3. One of the conclusions arrived at the Law Ministers' Conference held at New Delhi on the 18th and 19th September 1957, was that provision should be made in the States in which it is not already made that first appeals may lie to the District Judge in original suits of the value of up to Rs. 10,000. In the light of this decision it is considered necessary to empower the Government to invest any District Court with power to hear and decide appeals from original decrees or orders of a Subordinate Judge's Court where the amount or value of the subject matter of the suit does not exceed Rs. 10,000.

4. Under section 7 of the Kerala Civil Courts Act, 1957, the place at which a District Court or a Subordinate Judge's Court is to be held, has to be fixed by the Government while the location of a Munsiff's Court is to be fixed by the High Court. It is considered necessary that the Government should consult the High Court before fixing the location of a District Court or a Subordinate Judge's Court and that the same procedure may be adopted in the case of fixing the location of Munsiff's Courts also.

5. It is considered necessary that Government should be invested with power to prescribe the maintenance by the Civil Courts of such books as they may consider necessary in the interests of the public and also to constitute administrative advisory Committees in the Civil Courts subordinate to the High Court for making recommendations to Government regarding improvements to be made to the Court building, amenities to be provided to the litigant public etc.

6. The Bill is intended to achieve the above objects.

FINANCIAL MEMORANDUM

Clause 4 of the Bill *inter alia* provides for the constitution of Administrative Advisory Committees. The non-official members of the Committee may have to be paid sitting fees for attending the meetings and expenditure from the Consolidated Fund of the State may have to be incurred for this purpose. It cannot be estimated at present how many Committees will be constituted and how many meetings the Committee will hold. It is not, therefore, possible to give an estimate of the expenditure involved by the passing of the Bill.

V. R. KRISHNA IYER.

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2. *Amendment of section 7.*—For sub-section (1) of section 7 of the Kerala Civil Courts Act, 1957 (Act I of 1957), hereinafter referred to as the Principal Act, the following sub-section shall be substituted, namely :—

“(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.”

3. *Amendment of section 13.*—Section 13 of the Principal Act shall be renumbered as sub-section (1) of that section and—

(i) in sub-section (1) as so renumbered, in the first proviso for the words “Provided that” the words “Provided further that” shall be substituted and before that proviso the following proviso shall be inserted, namely :—

“Provided that the Government may, by notification in the Gazette, invest any District Court with the power to admit, here and decide appeals from original decrees and orders of a Subordinate Judge’s Court where the amount or value of the subject matter of the suit in which the decree or order has been passed does not exceed ten thousand rupees.”

(ii) after sub-section (1), as so renumbered the following sub-sections shall be inserted, namely :—

“(2) The provisions of sub-section (1) shall apply to original decrees and orders of a Subordinate Judge’s Court in respect of suits instituted before the 15th February, 1957, where such decrees and orders were passed after the commencement of the Kerala Civil Courts (Amendment) Act, 1958.

(3) Where a District Court is invested with powers under the first proviso to sub-section (1), all appeals arising from the original decrees and orders in respect of such suits passed after the date of such investiture by a Subordinate Judge’s Court shall lie to that District Court notwithstanding the fact that the suit was instituted in the Subordinate Judge’s Court before the date of such investiture.”

4. *Insertion of new sections 20 A and 20 B.*—After section 20 of the Principal Act, the following sections shall be inserted, namely :—

“20 A. *Maintenance of books by Civil Courts.*—The Civil Courts subordinate to the High Court shall maintain such books as the Government may, in consultation with the High Court, prescribe in the interest of the public.

20 B. *Constitution of Administrative Advisory Committees.* The Government may, in consultation with the High Court, constitute a Committee called Administrative Advisory Committee for each Civil Court subordinate to the High Court consisting of not more than five members with the Presiding Officer of the Court as the Chairman, two representatives of the Bar Association concerned and the other members to be nominated by the Presiding Officer of the Court. The Committee may make recommendations to the Government through the High Court regarding improvements to be made to the Court building, amenities to be provided for the litigant public and the lawyers and other matters of a similar nature. The Committee may also perform such other functions as the High Court or the Government may by general or special order direct. The term of the Committee shall be 3 years.”

STATEMENT OF OBJECTS AND REASONS.

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Civil Courts Act, 1951 and the Madras Civil Courts Act, 1873, which were in force in the Travancore-Cochin and Malabar areas of the State were Rs. 3,000 and Rs. 5,000 respectively.

2. In a recent decision, the High Court of Kerala has held that section 13 of the Kerala Civil Courts Act, 1957, will have no application to suits instituted in Subordinate Judge's Courts before the commencement of the Kerala Civil Courts Act, 1957, irrespective of the date when the decree or order was passed. The result of this decision would be that the enlargement of the appellate jurisdiction of the District Courts contemplated by the said provision will remain a dead-letter for some years to come. Hence it is considered necessary that the section should be amended so that the provision may apply to original decrees and orders of Subordinate Judge's Courts passed after the date from which the amendment comes into force, notwithstanding the fact that suits in such cases were instituted before the commencement of the Kerala Civil Courts Act, 1957.

3. One of the conclusions arrived at the Law Ministers' Conference held at New Delhi on the 18th and 19th September 1957, was that provision should be made in the States in which it is not already made that first appeals may lie to the District Judge in original suits of the value of up to Rs. 10,000. In the light of this decision it is considered necessary to empower the Government to invest any District Court with power to hear and decide appeals from original decrees or orders of a Subordinate Judge's Court where the amount or value of the subject matter of the suit does not exceed Rs. 10,000.

4. Under section 7 of the Kerala Civil Courts Act, 1957, the place at which a District Court or a Subordinate Judge's Court is to be held, has to be fixed by the Government while the location of a Munsiff's Court is to be fixed by the High Court. It is considered necessary that the Government should consult the High Court before fixing the location of a District Court or a Subordinate Judge's Court and that the same procedure may be adopted in the case of fixing the location of Munsiff's Courts also.

5. It is considered necessary that Government should be invested with power to prescribe the maintenance by the Civil Courts of such books as they may consider necessary in the interests of the public and also to constitute administrative advisory Committees in the Civil Courts subordinate to the High Court for making recommendations to Government regarding improvements to be made to the Court building, amenities to be provided to the litigant public etc.

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