

# THE RAJASTHAN CIVIL COURTS ORDINANCE, 1950.

(Ordinance No. VII of 1950)

[Published in the Rajasthan Gazette (Raj-Patra), Extraordinary No. 160,  
dated January 25, 1950]

## CONTENTS

SECTION		PAGE
<b>CHAPTER I</b>		
<i>Preliminary</i>		
1.	Short title, extent and commencement .. ..	77
2.	Definitions .. ..	77
3.	[Omitted]	
4.	[Omitted]	
5.	Saving Clause .. ..	78
<b>CHAPTER II</b>		
<i>Constitution of Courts</i>		
6.	Classes of Courts .. ..	78
7.	Power to fix and alter local limits of the jurisdiction of Courts	78
8.	Power to fix number of District Judges .. ..	79
9.	Appointment of and vacancies among District Judges ..	79
10.	Additional Judges .. ..	80
11.	Temporary charge of office of District Judge ..	80
12.	Power to fix number of Civil Judges and Munsiffs ..	81
12A.	Appointment of Additional Civil Judges or Munsiffs ..	81
13.	Appointment of and vacancies among Civil Judges and Munsiffs	81
14.	Transfer of proceedings on vacation of office by Civil Judges	81
15.	Adjournment of cases by Chief Ministerial Officer ..	82
16.	Place of sitting of Courts .. ..	82
17.	Seals of Courts .. ..	82
<b>CHAPTER III</b>		
<i>Jurisdiction of Courts</i>		
18.	District Courts to be Principal Civil Courts .. ..	82
19.	Jurisdiction of other Courts .. ..	82
20.	Appeals from District and Additional Judges .. ..	83

Section	Page
21. Appeals from Civil Judges and Munsiffs .. .. .	83
21A. Applicability of section 21 to certain suits .. .. .	84
22. Power to transfer to Civil Judges appeals from Munsiffs	84
22A. Special provision for the transfer of certain appeals ..	84
23. Exercise by Civil Judges of jurisdiction of District Court in certain proceedings .. .. .	85
24. Power to invest Civil Judges and Munsiffs with Small Cause Court Jurisdiction .. .. .	85

#### CHAPTER IV

##### *Supplementary Provisions*

25. Administrative control of Courts .. .. .	86
26. Vacation of Courts .. .. .	86
27. Continuance of proceedings of Courts ceasing to have Jurisdiction	86
28. Certain decisions to be according to personal law ..	87
29. Judges not to try suits in which they are interested ..	87
30. Subordination of Courts to District Court .. .. .	87
31. Licensed petition writers .. .. .	87

THE RAJASTHAN CIVIL COURTS ORDINANCE, 1950.

( Ordinance No. VII of 1950 ),

[Promulgated by His Highness, the Rajpramukh, on the 24th day of  
January, 1950]

An Ordinance to consolidate and amend the law relating to Civil  
Courts in <sup>1</sup>[the State of Rajasthan].

WHEREAS it is expedient to consolidate and amend the law  
relating to Civil Courts in <sup>1</sup>[the State of Rajasthan].

NOW THEREFORE, in exercise of the powers conferred by  
paragraph (3) of Article X of the Covenant, His Highness, the Raj-  
pramukh, is pleased to make and promulgate the following Ordinance:--

CHAPTER I

*Preliminary*

1. *Short title, extent and commencement.*—(1) This Ordinance  
may be called the Rajasthan Civil Courts Ordinance, 1950

(2) <sup>1</sup>[ × × × ]

(3) <sup>1</sup>[ × × × ]

2. *Definitions.*—(1) In this Ordinance, unless there is anything  
repugnant in the subject or context:—

(i) <sup>1</sup>[ × × × ]

(ii) <sup>1</sup>[ × × × ]

(iii) <sup>1</sup>[ × × × ]

<sup>1</sup>[(iv) "State" means the new State of Rajasthan as formed by  
section 10 of the States Re-organisation Act, 1956 (Central  
Act 37 of 1956).

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1. Substituted and Omitted vide item No. (1) of the Schedule to the Rajasthan Act No.2 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-1-1957. This Ordinance now extend to the whole of the State of Rajasthan including the Abu, Ajmer and Sunel areas and any law corresponding to this Ordinance in force in the Abu area, Ajmer area or Sunel area immediately before the 1st day of December, 1956 stands repealed vide Sections 3 and 5 read with clause (ii) of Section 2 of the said Act.

- (v) "Value" used with reference to a suit, proceeding or appeal, means the amount or value of the subject-matter of such suit, proceeding or appeal.

1[ (2) × × × ]

3. 1[ × × × ]

4. 1[ × × × ]

5. *Saving Clause.*—(1) Until other provision is made under or in pursuance of this Ordinance, all Courts constituted, appointments, nominations, rules and orders made and jurisdiction and powers conferred under any law repealed by section 4, shall be deemed to have been respectively constituted, made and conferred under this Ordinance.

(2) References in any enactment or document for the time being in force to the "Court of the Subordinate Judge" and to "Subordinate Judge" shall be deemed to have been made respectively to the "Court of the Civil Judge" and to "Civil Judge" as constituted and appointed or deemed as constituted and appointed under this Ordinance.

## CHAPTER II

### *Constitution of Courts*

6. *Classes of Courts.*—There shall be the following classes of Subordinate Civil Courts in <sup>1</sup>[the State of Rajasthan], namely:—

(1) the Court of the District Judge.

(2) <sup>2</sup>[ × × × ]

(3) the Court of the Civil Judge, and

(4) the Court of the Munsiff.

7. *Power to fix and alter local limits of the jurisdiction of Courts.*—  
(1) The <sup>1</sup>[State Government] may, by notification in the <sup>1</sup>[Official Gazette] fix and alter the local limits of the jurisdiction of any Civil Court under this Ordinance.

1. Omitted and Substituted vide item No.(1) of the Schedule of the Rajasthan Act No. 2 of 1957, published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-1-1957.

2. Omitted by Section 2 of the Rajasthan Act No. 29 of 1959, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 20-11-1957.

(2) If the same local jurisdiction is assigned to two or more Civil Judges or two or more Munsiffs, the District Judge may assign to each of them, such civil business cognizable by the Civil Judge or Munsiff, as the case may be, as, subject to any general or special orders of the High Court, he thinks fit.

(3) When civil business arising in any local area is assigned by the District Judge under sub-section (2) to one or two or more Civil Judge, or to one or two or more munsiffs, a decree or order passed by the Civil Judge or Munsiff shall not be invalid by reason only of the case in which it was made having arisen wholly or in part in a place beyond the local area if that place is within the local limits fixed by the <sup>1</sup>[State Government] under sub-section (1).

(4) A Judge of a Court of Small Causes appointed to be also a Civil Judge is a Civil Judge within the meaning of this section.

<sup>1</sup>[(5) The present local limits of the jurisdiction of every Civil Court, functioning at the commencement of this Ordinance shall be deemed to have been fixed under this Ordinance.]

8. *Power to fix number of District Judges.*—(1) The <sup>1</sup>[State Government] may fix and from time to time alter the number of District Judges to be appointed for the whole of <sup>1</sup>[the State of Rajasthan].

(2) The number of such Judges fixed at the commencement of this Ordinance shall continue to be the number, until varied, fixed under sub-section (1).

9. *Appointment of and Vacancies among District Judges.*—(1) Appointments of persons to be, and the posting and promotion of, District Judges shall be made by the <sup>2</sup>[Governor] in consultation with the High Court.

(2) A person not already in the service of the <sup>1</sup>[State Government] shall only be eligible to be appointed as District Judge, if he has been for not less than seven years an advocate or a pleader and is recommended by the High Court for appointment.

(3) Whenever the office of District Judge is vacant by reason of death, resignation, removal or other cause, or whenever an increase in

1. Substituted vide item No. (1) of the Schedule to the Rajasthan Act No. 2 of 1957, published in the Rajasthan Gazette, Part VI-A, Extraordinary, dated 5-1-1957.

2. Substituted with effect from 1-11-1956 vide part I of the Fourth Schedule of the Rajasthan Adaptation of Law<sup>3</sup> (on State and Concurrent subjects) Order, 1956, published in the Rajasthan Gazette, Part IV-C, Extraordinary, dated 1-11-1956.

the number of District Judges has been made under section 8, the vacancy may be filled up or an appointment may be made, as the case may be, in accordance with the provisions of sub-sections (1) and (2).

(4) Nothing in this section shall be construed to prevent the appointment of a District Judge to discharge, for such period as may be deemed fit, in addition to the functions devolving on him as such District Judge, all or any of the functions of another District Judge.

10. *Additional Judges.*—(1) When the business pending before any District Judge or District Judges so requires for its speedy disposal, the <sup>1</sup>[State Government] may, upon the recommendation of the High Court sanction the appointment of such number of Additional Judges <sup>2</sup>[for the Court or Courts of such District Judge or District Judges], as may be necessary.

(2) The provisions of section 9 shall apply also to the appointment, posting and promotion of, and filling up of vacancies among Additional Judges.

(3) Any Additional Judge so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to him, and in the discharge of those functions, he shall exercise the same powers as the District Judge.

11. *Temporary charge of office of District Judge.*—(1) In the event of the death, resignation or removal of a District Judge or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held <sup>3</sup>[an Additional Judge of his Court or if no Additional Judge has been appointed for that Court or is present at that place], the Civil Judge if there be only one, and if there be more than one, the Civil Judge who is senior in respect of date of appointment as Civil Judge, present thereat, shall, without relinquishing his ordinary duties, assume charge of the office of the District Judge and shall continue in charge thereof until the office is resumed by the District Judge or assumed by an officer duly appointed thereto.

(2) While in charge of the office of the District Judge the Additional Judge or Civil Judge, as the case may be, may, subject to any rules which the High Court may make in this behalf, exercise the powers of the District Judge.

1. Substituted vide item No. (1) of the Schedule of the Rajasthan Act No. 2 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-1-1957.

2. Inserted vide Section 3 of the Rajasthan Act No. 29 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 20-11-1957.

3. Substituted by Section 4 of Rajasthan Act No. 29 of 1957, published in Rajasthan Gazette, Part IV-A, Extraordinary, dated, 20-11-1957.

12. *Power to fix number of Civil Judges and Munsiffs.*—(1) The <sup>3</sup>[State Government] may fix and from time to time alter the number of Civil Judges and Munsiffs to be appointed for the whole of <sup>3</sup>[the State of Rajasthan].

(2) The number of Civil Judges and Munsiffs working at the commencement of this Ordinance shall, until varied, be the number so fixed under sub-section (1).

<sup>1</sup>[12-A. *Appointment of Additional Civil Judges or Munsiffs.*—(1) For the purpose of assisting any Civil Judge or Munsiff in the disposal of the civil business on his file, the High Court may appoint a member of the Rajasthan Judicial Service, while he is not officiating in any leave vacancy and is not on deputation, to be an Additional Civil Judge or **Munsiff**.

(2) An Additional Civil Judge or Munsiff so appointed, shall dispose of such civil business within the limits of his pecuniary jurisdiction, as may be transferred to him by the District Judge.]

13. *Appointment of and Vacancies among Civil Judges and Munsiffs.*—Appointments of persons to be Civil Judges and Munsiffs shall be made by the <sup>2</sup>[Governor] in accordance with rules made by him in this behalf after consultation with the Rajasthan Public Service Commission and with the High Court.

14. *Transfer of proceedings on vacation of office by Civil Judge.*—(1) In the event of the death, resignation or removal of a Civil Judge or a Munsiff, or of his being incapacitated by illness or otherwise for the performance of his duties, or of his absence from the place at which his Court is held, the District Judge may transfer all or any of the proceedings pending in the Court of the Civil Judge or the Munsiff either to his own Court or to any Court under his administrative control competent to dispose of them.

(2) Proceedings transferred under sub-section (1), shall be disposed of as if they had been instituted in the Court to which they are so transferred.

(3) Provided that the District Judge may retransfer to the Court of the Civil Judge or the Munsiff or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

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1. Inserted by Section 2 of the Rajasthan Act No. 6 of 1956, published in Rajasthan Gazette<sup>e</sup> Part IV-A, Extraordinary, dated 11-4-1956.

2. Substituted with effect from 1-11-1956, vide Part, I of the Schedule of the Rajasthan Adaptation of Laws (on State and Concurrent subjects) Order, 1956, published in Rajasthan Gazette, Part IV-C, Extraordinary, dated 1-11-1956.

3. Substituted vide Schedule to the Rajasthan Act No. 2 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-1-1957.

(4) For the purposes of proceedings which are not pending in the Court of the Civil Judge or Munsiff on the occurrence of an event referred to in sub-section (1), and with respect to which that Court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court.

15. *Adjournment of cases by Chief Ministerial Officer.*—When the presiding Judge of any Court is absent and no other Judge of an equal, superior or inferior grade is functioning at the headquarters of such Court, or, if functioning, is also absent, the chief ministerial officer of the Court shall possess the power of adjourning, from time to time, the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

16. *Place of sitting of Courts.*—(1) The <sup>1</sup>[State Government] may, by notification in the <sup>1</sup>[Official Gazette], fix and alter the place or places at which any Civil Court under this Ordinance is to be held.

(2) All places at which any such Courts are held at the date of the commencement of this Ordinance, shall be deemed to have been fixed under this section.

17. *Seals of Courts.*—Every Civil Court under this Ordinance shall use a seal of such form and dimensions, as are prescribed by the <sup>1</sup>[State Government].

### CHAPTER III

#### JURISDICTION OF COURTS

18. *District Court to be principal Civil Court.*—(1) The Court of District Judge shall be the Principal Civil Court of original civil jurisdiction in the area over which his jurisdiction extends.

(2) Subject to the provisions of any enactment for the time being in force in the whole or any part of <sup>1</sup>[the State of Rajasthan] the Court of the District Judge shall have jurisdiction to hear and determine all suits or original proceedings for the time being cognizable by Civil Courts without restriction, as regards their value.

<sup>2</sup>19. *Jurisdiction of other Courts.*—(1) Subject as aforesaid:—

(i) the court of a Civil Judge shall have jurisdiction to hear and

1. Substituted vide item No. (1) of the Schedule of the Rajasthan Act No. 2 of 1957, Published in the Rajasthan Gazette, Part VI-A, Extraordinary, dated 5-1-1957.

2. Substituted vide section 2 of Rajasthan Act No. 10 of 1965, published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 11-11-1965.

determine all original suits and proceedings of a civil nature, and

- (ii) the court of a Munsiff shall have jurisdiction to hear and determine all original suits and proceedings of a civil nature of which the value does not exceed five thousand rupees :

Provided that the State Government may by notification published in the Official Gazette, increase the limit of five thousand rupees to ten thousand rupees in the case of any munsiff of not less than ten years' standing and specially recommended in this behalf by the High Court. A Munsiff so empowered shall continue to exercise this power so long and as often as he may fill the office of a Munsiff without reference to the district in which he may be employed, unless the powers are withdrawn by the State Government.

(2) The Civil Judge may transfer to the Munsiff having jurisdiction any original suit or proceeding of a civil nature pending before him under this section, of which the value does not exceed five thousand rupees.]

20: *Appeals from District and Additional Judges.*—(1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional Judge, shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

21. *Appeals from Civil Judges and Munsiffs.*—(1) Save as aforesaid, an appeal from a decree or order of a Civil Judge shall lie:—

<sup>1</sup>[(a) to the District Judge where the value of the original suit in which, or in any proceeding arising out of which the decree or order was made did not exceed <sup>2</sup>[ten thousand] rupees, and

(b) to the High Court in any other case].

1. Inserted and substituted by section 2 of Rajasthan Act No. XIV of 1951, published in the Rajasthan Gazette No. 35, dated 26-5-1951.

2. Substituted by section 3 of Rajasthan Act No. 6 of 1956, published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 11-4-1956.

(2) Save as aforesaid, an appeal from a decree or order of a Munsiff shall lie to the District Judge.

(3) Where the function of receiving any appeals which lie to the District Judge under sub-section (1) or sub-section (2) has been assigned to an Additional Judge, the appeals may be preferred to the Additional Judge.

(4) The High Court may, with the previous sanction of the <sup>2</sup>[State Government] direct by notification in the <sup>2</sup>[Official Gazette] that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any Munsiff shall be preferred to the Court of such Civil Judge, as may be mentioned in the notification, and appeals shall thereupon be preferred accordingly.

<sup>1</sup>[(5) The High Court may transfer to the District Judge any appeals pending before it under this section where the value of the original suit in which, or of any proceeding arising out of which, the decree or order was made, did not, exceed ten thousand rupees.]

<sup>3</sup>[21-A. *Applicability of section 21 certain suits.*—The provisions of section 21 as amended by the Rajasthan Civil Courts (Amendment) Act, 1956 (Rajasthan Act 6 of 1956), shall apply to all suits and proceedings instituted before and pending at the commencement of the said Act.]

**22. Power to transfer to Civil Judges appeals from Munsiffs.**—

(1) A District Judge may transfer to any Civil Judge, under his administrative control, any appeal pending before him from the decrees or orders of Munsiffs.

(2) The District Judge may, withdraw any appeal so transferred, and either hear and dispose of it himself or transfer it to a Court under his administrative control competent to dispose of it.

(3) Appeals transferred under this section shall be disposed of subject to the rules applicable to like appeals when disposed of by the District Judge.

<sup>4</sup>[22A. *Special provision for the transfer of certain appeals.*—Notwithstanding anything contained in section 21 and 22, an appeal

1. Inserted by section 4 of Rajasthan Act No. 6 of 1956, published in the Rajasthan Gazette, Part VI-A, Extraordinary, dated 11-4-1956.

2. Substituted vide Item No. 1 of the Schedule to the Rajasthan Act No. 2 of 1957, Published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-1-1957.

3. Inserted by section 5 of Rajasthan Act No. 29 of 1957, Published in Rajasthan Gazette, Extraordinary, Part VI-A, dated 20-11-1957.

4. Inserted by section 2 of Rajasthan Act No. 5 of 1958, Published in Rajasthan Gazette, Part IV-A, Extraordinary, dated 17-3-1958.

from a decree or order of a subordinate Judge of the Ajmer area passed before the first day of January, 1958 in a suit, or in any proceeding arising out of a suit, of which the value did not exceed two thousand rupees, may be transferred by the District Judge to any Civil Judge under his administrative control.]

23. *Exercise by Civil Judge of jurisdiction of District Court in certain proceeding.*—(1) The High Court may, by general or special order, authorise any Civil Judge to take cognizance of or any District Judge to transfer to a Civil Judge under his control, any of the proceedings next hereinafter mentioned or any class of those proceedings specified in the order.

(2) The proceedings referred to in sub-section (1), are the following namely,—

(a) proceedings under the Indian Succession Act, 1925 of the Central Legislature, which cannot be disposed of by District Delegates; and

(b) proceedings under the Guardians and Wards Act, 1890 of the Central Legislature.

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a Civil Judge and may either himself dispose of them or transfer them to a Court under his administrative control, competent to dispose of them.

(4) Proceedings taken cognizance of by, or transferred to a Civil Judge, as the case may be, under this section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge.

24. *Power to invest Civil Judges and Munsiffs with Small Cause Court jurisdiction.*—The <sup>1</sup>[State Government] may, by notification in the <sup>1</sup>[Official Gazette], confer, within such local limits as it thinks fit, upon any Civil Judge or Munsiff, the jurisdiction of a Judge of a Court of Small Causes under the Rajasthan Small Cause Courts Ordinance, 1950, for the trial of suits cognizable by such Courts, upto such value, not exceeding five hundred rupees in the case of a Civil Judge or one hundred rupees in the case of a Munsiff, as it thinks fit, and may withdraw any jurisdiction so conferred :

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1. Substituted vide Item No. 1 of the Schedule to the Rajasthan Act No. 2 of 1957, Published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 5-1-1957.

<sup>1</sup>[Provided that the <sup>2</sup>[State Government] may by notification in the <sup>2</sup>[Official Gazette] delegate to the High Court its power under this section].

#### CHAPTER IV.

##### *Supplementary Provisions*

25. *Administrative control of Courts.*—(1) The control over district Courts and Courts subordinate thereto including the posting and promotion of and the grant of leave to persons belonging to the judicial service of <sup>2</sup>[the State of Rajasthan] and holding any post **inferior** to the post of District Judge shall be vested, in the High Court but nothing herein contained shall be construed as taking away from any such person the right of appeal which he may have under the law regulating the conditions of his service for the time being in force or as authorising the High Court to deal with him otherwise than in accordance with the conditions of his service prescribed under such law.

(2) Subject to the provisions of sub-section (1), the District Judge shall have control over all the Civil Courts under this Ordinance within the local limits of his jurisdiction.

26. *Vacation of Courts.*—(1) Subject to such orders as may be made by the <sup>1</sup>[State Government] the High Court shall prepare a list of days to be observed in each year as close holidays in the Civil Courts.

(2) The list shall be published in the <sup>2</sup>[Official Gazette].

(3) A judicial act done by a Civil Court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

27. *Continuance of proceedings of courts ceasing to have jurisdiction.*—(1) Where any Civil Court under this Ordinance has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to that case which, if that Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court to which the business of the former Court has been transferred.

(2) Nothing in this section applies to cases for which provision is made in section 114 and Order 47, Rule 1 of the Code of Civil Proce-

1. Added by section 2 of the Rajasthan Act No. 117 of 1950, published in the Rajasthan Gazette No. 119, dated 2nd February, 1951.

2. Substituted vide Item No. 1 of the Schedule of the Rajasthan Act No. 2 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary dated 5-1-57.

1908, of the Central Legislature or in any other enactment for the time being in force.

28. *Certain decisions to be according to personal Law.*—(1) Where in any suit or other proceeding it is necessary for a Civil Court to decide any question regarding succession, inheritance, marriage or caste, or any religious usage or institution, the Mohammadan Law in cases where the parties are Mohammadans, and the Hindu Law in cases where the parties are Hindus, shall form the rule of decision except in so far as such law has, by legislative enactment, been altered or abolished.

(2) In cases not provided for by sub-section (1) or by any other law for the time being in force, the court shall act according to justice, equity and good conscience.

29. *Judges not to try suits in which they are interested.*—(1) The Presiding Officer of a Civil Court shall not try any suit or other proceeding to which he is a party or in which he is personally interested or any appeal against a decree or order passed by himself in another capacity.

(2) When any such suit, proceeding or appeal as is referred to in sub-section (1) comes before any such 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, and the superior Court shall thereupon dispose of the case in accordance with the provisions of section 24 of the Code of Civil Procedure, 1908, of the Central Legislature.

30. *Subordination of Courts to District Court.*—For the purposes of the last foregoing section, the Presiding Officer of a Court subject to the administrative control of the District Judge shall be deemed to be immediately subordinate to the Court of the District Judge, and for the purpose of the said Code of Civil Procedure, the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

31. *Licensed petition writers.*—(1) The High Court may from time to time make rules consistent with this Ordinance and any other law for the time being in force—

(a) declaring what persons shall be permitted to act as petition writers in the Civil Courts subordinate to it,

(b) regulating the issue of licences to such persons, the conduct

of business by them and the scale of fees to be charged by them,

- (c) providing a penalty of fine not exceeding fifty rupees for the breach of any of the rules so made, and
- (d) determining the authority by which such breaches of the rules shall be investigated and the penalties imposed.

(2) Every fine imposed under clause (d) of sub-section (1) shall be recoverable as if it were a fine imposed by a Magistrate in the exercise of his ordinary original jurisdiction.

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