

¹ THE SIKKIM CIVIL COURTS ACT, 1978
SIKKIM ACT NO. 9 OF 1978
(As amended upto 27.05.2024).

AN
ACT

to consolidate the law relating to Civil Courts subordinate to the High Court in the State of Sikkim.

WHEREAS it is expedient to consolidate the law relating to Civil Courts subordinate to the High Court in the State of Sikkim;

It is hereby enacted in the Twenty-ninth Year of the Republic of India by the Legislature of Sikkim as follows:-

CHAPTER I
PRELIMINARY

1. Short title and commencement:

- (1) This Act may be called the Sikkim Civil Courts Act, 1978.
- (2) It shall come into force on such date ² as the State Government may by notification in the Official Gazette, appoint.

CHAPTER II
CONSTITUTION OF CIVIL COURTS

2. Classes of Courts:

Besides the High Court and the Courts constituted under any other law for the time being in force, there shall be the following classes of Civil Courts, namely:-

- (1) The Court of the District Judge ³[as defined under Article 236 of the Constitution of India].
- (2) ⁴[the Court of Civil Judge (Senior Division)].
- (3) The Court of the Civil Judge ⁵(Junior Division)

1. Notification No. 9/LL/78 dated 3-4-1978 (Gazette No, 43 of 1978) and received the assent of the Governor on the 31st day of March, 1978.

2. Came into force on 1st July, 1978 vide Notification No. 16(44)-LL/78 dated 17-06-1978 (Gazette No. 85 of 1978).

3. Inserted vide Notiification No. 12/LD/99 dated 23-04-1999 (Gazette No. 93 of 1999).

4. Substituted vide Notiification No. 12/LD/99 dated 23-04-1999 (Gazette No. 93 of 1999).

5. Inserted vide Notiification No. 12/LD/99 dated 23-04-1999 (Gazette No. 93 of 1999).

3. **Number of Judges:**

- ¹[(1) The State Government may increase or otherwise alter the number of] ²[District Judge, as defined in Article 236 of the Constitution, Civil Judge (Senior Division) and the Civil Judge (Junior Division) in consultation with the High Court].
- (2) ³[Notwithstanding anything contained in sub-section (1), where a post of Civil Judge-cum-Judicial Magistrate is lying vacant and its function are being carried on by other Judicial Officer as per the directions of the High Court, no such post of Civil Judge-cum-Judicial Magistrate shall be filled up unless at least 25 (twenty five) civil suits have been filed during proceeding year and the said Court of Civil Judge-cum-Judicial Magistrate located at a place where there is court of Chief Judicial Magistrate. However, in respect of place/places where there is no Court of Chief Judicial Magistrate and the post of Civil Judge-cum-Judicial Magistrate is lying vacant at such place, the post of Civil Judge-cum-Judicial Magistrate shall not be filled up unless at least 20 (twenty) Civil Suits have been filed during proceeding year. The High Court may allocate the functions of Civil Judge-cum-Judicial Magistrate at such place to such other Judicial Officer as it may deem fit, so that Judicial Officer are available at all District Headquarters. Nothing in this Act shall prevent High Court from exercising its power of transfer of Civil Judge or allocating duties and functions of a Civil Judge in such manner as may be considered expedient].
- ⁴[(3) (a) No new Civil Court shall be constituted or set up unless the total number of cases, pending in a court on the 1st day of January of the year in which proposal for the setting up of a Court was made, has increased over the preceding two consecutive years, so that on an average total number of cases standing in each court shall not be less than five hundred cases.
- (b) Any Court upto the level of District Judge shall not be constituted unless a minimum number of 500 (five hundred) cases are pending in all the Courts of the level of District Judge].

4. **Vacancies among District or Civil Judges:**

- (1) Whenever the office of any Judge is vacant by reason of the death, resignation, removal of the Judge or other cause, or whenever an increase in the number of Judge or Judges has been made under the provisions of section 3, the High Court or, as the case may be, the State Government may fill up the vacancy or make the appointments.
- (2) Nothing in this section shall prevent the State Government from appointing a Civil Judge to discharge, for such period as it thinks fit, in addition to the functions devolving on him as such Civil Judge, all or any of the functions of the Court of any other Civil Judge.

1. Renumbered as subsection1 vide Notification No. 4/LD/2001 dated 30-03-2001 (Gazette No. 69 of 2001).

2. Substituted vide Notification No. 12/LD/99 dated 23-04-1999 (Gazette No. 93 of 1999).

3. Substituted vide Notification No. 14/LD/P/11 dated 17-12-2011 (Gazette No. 653 of 2011).

4. Inserted vide Notification No. 14/LD/P/11 dated 17-12-2011 (Gazette No. 653 of 2011).

5. Additional District Judge:

- (1) If by reason of any increase in the business in the Court of the District Judge or for any other reason, the State Government thinks fit so to do, it may, in consultation with the High Court, appoint ¹[Judicial Officers of the Sikkim Superior Judicial Service] as may be requisite, in accordance with the provisions of Article 233 of the Constitution of India.
- (2) ¹[Judicial Officers of the Sikkim Superior Judicial Service] so appointed shall discharge any of the functions of the District Judge which the District Judge may assign to them and, in the discharge of those functions, shall exercise the same powers as the District Judge.

6. Administrative Control of Courts:

Subject to the provisions of the Constitution of India, the District Judge shall have administrative control over all the Civil Courts ¹[within the respective District]

7. Temporary charge of the District Court:

- (1) In the event of the death, resignation or removal of the District Judge, or 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, ¹[any member of the cadre of Superior Judicial Service as may be decided by the High Court and present thereat or if no such officer of the cadre of Superior Judicial Service is present at that place, the Civil Judge (Senior Division)] 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 appointed thereto.
- (2) While in charge of the office of the District Judge, the ¹[member of cadre of Superior Judicial Service or the Civil Judge (Senior Division)] as the case may be, may, subject to any rules and to any general or special direction which the High Court may make in this behalf, exercise any of the powers of the District Judge.

8. Transfer of proceeding on vacation of office of Additional District Judge:

- (1) In the event of the death, resignation or removal of ¹[Civil Judge (Senior Division)] or his being incapacitated by illness or otherwise for the performance of his duties, or 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 ¹[Civil Judge (Senior Division)] either to his own Court or to the Court of any other ¹[Civil Judge (Senior Division)].
- (2) The District Judge may re-transfer to the Court of the ¹[Civil Judge (Senior Division)], or his successor any proceeding transferred under subsection (1) to his own Court or the Court of any other ¹[Civil Judge (Senior Division)].

1. Substituted vide Notification No. 12/LD/99 dated 23.04.1999 (Gazette No. 93 of 1999)

9. Transfer to proceedings or vacation of office of Civil Judge:

- (1) In the event of the death, resignation or removal of a ¹[Civil Judge (Junior Division)] 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 ¹[Civil Judge (Junior Division)]. ²[***] 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) The District Judge may re-transfer to the Court of the ¹[Civil Judge (Junior Division)] or his successor any proceedings transferred under sub-section (1). ²[***]
- (4) For the purpose of proceedings which are not pending in the court of the ¹[Civil Judge (Junior Division)] and with respect of which that court has exclusive jurisdiction, the District Judge may exercise all or any of the jurisdiction of that Court on the occurrence of an event referred to in sub-section (1).

10. Power to fix Local limits of Jurisdiction of Courts:

- (1) The State Government may, in consultation with the High Court, by notification on the Official Gazette, fix and alter the local limits of the Jurisdiction of any Civil Court under this act.
- (2) If the same local jurisdiction is assigned to two or more Civil Judges, the District Judge may, subject to any general or special orders of the High Court, assign to each of them such Civil business cognizable by a Civil Judge and arising from such local area within the local jurisdiction, as 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 Judges, a decree or order passed by the Civil Judge 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 State Government.
- (4) The present local limits of the jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

11. Place of sitting of Courts:

- (1) The State Government may, in consultation with the High Court, by notification in the Official Gazette, fix and alter the place or places at which any Civil Court under this Act is to be held.
- (2) All places at which any such Courts are now held shall be deemed to have been fixed under this section.

12. Vacation of Court:

- (1) The days to be observed in each year as closed holidays in the Civil Courts under this Act shall be in accordance with the lists as may be prepared by the High Court for the purpose.
- (2) The list shall be published in the 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.

1. Substituted vide Notification No. 12/LD/99 dated 23-04-1999 (Gazette No.93 of 1999).

2. Deleted vide Notification No. 12/LD/99 dated 23-04-1999 (Gazette No.93 of 1999).

13. Seals of Courts:

- (1) Every Civil Court under this Act shall use a seal of such form and dimension as are prescribed by the High Court.
- (2) Until seals are prescribed under sub-section (1) the Civil Courts under this Act shall continue to use such seals as are now used by such Courts.

14. Continuance of proceeding of Court ceasing to have jurisdiction:

- (1) Where any Civil Court under this Act 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 had therein, may be had in the court to which business of the former Court has been transferred.
- (2) Nothing in this section applied to cases for which provisions have been or are made in any other law for the time being in force.

**CHAPTER III
JURISDICTION OF COURTS**

15. Extent of original Jurisdiction of District Judge:

- (1) Save as otherwise provided in any law for the time being in force, the Jurisdiction of a District Judge extends to all original suits for the time being cognizable by Civil Courts ¹[in the District].

16. Extent of Jurisdiction of Civil Judge:

- ²[(1) Save as aforesaid, the jurisdiction of a Civil Judge (Senior Division) shall extend to suits, the value of which does not exceed 6 (six) lakhs rupees and the jurisdiction of Civil Judge (Junior Division) shall extend to suits, the value of which does not exceed 5 (five) lakhs rupees].
- (2) ³[***]
Provided that the State Government may, by Notification in the Official Gazette, delegate to the High Court its power under this section.

17. ⁴[Appeal from Principal District Judge or District Judge]:

- (1) Save as otherwise provided in any law for the time being in force, an appeal from a decree or order of ⁵[the District Judge or the Principal District Judge, as the case may be shall lie to the High Court].
- (2) ³[***]

18. Appeals from Civil Judge:

- (1) Save as aforesaid an appeal from a decree or order of a Civil Judge ⁶[(Junior Division)] ⁷[or Civil Judge (Senior Division)] shall lie:-
⁸[(a) to the District Judge or Principal District Judge, as the case may be].

1 & 6. Inserted vide Notification No. 12/LD/99 dated 23-04-1999 (Gazette No.93 of 1999).

2. Substituted vide Notification No. 14/LD/P/13 dated 22-10-2013 (Gazette No. 594 of 2013).

3. Deleted vide Notification No. 12/LD/99 dated 23-04-1999 (Gazette No.93 of 1999)

4 & 5. Substituted vide Notification No. 11(656) L&PAD/2021/32 dated 27-05-2024 (Gazette No. 284 of 2024)

7 . Inserted vide Notification No. 11(656) L&PAD/2021/32 dated 27-05-2024 (Gazette No. 284 of 2024).

8. Substituted vide Notification No. 11(656) L&PAD/2021/32 dated 27-05-2024 (Gazette No. 284 of 2024).

- (b) ¹[***]
- (2) ²[***]

CHAPTER IV SUPPLEMENTARY PROVISIONS

19. **Judges not to try suits in which they are interested:**

- (1) The Presiding Officer of a Civil Court under this Act shall not try any suit or other proceedings to which he is a party or in which he is personally interested.
- (2) The Presiding Officer of an appellate Civil Court under this Act shall not try an appeal against a decree or order passed by himself in another capacity.
- (3) When such suit, proceeding or appeal is referred to in sub-section (1) or sub-section (2) comes before any such officer, the officer shall forthwith transmit the record of the case to the District Judge with a report of the circumstances attending the reference.
- (4) The District Judge shall thereupon dispose of the case himself or transfer the case to any other Court of competent jurisdiction.

³[19A. **Validation:**

No decree, judgment, order, interim-order or any other directions, instructions of any kind passed by any Courts specified under this Act before the commencement of this Act shall be regarded as invalid and any such decree, judgment, order, interim-order or any other directions, instructions shall be deemed always to have been valid as if this amending Act had been in force at all material times].

20. **Savings:**

All Civil Courts except the High Court of Sikkim, exercising jurisdiction in the State of Sikkim immediately before the commencement of this Act shall deem to have been duly constituted and to be exercising jurisdiction under the provision of this Act and all appointments, nominations rules and orders made, jurisdiction and powers conferred and all other actions done or taken relating to such Civil Courts, or purporting expressly or impliedly to have been so made, conferred, done or taken, shall be deemed to have been respectively made, conferred, done or taken under the provisions of this Act.

21. **Repeal:**

All laws including rules, regulation, notifications, orders or instructions, in force immediately before the commencement of this Act in so far they are inconsistent with the provisions of this Act shall, to the extent of such inconsistency, cease to have effect and stand repealed from the date of such commencement.

1. Omitted vide Notification No.11(656) L&PAD/2021/32 dated 27-05-2024 (Gazette No. 284 of 2024).

2. Deleted vide Notification No. 12/LD/99 dated 23-04-1999 (Gazette No.93 of 1999).

3. Substituted vide Notification No.11(656) L&PAD/2021/32 dated 27-05-2024 (Gazette No. 284 of 2024).