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West Bengal Act XXI of 1953¹

THE CITY CIVIL COURT ACT, 1953.

AMENDED

West Ben. Act XXVII of 1957.
West Ben. Act XVII of 1959.
West Ben. Act XXXV of 1969.
West Ben. Act LX of 1980.
West Ben. Act XIX of 1982.
West Ben. Act XXVIII of 1990.

[1st September, 1953.]

An Act to establish an additional Civil Court for the City of Calcutta.

WHEREAS it is expedient to establish an additional Civil Court for the City of Calcutta;

It is hereby enacted as follows:—

1. (1) This Act may be called the City Civil Court Act, 1953.
- (2) It shall come into force² on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title
and
commence-
ment.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

- (1) "Chief Judge" means the Chief Judge of the City Civil Court, appointed under sub-section (1) of section 4;
- (2) "City Civil Court" means the Court established under section 3;
- (3) "City of Calcutta" means the area comprised within the local limits for the time being of the ordinary original civil jurisdiction of the High Court;
- (4) "High Court" means the High Court at Calcutta;
- (5) "proceeding" includes any proceeding arising out of a suit of a civil nature (not being a proceeding on appeal, reference, revision or any application to the High Court) and any other proceeding whatsoever of a civil nature in the exercise of original jurisdiction not arising out of a suit;
- (6) "Small Cause Court" means the Court of Small Causes of Calcutta, constituted under the Presidency Small Cause Courts Act, 1882.

XV of 1882.

¹For the Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, dated the 31st March, 1953, Part IVA, page 463; for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meetings of the West Bengal Legislative Assembly held on the 1st, 2nd and the 5th May, 1953; and for proceedings of the West Bengal Legislative Council, see the proceedings of the meetings of the West Bengal Legislative Council held on the 11th and 12th May, 1953.

²This Act was brought into force with effect from the 23rd February, 1957, vide Notification No. 1057-J., dated the 14th February, 1957, of the Judicial Department, published in the *Calcutta Gazette, Extraordinary*, of the 20th February, 1957, Part I, page 585.

(Sections 3-5.)

Establishment of City Civil Court.

3. (1) The State Government may, by notification in the *Official Gazette*, establish¹ a Civil Court to be called the City Civil Court.

(2) The City Civil Court shall be deemed to be a Court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent for the High Court and of the Code of Civil Procedure, 1908.

Act V of 1908.

Appointment of Judges.

4. (1) There shall be appointed a Chief Judge of the City Civil Court and as many other Judges of that Court as the State Government thinks fit.

(2) Each of the Judges of the City Civil Court may exercise all or any of the powers conferred on that Court by this Act or by any other law for the time being in force.

Jurisdiction.

5. (1) The local limits of the jurisdiction of the City Civil Court shall be the City of Calcutta.

(2) Subject to the provisions of sub-sections (3) and (4),
2* * * * * the City Civil Court shall have jurisdiction and the High Court shall not have jurisdiction to try suits and proceedings of a civil nature, not exceeding ³[rupees ten lakhs] in value.

⁴(3) The City Civil Court shall have jurisdiction and the High Court shall not have jurisdiction to try any proceeding under—

(i) the Guardians and Wards Act, 1890,

5* * * * *

(iii) the Indian Lunacy Act, 1912,

(iv) the Indian Succession Act, 1925.

8 of 1890.

5* * *

4 of 1912.

39 of 1925.

(4) The City Civil Court shall not have jurisdiction to try suits and proceedings of the description specified in the First Schedule.

(5) All suits and proceedings which are not triable by the City Civil Court shall continue to be triable by the High Court or the Small Cause Court or any other Court, tribunal or authority, as the case may be, as heretofore.

¹The City Civil Court was established with effect from the 23rd February, 1957, vide Notification No. 1058-J., dated the 14th February, 1957, of the Judicial Department, published in the *Calcutta Gazette, Extraordinary*, of the 20th February, 1957, Part I, pages 585-586.

²The words and figure "and of section 9" were omitted by s. 2(a) of the City Civil Court (Amendment) Act, 1969 (West Ben. Act XXXV of 1969).

³Firstly, the words "rupees fifty thousand" were substituted for the words "rupees ten thousand" by s. 2(b), *ibid.* Then the words "rupees one lakh" were substituted for the words "rupees fifty thousand" by s. 2(a) of the City Civil Court (Amendment) Act, 1980 (West Ben. Act LX of 1980). Finally, the words "rupees ten lakhs" were substituted for the words "rupees one lakh" by s. 2 of the City Civil Court (Amendment) Act, 1990 (West Ben. Act XXVIII of 1990).

⁴Sub-section (3) was substituted for the original sub-section by s. 2(b) of the City Civil Court (Amendment) Act, 1980 (West Ben. Act LX of 1980).

⁵The brackets, figures and words "(ii) the Presidency-towns Insolvency Act, 1909," with its marginal reference "3 of 1909," were omitted by s. 2 of the City Civil Court (Amendment) Act, 1982 (West Ben. Act XIX of 1982).

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(Sections 6-10.)

Act V of 1908.

6. Save as otherwise provided in this Act, the Code of Civil Procedure, 1908, shall apply to all suits and proceedings under this Act so far as it is consistent with this Act.

Procedure.

7. All questions, other than questions relating to procedure or practice, which arise in suits or proceedings before the City Civil Court, shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Law to be administered by the City Civil Court.

8. (1) An appeal shall lie to the High Court from—
(a) every decree passed by the City Civil Court; and
(b) every order passed by the City Civil Court being—
(i) an order specified in sub-section (1) of section 104 of the Code of Civil Procedure, 1908, and in particular, in Order XLIII of the First Schedule to the Code of Civil Procedure, 1908, or an order under clause (i) or clause (ii) of section 14, or
(ii) any other order, from which an appeal lies to the High Court under any law.

Appeal.

(2) (a) The period of limitation for an appeal from a decree or order of the City Civil Court shall be thirty days from the date of such decree or order.

IX of 1908.

(b) The provisions of the Indian Limitation Act, 1908, other than the portion of sub-section (2) of section 29 thereof, beginning with the words “, and for the purpose of determining” and ending with the words “shall not apply”, shall apply to all suits and proceedings triable by the City Civil Court and to appeals and applications under this Act to the High Court from or in respect of any suit or proceeding.

9. [(Power of High Court to remove suit or proceeding to itself.)—
Omitted by s. 3 of the City Civil Court (Amendment) Act, 1969 (West Ben. Act XXXV of 1969).]

10. (1) The Chief Judge may make such arrangements as he thinks fit for the distribution of business of the City Civil Court among the Judges thereof.

Power of Chief Judge in respect of distribution of business, and transfer and withdrawal of suits or proceedings.

(2) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or if he is of opinion that it is necessary so to do in order to ensure proper distribution of business or in order to give effect to the provisions of section 11, then of his own motion and without such notice, the Chief Judge may at any stage—

(a) transfer any suit or proceeding pending before him for trial or disposal to any other Judge of the City Civil Court, or

(Sections 11, 12.)

- (b) withdraw any suit or proceeding pending before any other Judge of that Court, and
- (i) try or dispose of the same; or
 - (ii) transfer the same for trial or disposal to any Judge other than the Judge from whom it was withdrawn.

(3) Where any suit or proceeding has been transferred or withdrawn under sub-section (2), the Judge who thereafter tries such suit or proceeding may, subject to any special directions in the case of an order of transfer, either retry it or proceed from the point at which it was transferred or withdrawn, as he thinks fit:

Provided that in a suit or proceeding where the hearing has already commenced before the transfer or withdrawal, the Judge shall retry it if any of the parties prays for a retrial.

No Judges to try suits or proceedings in which he is interested.

11. (1) The Chief Judge, or any other Judge of the City Civil Court, shall not try any suit or proceeding to which he is a party or in which he is directly or indirectly interested.

(2) When any such suit or proceeding comes before the Chief Judge, he shall of his own motion forthwith transfer it under section 10, to another Judge of the City Civil Court.

(3) When any such suit or proceeding comes before any other Judge of the City Civil Court, he shall of his own motion forthwith transmit the record of such suit or proceeding to the Chief Judge with a report of the circumstances and the Chief Judge shall deal with such suit or proceeding under section 10.

Temporary charge of office of Chief Judge.

12. (1) In the event of the death, resignation or removal or absence on leave of the Chief Judge or of his being incapacitated by illness or otherwise from the performance of his duties, or of his absence from the City of Calcutta, the Judge of the City Civil Court next in order of seniority according to the period of ¹[service in the West Bengal Higher Judicial Service], who may be present, shall, without relinquishing his ordinary duties, assume charge of the office of the Chief Judge, and shall continue in charge thereof until the office is resumed by the Chief Judge or assumed by a person appointed thereto.

(2) While in charge of the office of the Chief Judge, such Judge may, subject to any rules which the High Court may make in this behalf, exercise any of the powers of the Chief Judge.

¹These words were substituted for the words "service in the City Civil Court" by s. 2 of the City Civil Court (Amendment) Act, 1959 (West Ben. Act XVII of 1959).

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(Sections 13-15.)

13. (1) In the event of the death, resignation or removal or absence on leave of a Judge of the City Civil Court other than the Chief Judge, or of his being incapacitated by illness or otherwise from the performance of his duties or of his absence from the City of Calcutta, the Chief Judge may transfer all or any of the suits and proceedings which were pending before such Judge, either to himself or to any other Judge of the City Civil Court.

Vacancy in the office of a Judge other than the Chief Judge.

(2) Suits and proceedings transferred under sub-section (1) shall be disposed of in the manner provided in sub-section (2) of section 10.

14. If at any stage of a suit or proceeding instituted in the High Court or the City Civil Court, such Court finds that for want of jurisdiction it cannot, or will not be able to, entertain or decide the suit or proceeding and that it should have been instituted in the City Civil Court or the High Court, as the case may be, the High Court or the City Civil Court shall,—

Return of plaint for want of jurisdiction and provision for crediting fees already paid.

- (i) order the plaint or the application to be returned for presentation to the City Civil Court or the High Court, as the case may be; and
- (ii) order that in the levy of any court-fee payable by a party to a suit or proceeding in connection with the suit or proceeding in the City Civil Court or the High Court, as the case may be, credit shall be given for any court-fee already paid by such party in connection with the suit or proceeding instituted in the High Court, or the City Civil Court and that any excess shall be refunded.

15. (1) The State Government shall appoint a person to be the Registrar of the City Civil Court.

Appointment of Registrar and of clerks and other ministerial officers and their duties

(2) The State Government shall fix the number of clerks and other ministerial officers for the City Civil Court. The appointment of such clerks and other ministerial officers shall be made by the State Government or, in any class or classes of cases the State Government so directs, by the Chief Judge.

(3) Subject to the superintendence of the High Court, the Chief Judge shall have administrative control over the Registrar of the City Civil Court, and the clerks and ministerial officers referred to in sub-section (2), and may frame regulations prescribing the duties of such Registrar, clerks and ministerial officers.

¹For Notification directing that the appointment of the clerks and other ministerial officers attached to the City Civil Court or the City Sessions Court shall be made by the Chief Judge, see Notification No. 7108-I., dated 21.8.59, published in the *Calcutta Gazette* of 1959, Part I, page 3184.

²For the Calcutta City Civil Court Regulations, 1957, see Notification No. nil, dated nil, published in the *Calcutta Gazette* of 1957, Part I, pages 3431-3442.

(Sections 16-19.)

Holidays and
vacation.

16. (1) The Chief Judge shall, before the commencement of each year, draw up a list of holidays and vacations to be observed in the City Civil Court, and shall submit the same for the approval of the High Court.

(2) Such list, when it has received such approval, shall be published in the *Official Gazette* and the said holidays and vacations shall be observed accordingly.

Attorneys
entitled to act
and plead in
the City
Civil Court.

17. (1) All persons entered as attorneys-at-law on the roll of the High Court shall be entitled to act and plead in the City Civil Court.

(2) The provisions of sub-section (1) shall be in addition to and not in derogation of any law entitling a person to act and plead, or to plead, as the case may be, in the City Civil Court.

Seal.

18. The City Civil Court shall use a seal of such form and dimension as may, for the time being, be prescribed by the State Government.

Rules.

19. (1) The High Court may, from time to time, with the approval of the Governor, make rules² for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely,—

- (a) the practice and procedure of the City Civil Court, so far as such rules are not inconsistent with the provisions of this Act as read with the Code of Civil Procedure, 1908;
- (b) registers, books, accounts and other records to be maintained by the City Civil Court;
- (c) returns, statements and other information to be submitted by the City Civil Court from time to time to the High Court, and also to the State Government if required by the State Government;
- (d) the manner in which the period of service in the City Civil Court of the Judges of that Court shall be calculated and the exercise of the powers of the Chief Judge under sub-section (2) of section 12;

Act V of
1908.

¹For notification prescribing form and dimension of the seal to be used by the City Civil Court, see Notification No. 1296-J., dated 21.2.57, published in the *Calcutta Gazette, Extraordinary* of 1957, Part I, page 803.

²For "The Rules of the Calcutta City Civil Court" made in exercise of the powers conferred by section 19, see Notification No. 1072-R.O., dated the 14th February, 1957, of the High Court, Appellate Side, published in the *Calcutta Gazette, Extraordinary*, of the 20th February, 1957, Part I, pages 594-612.

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(Sections 20-22 and the First Schedule.)

- (e) the manner in which credit shall be given for court-fee already paid and the manner in which refund shall be made of any excess of court-fee in cases where a direction has been issued under the proviso to clause (b) of sub-section (2) of section 9, or an order has been made under clause (ii) of section 14.
- (f) delegation to the Registrar of the City Civil Court of any judicial, quasi-judicial and non-judicial duties.

20. Nothing in this Act shall affect any suit or proceeding pending in the High Court on the date on which this Act comes into force, and every such suit or proceeding shall be continued as if this Act had not been passed.

Saving of suits and proceedings pending in High Court.

21. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law, including in particular the Letters Patent of the High Court.

Act to override other law including Letters Patent.

22. The enactments specified in the Second Schedule are hereby amended in their application to West Bengal to the extent and in the manner mentioned in the fourth column of such Schedule.

Amendments to certain enactments.

THE FIRST SCHEDULE.

[See section 5(4).]

1. Suits and proceedings triable by the High Court as a Court of Admiralty or Vice-Admiralty, or as a Colonial Court of Admiralty.

2*	*	*	*	*	*	*	*
2*	*	*	*	*	*	*	*
2*	*	*	*	*	*	*	*
2*	*	*	*	*	*	*	*
2*	*	*	*	*	*	*	*
2*	*	*	*	*	*	*	*
2*	*	*	*	*	*	*	*
2*	*	*	*	*	*	*	*

¹Clause (f) was added by s. 3 of the City Civil Court (Amendment) Act, 1959 (West Ben. Act XVII of 1959).

²Items 2, 3, 4, 5, 6, 7, 9 and 11 were omitted by s. 4 of the City Civil Court (Amendment) Act, 1969 (West Ben. Act XXXV of 1969).

³Items 8, 12, 13 and 14 were omitted by s. 3 of the City Civil Court (Amendment) Act, 1980 (West Ben. Act LX of 1980).

(The First Schedule.)

10. Suits and proceedings—

- (i) under the Indian Companies Act, 1913¹, or the Banking Companies Act, 1949, or
- (ii) relating to or arising out of the constitution, incorporation, management or winding up of corporations.

VII of 1913.
X of 1949.

²10A. Proceedings for the relief of insolvent debtors triable by the High Court.

3*	*	*	*	*	*	*	*
4*	*	*	*	*	*	*	*
4*	*	*	*	*	*	*	*
4*	*	*	*	*	*	*	*

15. Suits and proceedings triable by the High Court as a Court of matrimonial jurisdiction.

16. Suits and proceedings triable by the High Court under any special law other than the Letters Patent.

17. Suits and proceedings triable by the Small Cause Court.

⁵THE SECOND SCHEDULE

(See section 22.)

Year	Number	Short Title	Amendments
1	2	3	4

Acts of the Central Legislature

1890	8	The Guardians and Wards Act, 1890.	In clause (4) of section 4, for the words "a High Court in the exercise of its ordinary original civil jurisdiction", the words "as respects the city of Calcutta as defined in the City Civil Court Act, 1953, the City Civil Court established under that Act" shall be substituted.
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¹The Indian Companies Act, 1913 (VII of 1913) was repealed by the Companies Act, 1956 (1 of 1956).

²Item 10A was inserted by s. 3 of the City Civil Court (Amendment) Act, 1982 (West Ben. Act XIX of 1982).

³See foot-note 2 on page 397, *ante*.

⁴See foot-note 3 on page 397, *ante*.

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(The Second Schedule.)

Year	Number	Short Title	Amendments
1	2	3	4

Acts of the Central Legislature

* 1912	* 4	* Indian Lunacy Act, 1912.	* (1) In clause (1) of section 25, for the words "High Courts", the words "City Civil Court" shall be substituted. (2) In section 26, in sub-section (1), for the words "High Court", the words "City Civil Court" shall be substituted. (3) In Chapter IV under Part III, for section 37, the following section shall be substituted:— 37. Except as otherwise provided in this Chapter, the Court having jurisdiction under this Chapter shall be the City Civil Court established under the City Civil Court Act, 1953." (4) In section 39, after the words "Advocate-General", the words "or the Government pleader" shall be inserted. (5) Sections 43 and 44 shall be omitted. (6) In section 45, the words "or the finding of the District Court to which the inquisition may have been referred under the provisions of section 43 with such amendments as may be made under the provisions of section 44, as the case may be," shall be omitted.
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West Ben. Act XXI of 1953.

¹The entries beginning with "1909 3 The Presidency-towns Insolvency Act, 1909." and ending with—

(12) In sub-section (1) of section 112, for the words "The Courts having jurisdiction under this Act", the words "The High Court" shall be substituted." were omitted by s. 4 of the City Civil Court (Amendment) Act, 1982 (West Ben. Act XIX of 1982).

(The Second Schedule.)

Year	Number	Short Title	Amendments
1	2	3	4
Acts of the Central Legislature			
1912	4	Indian Lunacy Act, 1912.	<p>(7) In the proviso to section 55, for the words "High Court" in the two places where they occur, the words "City Civil Court" shall be substituted.</p> <p>(8) After section 60, the following section shall be inserted:— "Appeals. 60A. An appeal shall lie to the High Court from any order made by the City Civil Court, under this Chapter."</p> <p>(9) In section 61, for the words "The Court", the words "The High Court" shall be substituted.</p> <p>(10) In the proviso to sub-section (1) of section 71, for the words "High Court", the words "City Civil Court" shall be substituted.</p> <p>(11) In Chapter VII under Part IV, in section 88, for the words "High Court", the words "City Civil Court" shall be substituted.</p>
1925	39	Indian Succession Act, 1925.	<p>(1) To clause (bb) of section 2, the following proviso shall be added:— "Provided that as respect the area comprised within the local limits for the time being of the ordinary original civil jurisdiction of the High Court at Calcutta references to a District Judge in this Act shall be construed as references to the City Civil Court established under the City Civil Court Act, 1953."</p>

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(The Second Schedule.)

Year	Number	Short Title	Amendments
1	2	3	4

Acts of the Central Legislature

1925	39	Indian Succession Act, 1925.	(2) In section 273, clause (a) of the proviso shall be omitted.
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(3) In section 274, for subsection (1), the following subsection shall be substituted:—

“(1) Where probate or letters of administration has or have been granted by a District Judge with the effect referred to in the proviso to section 273, the District Judge shall send a certificate thereof to the High Court to which such District Judge is subordinate and to each of the other High Courts.”.

(4) Section 300 shall be omitted.

(5) For Schedule IV, the following Schedule shall be substituted:—

“SCHEDULE IV

[See section 274(2).]

FORM OF CERTIFICATE

I, A. B., hereby certify that on the day of, granted probate of the will (or letters of administration of the estate) of C. D., late of deceased, to E. F. of and G.H. of, and that such probate (or letters) has (or have) effect over all the property of the deceased throughout India.”.

The City Civil Court Act, 1953.

[West Ben. Act XXI of 1953.]

(The Second Schedule.)

Year	Number	Short Title	Amendments
1	2	3	4

Acts of the West Bengal Legislature

1956	XII	The West Bengal Premises Tenancy Act, 1956.	In the First Schedule, in clause (1), for sub-clauses (i) and (ii), the following sub-clauses shall be substituted:— “(i) where the value of the suit does not exceed ¹ [rupees ten lakhs]—to the City Civil Court as defined in the City Civil Court Act, 1953; (ii) where the value of the suit exceeds ² [rupees ten lakhs]—to the High Court at Calcutta.”.
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West Ben.
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1953.

¹The words within the square brackets were substituted for the words “one lakh rupees” by s. 3(a) of the City Civil Court (Amendment) Act, 1990 (West Ben. Act XXVIII of 1990).

²The words were substituted for the words “rupees one lakh by s. 3(b), *ibid.*