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- The Assam Act No. XLIV of 2005
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 The Meghalaya Act No. 10 of 1983
 The Assam Act No. 1 of 1979
 The Meghalaya Adaptation of Laws Order (No.I), 1974.
 The Assam Act No. XVII of 1974
 The Assam Act No. XII of 1967
 The Assam Act No. IX of 1965
 The A.O. of 1950.
 The Assam Act No. VIII of 1947
 The Assam Act No. 16 of 1943
 The A.O. of 1937
 The Muslim Personal Law (Shariat Application Act, 1937, (Act No. 26 of 1937).
 The Assam Act No. VI of 1935
 The Devolution Act No. XXXVIII of 1920
 The Decentralisations Act No. IV of 1914
 The Bengal, Agra and Assam Civil Court (Amendment) Act, XVI of 1911.

STATEMENT OF OBJECTS AND REASONS**AMENDING ACT****ASSAM ACT NO. VII OF 1993**

Since there has been depreciation in the value of money prices of movable & immovable properties have increased many times. Consequently the pecuniary (original & appellate) jurisdiction of the Higher Courts (Civil) fixed long ago have lost its relevance now. As a result the number of cases in the higher Civil Court & even High Court have been increasing to a great extent, resulting in the accumulation of a huge arrear in the High Court, which might be disposed of by the subordinate Courts.

Therefore, it is expedient to raise the pecuniary jurisdiction of the Munsiff from Rupees three thousands to Rupees seven thousands & from Rupees ten thousands to Rupees twenty five thousands to raise the appellate jurisdiction of District Judges from Rupees twenty thousands to Rupees fifty thousands by amending the relevant provisions of the Bengal, Agra & Assam Civil Courts Act, 1887.

Hence the Bill.

Published in the Assam Gazette Extraordinary (No.190), dated 22nd December, 1992, p.1290.

STATEMENT OF OBJECTS AND REASONS**AMENDING ACT****ASSAM ACT NO. XV OF 1997**

In the Judgement dated 13-11-91 passed in All India Judges Association Vs. Union of India and others : Writ petition (Civil) No.1022 of 1989 the Hon'ble Supreme Court referred to the recommendation of the Law Commission of India in its 14th Report that "Officers corresponding to Munsiffs would be designated as Civil Judges (Junior Division) and those corresponding to Subordinate Judges would be designated as Civil Judges (Senior Division)", and held, "We are inclined to adopt the view of the Law Commission. On the Civil side, the State Judicial Service, therefore, should be classified as District or Additional District Judge, Civil Judge (Senior Division) and Civil Judge (Junior Division)". In the operative part of the Judgement, the Hon'ble Court directed to bring about uniformity in designation of Judicial Officers both in Civil and Criminal side.

In Assam there is already uniformity in designation of Judicial Officers in Criminal side. To bring about such uniformity in Civil side, it is expedient to amend the Bengal, Agra & Assam Civil Courts Act, 1887, in its applicaion to the State of Assam. Under this Act, the present designation are - District Judge, Additional District Judge, Assistant District Judge (Substituted for Subordinate Judge *vide* Assam Act Act XII of 1967) and Munsiff. Therefore, it is expedient that for the words "Assistant District Judge" and "Munsiff", wherever they occur in this Act, the words and brackets "Civil Judge (Senior Division)" and "Civil Judge (Junior Division)" shall be substituted.

Published in the Assam Gazette Extraordinary (No. 278), dated 30th December, 1996 p.1957.

STATEMENT OF OBJECTS AND REASONS**AMENDING ACT****ASSAM ACT NO. XXIV OF 1997**

Since there has been depreciation in the value of money prices of movable and immovable properties, the pecuniary jurisdiction (original and appellate) of the Civil Courts was raised by the Bengal, Agra and Assam Civil Courts (Second Assam Amendment) Act, 1992. The amended Act incorporates a savings clause Section 5 which provides that nothing in this Act shall be deemed to affect any appeal instituted prior to the commencement of this Act. In view of this savings clause, appeals pending before the High Court upto fifty thousand rupees could not be transferred to the District Courts which might be disposed of by such Courts consequent to raising of appellate jurisdiction to fifty thousand rupees. Litigants are being deprived of first appeal and burden of High Court also could not be lessened.

Therefore, it is expedient to amend Sec. 5 and insert a new Sub-section 21A by amendment of the Bengal, Agra and Assam Civil Courts (Assam Amendment) Act, 1992.

Published in the Assam Gazette Extraordinary (No. 278), dated 30th December, 1996, p.1960.

THE BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887

(ACT NO. 12 OF 1887)¹

[Dated 11th March, 1887]

An Act

to consolidate and amend the law relating to Civil Courts in Bengal, the North-Western expedient to consolidate and amend the law relating to Civil Court in Bengal, the North-Western Provinces and Assam;

It is hereby enacted as follows:-

CHAPTER I**PRELIMINARY**

1. Title, extent and commencement.— (1) This Act may be called Bengal, Agra and Assam Civil Courts Act, 1887.²

(2) It extends to the territories [which were on the 11th March, 1887]³ respectively administered by the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Assam except such portions of those territories as for the time being are not subject to the ordinary civil jurisdiction of the High Courts. [* * *]⁴ and

(3) It shall come into force on the first day of July, 1887.

1. For Statement of Objects and Reasons, *See Gazette of India* 1881, Pt. V. p.1455, for Preliminary Report of Select Committee, *See ibid*, 1886, Pt. V, p.957 and for Proceedings in Council *See ibid*, Supplement, 1881, pp.1132, 1169, 1414 and 1423, *ibid*, Supplement 1886, p. 1458, *ibid* 1887, Pt. VI, pp. 31 and 33.

LOCAL EXTENT – This Act extends to Assam, with the exception of territories not subject to the ordinary civil jurisdiction of the High Court – *See* s.1 (2) , post.

The application of the Act is barred—

in the Lushai Hills, by notification under Assam Frontier Tract Regulation, 1880 (*II of 1880*), *See* the Manual of Local Rules and Orders, Vol. III.

2. Substituted for the words "North-Western Provinces" by the Bengal, Agra and Assam Civil Courts (Amendment) Act, 1911, s.2 post.

3. Substituted by the A.O., 1937 for the words "for the time being".

4. The words "and except the Jhansi Division," in S. 1(2), which were repealed by the United Provinces Act, 1890 (XX of 1890) are omitted.

COMMENTS

This Act was extended in its application to the State of Meghalaya by virtue of the Meghalaya Adaptation of Laws Order No. I, 1974, to come into effect from the appointed day i.e, the 21st day of January, 1972, whereby Substituted as follows-

In the Long Title, insert a comma "(,)" after the word "Province" and omit the word "and" occurring between the words "Provinces" and "Assam" and after omitting the fullstop "(", and after the word "Assam" add the words "and Shillong" after it followed by a fullstop "(.)".

In the preamble insert a comma "(,)" after the word "Provinces" and Omit the word "and" occurring between the words "Provinces" and "Assam" and after omitting the semicolon "(:)" after the word "Assam" add the words "and Shillong" after it followed by a semicolon "(:)".

(i) Section 1,- in sub-section (1) insert a comma "(,)" after the word "Agra" and Omit the words "and" occurring between the words "Agra" and "Assam" and insert the words "and Shillong" between the words "Assam" and "Civil"; and

(ii) Below sub-section (1) insert the following Explanation-

"Explanation.- Shillong has been same meaning as defined in Shillong Civil Courts and Laws Acts, 1947 (Assam Act No. 8 of 1947)."

MEGHALAYA STATE AMENDMENT

Substituted the word "Seven thousand rupees" by the word "Twenty thousand rupees", in clause (a) in sub-section (1) of Section 21 of the Principal Act, by the Bengal, Agra, Assam and Shillong Civil Courts (Meghalaya Amendment) Act, 1983 (Meghalaya Act No. 10 of 1983), see Gazette of Meghalaya Extraordinary, dated 3rd October, 1983.

2. Repeal.- (1) *Repeal of Acts 6 of 1871 and 19 of 1877 Repealed by the Amending Act, 1891 (12 of 1891);*

(2) [* *]¹ all Courts constituted, appointments, nominations, rules and orders made, jurisdiction and powers conferred and lists published under the Bengal Civil Courts Act, 1871 (VI of 1871)² or any enactment thereby repealed, or purporting expressly or impliedly to have been so constituted, made, conferred and published shall be deemed to have been respectively constituted, made, conferred and published under this Act; and

(3) any enactment or document referring to the Bengal Civil Courts Act, 1871 (VI of 1871)² or to any enactment thereby repealed, shall be construed to refer to this Act or to the corresponding portion thereof.

1. The word "But" omitted by the Amending Act, 1891.

2. Bengal Act VI of 1871 was repealed by S. 2(1) of the present Act.

CHAPTER II**CONSTITUTION OF CIVIL COURTS**

3. Classes of Courts.- There shall be the following classes of Civil Courts under this Act, namely:-

- (1) the Court of District Judge;
- (2) the Court of the Additional Judge;
- (3) the Court of [Civil Judge (Senior Division)]¹
- (4) the Court of the [Civil Judge (Junior Division)]¹

3[4. Number of District Judges, [Civil Judges (Senior Division)]¹ and [Civil Judges (Junior Division)]¹.- The ["State Government"]² may alter the number of District Judges ["Civil Judges (Senior Division)"]¹ and ["Civil Judges (Junior Division)"]¹ now fixed."

5. [Number of Munsifs] Repealed by the Decentralization Act, 1914 (4 of 1914).

6. Vacancies among District or [Civil Judge (Senior Division)]¹.- (1) Whenever the office of District Judge or [Civil Judge (Senior Division)]¹ is vacant by reason of the death, resignation or removal of the Judge or other cause, or whenever [an increase in the number of District or [Civil Judge (Senior Division)]¹ judges has been made under the provisions of Section 4]⁴, the [State Government]² or as the case may be the High Court may fill up the vacancy or appoint the Additional District Judge or [Civil Judge (Senior Division)]¹ [*****]⁵.

(2) Nothing in this section shall be construed to prevent a ["State Government"]² from appointing a District Judge or ["Civil Judge (Senior Division)"]¹ to discharge for such period as it thinks

1. Substituted for the words "Assistant District Judge" and "Munsiff" by the Assam Act No. XV of 1997, S.2 (w.e.f. 5.5.1997), which was earlier substituted for the word "Subordinate Judge" by the Assam Act No. XII of 1967.

2. Substituted for the words "Provincial Government" by the A.O.1950, which was earlier substituted by the A.O.1937 for the "Local Government".

3. Substituted Section "4" by the Devolution Act, 1920 (XXXVIII of 1920).

Note:- Before substitution of Section "4" read as follows-

"4. The Local Government may, with the previous sanction of the Governor-General in Council, increase or reduce the number of District Judges and Subordinate Judges now fixed."

4. Substituted for the words "the Governor-General in council has sanctioned an increase of the number of District Judges or Subordinate Judges" in sub-section (1) of Section 6 by the Devolution Act, 1920 (XXXVIII of 1920).

5. Omitted the words "as the case may be" in sub-section (1) of Section 6 by the A.O. 1937.

fit, in addition to the functions devolving on him as such District Judge or [Civil Judge (Senior Division)]¹, all or any of the functions of another District Judge or [Civil Judge (Senior Division)]¹ as the case may be.

7. [Vacancies among Munsiffs Repealed by the A.O., 1937.]

8. Additional Judges.— (1) When the business pending before any District Judge requires the aid of Additional Judges for its speedy disposal, the [State Government]² may, [having consulted]³ the High Court [*****]⁴ appoint such Additional Judges as may be requisite.

(2) Additional Judges so appointed shall discharge any of the functions of a District Judge which the District Judge may assign to them, and, in the discharge of those functions, they shall exercise the same powers as the District Judge.

9. Administrative control of Courts.— Subject to the superintendence of the High Court, the District Judge shall have administrative control over all the Civil Courts under this Act within the local limits of his jurisdiction.

10. Temporary charge of District Courts.— (1) In the event of the death, resignation or removal of the 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, the Additional Judge, or, if an Additional Judge is not present at that place, the ["Civil Judge (Senior Division)"]¹ 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 Additional Judge or Subordinate, as the case may be, may subject to any rules which the High Court may make in this behalf, exercise any of the powers of the District Judge.

1. Substituted for the words "Assistant District Judge" and "Munsiff" by the Assam Act No. XV of 1997, S.2 (w.e.f. 5.5.1997), which was earlier substituted for the word "Subordinate Judge" by the Assam Act No. XII of 1967.

2. Substituted for the words "Provincial Government" by the A.O.1950, which was earlier substituted by the A.O.1937 for the "Local Government".

3. Substituted for the words "upon the recommendation of" by the A.O.1937.

4. Repealed the words "and with previous sanction of the Governor-General in council" in sub-section (1) of Section 8, by the Bengal, Agra and Assam (Amendment) Act, 1911 (XVI of 1911) s.3.

11. Transfer of proceedings on vacation of office of [Civil Judge (Senior Division)]¹.— (1) In the event of the death, resignation or removal of a [Civil Judge (Senior Division)]¹ 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 (Senior Division)]¹ 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 (Senior Division)]¹ or his successor any proceedings transferred under sub-section (1) to his own or any other Court.

(4) For the purposes of proceedings which are not pending in the Court of the [Civil Judge (Senior Division)]¹ 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.

12. [Temporary charge of office of Munsiffs] Repealed by the A.O. 1937.

13. Power to fix local limits of Jurisdiction of Courts.— (1) The [State Government]² may by notification in 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 Judge (Senior Division)]¹ or two or more [Civil Judge (Junior Division)]¹ the District Judge may assign to each of them such civil business cognizable by the [Civil Judge (Senior Division)]¹ or [Civil Judge (Junior Division)]¹ 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 of two or more

1. Substituted for the words "Assistant District Judge" and "Munsiff" by the Assam Act No. XV of 1997, S.2 (w.e.f. 5.5.1997), which was earlier substituted for the word "Subordinate Judge" by the Assam Act No. XII of 1967.

2. Substituted for the words "Provincial Government" by the A.O.1950, which was earlier substituted by the A.O.1937 for the "Local Government".

[Civil Judge (Senior Division)]¹ or one of two or more [Civil Judge (Junior Division)]¹, a decree or order passed by the [Civil Judge (Senior Division)]¹, or [Civil Judge (Junior Division)]¹ 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]².

(4) A Judge of a Court of Small Causes appointed to be also a [Civil Judge (Senior Division)]¹ or [Civil Judge (Junior Division)]¹ is a [Civil Judge (Senior Division)]¹ or [Civil Judge (Junior Division)]¹ as the case may be, within the meaning of this section.

(5) The present local limits of the Jurisdiction of every Civil Court under this Act shall be deemed to have been fixed under this section.

14. Place of sitting of Courts.— The [State Government]² may, 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.

All places at which any such Courts are now held shall be deemed to have been taken fixed under this section.

15. Vacations of Courts.— Subject to such orders as may be made [***]³, by the [State Government]² [***]⁴ the High Court shall prepare a list of days to be observed in each year as closed holidays in the Civil Courts.

(2) The list shall be published in the [Official Gazette].⁵

(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.

16. Seals of Courts.— Every Civil Court under this Act shall use a seal of such form and dimensions as are prescribed by the [State Government]².

17. Continuance of proceedings of Courts ceasing to have jurisdiction.— (1) Where any Civil Court under this Act has from

1. Substituted for the words "Assistant District Judge" and "Munsiff" by the Assam Act No. XV of 1997, S.2 (w.e.f.5.5.1997), which was earlier substituted for the word "Subordinate Judge" by the Assam Act No. XII of 1967.
2. Substituted for the words "Provincial Government" by the A.O.1950, which was earlier substituted by the A.O.1937 for the "Local Government".
3. Omitted the words "by the Governor-General in Council in the case of the High Court at Calcutta and" by the A.O. 1937.
4. Omitted the words "in the cases" by the A.O. 1937.
5. Substituted for the words "Local Official Gazette".

any cause ceased to have jurisdiction with respect to any case, any proceedings 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 ["Sections 36, 37 and 114 of, and Rule I of Order XLVII in Schedule I to the Code of Civil Procedure, 1908 (V of 1908)"]¹ or in any other enactment for the time being in force.

CHAPTER III

ORDINARY JURISDICTION

18. Extent of original jurisdiction of District or [Civil Judge (Senior Division)]².— Save as otherwise provided by any enactment for the time being in force, the jurisdiction of a District Judge or [Civil Judge (Senior Division)]² extends, subject to the provisions of Section 15 of the Code of Civil Procedure, [1908]³ to all original suits for the time being cognizable by Civil Courts.

19. Extent of Jurisdiction of [Civil Judge (Junior Division)]³.— (1) Save as aforesaid, and subject to the provisions of sub-section (2), the Jurisdiction of a [Civil Judge (Junior Division)]³ extends to all like suits of which the value does not exceed [fifty thousand rupees].⁴

(2) The State Government may, on the recommendation of the High Court, direct, by notification in the Official *Gazette* with respect to any ["Civil Judge (Junior Division)"]³ named therein that his jurisdiction shall extend to all like suits of such value not exceeding ["two lakhs rupees"]⁵ as may be specified in the notification :

1. Substituted for "Sections 623 or 649 of the Code of Civil Procedure, 1908 (V of 1908)", by the Assam Act No. VI of 1935.
2. Substituted for the words "Assistant District Judge" by the Assam Act No. XV of 1997, S.2. (w.e.f.5.5.1997), which was earlier substituted for the words "Subordinate Judge" by the Assam Act No. XII of 1967, S.2.
3. Inserted in Sec. 18, the figure "1908", by the Assam Act. No. VI of 1935.
3. Substituted for the words "Munsiff" by the Assam Act No. XV of 1997, S.2. (w.e.f.5.5.1997.)
4. Substituted for the words "Seven thousand rupees" by the Assam Act No. XLIV of 2005 s.2 (i) (w.e.f. 23.12.2005), which was earlier substituted for the words "three thousand rupees" by the Assam Act No. VII of 1993 s.2 (i) (w.e.f. 12.05.1993), and again which was substituted for the words "one thousand rupees" by the Assam Act. No. IX of 1965 s.2(i).
5. Substituted for the words "twenty five thousand rupees" in sub-section (2) of Section 19 by the Assam Act No. XLIV of 2005 s. 2(ii) (w.e.f. 23.12.2005).

Provided that the State Government may, by notification in the Official Gazette, delegate to the High Court its powers under this section".¹

AMENDMENT

Meghalaya- In sub-section (2) of Section 19 of the Principal Act, the words "five thousand rupees" substituted by the words "ten thousand rupees".

[See the Bengal, Agra, Assam and Shillong Civil Courts (Meghalaya Amendment) Act, 1983 (*Meghalaya Act No. 10 of 1983*), it shall come into force at once. Published in the *Gazette of Meghalaya Extraordinary* dated the 3rd October, 1983.]

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 (Senior Division)]² and [Civil Judge (Junior Division)]³- (1) Save as aforesaid, an appeal from a decree or order of a [Civil Judge (Senior Division)]² shall lie-

(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 ⁴[five lakhs rupees]; and

1. Substituted sub-section (2) of Section 19 by the Assam Act No. IX of 1965 s. 2(2). Before substituted sub-section (2) of Section 19, read as follows:-

["(2) The State Government may, on the recommendation of the High Court, direct, by notification in the Official Gazette with respect to any Munsif named therein:-

(a) that his jurisdiction shall extend to all like suits of such value not exceeding two thousand rupees as may be specified in the notification, or

(b) that so long as he holds Court at a place where the Court of a Subordinate Judge is held his jurisdiction shall extend to all like suits of such value not exceeding three thousand rupees as may be so specified :

Provided that the State Government may, by notification in the official Gazette delegate to the High Court its powers under this section."]

2. Substituted for the words "Assistant District Judge" by the Assam Act No. XV of 1997 s.2 (w.e.f. 5.5.1997), which was earlier substituted for the words "Subordinate Judge" by the Assam Act No. XII of 1967 s.2.

3. Substituted for the word "Munsif" by the Assam Act No. XV of 1997 s.2.

4. Substituted for the words "fifty thousand rupees" in clause (a) of sub-section (1) of Section 21 by the Assam Act No. XLIV of 2005 s.3 (w.e.f. 23.12.2005)

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

(2) Save as aforesaid, an appeal from a decree or order of a [Civil Judge (Junior Division)]¹ shall lie to the District Judge.

(3) Whether 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 [State Government]² direct, by notification in the [Official Gazette]³ that appeals lying to the District Judge under sub-section (2) from all or any of the decrees or orders of any [Civil Judge (Junior Division)]¹ shall be preferred to the Court of such [Civil Judge (Senior Division)]⁴ as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly.

[ASSAM AMENDMENT ACT NO. VII OF 1993

Section 4(1) of the Act of 1992- **Retrospective operation-** The provision of clause (a) of sub-section (1) of Section 21 of the principal Act, as amended by Section 3 of this Act, shall apply irrespective of the fact that suits, proceedings, decrees or orders out of which the appeals referred to therein arise, were instituted or made prior to the commencement of this Act.

Section 4(2) of the Act of 1992- Notwithstanding anything to the contrary contained in the Limitation Act, 1963, an appeal from a decree or order made before the commencement of this Act, which but for the provisions of this Act, would have been preferred before the High Court within ninety days from the date of such decree or order shall be preferred to the District Judge, within the said period.

Section 5 of the Act of 1992- **Savings-** Nothing in this Act shall be deemed to affect any appeal instituted prior to the Commencement of this Act.*

*. Published in the Assam Gazette Extraordinary No. 57 dated 12/5/1993.

[ASSAM AMENDMENT ACT NO. XXIV OF 1997

Amendment of Section 5 of the Bengal, Agra and Assam Civil Courts (Assam Amendment) Act, 1992- In the Bengal, Agra and Assam Civil Courts (Assam Amendment) Act, 1992, in Section 5, for the words, "prior to the commencement of this Act", the words, "save and except the appeals

1. Substituted for the words "Munsiff" by the Assam Act No. XV of 1997.

2. Substituted by the A.O. 1950 for "Provincial Government".

3. Substituted by the A.O. 1937 for "local official Gazette".

4. Substituted for the words "Assistant District Judge" by the Assam Act No. XV of 1997 s.2 (w.e.f. 5.5.1997), which was earlier substituted for the words "Sub-ordinate Judge" by the Assam Act No. XII of 1967.

instituted to High Court against the decree or order of an Assistant District Judge under clause (b) of sub-section (1) of Section 21"]**

** Published in the Assam Gazette Extraordinary No. 566, dated 13/11/1997.

[MEGHALAYA AMENDMENT ACT NO. 10 OF 1983]

In Section 21 of the principal Act, in sub-section (1), in clause (a), for the words "seven thousand rupees" the words "twenty thousand rupees" shall be substituted.

Section 4(1) of the Act of 1983- **Retrospective operation**- The provision of clause (a) sub-section (1) of Section 21 of the Principal Act as amended by Section 3 of this Act, shall apply irrespective of the fact that suits, proceedings decrees or orders out of which the appeals referred to therein arise were instituted or made prior to the commencement of this Act.

Section 4(2) of the Act of 1983- Notwithstanding anything to the contrary with Limitation Act, 1963 (36 of 1963), an appeal from a decree or order made before the commencement of this Act, which but for the provisions of this Act, would have been preferred before the High Court within ninety days from the date of such decree or order, shall be preferred to the District Judge within the said period.

Section 5 of the Act of 1983- **Savings**- Nothing in this Act shall be deemed to effect any appeal instituted prior to the commencement of this Act.]*

* This Act may be called the Bengal, Agra, Assam and Shillong Civil Courts (Meghalaya Amendment) Act, 1983 (*Meghalaya Act No. 10 of 1983*), published in the *Gazette of Meghalaya Extra-ordinary*, dated the 3rd October, 1983.

[21A. Power to transfer pending appeals to District Judge.- An appeal from a decree or order of an Assistant District Judge, where the value of the original suit in which or any proceeding arising out of which decree or order was made exceeds twenty thousand rupees but does not exceed fifty thousand rupees instituted in the High Court before the date of commencement of the Bengal, Agra and Assam Civil Courts (Assam Amendment) Act, 1992 and pending in the High Court immediately before the said date, shall stand transferred to District Judge having jurisdiction who shall decide the appeal according to law or assign it to any Additional District Judge.]

1. Inserted a new Section "21A" by the Assam Act No. XXIV of 1997, published in the Assam Gazette Extraordinary No. 566, dated 13/11/1997.

CHAPTER IV SPECIAL JURISDICTION

22. Power to transfer to [Civil Judge (Senior Division)]¹ appeals from [Civil Judge (Junior Division)]¹.- (1) A District Judge may transfer to any [Civil Judge (Senior Division)]¹ under his administrative control any appeals pending before him from the decrees or orders of [Civil Judge (Junior Division)]¹.

(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.

23. Exercise by [Civil Judge (Senior Division)]¹ or [Civil Judge (Junior Division)]¹ of jurisdiction of District Court in certain proceedings.- (1) The High Court may, by general or special order, authorize any [Civil Judge (Senior Division)]¹ or [Civil Judge (Junior Division)]¹ to take cognizance of, or any District Judge to transfer to a [Civil Judge (Senior Division)]¹ or [Civil Judge (Junior Division)]¹ under his administrative control, any of the proceedings next hereinafter mentioned or any classes of those proceedings specified in the order.

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

(a) proceedings under the Bengal Regulation 5, 1799² (*to limit the interference of the Zilla and City Courts of Diwani Adalat in the Execution of Wills and Administration to the Estates of persons dying intestate*);

³[(b) *****]

(c) *****]

1. Substituted for the words "Assistant-District Judge" and "Munsiff" by the Assam Act No. XV of 1997. S.2(w.e.f. 12.5.1997), which was earlier substituted for the words "Subordinate Judge" the words "Assistant District Judge" by the Assam Act No. XII of 1967.

2. The Bengal Wills and Intestacy Regulation, 1799 *ante*.

3. Clause (b) [which referred to proceedings under Act XL of 1858 (Minors), or Act IX of 1861 (Minors), and

Clause (c) [which referred to applications for certificate under Act XXVII of 1860 (Succession)] were repealed by the Guardians and Wards Act, 1890 (8 of 1890) and the Succession Certificate Act, 1889 (7 of 1889) respectively and are omitted.

- (d) proceedings under the [Indian Succession Act, 1925]¹ which cannot be disposed of by District Delegates; and
- (e) references by Collectors under [paragraph 5 of the Third Schedule]² of the Code of Civil Procedure, [1908]³.

(3) The District Judge may withdraw any such proceedings taken cognizance of by, or transferred to, a [Civil Judge (Senior Division)]⁴ or [Civil Judge (Junior Division)]⁴ and may either himself dispose of them or transfer them to a Court under his administrative control competent to dispose of them.

24. Disposal of proceedings referred to in last foregoing section.— (1) Proceedings taken cognizance of by, or transferred to, a [Civil Judge (Senior Division)]⁴ or [Civil Judge (Junior Division)]⁴ as the case may be, under the last foregoing section shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge :

Provided that an appeal from an order of a [Civil Judge (Junior Division)]⁴ in any such proceedings shall lie to the District Judge.

(2) An appeal from the order of the District Judge on the appeal from the order of the [Civil Judge (Junior Division)]⁴ under this section shall lie to the High Court if a further appeal from the order of the District Judge is allowed by the law for the time being in force.

25. Power to invest [Civil Judges (Senior Division)]⁴ and [Civil Judges (Junior Division)]⁴ with Small Causes Court jurisdiction.— The [State Government]⁵ may, by notification in the official *Gazette*, confer, within such local limits as it thinks fit, upon any [Civil Judge (Senior Division)]⁴ or [Civil Judge (Junior Division)]⁴ the Jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Causes Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding [seven hundred and fifty rupees]⁶ in the case of a [Civil Judge (Senior Division)]⁴ or [three hundred rupees]⁷ in the case of a [Civil Judge

1. Substituted by Assam Act VI of 1935 for "Indian Succession Act, 1865 and the Probate and Administration Act, 1881".
2. "Substituted by Assam Act VI of 1935 "Section 322" for the word and figure.
3. Inserted bracket and figure "1908" by the Assam Act No. VI of 1935.
4. Substituted for the words "Assistant District Judge" and "Munsif" by the Assam Act No. XV of 1997 s.2 (w.e.f. 5.5.1997), which was earlier substituted for words "Subordinate Judge" by Assam Act No. VII of 1967 s.2.
5. Substituted by the A.O. 1950 for "Provincial Government".
6. Substituted by Assam Act VI of 1935 for "five hundred rupees".
7. Substituted by Assam Act VI of 1935 for "two hundred and fifty rupees".

(Junior Division)]¹ as it thinks fit, and may withdraw any jurisdiction so conferred :

[Provided that the [State Government]² may, by notification in the [official *Gazette*]³ delegate to the High Court its powers under this section]⁴.

CHAPTER V AND VI

[Sections 26 to 35 repealed.]⁵

CHAPTER VII

SUPPLEMENTAL PROVISIONS

36. Power to confer powers of Civil Courts on officers.— (1) The [State Government]² may invest with the powers of any Civil Court under this Act, by name or in virtue of office,—

- (a) any officer in the Chota Nagpur, [Sambalpur]⁶, Jalpaiguri or Darjeeling district, or in any part of the [State of Assam]⁷, or
- (b) after consultation with the High Court, any officer serving in any other part of the territories to which this Act extends and belonging to a class defined in this behalf by the [State Government].² [***]⁸

(2) Nothing in [Sections 4, 5, 6, 8, 10 or 11]⁹ applies to any officer so invested, but all the other provisions of this Act shall, so far as those provisions can be made applicable, apply to him as if he were a Judge of the Court with the powers of which he is invested.

(3) Where in the territories mentioned in clause (a) of sub-

1. Substituted for the words "Assistant District Judge" and "Munsif" by the Assam Act No. XV of 1997 s.2 (w.e.f. 5.5.1997), which was earlier substituted for the words "Subordinate Judge" by the Assam Act No. VII of 1967 s.2.
2. Substituted by the A.O. 1950 for "Provincial Government".
3. Substituted by the A.O. 1937 for "local official Gazette".
4. Added by the Decentralisation Act, 1914 (IV of 1914).
5. Sections 26 to 35 repealed by the A.O. 1937.
6. The word "Sambalpur" was inserted by the Sambalpur Civil Courts Act, 1906 (*Bengal Act IV of 1906*).
7. Substituted for the words "territories administered by the Chief Commissioner of Assam except the district of Sylhet" by the words "State of Assam" by the Assam Act No. IX of 1965 s.4. Published in the Assam *Gazette Extraordinary*, dated the 8th June, 1965.
8. Repealed the words "with the previous sanction of the Governor-General in Council" by the Devolution Act, 1920 (*XXXVIII of 1920*).
9. Substituted by the A.O., 1937 for "Sections 4 to 8 (both inclusive), or Sections 10 to 12 (both inclusive), or Sections 27 to 35 (both inclusive)".

section (1), the same local jurisdiction is assigned to two or more officers invested with the powers of a [Civil Judge (Junior Division)]¹, the officer invested with the powers of a District Judge may, with the previous sanction of the [State Government]², delegate his functions under sub-section (2) of Section 13 to an officer invested with the powers of a [Civil Judge (Senior Division)]³ or to one of the officers invested with the powers of a [Civil Judge (Junior Division)]¹.

(4) Where the place at which the Court of an officer invested with powers under sub-section (1) is to be held has not been fixed under Section 14, the Court may be held at any place within the local limits of its jurisdiction.

***37. Certain decisions to be according to Native 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 Muhammadan law in cases where the parties are Muhammadans, 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.

38. 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.

(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 any such suit, proceeding or appeal as is referred to in sub-section (1) or sub-section (2) comes before any such officer,

1. Substituted for the word "Munsiff" by the Assam Act No. IV of 2005 s.2 (w.e.f. 18.1.2005).
2. Substituted by the A.O. 1950 for "Provincial Government", which was earlier substituted by the A.O. 1937 for the words "Local Government."
3. Substituted for the words "Assistant-District Judge" by the Assam Act No. XV of 1997. S.2 (w.e.f 5.5.1997), with was earlier.
4. The provisions of this section, in so far as they are inconsistent with the provisions of the Muslims Personal Law (*shariat*) Application Act, 1937, (26 of 1937) have been rep. by s.6 of that Act but have been revised by s.3 of Act 16 of 1973.

the officer 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.

(4) The Superior Court shall thereupon dispose of the case under [Section 24 of the Code of Civil Procedure, 1908 (*V of 1908*)]¹

(5) Nothing in this section shall be deemed to affect the extraordinary original civil jurisdiction of the High Court.

39. 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 Code of the Civil Procedure, 1908 (*V of 1908*)², the Court of such an officer shall be deemed to be of a grade inferior to that of the Court of the District Judge.

40. Application of act to Provincial Courts of Small causes.-

(1) This section and Sections 15, 32, 37, 38 and 39 apply to Court of Small causes constituted under the Provincial Small Cause Courts Act, 1887 (*IX of 1887*).

(2) Save as provided by that Act, the other Sections of this Act do not apply to those Courts.

1. Substituted by the Assam Act No. IV of 1935 for "Section 25 of the Code of Criminal Procedure".
2. Inserted bracket and figure "1908 (*V of 1908*)" in Section 39, by the Assam Act No. VI of 1935.

APPENDIX B

THE BENGAL, BIHAR AND ORISSA AND ASSAM LAWS ACT, 1912

(ACT NO. 7 OF 1912)¹**CONTENTS****SECTIONS**

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Schedule A [The Presidency of Fort William in Bengal].	409
Schedule B [The State of Bihar and Orissa].	410
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Schedule D [Part I & II See Original] [Part III - Construction of enactments etc. in force in the territory mentioned in Schedule-C (The State of Assam)].	411
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1. For the Proceeding in the Council, See *Gazette of India*, 1912, Part VI, pages 594 to 596.

An

Act

to make certain provisions regarding the application of the law in force in the Presidency of Fort William in Bengal, the [State]¹ of Bihar and Orissa and the [State]¹ of Assam.

WHEREAS a Governor and an Executive Council have been appointed for the Presidency of Fort William in Bengal;

And **Whereas**, by Proclamation² published under Notification No.290, dated the twenty-second day of March, 1912 the Governor General in Council, with the sanction of His Majesty, has been pleased to declare and appoint that, on and from the first day of April, 1912, the territory mentioned in Schedule A shall be and continue subject to the said Presidency of Fort William in Bengal;

And **Whereas**, by Proclamation² published under Notification No.289, dated the twenty-second day of March, 1912, the Governor-General, with the sanction of His Majesty, has been pleased to constitute the territory mentioned in Schedule B to be, for the purpose of the Indian Council Act, 1861,³ a [State]¹ to which the provisions of that Act touching the making of Laws and Regulations for the peace and good government of the Presidencies of Fort St. George and Bombay shall be applicable, and to direct that the [State]¹ shall be called the [State]¹ of Bihar and Orissa, and further to appoint a Lieutenant-Governor of that [State]¹;

And **Whereas**, by Proclamation published under Notification No.291, dated the twenty-second day of March, 1912, the Governor-General in Council, with the sanction and approbation of the Secretary of State for India, has been pleased to take under his immediate authority and management the territory mentioned in Schedule C, which was formerly included within the [State]¹ of Eastern Bengal and Assam, and to form the same into a Chief Commissionership, to be called the Chief Commissionership of Assam, and further to appoint a Chief Commissioner thereof;

And **Whereas**, it is expedient to make certain provisions

1. Substituted for the word "Province" by the word "State" by the A.O.1950.
2. Published in the *Gazette of India* (Extra-ordinary) of the 22nd March, 1912.
3. Rep. and re-enacted by the Government of India Act.

regarding the application of the law in force in the territories affected by the said Proclamation;

It is hereby enacted as follows:-

1. Short title and commencement.— (1) This Act may be called the Bengal, Bihar and Orissa and Assam Laws Act, 1912, and

(2) It shall come into force on the first day of April, 1912.

2. Saving of territorial application of enactment.— The Proclamation referred to in the preamble shall not be deemed to have affected any change in the territorial application of any enactment, notwithstanding that such enactment may be expressed to apply or extend to the territories for the time being under a particular administration.

3. Construction of certain references in enactment in force in territory mentioned in Schedules A, B and C.— All enactments made by any authority in India¹ and all notifications, order, schemes, rules, forms and bye-laws issued, made or prescribed under such enactments, which immediately before the commencement of this Act, were in force or prescribed for, any of the territory mentioned in *Schedule A*, *Schedule B*, or *Schedule C*, shall, in their application to that territory, be construed as if references therein to the authorities, territory or *Gazettes* mentioned in column 1 of Schedule-D were references to the authorities, territory or *Gazette* respectively mentioned or referred to opposit thereto in Column 2 of that Schedule.

[*****]²

4. [Constitution of Board of Revenue in Bihar and Orissa.] *rep. by Bihar and Orissa Act I of 1913.*

5. Powers of Courts and State Governments for facilitating application of enactments.— For the purpose of facilitating the application to the territory, or any part thereof, in [Schedule A, Schedule B or] Schedule C of any enactment passed before the commencement of this Act, or of any notification, orders, schemes, rules, form or bye-laws made under any such enactments,—

1. Successively amended by A.O. 1948 and A.O. 1950 to read as above.

2. Repealed proviso to Section 3 by the Act No. 38 of 1920 s.2.

Note.— Before Repealing the proviso to Section 3, read as:— "Provided that the Governor-General in Council may, by notification in the *Gazette of India*, direct that any function of the Chief Commissioner of Assam under any such enactment, notification, order, scheme, rule, form or bye-law shall be discharged by the Governor-General in council and not by the said Chief Commissioner."

- (a) any Court may, subject to the other provisions of this Act construed the enactment, notification, order, schemes, rule, form or bye-law with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the Court; and
- (b) the [State Government]¹ may, by notification in the [official *Gazette*],² direct by what officer any authority or power shall be exercisable; any such notification shall have effect as if enacted in this Act.

6. Pending proceedings.— Nothing in this Act shall affect any proceeding which, at the commencement thereof, is pending in or in respect of any of the territory mentioned in [Schedule A, Schedule B or] Schedule C; and every such proceeding shall be continued as if this Act had not been passed.

7. and 8. [Amendment of Acts Repeal.] *Rep. by Act of 1938.*

[9. Application to adaptations and modifications under Article 372 of the Constitution].— References in this Act, by whatever form of words to Indian Laws in force immediately before the commencement of this Act shall, after the commencement of [the Constitution]⁴ be constructed as references to those laws as adapted and modified [Article 372 of the Constitution.]⁵

SCHEDULE A

(See Sections 3, 5 and 6)

The Presidency of Fort William in Bengal

PART I

The Chittagong Division, comprising the districts of Chittagong, the Chittagong Hill Tracts, Noakhali and Tippera;

the Dacca Division, comprising the districts of Bakarganj, Dacca, Faridpur and Mymensing;

the Rajshahi Division, comprising the districts of Bogra, Dinajpur, Jalpaiguri, Malda, Pabna, Rajshahi and Rangpur.

1. Substituted by the A.O. 1950 for "Provincial Government", which was substituted by A.O. 1937 for "Local Government".
2. Substituted by the A.O. 1937 for local official *Gazette* for "L.S".
3. Inserted by the A.O. 1937.
4. Substituted by the A.O. 1950 for Part III of the Government of India Act, 1935.
5. Substituted by the A.O. 1950 for "Section 293 of the Government of India Act, 1935."

PART II

The Burdwan Division, comprising the districts of Bankura, Birbhum, Burdwan, Hoogly, Howrah and Midnapur;

the Presidency Division, comprising the town of Calcutta and the districts of Jessore, Khulna, Murshidabad, Nadia and the 24-Parganas and the District of Darjeeling.

SCHEDULE B**The State of Bihar and Orissa**

The Districts of Bhagalpur, Monghyr, Purnea and the Santhal Parganas, in the Bhagalpur Division;

the Patna Division, comprising the districts of Gaya, Patna and Shahabad;

the Tirhut Division, comprising the district of Champaran, Darbhanga, Muzaffarpur and Saran;

the Chota Nagpur Division, comprising the districts of Hazaribagh, Manbhum, Palamau, Ranchi and Singbhum; and

the Orissa Division, comprising the districts of Angul, Balasore, Cuttack, Puri and Sambalpur.

SCHEDULE C**The State of Assam**

The Assam Valley Districts Division, comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sibsagar; and

the Surma Valley and Hill Districts Division, comprising the districts of Cachar, Karbi and Jaintia Hills, Lushai Hills, Naga Hills and Sylhet.

1. Transferred to the province of Orissa, *vide* Government of India (Constitution of Orissa) Order, 1936.

SCHEDULE D**(See Section 3)**

Part I – Construction of enactments, etc., in force in the territory mentioned in the Schedule A (the Presidency of Fort William in Bengal)

1	2
References	Construction
1. The [Local or State ⁷ Government] ¹ of Bengal.	The (State Government) ² of ^{**3} Bengal.
2. The [Local or State ⁷ Government] ¹ of Bengal and Assam.	
3. The Board of Revenue for Eastern Bengal and Assam.	The Board Revenue for Bengal.
4. [Omitted] ⁴	
5. [Omitted] ⁴	
6. All officers and official bodies not mentioned in the foregoing clauses 2 to 5 except the Treasurer of Charitable endowments whose authority extended immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally inclusive of the territory mentioned in Part I of Schedule-A.	(a) The respective officers and official bodies who immediately before the commencement of this Act exercised similar functions in the Province of Bengal, or (b) Such other officers or official bodies respectively, as the [State Government] ² of ^{[**]⁵} Bengal may by notification in the [official Gazette] ⁶ direct.
7. The local official Gazette (English or Vernacular, as the case may be of the Government of Eastern Bengal and Assam.	The [official Gazette] ⁶ (English or Vernacular, as the case may be) of the Government of Bengal.

1. Substituted by the A.O. 1937 for "Local Government".
2. Substituted by the A.O. 1950 for "Provincial Government which was substituted by A.O. 1937 for "Government in Council".
3. The words "Fort William in" rep. by the A.O. 1937.
4. Items 4 and 5 omitted by the A.O. 1937.
5. The words "Fort William in" rep. by the A.O. 1937.
6. Substituted by the A.O. 1937 for "local official Gazette".
7. Substituted for "Provincial" by A.O. 1950.

Part II – Construction of enactments, etc., in force in the territory mentioned in the Schedule B (the Province of Bihar and Orissa)

References	Construction
8. The [Local or State ¹ Government] ² of Bengal ²	The [State Government] ² of Bihar and Orissa.
9. The [Local or State ¹ Government] ² of the Central Provinces.	
10. The Board of Revenue for Bengal. [11. Repealed ***] ³ [12. Repealed ***] ³	The Board of Revenue for Bihar and Orissa.
13. The Court of Wards of the Central Provinces. 14. The Superintendent of Government Wards in the Central Provinces.	
15. The Judicial Commissioner of the Central Provinces.	The High Court of Judicature [in Calcutta] ⁵
16. All officers and official bodies not mentioned in the foregoing clauses 8 to 15 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Bengal generally inclusive of the territory mentioned in Schedule B.	Such officers or official bodies, respectively, as the [State Government] ² may, by notification in the [official Gazette] ⁵ direct.
17. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Chief Commissionership of the Central Provinces.	The [official Gazette] ⁵ (English or Vernacular, as the case may be) of the Government of Bihar and Orissa.

Part III – Construction of enactments, etc., in force in the territory mentioned in the Schedule C (the State of Assam)

1. Substituted by the A.O. 1937 for "Local Government".
2. Substituted by the A.O. 1950 for "Provincial Government".
3. Items 11 and 12 rep. by the A.O. 1937.
4. Substituted by the A.O. 1937 for "at Fort William in Bengal".
5. Substituted by the A.O. 1937 for "Local Official Gazette".

References	Construction
18. The [Local or State ¹ Government] ² of Bengal. ² 19. The [Local or State ¹ Government] ² of the Eastern Bengal and Assam. 20. The Board of Revenue for Bengal. 21. The Board of Revenue for Eastern Bengal and Assam. [22. Repealed ***] ⁴ [23. Repealed ***] ⁴	The [State Government] ³ of Assam.
24. All officers and official bodies not mentioned in the foregoing clauses 18 to 23 (except the Treasurer of Charitable Endowments) whose authority extended, immediately before the commencement of this Act, over the Province of Eastern Bengal and Assam generally, inclusive of the territory mentioned in Schedule C.	
25. The Chief Commissionership of Assam.	The territory mentioned in Schedule C.
26. The local official Gazette (English or Vernacular, as the case may be) of the Government of Bengal or the Government of Eastern Bengal and Assam.	The [official Gazette] ⁶ (English or Vernacular, as the case may be) of the Chief Commissionership of Assam.

7["SCHEDULE E"]

1. Substituted by the A.O. 1937 for "Local Official Gazette".
2. Substituted by the A.O. 1937 for "Local Government".
3. Substituted by the A.O. 1950 for "Provincial Government" which was substituted by A.O. 1937 for "Local Government".
4. Items 22 and 23 rep. by the A.O. 1937.
5. Substituted by the A.O. 1950 for "Provincial Government which was substituted by A.O. 1937 for "Chief Commissioner".
6. See Notification 8, dated 1st April, 1912, Assam Gazette 1912, Part I.
7. Schedule E, repealed by Act I of 1938.

APPENDIX C**NOTIFICATION***

Dated 16th Feb., 2014

No. HC.VII-243/2011/891/A.- In view of establishment of Judicial District of Kamrup at Amingaon, all the Judicial Courts situated at Rangia and Hajo shall now be under the jurisdiction of Kamrup district having its Head-quarter at Amingaon.

*. Published in the Assam Gazette Part IIB (No. 35), dated 27-08-2014 at page 476.

APPENDIX D

**THE
GAUHATI HIGH COURT AND DISTRICT COURTS
E-COURT (RECRUITMENT AND PROMOTION)
SERVICE RULES, 2015¹**

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¹. Published in the Assam Gazette Extraordinary (No. 259), dated 16th September, 2015.

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THE GAUHATI HIGH COURT AND DISTRICT COURTS E-COURT (RECRUITMENT AND PROMOTION) SERVICE RULES, 2015

NOTIFICATION

Dated 10th September, 2015

No. JDJ.182/2014/68.- *In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Assam is hereby pleased to make the following rules regulating the recruitment and conditions of service of the persons appointed to the e-Court Service of High Court and District Courts of Assam, namely:-*

1. Short title and commencement:- (1) These rules may be called the Gauhati High Court and District Courts, e-court (Recruitment and Promotion) Service Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definition:- In these rules, unless there is any thing repugnant in the subject or context,-

- (a) "**Appointing Authority**" means the Registrar General of the High Court, Assam;
- (b) "**Board**" means the Selection Board constituted under Rule 13;
- (c) "**Constitution**" means the Constitution of India;
- (d) "**Chief Justice**" means the Chief Justice of the Gauhati High Court;
- (e) "**District Court**" means the Courts in the Districts of the State of Assam within the jurisdiction of the Gauhati High Court;
- (f) "**District Sessions Judge**" means a Judicial Officer who holds the post of the District and Sessions Judge in a District Court;
- (g) "**Governor**" means the Governor of Assam;
- (h) "**Government**" means the Government of Assam;
- (i) "**High Court**" means the Gauhati High Court;

- (j) **"ICT"** means Information and Communication Technology;
- (k) **"Member"** means the member of the Gauhati High Court and District Court, e-court Service;
- (l) **"Registrar General"** means Registrar General in the Principal Seat of the Gauhati High Court;
- (m) **"Selection Committee"** means the Committee constituted under Rule 14;
- (n) **"Schedule"** means Schedule appended to these rules;
- (o) **"Select list"** means the list recommended by the Board and Selection Committee for recruitment to a cadre both by direct recruitment and promotion as referred in Rule 6 and 12;
- (p) **"State"** means the State of Assam;
- (q) **"Service"** means Gauhati High Court and District Courts e-Court Service;
- (r) **"Year"** means the Calendar year i.e. from January to December of the respective year.

3. Class and Cadre:- (1) The Service shall consist of the following classes and Cadres:-

- (i) Senior Systems Officer;
- (ii) Systems Officer;
- (iii) Systems Assistant.

4. Strength of Service:- (1) The strength of each cadre in a class of service shall be such as determined by the High Court from time to time. The cadre strength of each cadre of the service on the date of commencement of these rules shall be as shown in the Schedule-I :

Provided that the Chief Justice may hold in abeyance any post as and when considered necessary.

5. Method of recruitment:- (1) Recruitment to the service shall be made in the manner prescribed hereinafter:-

- (i) Recruitment to the cadre of Systems Assistant shall be made by direct recruitment only;
- (ii) Recruitment to the cadre of Systems Officer shall be made by promotion from the cadre of Systems Assistant;
- (iii) Recruitment to the cadre of Senior Systems Officer shall be made by promotion from the cadre of Systems Officer;

- (iv) The existing Systems Officers and Systems Assistants, who were earlier recruited on contractual basis by following the procedure adopted for recruiting permanent employee, as per guidelines laid down in the National Policy and Action Plan for implementation of ICT in the India Judiciary as prepared by the Committee Supreme Court of India, New Delhi (1st August, 2005) and who has completed 2 (two) years of service may be absorbed in the posts they are holding on the commencement of these rules subject to their continued utility and suitability and shall be entitled to the pay and allowances and other facilities as admissible to the posts of Systems Assistant and Systems Officer recruited under these rules;
- (v) The exercise for absorption of the existing Systems Officers and Systems Assistants mentioned in sub-rule (iv) shall be for one time only;
- (vi) After absorption of the existing Systems Assistants and Systems Officers in their respective cadres as mentioned in Rule 3, the remaining vacant posts in each cadres shall be filled up by direct recruitment following the procedure prescribed under Rule 6 which shall be followed in the process of first recruitment only. The vacancies which shall arise in due course of time in the respective cadres mentioned in Rule 3 shall be filled up following the provision described under sub-rule (1) clause (i), (ii) and (iii) of these rules.

6. Direct recruitment:- Direct recruitment shall be made on the basis of recommendations made by the Board in accordance with the procedure hereinafter provided:-

- (a) Before the end of each year (i.e. in the month of December) the Appointing Authority shall make assessment regarding the likely number of vacancies to be filled by direct recruitment during the next year and shall intimate the same to the Board together with details about reservation for candidates belonging to Scheduled Castes, Scheduled Tribes or any other category as laid down by the Government;
- (b) The Appointing Authority shall simultaneously request the Board to recommend a list of candidates for direct recruitment, in order of preference;

- (c) The Board shall prepare a list of all candidates who shall qualify in order of merit in accordance with the aggregate marks obtained by each candidate in the Test/Interview as mentioned in Schedule-III, if two or more candidates obtain equal marks, the Board shall arrange them in order of their relevant merit which shall be determined in accordance with the general suitability of the candidates to the service;
- (d) The Board shall furnish to the Appointing Authority the list of candidates recommended by it in order of preference, found suitable for direct recruitment showing the marks obtained in examination/written test and interview. The number of candidates in such a list shall be equal to the number of vacancies notified;
- (e) The lists shall be the same for the principal seat of Gauhati High Court and for the District and Session court's of Assam;
- (f) In this regard the Board shall simultaneously publish the list in the Assam Gazette and/or at such other places the Board may consider proper;
- (g) The list shall remain valid for one year from the date of final result Chief Justice shall have the power to extend the validity of the list for a period which by any way cannot extend more than one year;
- (h) The decision of the Board as to the eligibility or otherwise of a candidate for admission to the written and *viva voce* examination shall be final.

7. Age:- A candidate for direct recruitment to the service shall not be less than 21 years and more than 38 years of age on the first day of the year of recruitment. The upper age limit for candidates belonging to Scheduled Castes and Scheduled Tribes or any other category of the State of Assam is relaxable as per the general rules for the time being in force.

8. Academic Qualification:- The academic qualification of a candidate for direct recruitment to the post of Systems Assistant, Systems Officer and Senior Systems Officer shall be as shown in Schedule-II.

9. Physical Fitness:- A candidate for direct recruitment shall be,-

- (1) of sound health, both mentally and physically and free from any organic defect or bodily infirmity likely to interfere with the efficient performance of his duties; and
- (2) required to undergo medical examination before appointment to the service.

10. Character:- A candidate for direct recruitment shall produce to the Appointing Authority certificates of good character from-

- (a) the Principal Academic Officer of the institute in which he studied last, and
- (b) two respectable persons, who are well acquainted with (but not related to) the candidate.

11. Recruitment By Promotion:- Appointment by promotion in the cadre shall be made in the manner provided hereinafter:-

- (1) Subject to suitability as may be decided by the Selection Committee and by the Appointing Authority, an officer belonging to the cadre of Systems Assistant shall be promoted to the cadre of Systems Officer and Senior Systems Officer as set forth herein below and in the manner provided in Rule 12;
- (2) A member of the cadre of Systems Assistant and Systems Officer of the Gauhati High Court and District Courts, shall be eligible for promotion as Systems Officer and Systems Assistant respectively subject to the following conditions:-
 - (a) he shall have rendered service for a minimum continuous period of 5 years in the existing cadre on the first day of the year of appointment;
 - (b) he must have cleared the viva-voice/test in this respect conducted by the Selection Committee;
 - (c) the selection shall be made on the basis of seniority with due regard to merit in case of promotion.

12. General procedure of promotion:- (1) Before the end of each year the Appointing Authority shall make an assessment of the likely number of vacancies to be filled up by promotion in the next year in each cadre and intimate the same to the Selection Committee together with details:-

- (a) information about the number of vacancies;

- (b) list of staff in order of seniority, eligible for promotion (separate list for promotion to different cadres shall be furnished) indicating the cadre to which the case of promotion is to be considered;
- (c) character rolls and personal files of the member listed;
- (d) details about reservation;
- (e) any other documents and information as may be considered necessary by the Appointing Authority or required by the Selection Committee.

(2) The Appointing Authority shall simultaneously request the Selection Committee to recommend within one month a list of candidate found suitable for promotion in order of preference, in respect of promotion to each of the cadre in which recruitment is to be made by promotion.

(3) The select list shall remain valid for twelve calendar months from the date of recommendation by the Board.

(4) The inclusion of a candidates names in select list shall confer no right to promotion unless the Appointing Authority is satisfied after such inquiry as may be considered necessary that a candidate is suitable for promotion.

(5) The selection shall be in accordance with the lists finally approved by the Appointing Authority.

13. Selection Board:- The Board, as referred to in Rule 6 shall consist of the following:-

- (i) Chief Justice of Gauhati High Court; - Chairman
- (ii) 2(two) Judges of Gauhati High Court - Member
- (iii) Registrar General of Gauhati High Court - Member-Secretary
- (iv) One Technical Expert to be nominated by the Chief Justice. - Member

14. Selection Committee:- The Selection Committee for promotion to the posts of Systems Officer and Senior Systems Assistant shall consist of the following:-

- (i) Chief Justice of Gauhati High Court - Chairman
- (ii) 2(two) Judges of Gauhati High Court - Member
- (iii) Registrar General of Gauhati High Court - Member-Secretary.

15. Disqualification:- No person shall be eligible for appointment to the Service,-

- (a) unless he is a citizen of India, and
- (b) if he has more than one wife living or in case of a female candidate who has married a person who has his wife living :

Provided that the Governor may, if he is satisfied that there is special grounds for doing so, exempt any person from the operation of the clause.

16. Reservation:- In all cases of appointment under these rules there shall be reservation in case of candidates belonging to the Scheduled Castes and the Scheduled Tribes as per provision of the Assam Scheduled Castes and Scheduled Tribes (Reservation of vacancies in services and posts) Act, 1978 as amended and the Rules framed thereunder Reservation in favour of woman as per the Assam Woman (Reservation of Vacancies in Service and Posts) Act, 2005 and Persons with Disabilities (Equal Opportunities, Protection of Right and Full Participation Act, 1955 shall also be followed in direct recruitment.

17. Seniority:- (1) The Seniority of a member in a cadre appointed by direct recruitment or by promotion shall be determined according to the order of preference in the respective list.

(2) If a member fails to join the appointment within the initial 15 days of receipt of the order or within extended period, but joins later, his seniority shall be determined in accordance with the date of joining.

(3) A member of the service appointed by way of promotion shall be senior to a member appointed by direct recruitment in that cadre in the same year.

(4) The persons who are absorbed to the posts of Systems Assistant and Systems Officer under Rule 5 their seniority shall be determined as per their position in the select list prepared during the absorption process by the Selection Board and shall be senior to the persons recruited directly later.

18. Gradation List:- Gradation list shall be prepared containing the name of all members of the service cadre-wise in order of seniority and such other particulars as date of birth, date of appointment etc.

19. Pay and allowances:- All appointment in the service shall

be made in the time scale of pay as may be prescribed by the Government from time to time. The time scale of pay of the posts as on the date of commencement of these rules are as shown in the Schedule-I.

20. Probation and Confirmation:- (1) Every person selected by direct recruitment shall be on probation for a term of 2(two) years and those promoted to the higher grade, shall be on officiation for a term of 1(one) year and their services shall be evaluated and assessed prior to confirmation by the Appointing Authority :

Provided that the period of probation may for good and sufficient reason be extended by the Appointing Authority for any specified period in any case not exceeding a period of three years.

(2) A probationer shall be liable to be discharged from the service or in the case of person appointed to the service on promotion or by selection to be reverted to the post held substantively or held in the officiating capacity immediately before his promotion or selection as the case may be—

- (a) if his service is not satisfactory during his probation, or
- (b) if any information relating to his nationality, age, health, character or antecedents the Appointing Authority is satisfied the probationer is ineligible or otherwise unfit for being a member of the service.

(3) After a probationer completes his period of probation to the satisfaction of Appointing Authority he shall be confirmed in permanent post in the relevant cadre in the service.

21. Duties and responsibilities:- The duties and responsibilities of the members of the service shall be as indicated in Schedule-IV.

22. Transfer:- (i) The post of Systems Officer and Systems Assistant shall be transferable throughout the State of Assam.

(ii) Appointing Authority shall have the prerogative to transfer Systems Officer and Systems Assistant from one place to another at any time in public interest.

23. Disciplinary Authority:- The Registrar General shall be the Disciplinary Authority for the members of the service in High Court, Guwahati. The District and Sessions Judge of the concerned district shall be the Disciplinary Authority for the members posted in the District Courts and they will be governed by the Assam Services (Discipline and Appeal) Rules, 1964.

24. Tenure:- All appointment to the posts of Senior Systems Officer, Systems Officer, Systems Assistant shall be permanent.

25. Retirement:- Except as otherwise provided in these rules, every employee working under the High Court and District Courts shall retire from service on the afternoon of the last day of the month in which he attains the age of 60 years :

Provided that all employees whose date of birth is 1st day of a month, shall retire from service on the afternoon of the last day of the preceding month on attaining the age of 60 years :

Provided further that in case State Government takes a policy decision on changing the age of superannuation, same shall be applicable to the Senior Systems Officer/Systems Officer/Systems Assistant.

26. Retirement in Public Interest:- The Selection Committee shall review the career progress and performance of the member of the service after completion of 20 years and 25 years of service. If the committee considers that in public interest any such should retire from service, he shall be compulsorily retired by giving him a notice of not less than 3 months in writing of 3(three) months pay and allowance in lieu thereof :

Provided that nothing in the above shall be considered as preventing consideration for compulsory retirement of any member of the service at any time other than those mentioned above.

27. Code of Conduct:- There shall be Code of Conduct for all members of the service enumerated in Schedule-IV and they shall strictly adhere to it. Any dereliction on the part of the member of the service shall be treated as misconduct and may call for initiation of disciplinary proceeding against the delinquent employee. The Code of Conduct enumerated in the Schedule-V is not exhaustive but only illustrative and High Court may, from time to time make such modifications/additions as may be considered appropriate.

28. Disciplinary Authority:- The Registrar General shall be the Disciplinary Authority for the members of the service of Gauhati High Court, and the District and Sessions Judge of the concerned district shall be the Disciplinary Authority for the members posted in the District Courts and they will be governed by the Assam Services (Discipline and Appeal) Rules, 1964.

29. Mode of Employment:- (1) The member of the service

shall be employed in such manner as the Appointing Authority may decide.

(2) The member of the service may be posted in any district of the State of Assam and can be transferred from one district to other district in the interest of public service.

30. Other conditions of Service:- Except as provided in these rules, all matters relating to pay and allowances, leave, pension, discipline and other conditions of service shall be regulated by the general rules or orders of the Government for the time being in force.

31. Relaxation:- Where the Government is satisfied that the operation of any of these rules, causes undue hardship in any particular case, it may, dispense with or relax that rule to such extent and subject to such conditions as it may consider necessary dealing with the case in a just and equitable manner :

Provided that the case of any person shall not be dealt with in any manner less favorable to him than provided in these rules.

32. Interpretation:- If any question arises relating to the interpretation of these rules, the decision of the Government shall be final.

33. Repeal and Savings:- The rules corresponding to these rules and in force immediately before commencement of these rules are hereby repealed :

Provided that all orders made or action taken under the rules so repealed or under any general orders ancillary thereto, shall be deemed to have been validly made or taken under the corresponding provisions of these rules.

SCHEDULE - I

(A) For the Principal Seat of the Gauhati High Court, Guwahati

Name of Post	No. of Post	Grade & Scale	Classification
Senior Systems Officer	1	Rs. 8,000/- Rs. 35,000/- (PB-3) + Grade Pay Rs. 5,100/	Group-B
Systems Officer	1	Rs. 8,000/- Rs. 35,000/- (PB-3) + Grade Pay Rs. 4,200/	Group-B
Systems Assistant	2	Rs. 5,200/- Rs. 20,200/- (PB-2) + Grade Pay Rs. 3,000/	Group-C
Total	4		

(B) For the Subordinate Judiciaries in the State of Assam

Name of Post	No. of Post	Grade & Scale	Classification
Systems Officer	22	Rs. 8,000/- Rs. 35,000/- (PB-3) + Grade Pay Rs. 4,200/	Group-B
Systems Assistant	44	Rs. 5,000/- Rs. 20,000/- (PB-2) + Grade Pay Rs. 2,200/	Group-C
Total	66		

The expenditure is debitable to the Heads of Account "2014-Admn. of Justice - 102-High Court-152-Establishment-01 Salary (charged) Non-plan General" and "2014-Admn. of Justice-105- Civil & Sessions Court (voted)-01- Salary Non-plan General".

SCHEDULE - II

1. Senior Systems Officer.	<p>M.E./M.Tech. in Computer Science/Computer Engineering/Information Technology with at least one(1) year experience in the relevant field from a reputed organisation/institution OR</p> <p>(i) MCA or B.E/B.Tech in Computer Science/Computer Engineering/Information and Communication Technology or M.Sc. (IT/Computer Science) with 1st Class degree or at least 60% marks in aggregate from a recognized Institution or equivalent grade and with at least 1 year experience in the relevant field from a reputed organisation/institution OR</p>
2. Systems Officer	<p>(ii) MCA or BE./B. Tech in Computer Science/Computer Engineering/Information and Communication Technology or M.Sc. (IT/Computer Science) with 1st Class degree or at least 60% marks in aggregate from a recognized Institution or equivalent grade and with at least 1 year experience in the relevant field from a reputed organisation/institution OR</p> <p>(iii) BCA or B.Sc. (Computer Science) with 1st Class or at least 60% marks in aggregate or equivalent grade or B.Sc. in Physics/Maths/Statistics/Operations Research/Computer Science with either Post Graduate Diploma in Computer Science/Computer Applications with 1st Class or at least 60% marks in aggregate or equivalent grade (from a Govt. of recognized University/Institution and with at least 3 years working experience from a reputed Institution/organization.</p>
3. Systems Assistant	<p>(i) B.C.A with 60% marks in aggregate or equivalent grade from a recognized Institution with at least 1(one) year working experience from a reputed Institution/Organization OR</p>

	<p>(ii) B.Sc. with 1 year Post Graduate Diploma in Computer Science/Applications with 60% marks in aggregate or equivalent grade from a recognized Institution and with at least 1(one) year working experience from a reputed Institution/organization OR</p> <p>(iii) Diploma holders from Polytechnic in Computer Science/Engineering or Electronics & Telecommunications with 60% marks in aggregate or equivalent grade from a recognized Institution and with at least 2(two) years working experience from a reputed institution/organization.</p>
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SCHEDULE - III**Scheme and Syllabus for the Examination****Total Marks - 200****Written Examination : Total Marks - 140**

Section	Subjects	Syllabus	Marks
I	English	This section will test the proficiency in English language and will be of 12th (HS) Standard	20
II	Quantitative aptitude & Reasoning	This section will test the speed, reasoning, intelligence and accuracy of the candidate	25
III	General Knowledge & Current Affairs	This section will test the general intelligence along with matters of National & International Affairs	25
IV	Official language of the State of Assam	This section will test the proficiency in official State language and will be of 10th (HSLC) Standard	20
V	Professional Knowledge	This section will test the Information Technology skills viz. Computer Programming, Computer Networks, DBMS related knowledge of the candidate.	50

SCHEDULE - IV**Duties and responsibilities**

The member of the service shall work to achieve the goal of e-Courts project in India and also to technically equip the available human resources who could help to make the system available to the people and shall work for proper implementation of the e-Courts project.

Senior Systems Officer:- The Senior Systems Officer posted in the High Court, apart from the code and conduct, mentioned in Schedule-V, will have the following duties, namely:-

- (i) he will report to the Central Project Coordinator, e-Courts Project of High Court and in absence of Central Project Coordinator, to an appropriate authority, to be designated by the Registrar General for his/her day to day activities.
- (ii) he will be assisted by Systems Officer and Systems Assistant for works related to High Court and by Systems Officer and Systems Assistant posted in the respective districts for activities involving District and Sub-divisional Courts.
- (iii) he will work in the Principal Seat of the High Court. He/She may be deputed from time to time to the outlying benches of Gauhati High Court for various ICT (Information and Communication Technology) related duties.
- (iv) he shall keep a close eye on new innovation and will be responsible for suggesting new technology as per the requirement.
- (v) he shall conduct periodical review of the entire set up to make sure that all the legal procedures are being followed in all the steps and submit the reports to the Registrar General.
- (vi) he will maintain proper inventory and records of ICT equipments provided under the e-Courts Project in the High Court.
- (vii) he may be assigned duties in various subordinate Courts under the Gauhati High Court.

- (viii) he shall assist the High Court in ICT system administration and management and work with close coordination with the ICT manpower present in the computer section.
- (ix) he shall interact with the vendors for maintaining and supporting the equipment.
- (x) he shall assist in training of Judges, Judicial Officers and court staff for effective utilization of IT resources.
- (xi) he shall be responsible for addressing the complaints of District & Sub-ordinate courts for smooth operation of ICT infrastructure.
- (xii) he will provide all necessary help and guidance to the Systems Officer and Systems Assistant posted in the districts in resolving any problems that may arise in ICT related works in the district. If required Senior Systems Officer may also visit the district to sort out any problem after taking proper approval from the Reporting Officer.
- (xiii) he shall perform such other technical activities and support duties as may be assigned by the High Court from time to time.

Systems Officer:- The Systems Officer posted in the High Court, apart from the code and conduct mentioned in Schedule-V, will have the following duties namely:-

- (i) he will report to Central Project Coordinator, e-Courts Project of High Court and in absence of Central Project Coordinator to the Registrar General for his day to day activities.
- (ii) he will assist the Central Project Coordinator & Senior Systems Officer in performance of his/her duties and/or discharge the same independently as and when required.
- (iii) he shall train Court Staff in using ICT equipment and use of various software tools to be used by High Court from time to time.
- (iv) he shall regularly update skills and should be equipped with various software tools used by High Court.

- (v) he may be assigned duties in districts and sub-divisional courts if situation so arises by the High Court.
- (vi) he shall perform such other technical activities and support duties as may be assigned by the High Court from time to time and by Senior Systems Officer.

Systems Assistant:- The Systems Assistant posted in the High Court, apart from the code and conduct mentioned in Schedule-V, will have the following duties, namely:-

- (i) he shall be responsible for the maintenance and upkeep of ICT infrastructure such as hardware, LAN, UPS, etc with the concerned service providers.
- (ii) he shall monitor and manage the video-conferencing facility through which the District Courts in the State of Assam will be connected to the various District Jails.
- (iii) he may be assigned duties in districts and sub-divisional courts by the High Court, if situation so demands.
- (iv) he shall assist Senior Systems Officer and Systems Officer (High Court) in their work.
- (v) he shall install computers, software, printers, scanner etc. delivered to each Court.
- (vi) he shall perform such other duties as may be assigned by the High Court and Senior Systems Officer/Systems Officer.

Systems Officer:- The Systems Officer posted in the district, apart from the duties and responsibilities mentioned in Schedule-V, will have the following duties namely:-

- (i) he shall report to the District & Sessions Judge of the concerned District where he/she is posted.
- (ii) he shall have to regularly verify online data and physical date (i.e., cases available and cases shown in the system) so as to generate adequate and accurate reports (Cause list, Disposal Register, Type of cases, Stage of a case, Quarterly & Monthly Statements, Pending Case Statements etc.).
- (iii) Systems Officer shall assist the District and Sub-divisional level ICT activities in system administration and management.

- (iv) he shall be responsible for maintenance and implementation of the Case Information System (CIS) running in the various courts in the district, regular backup of the software and database etc., training of court staff with various modules and facilities of CIS.
- (v) he shall manage ICT infrastructure such as computers, scanners, printers, information KIOSKS, LAN, VC equipment, internet connectivity, communication equipment such as switches, routers, modems, WiFi etc. in district and sub-divisional level court complexes in the district where posted.
- (vi) he will maintain proper inventory and records of all ICT equipments in the District Courts and sub-divisional Courts in the judicial district in which he/she is posted.
- (vii) he shall interact with vendors for maintaining and supporting the equipment.
- (viii) he shall be responsible for installation and maintenance of Operating Systems, Office Tools, customized applications.
- (ix) he shall assist in training of the Judicial Officers and Court staff.
- (x) he shall maintain and update the District Judiciary website along with performing data transfer to National Judicial Data Grid.
- (xi) he shall develop customized applications as required by Court from time to time in the district.
- (xii) he shall perform such other technical activities and support duties as assigned by the High Court or District Court from time to time.

Systems Assistant:- The Systems Assistant posted in the district, apart from the code and conduct mentioned in Schedule-V, will have the following duties, namely:-

- (i) he will report to District and Sessions Judge in the concerned district in which he/she is posted.
- (ii) he will assist Systems Officer (District) in performing his/her duties.
- (iii) he shall assist the Systems Officer in maintenance/

troubleshooting of ICT infrastructure such as servers, computers, laptops, scanners, printers, LAN, information KIOSKS, VC equipment, Internet Connectivity, communication equipment such as switches, modems, etc. in coordination with the concerned service providers.

- (iv) he shall be responsible for maintenance and upkeep of ICT infrastructure such as hardware, LAN, UPS, VC equipment, etc with the concerned service providers in district as well as in the sub-divisional court complexes in the district where posted.
- (v) he shall be responsible for implementation of Case Information System (CIS) in the courts and all activities related to case information system.
- (vi) he shall install computers, software, printers, scanner, etc. delivered to each Court.
- (vii) he shall assist Systems Officer to maintain and update the District Judiciary website along with performing data transfer to National Judicial Data Grid.
- (viii) he shall monitor and manage the video-conferencing facility through which the Subordinate Court in the State of Assam will be connected to the various District Jails.
- (ix) he shall perform such other duties as may be assigned by the High Court or District Court.

SCHEDULE - V

Code and conduct

All member of the service shall hold highly visible positions of public trust. They must conduct their business in a manner that favourable reflects the ideals consistent with the fundamental values of our judicial system. These values include fairness, accessibility, accountability, effectiveness, responsiveness and independence. The actions of the employees at all times should demonstrate highest degree of integrity and must uphold and increase the public trust and confidence in the judicial system.

Abuse of Position :

- (i) a member of service will not use or attempt to use his position to secure unwarranted privileges for himself or others.

- (ii) he shall not solicit or accept, or appear to solicit or accept, any gift, favour, or anything of value based upon any material understanding that the official actions, decisions of any court employees would be influenced.
- (iii) he shall not discriminate against or otherwise give special treatment or anything of value to any person, whether or not for compensation, or permit family, social, or other relationships to influence or appear to influence his official conduct or judgment.
- (iv) he will use the resources, property, and funds under his official control judiciously and solely in accordance with prescribed legal and court operating procedures.

Conflict of Interest :

- (i) A member of service shall avoid conflicts of interest and the appearance of conflicts of interest in the performance of his duties.
- (ii) When he feels that a conflict of interest may arise, the Senior Systems Officer/Systems Officer/Systems Assistant should promptly inform his or her Appointing Authority. The Appointing Authority, after determining that a conflict or the appearance of a conflict of interest exists, should take appropriate steps to restrict the Senior Systems Officer/Systems Officer/Systems Assistant's performance of official duties in such matter so as to avoid a conflict or the appearance of a conflict of interest. A Senior Systems Officer/Systems Officer/Systems Assistant should observe the restrictions imposed by his or her Appointing Authority in this regard.

Confidentiality :

- (i) a member of the service shall not disclose to any unauthorized person any confidential information acquired in the course of his/her court employment.
- (ii) he shall avoid any activity which would reflect adversely on his/her position or the position of the Institution.

Financial Activities :

- (i) a member of the service should refrain from outside financial and business dealings that tend to detract from the dignity of the Court, interfere with the proper performance of official duties, exploit the position, or

associate him/her in a substantial financial manner with lawyers or other persons likely to come before him/her or the court or office he/she serves.

- (ii) he should not solicit or accept a gift from anyone seeking official action from or doing business with the court or other entity or from anyone whose interests may be substantially affected by the performance or non-performance of official duties.
- (iii) he shall disclose the statement of his assets and liability every year.

Sexual Harassment :

The guidelines of Hon'ble Supreme Court in connection with Vishaka's case or any law or regulation that may come into effect shall be strictly followed and any act of sexual harassment shall be treated as misconduct.

Punctuality and Discipline :

- (i) All member of service shall attend court in time and shall not leave office before office hours without intimating the authority.
- (ii) Any unauthorized absence from duty by a will be treated as misconduct.
- (iii) All member of service shall carry an identity card which shall be visible to public.

APPENDIX E

**TRIAL COURTS AND FIRST APPELLATE
SUBORDINATE COURTS
(UNDER THE GAUHATI HIGH COURT)
CASE MANAGEMENT RULES, 2007**

No. HC.XI-01/2008/945/RC.— *In exercise of the powers conferred by Article 225 of the Constitution of India, Part X of the Code of Civil Procedure 1908, (5 of 1908) and Article 6 of the Assam High Court Order, 1948 and all other powers enabling, the Gauhati High Court hereby makes the following Rules, in regard to case flow management in the Subordinate Courts:-*

**(A) MODEL CASE MANAGEMENT RULES FOR TRIAL COURTS
AND FIRST APPELLATE SUBORDINATE COURTS**

- I. Division of Civil Suits and Appeals into Tracks.
- II. Original suits.
 1. Fixation of time limits while issuing notice.
 2. Service of summons/notice and completion of pleadings.
 3. Calling of Cases (Hajri or Call work or Roll Call).
 4. Procedure on the grant of interim orders.
 5. Referral to Alternative Dispute Resolution.
 6. Procedure on the failure of Alternative Dispute Resolution.
 7. Referral to Commissioner for recording of evidence.
 8. Costs.
 9. Proceedings for Perjury.
 10. Adjournments.
 11. Miscellaneous Applications.
- III. First Appeals to Subordinate Courts.
 1. Service of Notice of Appeal.

2. Essential Documents to be filed with the Memorandum of Appeal.
3. Fixation of time limits in interlocutory matters.
4. Steps for completion of all formalities (Call Work Hajri).
5. Procedure on grant of interim-orders.
6. Filing of Written Submissions.
7. Costs.
- IV. Application/Petition under Special Acts.
- V. Criminal Trials in and Criminal Appeals to Subordinate Courts.
 - (a) Criminal Trials.
 - (b) Criminal Appeals.
- VI. Notice under Section 80 of Code of Civil Procedure.
- VII. Note.
- (B) MODEL CASE FLOW MANAGEMENT RULES IN HIGH COURT**
 - I. Division of Cases into Tracks.
 - II. Writ of Habeas Corpus.
 - III. Mode of Advance Service.
 - IV. First Appeals to High Court.
 - V. Appeals to Division Bench.
 - VI. Second Appeals.
 - VII. Civil Revisions.
 - VIII. Criminal Appeals.
 - IX. Note.

**(A) MODEL RULES FOR TRIAL COURTS AND FIRST APPELLATE
SUBORDINATE COURTS**

I. DIVISION OF CIVIL SUITS AND APPEALS INTO TRACKS

1. Based on the nature of dispute, the quantum of evidence to be recorded and the time likely to be taken for the completion of suit, the suits shall be channeled into different tracks. Track 1 may include suits for maintenance, divorce and child custody and visitation rights, grant of letters of administration and

succession certificate and simple suits for rent or for eviction (upon notice under Section 106 of Transfer of Property Act). Track 2 may consist of money suits and suits based solely on negotiable instruments. Track 3 may include suits concerning partition and like property disputes, trademarks, copyrights and other intellectual property matters. Track 4 may relate to other matters. All efforts shall be taken to complete the suits in track 1 within a period of 9 months, track 2 within 12 months and suits in tracks 3 and 4 within 24 months.

This categorization is illustrative and it will be for the High Court to make appropriate categorization. It will be for the judge concerned to make an appropriate assessment as to which track any case can be assigned.

2. Once in a month, the registry/administrative staff of each Court will prepare a report as to the stage and progress of cases that are proposed to be listed in next month and place the report before the Court. When the matters are listed on each day, the judge concerned may take such decision as he may deem fit in the presence of counsel/parties in regard to each case for removing any obstacle in service of summons, completion of pleadings etc. with a view to making the case ready for disposal.

3. The judge referred to in clause (2) above, may shift a case from one track to another, depending upon the complexity and other circumstances of the case.

4. Where computerization is available, the monthly data will be fed into the computer in such a manner that the judge referred to in clause (2) above, will be able to ascertain the position and the stage of every case in every track from the computer screen. Over a period, all cases pending in his Court will be covered. Where computerization is not available, the monitoring must be done manually.

5. The judge referred to in clause (2) above, shall monitor and control the flow or progress of every case, either from the computer or from the register or data placed before him in the above manner or in some other manner he may innovate.

II. ORIGINAL SUIT

1. Fixation of time limits while issuing notice :

(a) Wherever notice is issued in a suit, the notice should

indicate that the Code prescribes a maximum of 30 days for filing written statement (which for special reasons may be extended upto 90 days) and, therefore, the defendants may prepare the written statement expeditiously and that the matter will be listed for that purpose on the expiry of eight weeks from the date of issue of notice (so that it can be a definite date). After the written statement is filed, the replication (if any, proposed and permitted), should be filed within six weeks of receipt of the written statement. If there are more than one defendant, each one of the defendant should comply with this requirement within the time limit.

(b) The notice referred to in clause (a) shall be accompanied by a complete copy of the plaint and all its annexure/enclosures and copies of the interlocutory applications, if any.

(c) If interlocutory applications are filed along with the plaint, and if an ex-parte interim order is not passed and the Court is desirous of hearing the respondent, it may, while sending the notice along with the plaint, fix an earlier date for the hearing of the application (than the date for filing written statement) depending upon the urgency for interim relief.

2. Service of Summons/notice and completion of pleadings :

(a) Summons may be served as indicated in clause (3) of Rule 9 of Order V.

(b) In the case of service of summons by the plaintiff or a courier where a return is filed that the defendant has refused notice, the return will be accompanied by an undertaking that the plaintiff or the courier, as the case may be, is aware that if the return is found to be false, he can be punished for perjury or summarily dealt with for Contempt of Court for abuse of the provisions of the Code. Where the plaintiff comes forward with a return of 'refusal', the provisions of Order 9A Rule (4) will be followed by re-issue of summons through Court.

(c) If it has not been possible to effect service of summons under Rule 9 of Order V, the provisions of Rule 17 of

Order V shall apply and the plaintiff shall within 7 days from the date of inability to serve the summons, request the Court to permit substituted service. The dates for filing the written statement and replication, if any, shall accordingly stand extended.

3. Calling of Cases (Hajri or Call Work or Roll Call) :

The present practice of the Court-master or Bench-clerk calling all the cases listed on a particular day at the beginning of the day in order to confirm whether counsel are ready, whether parties are present or whether various steps in the suit or proceeding have been taken, is consuming a lot of time of the Court, sometimes almost two hours of the best part of the day when the judge is fresh. After such work, the Court is left with very limited time to deal with cases listed before it. Formal listing should be first before a nominated senior officer of the registry, one or two days before the listing in Court. He may give dates in routine matters for compliance with earlier orders of Court. Cases will be listed before Court only where an order of the Court is necessary or where an order prescribing the consequences of default or where a peremptory order or an order as to costs is required to be passed on the judicial side. Cases which have to be adjourned as a matter of routine for taking steps in the suit or proceeding should not be unnecessarily listed before Court. Where parties/counsel are not attending before the Court-officer or are defiant or negligent, their cases may be placed before the Court. Listing of cases on any day before a Court should be based on a reasonable estimate of time and number of cases that can be disposed of by the Court in a particular day. The Courts shall, therefore, dispense with the practice of calling all the cases listed adjourned to any particular day. Cases will be first listed before a nominated senior officer of the Court, nominated for the purpose.

4. Procedure on the grant of interim orders :

- (a) If an interim order is granted at the first hearing by the Court, the defendants would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the

notice and if such an application is filed, it shall be listed as soon as possible even before the returnable date.

- (b) If the Court passes an ad-interim ex-parte order in an interlocutory application, and the reply by the defendants is filed, and if, thereafter, the plaintiff fails to file the rejoinder (if any) without good reason for the delay, the Court has to consider whether the stay or interim order passed by the Court should be vacated and shall list the case with that purpose. This is meant to prevent parties taking adjournment with a view to having undue benefit of the ad-interim orders. The plaintiff may, if he so chooses, also waive his right to file a rejoinder. A communication of option by the plaintiff not to file a rejoinder, made to the registry will be deemed to be the completion of pleadings in the interlocutory application.

5. Referral to Alternative Dispute Resolution :

(In the hearing before the Court, after completion of pleadings, time limit for discovery and inspection, and admission and denials, of documents shall be fixed, preferably restricted to 4 weeks each).

After the completion of admission and denial of documents by the parties, the suit shall be listed before the Court (for examination of parties under Order X of the Civil Procedure Code. A joint statement of admitted facts shall be filed before the said date). The Court shall thereafter, follow the procedure prescribed under the Alternative Dispute Resolution and Mediation Rules, 2002.

6. Procedure on the failure of Alternative Dispute Resolution:

On the filing of report by the Mediator under the Mediation Rules that efforts at Mediation have failed, or a report by the Conciliator under the provisions of the Arbitration and Conciliation Act, 1996, or a report of no settlement in the Lok Adalat under the provisions of the Legal Services Authority Act, 1987 the suit shall be listed before the registry within a period of 14 days. At the said hearing before the registry, all the parties shall submit the draft issues proposed by them. The suit shall be listed

before the Court within 14 days thereafter for framing of issues.

When the suit is listed after failure of the attempts at conciliation, arbitration or Lok Adalat, the Judge may merely inquire whether it is still possible for the parties to resolve the dispute. This should invariably be done by the Judge at the first hearing when the matter comes back on failure of conciliation, mediation or Lok Adalat.

If the parties are not keen about settlement, the Court shall frame the issues and direct the plaintiff to start examining his witnesses. The procedure of each witness filing his examination-in-chief and being examined in cross or re-examination will continue, one after the other. After completion of evidence on the plaintiffs side, the defendants shall lead evidence likewise, witness after witness, the chief-examination of each witness being by affidavit and the witness being then cross-examined or re-examined. The parties shall keep the affidavit in chief-examination ready whenever the witness's examination is taken up. As far as possible, evidence must be taken up day by day as stated in clause (a) of proviso to Rule 2 of Order XVII. The parties shall also indicate the likely duration for the evidence to be completed, and for the arguments to be thereafter heard. The Judge shall ascertain the availability of time of the Court and will list the matter for trial on a date when the trial can go on from day to day and conclude the evidence. The possibility of further negotiation and settlement should be kept open and if such a settlement takes place, it should be open to the parties to move the registry for getting the matter listed at an earlier date for disposal.

7. Referral to Commissioner for recording of evidence :

- (a) The High Court shall conduct an examination on the subjects of the Code of Civil Procedure and Evidence Act. Only those advocates who have passed an examination conducted by the High Court on the subjects of 'Code of Civil Procedure' and Evidence Act, shall be appointed as commissioners for recording evidence. They shall be ranked according to the marks secured by them.

- (b) It is not necessary that in every case the Court should appoint a Commissioner for recording evidence. Only if the recording of evidence is likely to take a long time, or there are any other special grounds, should the Court consider appointing a Commissioner for recording the evidence. The Court should direct that the matter be listed for arguments fifteen days after the Commissioner files his report with the evidence.

The Court may initially fix a specific period for the completion of the recording of the evidence by the Commissioner and direct the matter to be listed on the date of expiry of the period, so that the Court may know whether the parties are co-operating with the Commissioner and whether the recording of evidence is getting unnecessarily prolonged.

- (c) Commissioners should file an undertaking in Court upon their appointment that they will keep the records handed over to them and those that may be filed before them, safe and shall not allow any party to inspect them in the absence of the opposite party/counsel. If there is delay of more than one month in the dates fixed for recording evidence, it is advisable for them to return the file to the Court and take it back on the eve of the adjourned date.

8. Costs :

So far as awarding of costs at the time of judgment is concerned, awarding of costs must be treated generally as mandatory in as much as the liberal attitude of the Courts in directing the parties to bear their own costs had led parties to file a number of frivolous cases in the Courts or to raise frivolous and unnecessary issues. Costs should invariably follow the event. Where a party succeeds ultimately on one issue or point but loses on number of other issues or points, which were unnecessarily raised, costs must be appropriately apportioned. Special reasons must be assigned if costs are not being awarded. Costs should be assessed according to rules in force. If any of the parties has unreasonably protracted the proceedings, the Judge should consider exercising discretion to impose exemplary costs after taking into account the expense

incurred for the purpose of attendance on the adjourned dates.

9. Proceedings for Perjury :

If the Trial Judge, while delivering the judgment, is of the view that any of the parties or witnesses has wilfully and deliberately uttered blatant falsehoods, he shall consider (at least in some grave cases) whether it is a fit case where prosecution should be initiated for perjury and order prosecution accordingly.

10. Adjournments :

The amendments to the code have restricted the number of adjournments to three in the course of hearing of the suit, on reasonable cause being shown. When a suit is listed before a Court and any party seeks adjournment, the Court shall have to verify whether the party is seeking adjournment due to circumstances beyond the control of the party, as required by clause (b) of proviso to Rule 2 of Order XVII. The Court shall impose costs as specified in Rule 2 of Order XVII.

11. Miscellaneous Applications :

The proceedings in a suit shall not be stayed merely because of the filing of Miscellaneous Application in the course of suit unless the Court in its discretion expressly thinks it necessary to stay the proceedings in the suit.

III. FIRST APPEALS TO SUBORDINATE COURTS

1. Service of Notice of Appeal :

First Appeals being appeals on question of fact and law, Courts are generally inclined to admit the appeal and it is only in exceptional cases that the appeal is rejected at the admission stage under Rule 11 of Order XLI. In view of the amended CPC, a copy of the memorandum of appeal is required to be filed in the Subordinate Court. It has been clarified by the Supreme Court that the requirement of filing a copy of appeal memorandum in the Subordinate Court does not mean that appeal memorandum cannot be filed in the Appellate Court immediately for obtaining interim orders.

Advance notice should simultaneously be given by the

counsel for the party who is proposing to file the appeal, to the counsel for the opposite party who appeared in the Sub-ordinate Court so as to enable the respondents to appear if they so choose, even at the first hearing stage.

2. Essential Documents to be filed with the Memorandum of Appeal :

The appellant shall, as far as possible, file, along with the appeal, copies of essential documents marked in the suit, for the purpose of enabling the Appellate Court to understand the points raised or for purpose of passing interim order.

3. Fixation of time limits in interlocutory matters :

Whenever notice is issued by the Appellate Court in interlocutory matters, the notice should indicate the date by which the reply should be filed. The rejoinder, if any, should be filed within four weeks of receipt of the reply. If there are more parties than one who are Respondents, each one of the Respondent should comply with this requirement within the time limit and the rejoinder may be filed within four weeks from the receipt of the last reply.

4. Steps for completion of all formalities/(Call Work) (Hajri):

The appeal shall be listed before the registry for completion of all formalities necessary before the appeal is taken up for final hearing. The procedure indicated above of listing the case before a senior officer of the Appellate Court registry for giving dates in routine matters must be followed to reduce the 'call work' (Hajri) and only where judicial orders are necessary, such cases should be listed before the Court.

5. Procedure on grant of interim-orders :

If an interim order is granted at the first hearing by the Court, the Respondents would have the option of moving appropriate applications for vacating the interim order even before the returnable date indicated in the notice and if such an application is filed, it shall be listed as soon as possible even before the returnable date.

If the Court passes an ad-interim ex-parte order, and if

the reply is filed by the Respondents and if, without good reason, the appellant fails to file the rejoinder, Court shall consider whether it is a fit case for vacating the stay or interim order and list the case for that purpose. This is intended to see that those who have obtained ad-interim orders do not procrastinate in filing replies. The appellant may also waive his right to file the rejoinder. Such choice shall be conveyed to the registry on or before the date fixed for filing of rejoinder. Such communication of option by the applicant to the registry will be deemed to be completion of pleadings.

6. Filing of written submissions :

Both the appellants and the respondents shall be required to submit their written submissions two weeks before the commencement of the arguments in the appeal. The cause list should indicate if written submissions have been filed or not. Wherever they have not been filed, the Court must insist on their being filed within a particular period to be fixed by the Court and each party must serve a copy thereof on the opposite side before the date of commencement of arguments. There is no question of parties filing replies to each other's written submissions.

The Court may consider having a Caution List/ Alternative List to take care of eventualities when a case does not go on before a court, and those cases may be listed before a court where, for any reason, the scheduled cases are not taken up for hearing.

7. Costs :

Awarding of costs must be treated generally as mandatory in as much as it is the liberal attitude of the Courts in not awarding costs that had led to frivolous points being raised in appeals or frivolous appeals being filed in the Courts. Costs should invariably follow the event and reasons must be assigned by the appellate Court for not awarding costs. If any of the parties have unreasonably protracted the proceedings, the Judge shall have the discretion to impose exemplary costs after taking into account the costs that may have been imposed at the time of adjournments.

IV. APPLICATION/PETITION UNDER SPECIAL ACTS

This chapter deals with applications/petitions filed under Special Acts like the Industrial Disputes Act, Hindu Marriage Act, Indian Succession Act etc.

The practice direction in regard to Original Suits should *mutatis mutandis* apply in respect of such applications/petitions.

V. CRIMINAL TRIALS AND CRIMINAL APPEALS TO SUBORDINATE COURTS

(a) Criminal Trials :

1. Criminal Trials should be classified based on offence, sentence, and whether the accused is on bail or in jail. Capital punishment, rape and cases involving sexual offences or dowry deaths should be kept in Track I. Other cases where the accused is not granted bail and is in jail should be kept in Track II. Cases which affect a large number of persons such as cases of mass cheating, economic offences, illicit liquor tragedy and food adulteration cases, etc. should be kept in Track III. Offences, which are tried by special courts such as POTA, TADA, NDPS, Prevention of Corruption Act, etc., should be kept in Track IV. All other offences should be kept in Track V.

The endeavour should be to complete Track I cases within a period of nine months, Track II and Track III cases within twelve months and Track IV within fifteen months.

2. The High Court may classify criminal appeals pending before it into different tracks on the same lines mentioned above.

(b) Criminal Appeals :

3. Wherever an appeal is filed by a person in jail, and also when appeals are filed by the State, as far as possible, the memorandum of appeal may be accompanied by important documents, if any, having a bearing on the question of bail.
4. In respect of appeals filed against acquittals, steps for appointment of amicus curiae or State Legal Aid Counsel

in respect of the accused who do not have a lawyer of their own should be undertaken by the registry/State Legal Services Authority immediately after completion of four weeks of service of notice. It shall be presumed that in such an event the accused is not in a position to appoint counsel.

5. Advance notice should simultaneously be given by the counsel for the party who is proposing to file the appeal, to the counsel for the opposite party in the subordinate court, so as to enable the other party to appear if it so chooses even at the first hearing stage.

VI. NOTICE ISSUED UNDER S. 80 OF CODE OF CIVIL PROCEDURE

Every public authority shall appoint an officer responsible to take appropriate action on a notice issued under S.80 of the Code of Civil Procedure. Every such officer shall take appropriate action on receipt of the notice. If the Courts finds that the concerned officer, on receipt of the notice, failed to take necessary action or was negligent in taking the necessary steps, the Court shall hold such officer responsible and recommend appropriate disciplinary action by the concerned authority.

VII. NOTE

Whenever there is any inconsistency between these rules and the provisions of either the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1973 or the High Court Act or any other State, the provisions of such Codes and Statute, the provisions of such Codes and Statute shall prevail.

APPENDIX F

THE APPOINTMENT OF ARBITRATORS BY THE CHIEF JUSTICE OF THE GAUHATI HIGH COURT SCHEME, 1996¹

[Dated Guwahati, the 27th February, 1996]

Memo No. HC.XI-01/96/977-1106/RC, dated 27th February, 1996.

In exercise of the powers conferred on the Chief Justice of the Gauhati High Court under sub-section (10) of Section 11 of the Arbitration and Conciliation Ordinance 1996¹, I hereby make the following Scheme.

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1. Short title- This Scheme may be called the Appointment of Arbitrators by the Chief Justice of Gauhati High Court Scheme, 1996.

2. Submission of request- The request to the Chief Justice under sub-section (4) or sub-section (5) or sub-section (6) of Section 11 shall be made in writing and shall be accompanied by-

1. Published in the Assam Gazette, Part-IIB, (No. 13) dated 27th March, 1996.
2. The Arbitration and Conciliation Act, 1996 (26 of 1996).

- (a) the original arbitration agreement or a duly certified copy thereof;
- (b) the names and addresses of the parties to the arbitration agreement;
- (c) the names and addresses of the arbitrators, if any, already appointed;
- (d) the name and address of the person or institution, if any, to whom or which any function has been entrusted by the parties to the arbitration agreement under the appointment procedure agreed upon by them;
- (e) the qualifications required, if any, of the arbitrators by the agreement of the parties;
- (f) a brief written statement describing the general nature of the dispute and the points at issue;
- (g) the relief or remedy sought; and
- (h) an affidavit, supported by the relevant documents, to the effect that the condition to be satisfied under sub-section (4) or sub-section (5) or sub-section (6) of Section 11, as the case may be, before making the request to the Chief Justice, has been satisfied.

3. Authority to deal with the request- Upon receipt of a request under paragraph 2, the Chief Justice may either deal with the matter entrusted to him or designate any other person or institution for that purpose.

4. Forwarding of request to designated person or institution- Where the Chief Justice designates any person or institution under paragraph 3, he shall have the request along with the document mentioned in paragraph 2 forwarded forthwith to such person or institution and also have a notice sent to the parties to the arbitration agreement.

5. Seeking further information- The Chief Justice or the person or the institution designated by him under paragraph 3 may seek further information or clarification from the party making the request under this Scheme.

6. Rejection of request- Where the request made by any party under paragraph 2 is not in accordance with the provisions of this Scheme, the Chief Justice or the person or the institution designated by him may reject it.

7. Notice to affected persons- Subject to the provisions of paragraph 6, the Chief Justice or the person or the institution designated by him shall direct that a notice of the request be given to all the parties to the arbitration agreement and such other person or persons as may seem to him or is likely to be affected by such request to show cause, within the time specified in the notice, why the appointment of the arbitrator or the measure proposed to be taken should not be made or taken and such notice shall be accompanied by copies of all documents referred to in paragraph 2 or, as the case may be, by information or clarification, if any, sought under paragraph 5.

8. Withdrawal of authority- If the Chief Justice, on receipt of a complaint from either party to the arbitration agreement or otherwise, is of opinion that the person or institution designated by him under paragraph 3 has neglected or refused to act or is incapable of acting, he may withdraw the authority given by him to such person or institution and either deal with the request himself or designate another person or institution for that purpose.

9. Intimation of action taken on request- The appointment made or measure taken by the Chief Justice or any person or institution designated by him in pursuance of the request under paragraph, 1 shall be communicated in writing to-

- (a) the parties to the arbitration agreement;
- (b) the arbitrators, if any, already appointed by the parties to the arbitration agreement;
- (c) the person or the institution referred to in paragraph 2(d);
- (d) the arbitrator appointed in pursuance of the request.

10. Requests and communication to be sent to Registrar- All requests under this Scheme and communications relating thereto which are addressed to the Chief Justice shall be presented to the Registrar of this Court, who shall maintain a separate Register of such requests and communications.

11. Delivery and receipt of written- The provisions of sub-sections (1) and (2) of Section 3 of the Arbitration and Conciliation Act, 1996 shall, so far as may be, apply to all written communications received or sent under this Scheme.

12. Costs for processing requests- The party making a request under this Scheme shall, on receipt of notice of demand from-

(a) the Registry of the Court, where the Chief Justice makes the appointment of an arbitrator or takes the necessary measure; or

(b) the designated person or the institution, as the case may be, where such person or institution makes appointment of arbitrator or takes the necessary measure,

pay an amount of Rs. 100 at the initial stage and any further amount required in accordance with the terms of such notice towards the costs involved in processing the request.

13. Interpretation- If any question arises with reference to the interpretation of any of the provisions of this Scheme, the question shall be referred to the Chief Justice, whose decision shall be final.

14. Power to amend the Scheme- The Chief Justice may, from time to time, amend by way of addition or variation any provision of this Scheme.

NOTIFICATION

[Dated Guwahati, the 25th March, 1998]

No. HC.XI-01/96/1179/RC., Hon'ble the Chief Justice of the Gauhati High Court is pleased to designate the following Hon'ble Judges and District Judges the power to appoint Arbitrators under the provisions of sub-section (4) to (10) of Section 11 of the Arbitration and Conciliation Act, 1996.

1. DISPUTES INVOLVING Rs. 5.0 Lakhs or above.

- (i) For the Principal Seat = Hon'ble the Chief Justice.
- (ii) For the Outlying Benches = The Seniormost Judges at the Station.

¹[Deleted]

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1. Deleted Clause 2, *vide* Notification No. HC.XI-06/66/567-666/RC., dated the 29th April, 2006.

Before deletion of clause 2, read as:-

"2. DISPUTES INVOLVING LESS THAN Rs. 5.0 Lakhs.

District Judges of the concerned Districts."
