

THE KARNATAKA HIGH COURT ACT, 1961

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STATEMENT OF OBJECTS AND REASONS

I

Act 5 of 1962.- Consequent upon the abolition of the High Court of the former State of Mysore by section 50 of the States Reorganisation Act, 1956, and the establishment of a new High Court for the new State, sections 52, 54 and 57 of that Act govern the jurisdiction, practice and procedure and the powers of judges, of the new High Court. Under section 52, the High Court has, in respect of the different areas of the State such original, appellate or other jurisdiction, which under the laws in force before 1st November 1956, the High Courts of Bombay, Hyderabad, Madras and Mysore had in the areas concerned. By virtue of section 54, the provisions of the Mysore High Court Act, 1884, are applicable in respect of the practice and procedure in relation to the High Court of the new State, and by virtue of section 57, the provisions of the said Act are applicable in respect of the powers of the Chief Justice, single Judges and Division Courts and matters ancillary to the exercise of those powers. Under section 69 of the States Reorganisation Act, the provisions referred to above will have effect subject to any provision that may be made with respect to the High Court by any Legislature or other authority having power to make such provision.

The Government of India have suggested the enactment of a law by the State Legislature so that the State High Court can exercise the same powers and jurisdiction in respect of the whole of the new State. Accordingly the Bill has been prepared in consultation with the High Court. The recommendations of the Law Commission have also been considered.

Provision has been made in the Bill specifying the cases to be heard by a Single Judge and by a Bench of two Judges. In respect of decisions of a Single Judge in the exercise of original jurisdiction, an appeal to a Bench of two Judges has been provided for. At present all Criminal Appeals are being heard by a Bench of two Judges, and this has resulted in considerable delay in

the disposal of such appeals. Provision has therefore been made in Clause 5, for criminal appeals from judgments in which no sentence of death, imprisonment for life or imprisonment for a period exceeding seven years, is passed against any accused, being heard by a single Judge. By virtue of Clause 6 all Second Appeals will be heard by a single Judge. It is considered necessary to make specific provision relating to disposal of urgent work of the High Court during vacation. Clause 12 makes provision for this.

(Obtained from File No. LAW 126 LGN 58)

II

Amending Act 20 of 1969.—Section 3 of the Mysore High Court Act, 1961, provides that the High Court should have a Registrar and as many Deputy Registrars as may be determined by the Government in consultation with the High Court. The High Court has recommended that provision may be made for appointment of Additional Registrars, Joint Registrars and Assistant Registrars. Since these officers have to exercise statutory functions that may be assigned to them by the Hon'ble the Chief Justice under the High Court Rules, it is necessary to amend the Act suitably.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, dated 23rd August 1969 as No. 414 at page. 3)

III

Amending Act 12 of 1973.—At present all applications under clause (1) of article 226 and articles 227 and 228 of the Constitution of India are dealt with by a Bench of two Judges. In the High Courts of Kerala, Madras, Nagpur, Allahabad, Delhi, Calcutta, Andhra Pradesh and Bombay, such applications are dealt with by a single Judge and a right of appeal is given to the aggrieved party and such appeals are dealt with by a Bench of two Judges. The Law Ministers' Conference held in 1957 and 1960 was also of the view that such applications should be dealt with by a single Judge with a right of appeal to a Bench of two Judges. The Law Commission in its Fourteenth Report Vol. II while considering the question has stated with particular reference to Madras that such a procedure has yielded satisfactory results. As the principles governing the disposal of Writ Petitions and connected matters have been now sufficiently clarified by the decisions of different High Courts and the Supreme Court, it is considered desirable to empower a single Judge to deal with applications under clause (1) of article 226 (except where the prayer is for the issue of a writ in the nature of habeas corpus) and applications under articles 227 and 228 of the Constitution of India with a right of appeal to a Bench of two Judges. It is also considered that this procedure may result in more expeditious disposal of such applications, and also provide a right of appeal to the aggrieved party whose right to approach the Supreme Court is very much restricted in view of the Constitution (Thirtieth) Amendment.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 2nd May 1973 as No.432 at page. 4)

IV

Amending Act 13 of 1980.—City Civil Courts are functioning in the Metropolitan Cities of Bombay, Madras, Calcutta, Hyderabad and Ahmedabad. The High Court is of the opinion that a City Civil Court on the pattern of the City Civil Courts functioning in the other cities above-named may be constituted for the City of Bangalore also. When such a City Civil Court is constituted, the Sessions Judge will deal exclusively with criminal work and the supervision of the work of the

Magistrates' Courts. As there will be an appeal only to the High Court against the decision of the City Civil Court, this would not only minimise the delay in disposal of cases but also reduce the cost of litigation.

The Government have therefore, considered it necessary to constitute a City Civil Court for the City of Bangalore. It is also proposed to abolish vacation in civil courts.

Hence this Bill.

Note: By this Act some amendments consequential to the establishment of the city civil court are made to Act 5 of 1962.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 16th May 1979 as No. 473 at page. 14).

V

Amending Act 6 of 1994.—On the suggestions of the Arrears Committee of the High Court, the High Court of Karnataka recommended amendment of section 5 of the Karnataka High Court Act to facilitate quick disposal of cases at lesser cost.

Hence the Bill.

(Obtained from File No. LAW 47 LGN 93)

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¹[KARNATAKA ACT]¹ No. 5 OF 1962

(First published in the ¹[Karnataka Gazette]¹ on the First day of February, 1962.)

THE ¹[KARNATAKA]¹ HIGH COURT ACT, 1961

(Received the assent of the President on the Twenty-fifth day of December, 1961.)

(As Amended by Karnataka Acts 20 of 1969, 12 of 1973, 13 of 1980 & 6 of 1994.)

An Act to make provision for regulating the business and the exercise of powers of the High Court of the ¹[State of Karnataka]¹ in relation to the administration of justice and to provide for its jurisdiction.

WHEREAS it is expedient to make provision for regulating the business and the exercise of powers of the High Court of the ¹[State of Karnataka]¹ in relation to the administration of justice and to provide for its jurisdiction and other matters hereinafter appearing;

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Twelfth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

1. Short title and commencement.—(1) This Act may be called the ¹[Karnataka]¹ High Court Act, 1961.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(2) It shall come into force at once.

2. Definitions.—In this Act,—

(1) “Chief Justice” means the Chief Justice of the High Court of the ¹[State of Karnataka]¹;

(2) “Criminal Appeal” means an appeal which, under any law for the time being in force, lies to the High Court from an order or sentence passed by a subordinate criminal court in the exercise of its original criminal jurisdiction;

(3) “First Appeal” means an appeal which, under any law for the time being in force, lies to the High Court, from a judgment, decree or order, made by a subordinate civil court in the exercise of its original civil jurisdiction;

(4) “Full Bench” means a Bench consisting of not less than three Judges of the High Court;

(5) “High Court” means the High Court of the ¹[State of Karnataka]¹;

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(6) “Second Appeal” means an appeal which, under any law for the time being in force, lies to the High Court from a judgment, decree or order passed by a subordinate civil court in the exercise of its appellate civil jurisdiction.

3. Registrar and Deputy Registrars.—¹[(1)]¹ The High Court shall have a Registrar and as many Deputy Registrars as may be determined by the Governor in consultation with the High Court.

¹[(2)]¹ The High Court may also have as many Additional Registrars, Joint Registrars and Assistant Registrars as may be determined by the Governor in consultation with the High Court.]¹

1. Section 3 renumbered as sub-section (1) and sub-section (2) inserted by Act 20 of 1969 w.e.f. 19.09.69.

4. Appeals from decisions of a single Judge of the High Court.—An appeal from a judgment, decree, order or sentence passed by a single Judge in the exercise of the original jurisdiction of the High Court under this Act or under any law for the time being in force, shall lie to and be heard by a Bench consisting of two other Judges of the High Court.

¹**5. First appeals.**—Save as otherwise provided in this Act,—

(i) all First Appeals against a decree or order passed in a suit or other proceedings, the value of subject matter of which is rupees three lakhs or more shall be heard by a Bench consisting of not less than two Judges of the High Court and other First Appeals shall be heard by a Single Judge of the High Court.

(ii) all Criminal Appeals against Judgements in which sentence of death or imprisonment for life is passed and against Judgements of acquittal in cases in which offences are punishable with death or imprisonment for life shall be heard by a Bench consisting of not less than two Judges of the High Court and other Criminal Appeals shall be heard by a Single Judge of the High Court.]¹

1. Substituted by Act 6 of 1994 w.e.f. 8.3.1994.

6. Second Appeals.—All Second Appeals shall be heard and disposed of by a single Judge of the High Court:

Provided that, if such Judge is satisfied that a substantial question of law is involved in the case, or that in the interest of justice, the case is to be heard and disposed of by a Bench of Judges, he may refer the Second Appeal for hearing and disposal to such Bench.

7. Reference to Full Bench.—(1) Where in any proceeding pending before it, any question of law or usage having the force of law arises, a Bench consisting of not less than two Judges of the High Court may, if it thinks fit, and shall, if it differs from the view taken by a similar Bench of the High Court on the said question, refer to a Full Bench of the High Court the question of law or usage having the force of law.

(2) The decision of the majority of Judges comprising a Full Bench of the High Court shall be the decision of the High Court.

8. Powers of single Judge to dispose of revision cases himself or refer the same to a Bench.—(1) Any Judge of the High Court sitting alone, shall have power to hear and dispose of civil and criminal revision cases in exercise of the revisional jurisdiction vested in the High Court under any law for the time being in force, except cases relating to quashing of orders of commitment:

Provided that in exercise of such revisional jurisdiction in respect of proceedings of any criminal court such single Judge shall not impose a sentence of death or imprisonment for life or sentence of imprisonment exceeding seven years.

(2) The decision or order of a single Judge in cases under sub-section (1) shall be final:

Provided that such Judge may, if he thinks fit, instead of disposing of any case as aforesaid refer such case to a Bench of two Judges for hearing and disposal.

9. Other powers of a single Judge.—The powers of the High Court in relation to the following matters shall be exercised by a single Judge, provided that the Judge before

whom the matter is posted for hearing may adjourn it for being heard and determined by a Bench of two Judges:—

- (i) determining in which of several courts having jurisdiction a suit shall be heard;
- (ii) admission of an appeal *in forma pauperis*;
- (iii) exercise of original jurisdiction under any law for the time being in force;
- (iv) appeals under rule 1 of Order XLIII of the First Schedule to the Code of Civil Procedure, 1908;
- (v) appeals in which the subject matter is as to costs only;
- (vi) any matter of an interlocutory character in appeals and other proceedings;
- (vii) admission of an appeal presented after the expiry of the period allowed by the law of limitation;
- ¹[(viii) exercise of powers conferred by section 389, section 439 and section 440 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);]¹

1. Substituted by Act 13 of 1980 w.e.f. 17.11.1980 by notification. Text of the notification is at the end of the Act.

- (ix) exercise of powers under section 24 of the Code of Civil Procedure, 1908, or ¹[under section 407 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974)];¹

1. Substituted by Act 13 of 1980 w.e.f. 17.11.1980 by notification. Text of the notification is at the end of the Act.

¹[(x) x x x]¹

1. Omitted by Act 13 of 1980 w.e.f. 17.11.1980.

- (xi) appeals from interlocutory orders, where such appeals are allowed by law.

¹[(xii) exercise of powers under,-

- (a) clause (1) of article 226 of the Constitution of India except where such power relates to the issue of a writ in the nature of habeas corpus; and
- (b) articles 227 and 228 of the Constitution of India.]¹

1. Inserted by Act 12 of 1973 w.e.f. 16.7.1973 by notification. Text of the notification is at the end of the Act.

¹(xiii) x x x]¹

1. Inserted by Act 13 of 1980 and omitted by Act 6 of 1994 w..e.f. 8.3.1994.

10. Other powers of a bench of two Judges.—The powers of the High Court in relation to the following matters shall be exercised by a Bench of two Judges:—

- (i) a reference,-

- (a) under section 113 of the Code of Civil Procedure, 1908;

- ¹[(b) under section 395 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974).]¹

1. Substituted by Act 13 of 1980 w.e.f. 17.11.1980 by notification. Text of the notification is at the end of the Act.

- (ii) an application under rule 2 of Order XLV of the First Schedule to the Code of Civil Procedure, 1908;

¹[(iii) x x x]¹

1. Omitted by Act 13 of 1980 w.e.f. 17.11.1980.

¹[(iv) exercise of powers under clause (1) of article 226 of the Constitution of India where such power relates to the issue of a writ in the nature of habeas corpus;

(iva) an appeal from any original judgment, order or decree passed by a single Judge in exercise of the powers under clause (1) of article 226, article 227 and article 228 of the Constitution of India.]¹

1. Substituted by Act 12 of 1973 w.e.f. 16.7.1973.

(v) all other matters not expressly provided for in this Act, or any other law for the time being in force.

11. High Court to keep registers.—The High Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court and shall forward to the State Government such copies of, or extracts from, the said registers, books and accounts, as well as such statement of the work done in the High Court and in the courts subordinate thereto, as may be required by the State Government.

12. Vacation Judge.—(1) For the hearing of all matters, which require to be immediately or promptly dealt with during a vacation or adjournment of the High Court, the Chief Justice shall nominate a Judge of the High Court as vacation Judge, and such Judge shall during the vacation, exercise all the jurisdiction vested in the High Court, except in cases in which such jurisdiction must be exercised, under the provision of any law for the time being in force, by more than one Judge. Different single Judges may be appointed for different periods of a vacation or adjournment.

(2) It shall be competent for the Chief Justice during any vacation or adjournment of the High Court to constitute a Bench of Judges or a Full Bench for the hearing of any case.

13. Act to apply to pending proceedings.—Notwithstanding anything contained in any law, all appeals, applications and other proceedings pending in the High Court on the date of commencement of this Act, shall be disposed of in accordance with the provisions of this Act.

14. Repeal.—Sections 11, 12, 13, 14, 15, 16, 16-A, 16-B, 20 and 22 of the Mysore High Court Act, 1884 (Mysore Act I of 1884) are hereby repealed.

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NOTIFICATIONS

I

Bangalore, dated 10th July, 1973 [No. GAD 60 SHC 73]

S.O. 1116.- In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore High Court (Amendment) Act, 1973 (Mysore Act No. 12 of 1973), the Government of Mysore hereby appoints the 16th day of July 1973 as the date on which the said Act shall come into force.

By Order and in the name of the Governor of Mysore,

(R.J. REBELLO)

Chief Secretary to Government.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2C(ii), dated 11th July 1973 as No. 582).

II

Bangalore, dated 10th November, 1980 [No. LAW 247 LCE 80]

In exercise of the powers conferred by sub-section (2) of Section 1 of the Bangalore City Civil Court Act, 1979 (Karnataka Act 13 of 1980), the government of Karnataka hereby appoints the seventeenth day of November, 1980 for the purpose of the said sub-section.

By Order and in the name of the Governor of Karnataka,
(B. NAGESHA RAO)

Deputy Secretary to Government,
Department of Law and Parliamentary Affairs,
(Administration)

(Published in the Karnataka Gazette (Extraordinary) Part IV-2C (ii), dated 10th November, 1980 as No. 819.)

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