



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**THE GOA CIVIL COURTS (AMENDMENT)
BILL, 2009.**

(Bill No. 25 of 2009)

~~to~~^{AS} be introduced in the Legislative Assembly of the State of Goa

**GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
3rd, AUGUST, 2009.**

The Goa Civil Courts (Amendment) Bill, 2009.

(BILL No. 25 OF 2009)

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BILL

further to amend the Goa, Daman and Diu Civil Courts Act, 1965 (Act 16 of 1965).

5 BE it enacted by the Legislative Assembly of Goa in the Sixtieth Year of the Republic of India, as follows:-

1. **Short title and commencement.**— (1) This Act may be called the Goa Civil Courts
15 (Amendment) Act, 2009.

(2) It shall come into force at once.

2. **Amendment of title.**— In the title "*the Goa, Daman and Diu Civil Courts Act (Act 16 of 1965)*",
(hereinafter referred to as the "*principal Act*"), "
20 the figure and words, "*Daman and Diu*" shall be deleted.

3. **Amendment of section 1.**— In section 1 of the principal Act,-

(i) In sub-section (1), the figure and words,
25 "*Daman and Diu*" shall be deleted;

(ii) In sub-section (2), for the expression "*Union Territory of Goa, Daman and Diu*", the words "*State of Goa*" shall be substituted;

(iii) In sub-section (3), for the word "*Administrator*", the word "*Government*" shall be
30 substituted;

4. **Amendment of section 2.**— In section 2 of the principal Act,—

(i) for clause (a), the following clause shall be substituted, namely:—

" (a) "**Government**" means the Government of Goa; "

(ii) for clause (b), the following clause shall be substituted, namely:—

" (b) "**High Court**" means the High Court of Bombay at Panaji; "

(iii) in clause (c), the figure and words, "**Daman and Diu**" shall be deleted;

(iv) for clause (d), the following clause shall be substituted, namely:—

"(d) "**State**" means the " State of Goa." "

5. **Amendment of section 3.**— In section 3 of the principal Act,—

(i) for the words "**whole of the Union Territory**", the words "**each District of State of Goa**" shall be substituted;

(ii) for the word "**Administrator**" wherever it occurs, the word "**Government**" shall be substituted.

6. **Amendment of section 4.**— In section 4 of the principal Act,—

(i) for the words "**at Panjim**", the words "**at Panaji or Margao, as the case may be,**" shall be substituted.

(iii) for the words "**Union Territory**", the words "**State of Goa**" shall be substituted.

7. **Amendment of section 7.** — In section 7 of the principal Act, for the expression "**Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963**", the expression "**Part IV of the Goa, Daman and Diu Reorganisation Act, 1987 (Central Act 18 of 1987)**" shall be substituted.

8. **Amendment of sections 8 and 9.**— In section 8 and 9 of the principal Act, for the word "**Administrator**" wherever it occurs, the word "**Government**" shall be substituted.

9. **Omission of sections 10, 11, 12, 13 and 14.**— The sections 10, 11, 12, 13 and 14 of the principal Act shall be omitted.

10. **Amendment of sections 15, 16, 17, 18 and 19.**— In sections 15, 16, 17, 18 and 19 of the principal Act, for the word "**Administrator**" wherever it occurs, the word "**Government**" shall be substituted.

11. **Amendment of section 20.**— In section 20 of the principal Act, in sub-section (3), for the words "**one Lakh rupees**", the words "**twenty Lakhs rupees**" shall be substituted.

12. **Insertion of new section 20A.**— After section 20 of the principal Act, the following section shall be inserted, namely:—

20A.- Transfer of pending appeals before the High Court.— All appeals which are valued upto Rupees Twenty lakhs or below and pending before the High Court immediately before the commencement of the Goa Civil Courts (Amendment) Act, 2009, shall, on such commencement stand transferred to the concerned District Court and such District Court may proceed to deal with such appeals from the stage which was reached before such transfer or from any earlier stage or de-novo as such District Court may deem fit:

Provided that this section will not apply to any appeals which are pending before the High Court and which are statutorily provided under the relevant Act before the High Court."

13. Amendment of section 21.— In section 21 of the principal Act, for the word "**administrator**" wherever it occurs, the word "**Government**" shall be substituted.

14. Amendment of section 22.— In section 22 of the principal Act, for the word "**one Lakh**", the words "**twenty Lakhs**" shall be substituted.

15. Amendment of section 23.— In section 23 of the principal Act, the word "**Administrator**" wherever it occurs, the word "**Government**" shall be substituted.

16. Omission of section 24.— The section 24 of the principal Act, shall be omitted.

17. Amendment of section 25.— In sub-section (1) of the principal Act, the word "**Administrator**" the word "**Government**", shall be substituted.

18. Amendment of section 26.— In section 26 of the principal Act,—

(i) in sub-section(1), for the expression "**Administrator of the Government of Goa, Daman and Diu**", the expression "**Government of Goa**" shall be substituted.

(ii) in proviso, for the word "**administrator**", the word "**Government**" shall be substituted.

19. Amendment of section 27.— In section 27 of the principal Act,—

(i) in sub-section (1), for the expression "**District Court of Goa, Daman and Diu**", the expression "**District Court of**" shall be substituted.

(ii) in sub-section(2), the words "**and Assistant Judge**" shall be omitted.

20. Amendment of section 28.— In section 28 of the principal Act, in sub-section (1),-

(i) after the expression "**if any or in his absence**", the expression "**the senior most Assistant Judge if any or**" shall be omitted.

(ii) after the expression "**designated Additional District Judge**", the figure and words, "**Assistant Judge**" shall be omitted.

21. Amendment of section 29.— In section 29 of the principal Act,-

(i) for the expression "*or the Assistant Judge, or in the absence of an Assistant Judge*", the expression "*or in absence of Additional District Judge to a Senior Civil Judge*" shall be substituted.

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(ii) after the words "*designated Additional District Judge*", the figure and words, "*Assistant*" shall be omitted.

22. Amendment of section 35.— In section 35 of the principal Act, for the words "*Union Territory*", the words "*State of Goa*" shall be substituted.

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23. Amendment of section 36.— In section 36 of the principal Act,

(i) for the word "*Administrator*", the word "*Government*" shall be substituted.

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(ii) for the words "*to him*", the word "*to the Government*" shall be substituted.

STATEMENTS OF OBJECTS AND REASONS

The Goa, Daman and Diu Civil Courts Act, 1965, was enacted by the then Legislative Assembly of Goa, Daman and Diu in the year, 1965. As per section 5 of the Act, 1965, the District Court in the Districts of the State is the principal Court of the original civil jurisdiction and the Appellate Court with respect of all decrees and orders passed by the Sub-ordinate Courts in suits of valuation upto Rupees one lakh.

By virtue of section 22 of the Act, all suits decided by the Civil Judges, where the amount or value of the subject matter exceeds one lakh, an appeal would lie before the High Court. In view of the aforesaid provision, the High Court is over burdened with the work of appeals arising thereof.

Further, as Civil Judges Senior Division have civil jurisdiction with respect to matters, where the amount or value exceeds Rs. one lakh, the Courts of Civil Judge Senior Division are also over burdened and hence, it is proposed to increase the monetary jurisdiction of Civil Judges, Junior Division from present Rs. One lakh to Rs. twenty lakhs so that the appeals against the Judgements and the orders in suits of value upto Rs. twenty lakhs would lie before the District Court and all appeals, where subject matter of value exceeds Rs. twenty lakhs, appeals would lie before the High Court.

At present, at the level of the District Court, there are number of Judges, and the pendency of cases are also decreased considerably, while pendency before the Civil Judges Senior Division have

increased, consequently, pendency of appeals in the High Court have also increased. As in the suits decided by the Civil Judges where the value of the subject matter exceeds Rs. One lakh, the appeal would lie direct before the High Court, it is proposed to incorporate a new provision after section 20, towards transfer of all appeals which are valued not exceeding Rs. twenty lakhs pending before the High Court, immediately before the commencement of the proposed Amendment Act, to the concerned District Court so that the District Court may proceed to deal with such appeals from the stage which was reached before such transfer or from any earlier stage or de-novo as such the District Court may deem fit.

Further, in pursuance of proviso, the High Court will continue to exercise power with respect to all appeals which are statutorily provided and new appeals if any, which are likely to be filed in terms of section 22 of the Goa Civil Courts Act, 1965, on the enforcement of this Amendment Act.

It is also proposed to effect, consequential changes in the Civil Courts Act, 1965, in view of conferment of Statehood to the then Union Territory of Goa. The various terms as specified in the definition section 2, like "**Administrator**", the "**Judicial Commissioner's Court**", "**Union Territory**" have become redundant in view of the change in set up of the then Union Territory of Goa, into the Statehood and powers exercisable by the Administrator have also been conferred on the State Government. All such terms are also defined suitably with consequential changes.

Again, under the Goa Judicial Services Rules, 2005, the Judicial Service consists of District Judges, Civil Judges, Senior Division and Civil Judges, Junior Division, and there are no posts of Assistant Judges under the Judicial Service. The provisions contained under sections 10, 11, 12, 13, 14 and 24 of the Act, 1965, have become redundant and hence, aforesaid sections are proposed to be omitted.

The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

No financial implications are involved in this Amendment Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

No delegated Legislation is invoked in this Amendment Bill.

Porvorim- Goa
3rd August, 2009.

SHRI DIGAMBER KAMAT
Chief Minister/Minister for

Law, Judiciary

Assembly Hall
Porvorim- Goa
3rd August, 2009.

J. N. BRAGANZA
Secretary to the Legislature
Assembly of Goa.

ANNEXURE

**Extract of the Section 1, 2,
3,4,7,8,9,10,11,12,13,14,15,16,17,
18,19,20,21,22,23,25,26,27, 28, 29,35& 36 of Goa Civil
Court (Amendment) Act 1965 (Act No. 16 of 1965)**

1. Short title, extent and commencement.—

This Act may be called the Goa, Daman and Diu Civil Courts Act, 1965.

(2) It extends to the whole of the Union Territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint.

2. Definitions.— In this Act, unless the context otherwise requires;

(a) ((Administrator)) means the Administrator of Goa, Daman and Diu, appointed under Article 239 of the Constitution.

(b) ((High Court)) means the Judicial Commissioner's Court constituted by the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963.

(c) ((Official Gazette)) means the Goa, Daman and Diu Government Gazette.

(d) ((Union Territory)) means the Union Territory of Goa Daman and Diu.

PART II

District Court

3. District Court.— There shall be a District Court for the whole of the Union Territory, presided over by a Judge to be called the District Judge and appointed by the Administrator but the Administrator may from time to time by notification in the Official Gazette, alter the limits of the District or create new Districts for the purposes of this Act, in consultation with the High Court.

4. Situation of District Court— The District Judge shall ordinarily hold the District Court at Panjim, but may, with the previous sanction of the High Court, hold it elsewhere within the Union Territory.

7. Control and inspection of Courts.— (1) Subject to the provisions contained in the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963 and the rules made thereunder, the District Judge shall have general control over all the Civil Courts subordinate to the District Court and their establishment and it shall be his duty to inspect, or to cause one of his assistants to inspect, the proceedings of all such Courts. Thereafter the District Judge or an Additional District Judge may give such direction with respect to matters not provided for by law as he may think necessary.

The District Judge shall also refer to the High Court all such matters as appear to him to require that a rule of that Court should be made thereon.

8. Writs and Orders.—(1) The District Judge shall obey all writs, orders or processes issued to him by the High Court and shall make such returns or reports thereto under his signature and the seal of the Court as the exigencies of the case require.

(2) He shall further furnish such reports and returns and copies of proceedings as may be called for by the High Court or the Administrator.

9. Additional District Judges.—The Administrator may appoint one or more Additional Judges to the District Court who shall be invested with coextensive powers and a concurrent jurisdiction with the District Judge, except that an Additional District Judge shall not keep a file of civil suits or appeals and shall transact such civil business only as he may receive from the District Judge, or as may have been referred to him by order of the High Court.

10. Assistant Judges.— The Administrator may appoint one or more Assistant Judges to assist the District Judge.

11. Situation of Assistant Judge's Court.— An Assistant Judge shall ordinarily hold his Court at the same place as the district Judge, but he may hold his Court elsewhere if the Administrator, in consultation with the High Court, so directs.

12. Original jurisdiction of Assistant Judge.— (1) The District Judge may refer to any Assistant Judge original suits, applications or references under Special Acts and miscellaneous applications.

(2) The Assistant Judge shall have jurisdiction to try such suits and to dispose of such applications or references as are referred to him by the District Judge under sub-section (1).

(3) Where the Assistant Judge's decrees and orders in such cases are appealable, the appeal shall lie to the District Judge if the amount of value of the subject matter does not exceed [one lakh] rupees and to the High Court in other cases.

13. Appellate jurisdiction of Assistant Judge.— (1) An Assistant Judge shall have jurisdiction to try such appeals from the decrees and orders of the subordinate courts as would lie to the District Judge and as may be referred by him to the Assistant Judge.

(2) Decrees and orders passed under this section by an Assistant Judge shall have the same force and shall be subject to the same rules as regards procedure and appeals as decrees and orders passed by the District Judge.

14. Assistant Judge with powers of District Judge.— (1) The Administrator may by notification in the Official Gazette invest an Assistant Judge with all or any of the powers of a District Judge within a particular part of a District and may, by notification from time to time determine or alter the limits of such part.

(2) The jurisdiction of an Assistant Judge so invested shall pro tanto exclude the jurisdiction of the District Judge from within the said limits.

(3) Every Assistant Judge so invested shall ordinarily hold his Court at such place within the local limits of his jurisdiction as may be determined by the Administrator, but may, with the previous sanction of the High Court hold it at any other place within such limits.

PART III

Civil Judges

15. Number of subordinate Civil Courts.— There shall be so many Civil Courts subordinate to the District Court as the Administrator may, from time to time direct.

16. Appointment of Civil Judges.— The Judges of such Subordinate Courts shall be appointed by the Administrator and shall be called Civil Judges.

17. Local limits of jurisdiction of Civil Judges.— The Administrator, may by notification in the Official Gazette, fix, and by a like notification, from time to time, alter the local limits of the ordinary jurisdiction of the Civil Judges.

18. Situation of subordinate Courts.— (1) The Civil Judges shall hold their Courts at such place or places as the Administrator may, from time to time appoint within the local limits of their respective jurisdictions:

Provided that for special reasons it shall be lawful for the Administrator to order that a Civil Judge shall hold his Court at a place outside the local limits of his jurisdiction.

(2) Wherever more than one such place is appointed, the District Judge shall, subject to the control of the High Court, fix the days on which the Civil Judges shall hold

his court at each of such places, and the Civil Judges shall cause such days to be duly notified throughout the local limits of his jurisdiction.

(3) The same person may be the Judge of more than one subordinate Court and may dispose of the Civil business of anyone of his Courts at the headquarters of any other of his Courts, and in such cases the District Judge shall, subject to the control of the High Court prescribe rules for regulating the time during which the Civil Judge shall sit in each Court.

19. Additional Civil Judges— (1) For the purposes of assisting the Judge of any subordinate Court in the disposal of the Civil business on his file, the Administrator may appoint to such Court one or more additional Civil Judges. An Additional Civil Judge shall dispose of such civil business within the limits of his pecuniary Jurisdiction as may, subject to the control of the District Judge, be referred to him by the Civil Judge of such Court.

(2) For the purpose of this section the provisions of this Act applicable to Civil Judges shall be, applicable to additional Civil Judges.

20. Classes of Civil Judges and their jurisdiction.—

(1) The Civil Judges shall be of two classes, namely Senior Civil Judges and Junior Civil Judges.

(2) The jurisdiction of a Senior Civil Judge extends to all original suits and proceedings of a Civil nature.

(3) The jurisdiction of a Junior Civil Judge extends to all original suits and proceedings of a civil nature wherein the subject matter does not exceed in amount or value [one Lakh] rupees.

21. Local limits of jurisdiction.— (1) The local limits of the jurisdiction of every Civil Judge Senior or Junior, shall be such as may from time to time be fixed by the

administrator in consultation with the High Court by notification in the Official Gazette.

(2) A Senior Civil Judge in addition to his ordinary jurisdiction, shall have and exercise jurisdiction in respect of such suits and proceedings of a civil nature as may arise within the local jurisdiction of such Courts presided over by a Junior Civil Judge as may be specified by the Administrator in consultation with the High Court by notification in the Official Gazette, and wherein the subject matter exceeds the pecuniary jurisdiction of the Junior Civil Judge as defined in the preceding section.

22. Appeals from his decision.— In all suits decided by a Civil Judge of which the amount or value of the subject matter exceeds [one lakh] the appeal from his decision shall be direct to the High Court.

23. Appellate jurisdiction of Civil Judge.—(1) The Administrator may invest any Senior Civil Judge with power to hear appeals from such decrees and orders of a Junior Civil Judge as may be referred to him by the District Judge.

(2) Decrees and orders so passed in appeal by Senior Civil Judge, shall have the same force as if passed by a District Judge.

(3) A Senior Civil Judge, on whom the power of hearing appeals has once been conferred under this section shall continue to have this power so long and so often as he may fill the office of Senior Civil Judge, without reference to the place in which he may be employed.

Provided that the Administrator may by notification in the Official Gazette at any time withdraw such power.

25. Power to invest Civil Judges with jurisdiction under special law.— (1) The Administrator may by general or special order invest any Civil Judge within

such local limits and subject to such pecuniary limitation as may be prescribed in such order, with all or any of the powers of a District Judge or a District Court as the case may be under any special law.

Every order made by a Civil Judge by virtue of the powers conferred upon him under sub-section (1) shall be subject to appeal to the High Court or the District Court according as the amount or value of the subject matter exceeds or does not exceed ten thousand rupees.

(3) Every order of the District Judge passed on appeal under sub-section (2) from the order of a Civil Judge shall be subject to an appeal to the High Court under the rules contained in the Code of Civil Procedure applicable to appeals from appellate decrees.

PART IV

Miscellaneous

26. Suits in which the Government is a party.— (1) No Court other than the ["Court of a Senior Civil Judge"] shall receive or register any suit in which the Central Government or the Administrator of the Government of Goa, Daman and Diu or any officer of Government in his official capacity, is a party:

Provided that the administrator may by general or special order notified in the Official Gazette, direct that the provisions of this section shall not apply to any suit or class or category of suits of the nature referred to therein.

(2) Nothing in this section shall be deemed to apply to a suit against the administration of a Government Railway.

27. Seal.— (1) The District Judge shall use a circular seal, in 050.8 metres in diameter, which bear thereon the Ashoka Capital Motif with the following inscription in Hindi and English —

((District Court of Goa, Daman and Diu)).

(2) Every additional District Judge and Assistant Judge shall use the seal of the District Judge.

(3) Each Civil Judge shall use a circular seal one inch and a half in diameter, bearing the Ashoka Capital Motif with the following inscription in English and in Hindi:-

((Civil Judge of)).

28. Temporary vacancy of Judges.— (1) In the event of the District Judge being prevented from performing his duties by illness or other casualty, or of his absence from his district on leave, or of death, the Seniormost Additional District Judge if any or in his absence, the Seniormost Assistant Judge if any or the Seniormost Civil Judge shall assume charge of the District Court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a District Judge with respect to the filling of suits and appeals, receiving pleadings, execution of processes, return of writs and the like and shall be designated Additional District Judge, Assistant Judge or Civil Judge as the case may be, in charge of the district and shall continue in such charge until the office of District Judge may be resumed or assumed by an officer duly appointed thereto.

(2) In the event of the death, suspension or temporary absence of any Civil Judge, the District Judge may empower the Judge of any other subordinate Court to perform the duties of the Judge of the vacated subordinate Court, either at the place of such Court or of his own Court; but in every such case the registers and records of the two Courts shall be kept distinct.

29. Delegation of powers of District Judge.—Any District Judge leaving the station and proceeding on duty to any place within his district may delegate to an Additional District Judge, if any, or the Assistant Judge, or in the absence of an Assistant Judge to a Civil Judge at the station, the power of performing such of the duties

enumerated in the preceding section as may be emergent; and such officer shall be designated Additional District Judge, Assistant or Civil Judge, as the case may be, in charge of the station.

35. Rule of construction.— Any reference in any law in force in the Union Territory to the Court of Comarca or to the Court of Julgado or to the Judge thereof, shall be construed as a reference respectively to the Court of Senior Civil Judge and the Court of Junior Civil Judge, or to the Judge thereto.

36. Removal of difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Administrator in consultation with the High Court may, by order, published in the Official Gazette, make such provisions or give such directions (not inconsistent with the provisions of this Act) as may appear to him to be necessary for the removal of the difficulty.

Assembly Hall
Porvorim- Goa
3rd August, 2009.

J. N. BRAGANZA
Secretary to the Legislature
Assembly of Goa.