

## ACT No. XXXII OF 1871.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the  
30th October 1871).*

An Act to consolidate and amend the law relating  
to the Civil Courts in Oudh.

Preamble.

**WHEREAS** it is expedient to consolidate and amend  
the law relating to the Civil Courts in Oudh ;  
It is hereby enacted as follows :—

### CHAPTER I.

#### PRELIMINARY.

Short title.

**1.** This Act may be called “The Oudh Civil  
Courts’ Act, 1871 :”

Extent of  
Act.

It applies to all Civil Courts in Oudh, except Small  
Cause Courts ;

Commence-  
ment.

And shall come into force on the date of the pass-  
ing thereof.

But all suits, appeals, applications or proceedings  
instituted previous to such date shall be heard and  
disposed of by the Courts in which they were insti-  
tuted.

‘Division’  
defined.

**2.** In this Act—

‘Division’ means the local jurisdiction of the  
Court of the Commissioner.

Repeal of  
enactments.

**3.** The Acts and orders mentioned in the schedule  
hereto annexed are repealed to the extent specified  
in the third column of such schedule, except as to  
the suits, appeals, applications or proceedings men-  
tioned in section one.

### CHAPTER II.

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## CONSTITUTION OF CIVIL COURTS.

4. There shall be five grades of Courts in Oudh, Grades of Courts in Oudh.  
namely :—

(1)—The Court of the Tahsildár;

(2)—The Court of the Assistant Commissioner or Extra Assistant Commissioner;

(3)—The Court of the Deputy Commissioner or of the Civil Judge of Lucknow;

(4)—The Court of the Commissioner;

(5)—The Court of the Judicial Commissioner.

5. The Governor General in Council shall fix, and may from time to time vary, the number of Courts of each grade to be established under this Act. Power to fix number of Courts.

6. The Judicial Commissioner, Commissioners, Deputy Commissioners, Civil Judge of Lucknow and Assistant Commissioners shall be appointed by the Governor General in Council. Appointment of officers.

The Extra Assistant Commissioners and Tahsildárs shall be appointed by the Chief Commissioner.

7. All existing Courts corresponding to the grades mentioned in section four and the presiding officers thereof shall be deemed to have been respectively established and appointed under this Act. Confirmation of existing Courts and officers.

8. The general control over all the Courts of the first and second grades in any District is vested in the Deputy Commissioner, and the like control over the said Courts and of the Courts of the third grade in any Division is vested in the Commissioner, subject to the superintendence of the Judicial Commissioner. Control over subordinate Courts.

9. Every Court under this Act shall—

(1) be a "Civil Court" within the meaning of the Code of Civil Procedure; Courts to be Civil Courts under Civil Procedure Code.

(2) use a seal of such form and dimensions as are for the time being prescribed by the Chief Commissioner; and Seal to be used.

(3) be

Place for holding Court.

(3) be held at such place or places as may be from time to time directed by the Chief Commissioner.

### CHAPTER III.

#### JURISDICTION.

Power to fix local jurisdiction of Courts.

10. The Chief Commissioner shall, with the previous sanction of the Governor General in Council, fix, and may from time to time vary, the local limits of the jurisdiction of any Civil Court under this Act.

Existing local jurisdiction preserved.

The present local limits of the jurisdiction of every Civil Court shall be deemed to be fixed under this Act.

#### *Original Jurisdiction.*

Extent of ordinary jurisdiction.

11. The Courts mentioned in the first column of the subjoined table shall ordinarily have jurisdiction in the adjudication of suits of every description arising within their local jurisdiction to the extent specified in the second column thereof: Provided that no suit cognizable by a Court of Small Causes shall, within the local limits of the jurisdiction of any such Court, be heard or determined by any other Court.

|  |   |
|--|---|
| (1.) The Tahsildár.  | (1.) When the amount or value of the subject-matter of the suit does not exceed one hundred rupees. |
| (2.) The Assistant Commissioner or Extra Assistant Commissioner. | (2.) When such amount or value does not exceed five hundred rupees.                                 |
| (3.) The Deputy Commissioner or the Civil Judge of Lucknow.      | (3.) Whatever be the amount or value of the subject-matter of the suit.                             |

Power to extend jurisdiction of certain officers.

But the Chief Commissioner may invest any Tahsildár with power to try suits of which the amount or value of the subject-matter does not exceed five hundred rupees, and may also empower any Assistant Commissioner or Extra Assistant Commissioner to try suits of which the amount or value of the subject-matter does not exceed five thousand rupees.

Orders conferring extended jurisdiction to have force of law.

All orders of the Chief Commissioner investing any Tahsildár, Assistant Commissioner or Extra Assistant Commissioner with such extended jurisdiction shall be duly notified in the local official

Gazette,

Gazette, and shall thereupon have the same force and effect as if the said jurisdiction had been expressly conferred by this Act upon the Courts presided over by the officers so invested.

12. The Court of the Deputy Commissioner shall be deemed to be the principal Civil Court of original jurisdiction in any district, and he may direct the business in the Courts of the first and second grades to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Distribution of business by Deputy Commissioner.

13. The Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself, or refer it for trial to any other such Court competent in respect of the value or amount of the suit to try the same.

Power of Commissioner to withdraw suits from subordinate Courts.

14. Section twelve of Act VIII of 1859 shall be read, as regards the trial of suits in Oudh, subject to the following modification, namely:—

Modification of section 12, Act VIII of 1859.

(1.) When the suit is for immoveable property situate within the local jurisdiction of different District Courts included in the same division, the application for authority to proceed with the suit shall be made to the Commissioner of such division.

(2.) When the said Courts belong to different divisions, the application shall be made to the Commissioner of the division in which the district wherein the suit was instituted is included.

#### *Appellate Jurisdiction.*

15. (1.)—Appeals from the decrees and orders in original suits and proceedings of the Courts of the first and second grades shall, when such appeals are allowed by law, ordinarily lie to the Deputy Commissioner. But where the amount or value of the subject-matter of any such suit or proceeding exceeds one thousand rupees, the appeal shall lie to the Commissioner.

Appca s.

(2.)—Appeals from such decrees and orders of the Court of the Deputy Commissioner, when such appeals are allowed by law, shall lie to the Commissioner.

(3.)—An

(3.)—An appeal from any such decree or order passed by the Commissioner shall, when such appeal is allowed by law, lie to the Judicial Commissioner, whose Court shall be deemed to be the highest Court of Appeal.

Power of Commissioner to withdraw appeals.

16. The Commissioner may withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him, and try the appeal himself, or refer it for trial to the Court of any other Deputy Commissioner in his division.

When Judicial Commissioner may receive second appeal.

17. If the decision of a Deputy Commissioner or a Commissioner, passed in appeal, reverse or modify the decision of the Court of original jurisdiction, the Judicial Commissioner may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the subordinate Courts, a further consideration of the case appears to him to be requisite for the ends of justice.

Decision of first appellate Court when final.

18. If the Court of first appeal confirms the decision of the Court of first instance, such decision shall be final :

Reference to Judicial Commissioner.

Provided that where, in the trial of any appeal, such appellate Court entertains any doubt in regard to a question of law or usage having the force of law, or as to the construction of a document affecting the merits of the decision, the Court may, either of its own motion or on the application of any of the parties to the case, draw up a statement of the case, and refer it, with the Court's own opinion, for the decision of the Judicial Commissioner.

Procedure on such reference.

19. The Judicial Commissioner, after hearing and considering the case so referred, shall send a copy of his judgment to the Court by which the reference was made, and such Court shall, on the receipt of the copy, proceed to dispose of the case in conformity with the decision of the Judicial Commissioner.

Costs of reference.

20. Costs, if any, consequent on the reference of the case to the Judicial Commissioner, shall be costs in the appeal out of which the reference arose.

Time for presenting appeal to Commissioner.

21. The memorandum of appeal must, when the appeal lies to the Commissioner, be presented within

within six weeks, the period being reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of such decision or order; and, in all other cases, within the periods fixed by the law of limitation relating to the presentation of appeals for the time being in force.

In other cases.

22. Whenever the state of business in the Court of the Judicial Commissioner is such that he cannot dispose of the same with reasonable dispatch, he may cause a list of the appeals pending in his Court to be prepared and sent to the Chief Commissioner, and such Chief Commissioner, with the sanction of the Governor General in Council, may, if he think fit, appoint a Commissioner to be an Additional Judicial Commissioner for the disposal of such appeals or any of them.

Appointment of Extra Judicial Commissioner.

23. When the Judicial Commissioner entertains any doubt as to the decision to be passed on any appeal under this Act, he may make a reference to the High Court of the North-Western Provinces of the Presidency of Bengal, and shall transmit the record of the case referred, and all the proceedings connected therewith, to the said Court.

Reference to High Court, North-Western Provinces.

24. The High Court shall, with as little delay as possible, proceed to try the case referred as if it were an appeal instituted in such Court, and shall send a copy of its judgment to the Judicial Commissioner, who shall dispose of the case in conformity therewith.

Procedure of High Court thereupon.

25. The provisions of section twenty, as to the adjustment of costs, shall apply to cases referred under the last preceding section.

Section 20 to apply to reference to High Court.

#### *Special Jurisdiction.*

26 In any district in which a settlement of the land-revenue is in progress, the Chief Commissioner, with the sanction of the Governor General in Council, may invest any officer making or controlling such settlement with all or any of the powers of Civil Courts of the first, second, third or fourth grades, for the purpose of trying suits and appeals relating to land

Power to invest settlement officers with powers of Civil Courts in certain cases.

land assessed to revenue, or the rent, revenue or produce of such land, arising in such district.

Exclusion of jurisdiction of Civil Courts in district under settlement.

Any district in which such officers have been so invested shall, for the purposes of this section, be deemed to be under settlement until such time as the Governor General in Council shall otherwise direct; and the jurisdiction of the Ordinary Civil Courts of those grades shall be excluded in respect of such suits and appeals during that period :

Power to transfer cases from settlement officers, to Civil Courts.

Provided that the Chief Commissioner may direct that any cases pending before the settlement officers invested with the powers mentioned in the former part of this section shall be transferred to the ordinary Civil Courts of the district if the state of business in his opinion requires it.

Trial of suit relating to land and to other property.

27. If, before any officer so invested, a suit relating both to such land and other property be instituted, the said officer shall make a reference regarding the disposal of such suit to the Commissioner of the division in which the district wherein the suit was instituted is included, who shall determine by what Court the suit shall be tried.

Limitation law not to apply to certain suits relating to tenures.

28. No suit relating to any tenure which shall be cognizable by the Court of any settlement officer under this Act, shall be barred under the law for the time being in force relating to the limitation of suits, if the cause of action arose on or after the thirteenth day of February 1844.

Bar of redemption-suits when mortgage executed before 13th February 1844.

29. When a mortgagee shall, under or by virtue of a mortgage executed before the said day, have obtained possession of any land comprised in his mortgage, the mortgagor or any person claiming through him shall not bring a suit to redeem the mortgage of such land, any subsequent acknowledgment of the title or right to redeem of the mortgagor, or of any person claiming through him, notwithstanding.

Redemption-suits not barred where fixed term for redemption had not expired before 13th February 1856.

30. Nothing herein contained shall be taken to bar a suit for redemption in any case where, by the instrument of mortgage, a term was fixed within which the property comprised therein might be redeemed, and such term had not expired before the thirteenth

thirteenth day of February 1856: Provided that, if any such term had expired before that day, the suit shall be barred, whatever may have been the date on which the instrument was executed.

CHAPTER IV.

MISCELLANEOUS.

**31.** Where, in any suit or proceeding, it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Muhammadan law in cases where the parties are Muhammadans, and the Hindú law in cases where the parties are Hindús, shall form the rule of decision, except in so far as such law has by legislative enactment been altered or abolished, or is opposed to any custom prevailing in the province of Oudh.

Certain decisions to be according to Native law.

In cases not provided for by the former part of this section or by any other law for the time being in force, the Court shall act according to justice, equity and good conscience.

**32.** No presiding officer of any Court having jurisdiction under this Act shall try any suit or appeal in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

Presiding officer of Court not to try certain suits.

When any such suit, appeal or proceeding comes before any such presiding officer, he shall forthwith transmit the record of the case to the Court to which he is immediately subordinate, with a report of the circumstances attending the reference.

Disposal of such suits.

The superior Court shall thereupon dispose of the case in the manner prescribed by section six, Act VIII of 1859.

In the event of an appeal being preferred to a Judicial Commissioner from a judgment or order passed by him in any other capacity, or in which he has any personal interest, he shall report the fact to the Chief Commissioner, who, with the sanction of the Governor General in Council, shall appoint a Com-

Power to appoint Additional Judicial Commissioner.

missioner



missioner to be an Additional Judicial Commissioner for the disposal of the case.

Suspension and removal of presiding officers.

**33.** The presiding officer of any Court under this Act may, for any misconduct, be suspended or removed by the Governor General in Council.

The presiding officer of any Court of the second, third or fourth grade may, for any misconduct, be suspended by the Chief Commissioner, but shall not be removed without the sanction of the Governor General in Council.

The presiding officer of any Court of the first grade may, for any misconduct, be suspended or removed by the Chief Commissioner.

Appointment of ministerial officers of lower Courts.

**34.** The ministerial officers of the Courts of the first and second grades shall be appointed by the Deputy Commissioner within whose local jurisdiction such Courts are situate.

Fining, suspension and removal of ministerial officers.

**35.** Every Court of the first and second grades may fine, in an amount not exceeding one month's salary, any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. The Deputy Commissioner, subject only to the general control of the Commissioner, may on appeal or otherwise reverse or modify every such order, and may of his own motion remove, suspend from office, or fine up to the amount of one month's salary, any ministerial officer of any Court subordinate to him.

Appointment of ministerial officers of superior Courts.

**36.** The Civil Judge of Lucknow, Deputy Commissioner, Commissioner, and Judicial Commissioner shall appoint the ministerial officers of their respective Courts; provided that the appointment by the Civil Judge of Lucknow, or a Deputy Commissioner or Commissioner of a ministerial officer whose monthly salary exceeds fifty rupees shall be subject to the sanction of the Judicial Commissioner.

Removal, suspension and fining of such officers.

**37.** The Civil Judge of Lucknow, Deputy Commissioner, Commissioner and Judicial Commissioner may remove or suspend the ministerial officers of their respective Courts, or fine them in an amount not exceeding one month's salary; but every such removal

or

or suspension made by a Commissioner, Deputy Commissioner or the Civil Judge of Lucknow shall be subject to the general control of the Judicial Commissioner.

38. Any fine imposed under this chapter shall, if the order imposing it so directs, be recovered from the offender's salary. Recovery of fines.

39. Nothing in this chapter shall be deemed to bar the general control of the Chief Commissioner over all appointments and removals of ministerial officers under this Act. Saving of general control of Chief Commissioner.

40. Act No. XIX of 1868 shall be construed as if, for "Financial Commissioner" in sections eighty-four, ninety-three, ninety-four and ninety-eight, the words "Judicial Commissioner," and, in section ninety-nine, the words "Chief Commissioner" were substituted. Amendment of Act XIX of 1868.

SCHEDULE.

## SCHEDULE.

## ACTS.

| No. and year.        | TITLE.   | Extent of repeal.   |
|----------------------|--|---|
| Act VIII of 1859 ... | An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.   | Sections 332, 372, 373, 374 and 375, so far as they relate to Oudh. |
| Act XIV of 1865 ...  | An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.  | The whole, so far as it relates to Oudh.                            |
| Act XVI of 1865 ...  | An Act to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits. | The whole.  |
| Act XIII of 1866 ... | An Act to exempt certain suits in Oude from the operation of the rules of limitation in force in that Province.  | The whole.  |
| Act XXVII of 1867.   | An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhānsi Division to distribute the business in subordinate Courts.                    | So far as it relates to Oudh.                                       |
| Act XI of 1871 ...   | An Act to abolish the Financial Commissionership of Oudh.  | The whole.  |

## GOVERNMENT ORDERS.

|   |         |  |
|---|---------|--|
| No. 12, dated 4th February 1856.          | } ..... | { So much as prescribes the constitution and jurisdiction of the Civil Courts in Oudh. |
| No. 3502, dated 6th October 1858.         |         |  |
| Notification dated 6th August 1861.       | } ..... | First proviso.   |
| Notification dated 3rd April 1871, 724 G. | } ..... | The whole.   |