



**LAW OF  
ADMINISTRATION OF  
JUSTICE  
IN  
MEGHALAYA**

By  
**JANGSAN SANGMA**

**1973 First Edition**

**GOVERNMENT OF MEGHALAYA**

**ORDERS BY THE GOVERNOR**

**LAW DEPARTMENT**

**NOTIFICATION**

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The 15<sup>th</sup> February, 1978.

No. L.L. 141/171/37.- The following order made by the Government of Meghalaya under section 79 of the North Eastern Areas (Re-organisation) Act, 1971 (Central Act 81 of 1971), hereby published for general information.

**MEGHALAYA ADAPTATION OF LAWS ORDER  
(No.1), 1973**

In the exercise of the powers conferred by section 79 of the North Eastern Areas (Re-organisation) Act, 1971 (Central Act 81 of 1971), the Government of Meghalaya hereby makes the following order, namely:-

1. (1) This Order may be called the Meghalaya Adaptation of Laws Order (No.1), 1972.

(2) It shall be deemed to have come into force on the 21<sup>st</sup> day of January, 1972.

2. In their application to Meghalaya or any part thereof, the following Laws, namely:-

(i) The Rules for the Administration of Justice and Police in the Khasi and Jaintia Hills District, dated 29<sup>th</sup> March, 1997;

(ii) The Rules for the Administration of Justice and Police in the Garo Hills District, dated 29<sup>th</sup> March, 1937.

(iii) The Khasi Syiemsships (Administration of Justice) Order, 1950, dated 25<sup>th</sup> January, 1950.

(iv) The United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953, dated 18<sup>th</sup> December, 1953.

(v) The Garo Hills Autonomous District (Administration of Justice) Rules, 1958, dated 24<sup>th</sup> March, 1953.

(vi) The Assam High Court (Jurisdiction over District Council Courts) Order, 1954, dated 16<sup>th</sup> January, 1954;

shall, unless the context otherwise requires, have effect and be deemed to have had effect as if references therein to the State Government, Government Department, authorities or Gazette mentioned in the first column of the Table hereunder set out were references to the State Government, Government Department, authorities or Gazette mentioned opposite to that in the second column of the Table.

### Table

<b>Column 1.</b>	<b>Column 2</b>
1. Governor of Assam ...	1. Governor of Meghalaya.
2. Assam ... ..	2. Meghalaya.
3. Government of Assam, Assam Government or the State Government of Assam.	3. Government of Meghalaya.
4. State of Assam or Assam State.	4. State of Meghalaya.
5. Deputy Commissioner, Additional Deputy Commissioner, Assistant to Deputy Commissioner.	5. Deputy Commissioner, Additional Deputy Commissioner, Assistant to Deputy Commissioner appointed by the Government of Meghalaya.
6. Advocate General of Assam.	6. Advocate General of Meghalaya.
7. Government Advocate appointed by the Government of Assam.	7. Government Advocate appointed by the Government of Meghalaya.
8. Assam Gazette ... ..	8. Gazette of Meghalaya.
9. The Appointment Department.	9. The Personal Department.
10. Assam Public Services Commission.	10. As on from the 14 <sup>th</sup> day of September, 1972 – Meghalaya Public Service Commission.

3. (1) Reference to the “Assam High Court” in any of the laws mentioned in clause 2, shall be construed as referring to the “Guwahati High Court (the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura),” and

(2) references to any Government Departments or authorities, other than those specified in the Table in clause 2, shall be construed as referring to the corresponding Government Departments or authorities in Meghalaya or to such Government Departments or authorities exercising corresponding power or authority in Meghalaya.

S.N.Phukan  
Deputy Secretary to the Govt. of Meghalaya,  
Law Department.

**GOVERNMENT OF MEGHALAYA**  
**DISTRICTS COUNCIL AFFAIRS DEPARTMENT**  
**ORDERS BY THE GOVERNOR**

NOTIFICATION

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Dated Shillong, the 24<sup>th</sup> April, 1978.

No.DCA. 31/72/8.- In pursuance of sub-paragraph (3) (ff) of paragraph 1 of the Sixth Schedule to the Constitution of India, the Governor of Meghalaya is pleased to alter the names of the two existing Autonomous District Councils as follows.:-

	<u>Name of the existing District Council</u>	<u>To be known by the New Name of</u>
1.	Jowai Autonomous District Council.	Jaintia hills Autonomous District Council.
2.	United Khasi Jaintia Hills District Council.	Khasi Hills Autonomous District Council.

This order shall take effect from the date of issue of this notification.

Sd/- R.T. Rymbai,  
Secretary to the Government of Meghalaya,  
District Council Affairs Department.

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40.	U Shondro Lyngkhoi	Vs	U Keni Pyrtuh Nongbsap	A I R 1970 A & N 275	7,13

41.	U Hasaia Poshna & anr	Vs	U Kill Dhur & anr	A I R 1972 Gau 86	24
42.	U Bestonjoy Roy & ors	Vs	U Kendro & ors	A I R 1955 N U C (Assam) 3309.	32
43.	U Kino Kharbangar	Vs	U Kyron	I L R (1952)4 Assam	445,35
44.	U Mitian Matang & ors	Vs	Ka Jesi & anr	A I R 1953 Assam	142,36
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45.	U Kino Kharbangar	Vs	U Kyron & ors	A I R 1953 Assam	207,39
46.	U Mania Slong	Vs	C.E.M. District Council U.K. & J.Hills	I L R 1955 (7) Assam	550,46
47.	U Debilar Pudon	Vs	C.E.M. District Council U.K. & J.Hills	I L R (1957) 9 Assam	164,48
48.	U Bithfang Malngiang & ors	Vs	The State of Assam	A I R 1965 A & N 51 1965 (2) Cri. L J 72.	55,60
49.	U Ram Lato	Vs	The State	I L R (1955) 7 Assam 226	66
50.	U Worshan Kharmawphlang	Vs	Ka Jallyni Kharmawphlang.	A I R 1955 N U C (Assam) 4186	18,22
51.	U F Syiem & ors.	Vs	Lebanon Kharkongor & anr.	A I R 1963 Assam 38 1963 (1) Cri. L J 565	6,55
52.	U Hondrumuni Kharkongor.	Vs	Ka Myrhia	I L R (1950) 2 Assam 200 AIR 1953 Assam 92	21
53.	U Shondro Lyngkhoi & ors.	Vs	K Phiwer Ripner	A I R 1971 A & N 89 A L R 1969 A & N 210	47
54.	V.L. Rohlua	Vs	Deputy Commissioner, Mizo District.	1971 (1) Cri. L J. (Journal Part) (N) 8. 1971 (2) S.C. Cr.R.354	13

CHAPTER I

GENERAL

**1. Extent of the Rules.** - The rules extend to the whole of the United Khasi-Jaintia Hills District excluding the areas which were known as the Khasi States before the commencement of the Constitution of India.

**\*1A. Power of Governor to appoint Additional Deputy Commissioner.**- The Governor may, when he thinks fit, appoint an Additional Deputy Commissioner either generally, or for the trial of a particular case, or particular cases, Civil and Criminal, and may direct that such Additional Deputy Commissioner shall, for the general or special purpose aforesaid, exercise all or any of the powers of the Deputy Commissioner.

**\*1B. Power of High Court to transfer original cases.**- The High Court may, for any reason which it considers proper, transfer any original case, whether Civil or Criminal, at any stage when it is pending or under-trial before any Court, to any other Court competent to try it.

CHAPTER II

POLICE

2. Police of Khasi & Jaintia Hills. - The police of the Khasi and Jaintia Hills shall consist of:-

- (a) Regular police subject to Act V of 1861;
- (b) Rural police, consisting of Sardars, Dolois, pators, lyngdohs and other village authorities recognized as such by the Deputy Commissioner.

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\* Inserted by the Assam Partially Excluded Areas (Administration of justice) Regulation, 1946.

**3. Control of Rural Police-** The control of the rural police in the Khasi and Jaintia Hills is vested in the Deputy Commissioner acting under the orders of the Governor (and of such other officers as the Governor may from time to time appoint). Misconduct on the part of rural police is punishable by dismissal or by fine which may amount to Rs. 500 or by punishment to an extent which would be awardable under the penal Code for a like offence. Imprisonment may be awarded in lieu of fine, but only by the Deputy Commissioner or other officers duly authorised.

**4. Rural Police, how deemed-** Rural Police shall not be deemed to be Police Officers for the purposes of section 25 and section 26 of the Indian Evidence Act or of section 162 of Criminal Procedure Code.

**5. Appeal from orders of Village Authorities** - An appeal lies from all orders of Sardars, Dolois and other chief village authorities in police matters to the Deputy Commissioner, whose orders are final. But the Governor may call for the proceedings of any officer subordinate to him and modify or reverse any order passed.

**6. Regular Police** - The regular police form part of the general police force of the province under the control of the Inspector General of Police, Assam, and are subject to the ordinary rules of the police, except in so far as these may be from time to time modified by the Governor or the Inspector General of Police in their application to the Khasi and Jaintia Hills. The Deputy Commissioner shall exercise the powers of a Superintendent of Police and the Sub divisional Officer, Jowai and the Assistant or Extra Assistant Commissioner the powers of an Assistant Superintendent of Police.

**7. Function of Regular Police** - The regular police shall only act, when required to do so by general or special order of the Governor, Deputy Commissioner, or other officer duly authorised, who may assign to the force any portion of the duties of police, under Act V of 1861, in any locality.

**8. Ordinary duties of Police** - The ordinary duties of Police shall be discharged by the Sardars and Dolois and other village authorities duly authorised by the Deputy Commissioner. They shall arrest all criminals and repress all disorders within their respective jurisdictions.

**9. Report of crimes** - It is the duty of the Sardars, Dolois, and other chief village authorities to report to the Deputy Commissioner all crimes, violent deaths, or serious accidents occurring in their districts, and all occurrences whether within or beyond their jurisdictions, which may come to their knowledge, like to affect the public peace, at the earliest possible

moment and to deliver up offenders to the officer authorised to try them as soon as may be within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the Court of such officer.

**10. Duties of Sardars, Dolois and other Village Authorities** - The sardars, dolois, and other village authorities shall watch and report and in every emergent case may apprehend and deliver up vagrants, or bad and suspicious characters found in their jurisdictions as soon as may be within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the Court of an officer authorised to take cognizance.

**11. Arrest and Report of criminals** - On the occurrence of any heinous crime\* in his district, any village officer, who may be by custom or appointment charged with the duty of arresting criminals, shall at once apprehend the offender, if, able, and in any case at once report to the sardar or dolois, or other chief village authority who, if the offender has not been apprehended, will proceed without delay to the place where the crime occurred and enquire into the matter. If a crime beyond his cognizance has been committed, he will immediately report it to the Deputy Commissioner or other duly authorised officer, whether the offender has been apprehended or not.

**12. Jurisdiction of village Authorities to arrest criminals.-** Sardars, Dolois and other village authorities may pursue with hue and cry and apprehend an offender fleeing beyond their jurisdiction and arrest him, hut ordinarily no sardar, dolois, or village authority shall attempt to arrest an offender beyond his own jurisdiction without the cognizance and co-operation of the sardar, dolois or chief village authority of the village to which the offender has fled. When an offender has fled. When an offender is traced from one village to another, it will be sufficient to point him out to the sardar, dolois or other competent authority of the village to which the offender has fled, and request him to make the arrest.

**13. Grant of aid to Village Authorities.-** When the Sardars, Dolois, or other chief village authorities feel unable to arrest an offender, they must apply to the Deputy Commissioner, or any officer duly authorised, to grant them such aid as he or such officer may consider necessary.

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\*Heinous crimes-

Rebellion	Rape	Forgery.
Riots.	Robbery.	
Counterfeiting coin or passing counterfeit coin.	Dacoity	
Murder.	Arson.	
Wounding to the injury of life or limbs	House-breaking.	

**14. Power of village Authorities to arrest** – The Sardars, Dolois, and other chief village authorities are empowered to arrest or cause to be arrested, and may empowered to arrest or cause to be arrested, and may also fine, all drunkards and other disorderly persons found brawling out of their houses, and all persons found gambling; the fine not to exceed that awardable under their powers in criminal matters as hereinafter defined.

**15. Inhabitants' duties to aid regular Police.** – All the inhabitants of the Khasi and Jaintia Hills are bound to aid the regular police and village authorities, when required to do so in the maintenance of order, or the apprehension of offenders. Any person failing to do so is liable to fine, the fine to be adjudged by the sardar, dolois, or other chief village authority, to the extent he is empowered to award in criminal cases or by the Deputy Commissioner if fine, beyond the amount the village authorities are authorised to impose in considered necessary. When the particular persons blamable for failure to aid in any community cannot be ascertained, the sardar, dolois or chief village authority shall be considered responsible, and if it appears that the community is to blame and that particular offenders cannot be discovered, a fine may be imposed upon the community, but by the Deputy Commissioner only.

### CHAPTER III

#### CRIMINAL JUSTICE

**16. Administration of Criminal Justice.-** Criminal justice shall be ordinarily administered by the Deputy Commissioner, his Assistants, and by the Sardars, Dolois, and other chief village authorities of the different communities.

**17. Power of Deputy Commissioner to pass sentence in original cases; and Revisional powers of High Court or Deputy Commissioner. -** The Deputy Commissioner shall be competent to pass sentence of death, transportation, or imprisonment up to the maximum amount provided for the offence, of whipping and of a fine up to any amount: Provided that all sentences of death, transportation or imprisonment of seven years and upwards shall be subject to the confirmation by the High court of Assam, hereinafter referred to as the High Court.

The High Court or Deputy Commissioner may call for the proceedings of any officer subordinate to him and reduce, enhance or cancel any sentence passed or remand the case for retrial, but not offence shall be punished by a sentence exceeding that awardable under the Indian Penal Code. Assistants to the Deputy Commissioner shall exercise such powers,

not exceeding those of a Magistrate of the first class as defined in the Criminal Procedure Code, as they may be invested with by the Governor.

**17A. Death Reference.** – When the Deputy Commissioner passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

**17B. Deputy Commissioner to apprise accused re : Appeal** - The Deputy Commissioner shall inform the accused of the period (namely 7 days) within which, if he wishes to appeal, his appeal should be preferred.

**17C. Confirmation of sentence etc.** – In any case submitted under Rule 17A the High Court :-

- (a) may confirm the sentence or pass any other sentence warranted by law, or
- (b) may annul the conviction and convict the accused of any offence of which the Deputy Commissioner might have convicted him, or order a new trial on the same or an amended charge, or
- (c) may acquit the accused person:

Provided that no order of confirmation shall be made under this clause until the period allowed for preferring an appeal has expired, or if an appeal is presented within such period, until such appeal is disposed of.

**17D. Steps on receipt of High Court's Order.**- When a sentence of death passed by the Deputy Commissioner is submitted to the High Court for confirmation or other order to be carried into effect by issuing a warrant in the form given in Schedule V. No. XXXV of the Criminal Procedure Code, or some similar form, or taking such other steps as may be necessary.

**17E. Time and place of execution.**- The Deputy Commissioner shall fix the time and place of execution, and the time and place of execution, and the time fixed shall not be less than 21 or more than 28 days from the date of issue of warrant.

**18. Provision for disposal of petty cases.**- Any sardar, doloï or other chief village authority may be empowered by the Deputy Commissioner to dispose of cases of persons charged with any of the following offences:-

- Injury to property not exceeding Rs. 50.
- Injury to person not effecting life or limb.
- House-trespass.
- Theft.



They may impose a fine for any offence they are competent to try to the extent of Rs.50. They may award restitution or compensation to the extent of the injury sustained, and enforce it by distraint of the property of the offender. In cases in which the fine is not paid or realized either in whole or in part, they shall represent the facts and send in the offender to Deputy Commissioner, who may retry the case and impose such other punishment as he is competent to inflict. Each sardar, dolois, or other chief village authority or other chief village authority who may be empowered as above shall receive a sanad of recognition under the signature of the Deputy Commissioner.

**19. Power of village Authorities to decide and carry out decisions.-** Sardars, Dolois or other duly recognized village authorities may carry out their decision, or order attachment of property as soon as judgement is pronounced, but in no case is property so attached to be sold if the party convicted claim to appeal within eight days, without the orders of Deputy Commissioner. Sardars, Dolois, or other duly recognized village authorities may not decide in cases:-

- (a) where the defendant is not a native of the Khasi and Jaintia Hills or is not resident within their jurisdiction; or
- (b) when the offence is none against the State, or has caused death or danger of life, or amounts to robbery or concerns counterfeiting of coin, or making of fraudulent documents, or the like.

**20. Procedure before village Authorities.-** The sardars, dolois or other duly recognized village authorities shall decide all cases in open Durbar, in presence of at least three witnesses and the complaint and accused, whose attendance they are empowered to compel. Either party may appeal to the Deputy Commissioner or his Assistant within 16 days of the decision, exclusive of the time needed to obtain a copy of the decision.

**21. Appeal to Deputy Commissioner.-** An appeal lies from the decision of an Assistant to the Deputy Commissioner if preferred within thirty days exclusive of the time needed to obtain a copy of the decision:

Provided that no appeal shall lie against the sentence of fine only passed by a Magistrate of the first class, when the amount of fine does not exceed Rs.50.

**22. Appeal to High Court . –** An Appeal shall lie to the High Court from any sentence passed by the Deputy Commissioner or Additional Commissioner.

Appeals must be presented within 30 days of the date of the order appealed against, excluding the time required for procuring a copy of the order; Provided that an appeal from sentence of death shall be preferred within seven days of the date of sentence.

**22A. Government Appeal.-** The Governor may direct an appeal to be presented to the High Court from an original or appellate order of acquittal passed by any Court other than the High Court.

Such an appeal shall be presented within ninety days from the date of the order of acquittal excluding the time needed for obtaining a copy of the order.

**23. Application of Criminal Procedure.-** The procedure of the High Court, the Deputy Commissioner and his Assistants shall be in the spirit of the Code of Criminal Procedure, as far as it is applicable to the circumstances of the district and consistent with these rules.

The chief exceptions are :-

- (a) Only verbal order or notice of summon, etc., shall be requisite, except when the regular police are employed, or the person concerned is not resident or in the district at the time, or if in the district but resident beyond it, where his place of abode is not known. But verbal orders or summons shall be for a fixed day, not exceeding sixteen days from that upon which the order is issued, and the orders shall be made known to the person affected, or to some adult member of his family, or proclaimed at the place he was last known to be at, in sufficient time to allow him, if he sees fit, to appear.
- (b) The form prescribed by section 263 of the Code of Criminal Procedure may be used for all cases specified in section 250 of that Code by all officers with first class powers. In cases requiring a sentence of three years or upwards a full note of the evidence and proceedings must be kept. Examinations and proceeding shall generally be recorded in English only.
- (c) The proceedings of sardars and Dolois, or other recognized village authorities, need not be in writing. But if at the trial before the village authorities any person who can write can be found, a brief note of the proceedings is to be made.

(d) All fine levied by the sardars, Dolois or other duly recognized village authorities shall be paid to the Deputy Commissioner or Assistant Commissioner or other officers empowered to receive them, within 8 days from the date of realization. The Deputy Commissioner is authorised to pay those village authorities who give him satisfaction such small stipends as he may think desirable: Provided that the total amount so disbursed shall not exceed the sum of the fines realized by all village authorities during the year.

(e) It shall be discretionary to examine witness on oath in any form, or to warn them that they are liable to the punishment for perjury if they state that which they know to be false.

For the defence of paupers accused of murder rules 19 to 21 of the Assam Law Department Manual-Part II Criminal Rules – shall be followed *mutatis mutandis*.

**23A. Issue of Commission.-** (1) Whenever, in the course of an inquiry, trial or other proceeding under these rules, it appears to the High Court or the Court of the Deputy Commissioner that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience, which, under the circumstances of the case, would be unreasonable, such Court may dispense with such attendance and may issue a Commission for the examination of the witness following the spirit of the Code of Criminal Procedure, 1898.

(2) Whenever, in the course of an inquiry, trial or other proceeding under these rules before the Court of an Additional Deputy Commissioner or an Assistant to the Deputy Commissioner, it appears that a commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Court shall apply to the Deputy Commissioner stating the reasons for the application and the Deputy Commissioner may either issue a commission or reject the application.

**23b. Execution and return of Commission.** – [“Whenever a Commission for the examination of witness issued under the preceding rule or under any law for the time being in force the Rest of India is received by the Deputy Commissioner, he, or such of his Assistant having the powers of

a Magistrate of the First Class as he may appoint in this behalf, shall execute and return the Commission following the spirit of the Code of Criminal Procedure, 1898,"]

**24. Maintenance of Register.-** The Deputy Commissioner shall keep such Registers and make such returns as may be prescribed by the High Court.

## **PART B**

**24A.** Omitted.

**24B. Power to suspend or remit punishment.-** (a) The President or the Governor may, either upon conditions or without conditions, suspend the execution of any sentence or remit any punishment.

(b) If any sentence has been suspended or remitted upon conditions and in the opinion of the President or the Governor as the case may be, those conditions are not fulfilled, the President or the Governor may cancel the remission and order the sentence to be carried out, and thereupon the person in whose favour the sentence had been suspended or remitted, may, if at large, be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence.

**24C. Sentences which may be commuted.-** The President or the Governor may commute any one of the following sentences for any other mentioned after it:-

Death, confiscation of property, imprisonment, whipping, fine.

## CHAPTER IV

### CIVIL RULES

**25. Administration of Civil Justice.-** The administration of civil justice in the Khasi and Jaintia Hills is entrusted to the Deputy Commissioner, his Assistants, sardars and Dolois and other chief village authorities.

**26. Cases which may be tried by village Authorities.-** Sardars and Dolois and other chief village authorities may be recognized by the Deputy Commissioner by sanad under this signature as competent to try cases without limit as to amount, but with the following reservations:-

(a) They may not try suits in which their fathers, mothers, sons, daughters, uncles, aunts, sisters, brothers, the children of foregoing, their wives or persons in the above relation to a wife, or any near relative are parties, nor suits in which a native of the plains, or native of another sardarship or doloiship not resident in their jurisdiction are parties.

(b) All suits must be decided in open Durbar in the presence of the parties and at least three respectable witnesses.

**27. Powers of village authorities to compel attendance.-** Sardars and Dolois and other duly recognized village authorities have power to compel attendance of parties to any suit and their witnesses, all such persons being resident within their own jurisdiction, and to fine, within the limit of Rs. 50, persons willfully failing to attend. They have power to award all cost, also compensation, to defendants for unfounded or vexation suits brought against them.

**28. Procedure before village authorities.-** All proceedings shall be viva voce and the Sardars and Dolois, or other duly recognized village authorities shall not be called upon to make either record or registry of their decision. After hearing both parties and their witnesses (if any) they shall, with or without the opinion of assessors, as they think fit, pronounce a decision forthwith. But if, at the trial before the village authorities, any person who can write can be found, a brief not of the proceedings is to be made.

**29. Procedure of village authorities in giving effect. –** Sardars or Dolois or other duly recognized village authorities may carry out their decisions at once, and order attachment of property to be made, but in no case is property so attached to be sold if the party claims to appeal within thirty days.

**30. Procedure for notices by village Authorities.-** All notices given by sardars and Dolois, or other duly recognized village authorities to parties or witnesses may be verbal, and for a fixed day not exceeding eight days from the day it is given. If a case be postponed, it shall be fixed for a day not

exceeding eight days from the order, and the case may be subsequently adjourned for periods not exceeding eight days on good cause shown.

**31. Exercise of original jurisdiction by Deputy Commissioner and his Assistants.-** The Deputy Commissioner and his Assistants shall not ordinarily hear suits triable by sardars and Dolois or other duly recognized village authorities, but they have a discretion to do so when they think right; and suits, which under these rules the village authorities cannot try, must be tried by the Deputy Commissioner, or his Assistants. A register of all suits tried by the Deputy Commissioner and his Assistants shall be kept in such form as the High Court shall direct.

**32. Reference to Panchayat.-** The Deputy Commissioner and his Assistants shall, in all cases in which the parties are indigenous inhabitants of the hills, endeavour to induce them to submit their case to a panchayat. If they agree to this, each party shall name an equal number of arbitrators, and shall choose, or leave the arbitrators to choose, an umpire. The name and residence of arbitrators and umpire, and the matter in dispute, must be recorded before the proceedings commence, and the Court will direct the sardar or dolois or other recognized authority to assemble the panchayat and witnesses within eight days. When the case has been decided, the umpire shall appear with the parties before the Court, which shall appear with the parties before the Court, which shall proceed to record the decision and enforce it as its own. From such decision there shall be no appeal.

**33. Appeal from decisions of village authorities.-** An appeal shall lie from the decision of the sardar or dolois or other duly organized village authority to the Deputy Commissioner, the Subdivisional Officer, Jowai, or an Assistant to the Deputy Commissioner. A record will be made of the matter in dispute and the decision of the village authority. If necessary the Court shall examine the parties, and if the decision appears to be just, will affirm and enforce it as one of its own. If the Court sees reason to doubt the justice of the decision, it will try the case de novo, or refer it to a panchayat as above.

**34. Properties liable to attachment and sale in execution.-** (1) Property, movable or immovable, belonging to the judgement-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefits, whether the same be held in the name of the judgement-debtor or by another person in trust for him or on his behalf; is liable to attachment and sale in execution of a decree:

Provided that the following particulars shall not be liable to such attachment or sale, namely:-

- (a) the necessary apparel, cooking vessels, beds and bedding of the judgement-debtor, his wife and children, and such personal ornaments as in accordance with religious usage, cannot be parted with by any woman;
- (b) tools of artisans and where the judgement-debtor is an agriculturist or hill man, his implements of husbandry and such cattle and seed-grain and such portion of agricultural produce, as may in the opinion of the Court, be necessary to enable him to earn his livelihood as such for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgement-debtor and his family;
- (c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him, and any house or house-site belonging to a Hillman unless the Deputy Commissioner orders otherwise;
- (d) book of account;
- (e) a mere right to sue for damages;
- (f) any right of personal service;
- (g) stipends and gratuities allowed to Pensioners of the Government, or payable out of any service family pension fund notified in the Gazette of India by the President in this behalf, and political pensions;
- (h) allowances (being less than salary) of any public officer or of any servant of a railway company of local authority while absent from duty;
- (i) the salary or allowance equal to salary of any such public officer or servant as is referred to in clause (h), while on duty, to the extent of
  - 1) the whole of the salary where the salary does not exceed forty rupees monthly;
  - 2) forty rupees monthly, where the salary exceeds forty rupees and does not exceed eighty rupees monthly; and
  - 3) one month of the salary in any other case;
- (j) the pay and allowances of persons to whom the Indian articles of war apply;
- (k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1897, for the time being applies in so far as they are declared by the said Act not to be liable to attachment;

- (l) the wages of labourers and domestic servants whether payable in money or in kind;
- (m) an expectancy of succession by survivorship or other merely contingent or possible right or interest;
- (n) a right to future maintenance;
- (o) any allowance declared by any law passed under the Government of India Act, 1919, the Government of India Act, 1935, and the Constitution of India to be exempt from liability to attachment or sale in execution of a decree; and where the judgement-debtor is a person liable for the payment of land revenue, any movable property, which under any law for the time being applicable to him, is exempt from sale for the recovery of an arrear of such revenue.

**Explanation.**- The particulars mentioned in clauses (g),(h),(i), (j), (l)and (o) are exempt from attachment or sale whether before or after they are actually payable.

(2) Nothing in this rule shall be deemed to exempt houses and other buildings (with materials and the sites thereof and lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land or if themselves the subject of the suit.

**35. Detention for debt.**- There shall be no imprisonment for debt, excepting in cases where the Deputy Commissioner is satisfied that fraudulent disposal or concealment of property has taken place; in such cases the debtor may be detained for a period not exceeding six months.

**36A. Appeal and Revision.**- The High Court or Deputy Commissioner may, on application or otherwise, call for the proceedings of any case decided by any officer subordinate to him and pass such orders as he may deem fit.

The Deputy Commissioner shall be a court of appeal from a decision of an Assistant. The High Court shall be a court of appeal from an original decision of the Deputy Commissioner if the value of the suit be rupees five hundred or over, or if the suit involve a question of tribal right or customs, or of right to, or possession or, immovable property; Provided that the petition of appeal accompanied by a copy of the order appealed against and by a clear statement of the grounds of appeal be filed within 30<sup>th</sup> days from the date of decision excluding the time required for obtaining a copy of the



decision. An appeal which lies to the High Court may be presented to the Deputy Commissioner, who shall, if it be in order and presented in due time, endorse upon it the date of receipt and transmit it with the records of the case to the High Court.

The decree of the appellate court shall be transferred to the court passing the original order for execution as decree of its own.

**36B. Security for costs of appeal.-** Any court before which an appeal is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses (including pleader's fees) likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses, and if the appellant be a judgement debtor may also order security to be given for, part or the whole of the decretal amount. If the appeal fails the money deposited or secured shall immediately be paid to the respondent.

**37B. Application of C.P.C.-** The High Court and the courts of the Deputy Commissioner or the Additional Deputy Commissioner and his Assistants shall be guided by the spirit, but not bound by the letter, of the Code of Civil Procedure.

**38.**

**38A.**

**Omitted**

**39. Examination of witnesses.-** It shall be discretionary to examine witnesses on oath in any form, or to warn them that they are liable to the punishment for perjury if the state that which they know to be false.

**40. Maintenance of Register.-** There shall be kept in the Civil Courts of the districts such registers as the High Court may from time to time prescribe.

**41. Application of Limitation Act.-** Although the Indian Limitation Act, 1908 (Act IX of 1908), has been barred by Notification No.5868-A.P., dated the 8<sup>th</sup> September, 1934, the principles of the Act should be closely followed in disputes between persons not belonging to a Scheduled Tribe or Tribes specified in items 1 and 2 of part I, Assam, of the Schedule to the Constitution (Scheduled Tribes) Order, 1950.

PART II

THE KHASI SYIEMSHIPS (ADMINISTRATION OF JUSTICE) ORDER, 1950.  
(THE 25<sup>th</sup> January, 1950)

CHAPTER I

GENERAL

**1. Short titles, commencement and extent.-** (1) This order may be called the Khasi Syiemships (Administration of Justice) Order, 1950, and it shall come into force at once.

(2) It extends to the areas of the United Khasi Jaintia Hills District which were known as the Khasi States immediately before the commencement of the Constitution of India excluding so much of the area of the said District as is comprised within the Municipality of Shillong, hereinafter referred to as “the Khasi Syiemships”.

**1A. Definition.-** In this Order, “Syiem” means the customary head of the Khasi tribal institution of an administrative area of the United Khasi-Jaintia Hills District known as the Khasi Sate prior to the commencement of the Constitution of India recognised as such by the Governor of Assam and includes a Sirdar Lyngdoh or Wahadadar, as the case may be, and term “Syiemship” should be construed accordingly.

CHAPTER II

CRIMINAL JUSTICE

**2. Administration of Criminal Justice.-** Criminal Justice shall be administered by:-

(1) The Deputy Commissioner or Additional Deputy Commissioner, United Khasi Jaintia Hills District and his assistants.

(2) The Courts of the Syiems.

**3. Application of I.P.C.-** The Indian Penal Code as for the time being in force in other areas of the State of Assam shall apply to the Khasi Syiemships as it applies to the other areas of the State.

**4. Power of Deputy Commissioner etc. and his Assistants.-** (1) The Deputy Commissioner or the Additional Deputy Commissioner may pass any sentence authorised under the Indian Penal Code or any other law for the time being in force in the Khasi Syiemships; but any sentence of death or transportation shall be subject to confirmation by the High Court of Assam.

(2) The Courts of the Assistants to the Deputy Commissioner and of the Syiems shall exercise such powers, not exceeding those of a Magistrate of the First Class as defined in the Code of Criminal Procedure, 1898 as they may be invested by the Governor of Assam.

**5. Death Reference** - When the Deputy Commissioner or the Additional Deputy Commissioner passes sentences of death the proceedings shall be submitted to the High Court of Assam hereinafter referred to as “the High Court” and the sentence shall not be executed unless it is confirmed by High Court.

**6. Accused to be informed re: Appeal.-** The Deputy Commissioner or the Additional Deputy Commissioner shall inform the accused of the period (namely 7 days) within which, if he wishes to appeal, his appeal should be preferred.

Provided that no order of confirmation shall be made under this rule until the period allowed for preferring an appeal has expired, or if an appeal is presented within such period, until such appeal is disposed of.

**7. Steps on receipt of High Court’s orders** – When a sentence of death passed by the Deputy Commissioner or the Additional Deputy Commissioner is submitted to the High Court for confirmation, the Deputy Commissioner or the Additional Deputy Commissioner, shall, on receiving the order of confirmation or other order of High Court thereon, cause such order to be carried into effect by issuing a warrant in form 35, Schedule V to the Code of Criminal Procedure, 1898, and taking such other steps as may be necessary.

**8. Time and place of execution.-** The Deputy Commissioner or the Additional Deputy Commissioner shall fix the time and place of execution, and the time fixed shall not be less than 21 days or more than 28 days from the date of the issue of the warrant.

**9. Appeal from conviction passed by Assistant to Deputy Commissioner or by the Syiem.-** An Appeal shall lie to the Deputy Commissioner or Additional Deputy Commissioner from the order of conviction of the Assistants to the Deputy Commissioner or of the Syiem if preferred within 30 days and 60 days respectively of the date of the order,

exclusive of the time needed for obtaining a copy of the order appealed against;

Provided that not appeal shall lie against the sentence of fine only passed by a Magistrate of the First Class when the amount of fine does not exceed Rupees fifty.

**10. Appeal to High Court** - (1) An appeal shall lie to the High Court from any sentence passed by the Deputy Commissioner or Additional Deputy Commissioner.

(2) Such appeals must be presented within 30 days from the date of the order appealed against, exclusive of the time needed for obtaining a copy of the order:

Provided that an appeal from a sentence of death shall be preferred within seven days of the date of sentence.

**11. Government Appeal.**- The Governor of Assam may direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal of the Deputy Commissioner or Additional Deputy Commissioner or Assistants to the Deputy Commissioner or Court of a Syiem.

(2) Such appeals must be presented within 30 days from the date of the order appealed against, exclusive of the time needed for obtaining a copy of the order:

**12. Power of Appellate Court in disposal.**- the Appellate Court shall then send for the record of the case, if such record is not already in Court. After perusing such record and hearing the appellate or his Pleader, if he appears, and the Public Prosecutor, if he appears, and in case of an appeal, under rule 11 the accused, if he appears, the Court may, if it considers that there is no sufficient ground for interference dismiss the appeal. If it considers there is sufficient ground it may set aside the order and pass any other orders in the spirit of section 423 of the Code of Criminal Procedure.

**13. Revision.**- The High Court or the Deputy Commissioner or the Additional Deputy Commissioner may call for and examine the record of any proceedings of the Subordinate Criminal Courts for the purpose of satisfying itself or himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of such subordinate court and enhance, reduce, cancel or modify any sentence or finding passed by such Court or remand the case for retrial.

**14. Application of Criminal Procedure.-** The Procedure of the High Court of Assam, the Deputy Commissioner or the Additional Deputy Commissioner or the Additional Deputy Commissioner and his Assistants shall be in the spirit of the Code of Criminal Procedure, 1898, as far as it is applicable to the circumstances in the Syiemsships.

**14A. Issue of Commission:-** (1) Whenever, in the course of an inquiry, trial or other proceeding under these rules it appears to the High Court or the Court of the Deputy Commissioner that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which , under the circumstances of the case, would be unreasonable, such Court may dispense with such attendance and may issue a commission for the examination of the witness following the Spirit of the code of Criminal Procedure, 1898.

(2) Whenever, in the course of an inquiry, trial or other proceeding under these rules before the Court of an Additional Deputy Commissioner or an Assistant to the Deputy Commissioner, it appears that commission ought to be issued for the examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Court shall apply to the Deputy Commissioner stating the reasons for the application, and the Deputy Commissioner may either issue a commission or reject the application.

**14B. Return of Commission.-** [“Whenever a Commission for the examination of witness issued under the preceding rule or under any law for time being in force in the Rest of India is received by the Deputy Commissioner, he, or such of his Assistants having the powers of a Magistrate of the First Class as he may appoint in this behalf, shall execute and return the commission following the spirit of the Code of Criminal Procedure, 1898.]

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[ ] Inserted by the Assam Criminal Law Amendment Act,1953.  
(Assam Act XV of 1953).

**15. Provision for appearance of an Advocate.-** An Advocate who is entitled to practice in the High Court may appear in any case before the Deputy Commissioner or the Additional Deputy Commissioner or his Assistants.

### CHAPTER III

#### SPECIAL PROVISION AS TO THE COURT OF A SYIEM

**16. Definition of Court of Syiem and its jurisdiction.-** (1) A Court of the Syiem means a Court established under the customary law of the Khasi Syiemship and recognised as such by the Governor of Assam. Such a Court also includes the Court of Sirdar, Lyngdoh or Wahadadar as the case may be.

(2) The Court of the Syiem may try any offences under the Indian Penal Code or under any other law for the time being in force within its respective locality except those punishable with death, transportation or involving a punishment of 5 years imprisonment which may arise within the limits of its locality and in which the Khasis who reside or hold land within its locality are concerned:

Provided that Syiems Court shall have jurisdiction over non-Khasis who voluntarily invoke or submit to its jurisdiction.

**17. Maintenance of Registers.-** The following registers shall be kept in the Courts of the Deputy Commissioner, Additional Deputy Commissioner and Assistants to the Deputy Commissioner:-

- (1) Register of Petitions.
- (2) Register of Crimes.
- (3) Register of Criminal Cases disposal of.
- (4) Registers of Fines.

CHAPTER IV

CIVIL JUSTICE

**18. Authorities of Civil Justice.-** The administration of Civil Justice is entrusted to the Deputy Commissioner, Additional Deputy Commissioner, Assistants to the Deputy Commissioner and Courts of the Syiems.

**19. Jurisdiction of Syiems Court.-** A Syiems Court can adjudicate any civil cases arising within its respective locality in which Khasis who reside or hold land within its respective locality are concerned.

**20. Jurisdiction in non-Khasi cases.-** In regard to non-Khasis, the Assistants to the Deputy Commissioner shall be the Court of First instance, except when the parties concerned invoke or voluntarily submit to the jurisdiction of the Syiems Courts.

**21. Exercise of original Jurisdiction:-** The Deputy Commissioner or Additional Deputy Commissioner and his Assistants shall not ordinarily function as an original Court in cases triable by Syiems Court.

**22. Reference to Panchayat.-** The Deputy Commissioner or Additional Deputy Commissioner and his Assistants shall ,in all cases in which the parties are indigenous inhabitants of the hill, endeavour to induce them to submit their case to a Panchayat or an arbitration. In case of arbitration each party shall name an equal number of arbitrators, and shall choose, or leave the arbitrators to choose an Umpire.

**23. Principles for adjudication.-** (1) In all civil matters the Deputy Commissioner or Additional Deputy Commissioner shall adjudicate according to customary law wherever applicable and where the customary law cannot be applied to either party it shall adjudicate, according to justice, equity and good conscience.

(2) It shall be discretionary to examine witnesses on oath in any form or to warn them that they are liable to punishment for perjury if they state that which they know to be false.

**24. Appellate Courts.-** An appeal shall lie to the Deputy Commissioner or the Additional Deputy Commissioner from decision of the Assistants to the Deputy Commissioner and the Syiems Court within 30 days and 60 days respectively of the date of the decision exclusive of the time needed for obtaining a copy of the order appealed against:

Provided that the Assam High Court shall be a Court of Appeal from an original decision of the Deputy Commissioner or Additional Deputy

Commissioner if the value of the suit be Rs. 500 or over or if the suit involve a question of right to, or possession of, immovable property.

**25. Power of Deputy Commissioner etc. in disposing of an appeal.-** The Deputy Commissioner or the Additional Deputy Commissioner after hearing the parties or their pleader may examine the parties and, if the decision appears to be just, shall affirm and enforces it as one of its own.

If the Court sees reason to doubt the justice of the decision it shall reverse, vary, modify or pass such other order or orders as it deems fit, and small state the relief to which the appellant is entitled.

**26. Appeal to High Court.-** An appeal shall lie within sixty days of the date of decision exclusive of the time needed for obtaining a copy of the order appealed against to the High Court from any original or appellate decision of the Deputy Commissioner or the Additional Deputy Commissioner.

**27. Revisional Power of High Court.-** The High Court may , on application or otherwise, call for the proceedings of any case decided by the Deputy Commissioner or Additional Deputy Commissioner, his Assistant and Syiems Courts and pass such orders as it may deem fit.

**28. Security for costs of appeal.-** Any court before which an appeal is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expense (including pleader's fees) likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses, and if the appellant be a judgement debtor may also order security to be given for part or the whole of decretal amount.

**29. Application of C.P.C. -** The Procedure of the High Court of Assam, the Deputy Commissioner or Additional Deputy Commissioner and his Assistants shall be guarded by the spirit, but not bound by the letter of the Code of Civil Procedure, 1908 and without prejudice to the local customs and usages governing any party to a case.

**30. Execution of decree.-** The decree of the Appellate Court shall be transferred to the Court passing the Original Order for execution as a decree of its own.

**31. Properties liable to attachment and sale in execution.-** Property, movable or immovable, belonging to the judgement-debtor or over which, or the profits of which, he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the



judgement-debtor or by another person in trust for him or in his behalf, is liable to attachment and sale in execution of a decree:

Provided that the following particulars shall not be liable to such attachment or sale, namely:-

(a) the necessary wearing apparel, cooking vessels, beds and bedding or the judgement-debtor, his wife and children, and such personal ornaments as in accordance with religious usage, cannot be parted with by any women;

(b) tools of artisans and where the judgement-debtor is an agriculturist or hill man, his implements of husbandry and such cattle and seed-grain and such portion of agricultural produce; as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such and for purpose of providing until the next harvest for the support of the judgement-debtor and his family;

(c) houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him and any house or house-site belonging to a Hillman;

(d) book of account;

(e) a mere right to sue for damages;

(f) any right of personal service;

(g) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund notified in the Gazzete of India by the President in this behalf, and political pensions;

(h) allowances (being less than salary) of any public officer or of any servant of a railway company or local authority while absent from duty;

(i) the salary or allowances equal to the salary of any such public officer or servant as is referred to in clause (h) while duty, to the extent of the first hundred rupees and one half the remainder of such salary or allowances :

Provided that where the whole or any part of the portion of such salary or allowances liable to attachment, has been under attachment whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempt from attachment, until the expiry of a further period of twelve months and, where such attachment has been made

in execution of one and the same decree, shall be finally exempt from attachment in execution of that decree;

(j) the pay and allowances of person to whom the Indian articles of war apply;

(k) all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1897 for the time being applies in so far as they are declared by the said Act not to be liable to attachment;

(l) the wages of labourers and domestic servants whether payable in money or in kind;

(m) an expectancy of succession by survivorship or other merely contingent or possible right or interest.

(n) a right to future maintenance;

(o) any allowance declared by any law passed under the Government of India Act, 1919, the Government of India Act, 1935 and the Constitution of India to be exempt from liability to attachment or sale in execution of a decree; and where the judgement-debtor is a person liable for the payment of land revenue any moveable property, which under any law for the time being applicable to him is exempt from liability to attachment or sale in execution of a decree; and where the judgement-debtor is a person liable for the payment of land revenue any moveable property, which under any law for the time being applicable to him is exempt from sale for the recovery of an arrear of such revenue.

**Explanation.-** (1) The particulars mentioned in clauses (g), (h), (i) and (o) are exempt from attachment or sale whether before or after they are actually payable.

(2) Nothing in this rule shall be deemed to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land or if themselves the subject of the suit.

**32. Detention of debtor.-** There shall be no imprisonment for debt, excepting in cases where the Deputy Commissioner or the Additional Deputy Commissioner is satisfied that fraudulent disposal or concealment of property has taken place and in such cases the debtor may be detained for a period not exceeding six months.

**33. Provision for appearance of Advocate.-** An Advocate who is entitled to practice in the High Court of Assam may appear in any case

before the Deputy Commissioner or the Additional Deputy Commissioner or his Assistants.

**34. Application of Indian Limitation Act.-** Except in so far as provided by these rules, the Indian Limitation Act, 1908 (Act IX of 1908), shall not apply to Suits in which either or both parties are members of a Scheduled Tribe or Tribes specified in items 1 and 2 of Part I – Assam, of the Schedule to the Constitution (Scheduled Tribes) Order, 1950.

**35. Maintenance of Registers.-** The following registers shall be kept by the Courts of the Deputy Commissioner, Additional Deputy Commissioner and the Assistants to the Deputy Commissioner.

- (1) Register of Petition.
- (2) Register of Suits.
- (3) Registers of Execution Cases.

## CHAPTER V

### CANCELLATION AND SAVINGS

**36. Cancellation and Savings -** (1) The Khasi States Federation (Administration of Justice) Order, 1948, published in the Government of India Ministry of States Notification No.237-P, dated the 16<sup>th</sup> June 1948 and the Khasi States Federation (Administration of Justice) (Supplement) Order, 1948 published in the Government of India, Ministry of States Notification No.296-P, dated the 4<sup>th</sup> October 1948 are hereby cancelled.

(2) Notwithstanding such cancellation, every suit, appeal, application for revision, proceedings and other business relating to both civil and criminal justice, pending on the date of the commencement of this Order, before the Court of the Dominion Agent, Additional Dominion Agent, Khasi States or his Assistants, Court of the Khasi States Federation, its Subordinate Courts and State Courts shall be transferred or deemed to have been transferred for disposal to the Court which would have been competent to entertain and dispose of such suit, appeal, application for revision, proceeding or business, had this order been in force in the date of institution or commencement of the same and the latter Court deal with and dispose of the same in accordance with law.

**Notification No. 166-1.B., dated 16<sup>th</sup> March, 1948 issued by the Government of India, Ministry of States.**

In exercise of the powers conferred by section 4 of the Extra Provincial Jurisdiction Act, 1947 (XLVII of 1947) and of all other powers enabling it in this behalf the Central Government is pleased to make the following orders for the application of enactments to, and for the exercise of jurisdiction within, “the Shillong Administered Areas, that is to say, so much of the areas for the time being comprised within the Municipality of Shillong as forms parts of the United Khasi-Jaintia Hills District”.

PART I.

APPLICATION OF ENACTMENTS.

The enactments and rules specified in the Schedule hereto annexed in so far as the same may be applicable and subject to any amendments to which they are for the same time being subject in other areas of the State of Assam shall apply to the Shillong Administered areas:

Provided, first, that the said enactments and rules shall apply only to such cases as the Khasi Chief concerned is not empowered to adjudicate and decide.

Provided, further that for the purpose of facilitating the application of the said enactments and rules any Court may construe the provisions thereof with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before the Court.

SCHEDULE

1. The Indian Penal Code (XLV of 1860).
2. The Code of Criminal Procedure, 1898 (V of 1898) except the first provision to section 188.
3. The rules relating to Civil Justice as constained in Section as contained in Section IV of the rules for the Administration of Justice and Police in the Khasi and Jaintia Hills made by the Governor of Assam under section 6 of the Scheduled Districts Act, 1874, and published with notification of the Government of Assam No. 2618-A.P., dated the 29<sup>th</sup> March, 1937.

PART II

JURISDICTION

All Courts, including the High Court of Assam, which have for the time being criminal jurisdiction in other areas of the Town of Shillong shall exercise the like jurisdiction in the Shillong administered areas.

The High Court of Assam shall also exercise all such appellate and other jurisdiction on the civil side, as has hitherto been exercised, under the rules for the administration of civil justice as applied to the Shillong administered areas, by the Governor of Assam.

PART III

SUPPRESSION AND SAVING

The notification of the late Political Department No. 165. I.B. dated the 18<sup>th</sup> August, 1937, is hereby cancelled:

Provided, that all proceedings pending on the 16<sup>th</sup> March, 1948 shall be carried on as if the said notification had not been cancelled.

PART III

THE UNITED KHASI-JAINTIA HILLS AUTONOMOUS DISTRICT  
(ADMINISTRATION OF JUSTICE) RULES, 1953.

The 18<sup>th</sup> December, 1953.

THE JOWAI AUTONOMOUS DISTRICT ACT NO.I OF 1967. THE JOWAI  
AUTONOMOUS DISTRICT (ADMINISTRATION) ACT, 1967.

**Preamble.-** Witness it is expedient to make provision for the administration of the Jowai Autonomous District and whereas the Jowai District Council has no Laws and Regulations for the time being and whereas all Laws and Regulations for the time being and whereas all Laws, Rules and Regulations made by the United Khasi-Jaintia Hills District Council had applied in this District in the past, now therefore, it is necessary to make an arrangement for the application of certain Acts, Rules and Regulations made by the United Khasi-Jaintia Hills District Council.

It is hereby enacted in the Eighteenth Year of the Republic of India as follows:-

**1. Short title, extent and commencement.-** (i) This Act shall be called the Jowai Autonomous District (Administration) Act, 1967.

(ii) It shall extend to the whole of Jowai Autonomous District hitherto known as the Jowai Subdivision.

(iii) It shall come into force with effect from 11<sup>th</sup> April, 1967.

**2. Definition.-** In this Act, unless the contrary appears from the context, “the District”, “the District Council”, “the Executive Committee” appearing in the Acts, Rules and Regulations made by the United Khasi-Jaintia Hills District Council as mentioned in the Schedule I shall mean “the Jowai Autonomous District”, “the Jowai District Council” and “the Executive Committee of the District Council of the Jowai Autonomous District” respectively.

**3. Application of the Rules for Jowai Autonomous District.-** The acts, Rules and Regulations made by the United Khasi-Jaintia Hills District Council as listed in Appendix I and such other references thereon in respect of the Officers, etc., shall apply to the Jowai Autonomous District in so far as they are applicable to it for the time being till such time as the Jowai District Council makes its own laws.

## CHAPTER I

### PRELIMINARY

**1. Short, title, extent and commencement.-** (i) These rules may be called the United Khasi-Jaintia Hills Autonomous District (Administration of Justice) Rules, 1953.

(2) These rules shall apply to the whole of the United Khasi-Jaintia Hills Autonomous District excluding so much of the area thereof as is for the time being comprised within the Municipality of Shillong.

(3) They shall come into force on such date as the Executive Committee may, by notification in the Gazette, appoint in this behalf. (7<sup>th</sup> January, 1954 had been appointed as the date on which the rules shall come into force- vide DC/XXVI/8/53/102, dated 28<sup>th</sup> December, 1953.

**2. Definition.-** (1) In these rules, unless there is anything repugnant or the context otherwise requires-

(a) “Adult” means a person belonging to a Schedule Tribe who is not less than twenty-one years of age on such date as may be fixed in that behalf by the District Council;

(b) “Autonomous District” means a Tribal Area deemed as such under paragraph 1 (1) of the Sixth Schedule to the Constitution of India, and the term “District shall be construed accordingly”.

(c) “Constitution” means the Constitution of India;

(d) “District Council” means the District Council of the United Khasi Jaintia Hills Autonomous District constituted under the provisions of the Sixth Schedule to the constitution in accordance with the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951;

(e) “Executive Committee” means the Executive Committee of the United Khasi-Jaintia Hills District Council constituted under the Assam Autonomous District Council constituted under the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951, and the terms “Chief Executive Member” and “Member of the Executive” Committee shall be construed accordingly;

(f) “Gazette” means the Assam Gazette;

(g) “Governor” means the Governor of Assam;

(h) “High Court” means the High Court of Assam;

(i) “Scheduled Tribe or Tribes” means such a tribe or tribes as are specified by order by the President of India under Article 342 (1) of the Constitution as modified by law made by Parliament from time to time in so far as the specification pertains to the Autonomous Districts of Assam.

(j) “Village” means an entire area within the jurisdiction of each of the existing Sirdars or Dolois listed in Appendix I annexed and such other area within the Syiemships, Lyngdohships, Sirdarships or Wadadarship listed in Appendix II annexed as recognised by the Syiemship, Lyngdohship or Wadadarship as being an area within the jurisdiction of a court, whose decision is appealable to the court of the Syiem, Lyngdoh, Sirdar or Wadadar concerned and such other area or areas as may be declared to be so by the District Council;

(k) “Village Court” means Village Court constituted for a village;

(l) “Syiemship, Lyngdohship, Sirdarship, Wadadarship or Doloiship” means an area under the administrative jurisdiction of the Syiem, Lyngdoh, Sirdar, Wadadar or Dolois, as the case may be recognised as such by the Governor of Assam, before the commencement of the Constitution and thereafter permitted to exercise customary tribal functions under the supervision and authority of the District Council;

(m) “Khasi Syiemships” means the administrative area of the United Khasi-Jaintia Hills District known as the Khasi States prior to the commencement of the Constitution;

(n) “Recognised” means recognised by the District Council.

(2) **Definition.-** Any expression not defined in these rules but occurring therein, shall be deemed to have the same meaning in which they are used in the Constitution, or in the Indian Penal Code, 1860, the Code of Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, or the case may be, in so far as they are consistent with the circumstances of the particular case or cases.

**3. Interpretation.-** Except where the context otherwise requires, the General Clauses Act, 1897 and the Assam General Clauses Act, 1897 and the Assam General Clauses act, 1915 shall apply for the interpretation of these rules, as they apply for the interpretation of an Act of Parliament or of the Legislature of the State of Assam, as the case may be.

## CHAPTER II

### CONSTITUTION OF COURTS

**4. Classes of Courts.-** There shall be three classes of Courts, as specified below, in the areas within the United Khasi Jaintia Hills Autonomous District to be constituted by the District Council for the trial of suits and cases between the parties all of whom belong to a scheduled tribe or tribes other than suits and cases to which the provisions of subparagraph (1) of paragraph 5 of the Sixth Schedule to the Constitution apply:-

(i) Village Courts.

(ii) Subordinate District Council Court and Additional Subordinate District Council Court.

(iii) District Council Court.

**5. Constitution of Village Court.-** (1) There shall be a Village Court for each Village.

(2) Each Village Court shall be composed of –

(a) The recognised Doloi, Sirdar, Syiem Road (Bhoi), Basan, Lyngdoh, Lyngskor or Headman of the Village.

(b) Not less than two and not more than six members as may be decided and elected by the majority of the village adults in an



open Durbar if such a number has not been fixed by practice or custom; but if the number has been fixed that number and these members shall continue even if the number be more than six.

“Provided that until such time a Village Court is constituted under this rule, the village Court recognised as such prior to the commencement of these Rules, shall exercise the powers of a village Court under these Rules.”

(3) (a) There shall be a Chairman and a Vice-Chairman of each village Court:

Provided that the Chief Executive Member or a Member of the Executive Committee or any other Member of the District Council shall not be entitled to be a Chairman of the village Court.

(b) The Chairman of the village Court shall be the Doloi, Sirdar, Syiem Raid (Bhoi), Basan, Lyngdoh, Lyngskor or Headman as the case, may be, or any such elected by the village Court if there are more than one.

(c) The Vice-Chairman shall be one of the members of the village Court elected by the majority of the members of the Court elected by the majority of the members of the Court; and he shall perform the duties of the Chairman in his absence.

(4) There shall be a Secretary of the Village Court to be appointed by the Court from amongst the members of the Court.

(5) An elected member of the Village Court shall have a tenure of office of 5 years from the date of his first sitting in the Court but shall be eligible for re-election.

**6. Quorum and Jurisdiction of the Village Court.-** (1) The quorum of the Village Court constituted under rule 5 shall be 3 members or one-third of the total number of members of such Court, whichever is greater.

(2) The Secretary of the Village Court shall record the proceedings of the Court.

(3) The Jurisdiction of Village Court shall extend to the hearing and trial or suits and cases arising within the territorial limits of a village.

II-SUBORDINATE DISTRICT COUNCIL COURT AND ADDITIONAL  
SUBORDINATE DISTRICT COUNCIL COURT.

**7. Subordinate Court.-** (1) There shall be a Subordinate District Council Court at Jowai for the Jowai Subdivision and also Subordinate District Council Court or Courts at Shillong for Shillong Subdivision for the whole of the United Khasi-Jaintia Hills Autonomous District excluding Jowai Subdivision. Each Court shall be presided over by a Judicial Officer to be designated as Magistrate appointed by the Executive Committee with the approval of the Governor, and such Judicial Officer shall also act as Recorder of the Court:

Provided that the Chief Executive Member or a Member of the Executive Committee or other Members of the District Council shall not be eligible to hold office as such Judicial Officer.

(2) Notwithstanding anything contained in the sub-rule (1) the Courts of the Syiems, Lyngdohs, Wadadars or Sirdars listed in Appendix II annexed shall be the Additional Subordinate District Council Courts their territorial jurisdiction being co-existent with the Syiemship, Lyngdohship, Wadadarship or Sirdarship, as the case may be.

Each such Additional Subordinate District Council Court shall be presided over by the Syiem, Lyngdoh, Wadadar or Sirdar as the case may be, with such number of Myntries or other Customary elders as may be determined by the Executive Committee. Where there is more than one Sirdar of Wadadar any such elected by the members of the Additional Subordinate Court concerned shall be the Presiding Officer. The Presiding Officer shall also act as a Recorder of the Court.

Provided that the Chief Executive Member or a Member of the Executive Committee or any other Member of the District Council shall not be entitled to be the Presiding Officer of such a Court.

“Provided further that until such time the Additional Subordinate District Council Court or Courts is or are constituted under this rule, the Courts of the Syiems, Lyngdohs, Wahadadars or Sirdars, as the case may be recognised as such by the competent authority prior to the commencement of these Rules, shall exercise the powers of the Additional Subordinate District Council Court under these Rules.”

(3) The Executive Committee will provide each Subordinate District Council Court with necessary ministerial staff to keep all records and registers and to issue summons as in the name of the Court.

In the case of an Additional Subordinate District Council Court the Syiem, Lyngdoh, Wadadar or Sirdar as the case may be shall appoint his own staff required by the Court.

**8. Jurisdiction of Subordinate Courts.-** (1) Subject to rule 16, the jurisdiction of the Subordinate District Council Court at Jowai shall extend to suits and cases arising within the Subdivision between parties residing within the jurisdiction of different Village Court therein, and to case which are not triable by the Village Courts.

(2) Subject to rule 16, the jurisdiction of the Subordinate District Council Court or Courts at Shillong shall extend to:-

(a) Suits and cases between parties residing within the jurisdiction of the different Village Courts in the whole of the United Khasi-Jaintia Hills Autonomous District excluding the Syiemships, Lyngdohships, Sirdarship or Wadadarships listed in Appendix II annexed and the Jowai Subdivision and to suits and cases which are not triable by such Village Courts.

(b) Suits and cases between parties residing within the jurisdiction of the different Additional Subordinate District Council Courts.

(3) The jurisdiction of an Additional Subordinate District Council Court shall extend to suits and cases not triable by a Village Court in which all the parties made within its territorial jurisdiction.

### III-District Council Court.

**9. Constitution of District Council Court.-** (1) There shall be one District Council Court for the United Khasi-Jaintia Hills Autonomous District which shall be called the United Khasi-Jaintia Hills District Council Court. The Court shall consist of one or more Judicial Officers to be designated as Judge or Judges appointed by the Executive Committee with the approval of the Governor:

Provided that the Chief Executive Member of the Executive Committee or any other members of the District Council shall not be entitled to hold as Judicial Officer of the District Council.

**10. Venue of District Council Court.-** The District Council Court shall ordinarily sit at Shillong. But it may also sit at any other place or places within the jurisdiction of the District Council whenever it deems necessary for the public interest provided a tour programme shall be submitted within one week to the Executive Committee.

CHAPTER III

POWERS OF COURTS

I- Village Courts.

**11. Suits and cases to be tried by Village Courts.-** A Village Court shall try suits and cases of the following nature:-

(a) Cases of a civil nature;

Provided that if any immovable property is in dispute the property must be situated within the jurisdiction of the Village Court and in all other cases all the parties must reside or hold land within such jurisdiction.

(b) Criminal cases falling within the purview of tribal laws and customs and offences of petty nature such as petty theft and pilfering, mischief and trespass of petty nature, simple assault and hurt, affront and affray of whatever kind, drunkenness or disorderly brawling, public nuisance and simple cases of wrongful restrain:

Provided that the parties reside within the jurisdiction of the Village Court and the offence occurs therein:

Provided further that the Village Court shall not be competent to try offences in respect of which the punishment is obligatory under the Indian Penal Code.

**12. Power of Village Courts to pass sentence in Criminal Cases and to award costs to Civil Cases.-** (1) A village court shall not be competent to pass a sentence of imprisonment in any criminal case. It shall have power to impose a fine for any offence it is competent to try upto a limit of Rs. 50 (Rupees fifty). It may award payment in restitution or compensation to the aggrieved or injured party in accordance with the customary law.

(2) In a civil case a village court shall have power to award all costs, as also compensation to those against whom unfounded or vexatious suits and cases have been instituted before the court.

(3) The fines and payments imposed and ordered under sub-rules (1) and (2) may be enforced by distraint of the property of the offender.

**13. Power of Village Courts to order attendance of the accused and witnesses.-** A Village Court shall have power to order attendance of the accused and the witnesses to be examined in the case and to impose a fine

not exceeding Rs.25 (Rupees twenty five only) on any person willfully failing to attend when so ordered or commit for contempt of such Courts.

**14. Realisation of fines imposed under rule 13.-** If any person on whom a fine under rule 13 above has been imposed by a Village Courts to deposit the amount at once or within such time as the Village Court may allow, the Court shall report the matter to the First Appellate Court, for necessary action to realize the fine in such manner as it may deem fit unless the person given notice to appeal against such decision.

**15. Village Courts to refer certain cases to competent Court.-** Where a Village Court is of opinion that the sentence it is competent to pass is insufficient in the circumstances of the case, it shall without delay refer the case to the competent Court, and that Court shall dispose of the case in accordance with these rules.

**16. Appeals to Subordinate District Council Courts and Additional Subordinate District Council Courts.-** Subject to rule 29 and appeal shall lie to the Subordinate District Council Court or Additional Subordinate District Council Court, as the case may be, from a Village Court within the jurisdiction of the Subordinate District Council Court or Additional Subordinate District Council Court concerned, against any order or sentence in a criminal case, or against any decision in any other case, provided the appeal is preferred within sixty days of the conviction or sentence or decision of the Village Court excluding the time for getting copies. The Subordinate District Council Court or Additional Subordinate District Council Court while hearing the appeal may either decide the appeal after perusal of the records of the case or may try the case de novo.

## II. Subordinate and Additional Subordinate District Council Courts.

**17. Investment of Courts with Powers.-** Save as otherwise provided in the Constitution and in these rules, a Subordinate District Council Court or Additional Subordinate District Council Court shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898, as it may be invested with by the Executive Committee of the District Council with the approval of the Governor.

**18. Subordinate District Council Court to try Civil Suits and criminal cases.-** Subject to rules 19,20 and 21, a Subordinate District Council Court shall be competent to try (i) (a) all civil suits not triable by a village court in which all the parties reside or hold land within its jurisdiction and if any immovable property is in dispute the said property is also situated within the same; (b) all criminal cases not triable by a Village

Court in which the offence is committed within its jurisdiction; and (ii) to hear appeals from Village Courts.

**19. Additional Subordinate District Council Court to try civil suits.-** An additional Subordinate District Council Court shall be competent to try all civil suits not triable by a village court in which all the parties reside or hold land within its jurisdiction and if any immovable property is in dispute the said property is also situated therein.

**20. Additional Subordinate District Council Court to try criminal cases-** Subject to rule 21, and Additional Subordinate District council court shall be competent to try all criminal cases not triable by a village court in which the offence is committed within its jurisdiction, and to hear appeals from village courts.

**21. Courts not competent to try suits and cases in respect of certain offences.-** (1) A Subordinate District Council Court or an Additional Subordinate District Council Court shall not be competent to try suits and cases in respect of offences:-

- (i) under Sections 124-A, 147 and 153 of the Indian Penal Code.
- (ii) under Chapter 10 of the same Code in so far as they relate to the contempt of a lawful authority other than an authority constituted by the District Council.
- (iii) of giving or fabricating false evidence, as specified in section 193 of the same Code, in any case triable by a Court other than a Court constituted by the District Council under these rules.

(2) Unless specially empowered by the Governor by notification in the Gazette, a Subordinate District Council Court or an Additional Subordinate Council Court shall not be competent to exercise powers in :-

(a) Cases relating to the security for keeping the peace and good behavior similar to those contemplated under section 107 of the Code of Criminal Procedure, 1898;

(b) cases relating to the security for good behavior from persons disseminating seditious matter similar to those contemplated under section 108 of the same Code;

(c) cases relating to the security for good behavior from vagrants and suspected persons similar to those contemplated under section 109 of the same Code;

(d) cases relating to the security for good behavior from habitual offenders similar to those contemplated under section 110 of the same Code;

(e) urgent cases of nuisance or apprehended danger similar to contemplated under section 144 of the same Code;

(f) disputes as to immovable property of the nature similar to that contemplated under section 145 of the same Code;

(g) cases in which a public servant who is not removable from his office save by or with the sanction of the Government of Assam or some higher authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of official duty.

**22. Court of Deputy Commissioner and his Assistants to try suits and cases excepted under rule 21.-** (1) Suits and cases referred to in rule 21 shall continue to be tried and dealt with by the existing Courts until such time as the Governor deems fit to invest the Subordinate District Council Court and Additional Subordinate Council Court with such powers by notification in the Gazette.

(2) For the purposes of this rule the existing Courts mean the Courts of the Deputy Commissioner and his assistants.

**23. Security for keeping peace on conviction.-** Whenever there is any likelihood of breach of peace or whenever any person accused of any offence involving a breach of peace, or of abetting the same or any person accused of committing criminal intimidation is convicted of such offence by any Court of the District Council and such offence by any Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, the matter shall be referred to the Deputy Commissioner who shall take necessary action in accordance with law.

**24. Court to refer all cases involving breach of peace, seditious matter, etc to Deputy Commissioner.-** Whenever any Court of the District Council is informed that-

(a) any person is likely to commit a breach of the peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquility.

(b) there is within the limits of its jurisdiction any person who within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of –

(i) any seditious matter, that is to say, any matter the publication of which is punishable under section 124-A or Section 153-A of the Indian Penal Code.

or

(ii) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code.

(c) any person is taking precautions to conceal his presence within the local limits of such Courts jurisdiction, and there is reason to believe that such person is taking such precautions with a view to committing any offence,

Or

there is any person within such limits who has not ostensible means of subsistence or who cannot give a satisfactory account of himself.

(d) any person within the local limits of the Court's jurisdiction:-

(i) is by habit a robber, house-breaker, thief or forger, or,

(ii) is by habit a receiver of stolen property knowing the same to have been stolen, or

(iii) habitually commits, or attempts to commit or abets the commission of the offence of kidnapping, abducting, extortion, cheating or or mischief or any offence punishable under Chapter XII of the Indian Penal Code or under Section 489-A, Section 489-B, Section 489-C or Section 489-D of that Code, or

(iv) habitually commits or attempts to commit or abets the commission of offences involving a breach of the peace, or

(vi) is so desperate and dangerous as to render his being at large without security hazardous to the community, the Court shall refer the matter to the Chief Executive Member for reference to the Deputy Commissioner who shall, on such reference to the Deputy Commissioner who shall, on such reference being made to him, deal with the case in accordance with law.

**25. Court to refer all urgent cases of nuisance or apprehend danger to Deputy Commissioner.-** In case where the opinion of a Court of the District Council there is sufficient ground for proceeding under Section 144 of the Code of Criminal Procedure, 1898, and immediate prevention or speedy remedy is desirable, such Court shall refer the matter to the Chief



Executive Member for making a reference to the Deputy Commissioner who shall refer the matter to the Chief Executive Member for making a reference to the Deputy Commissioner who shall on such a reference being made to him, take such action as he considers necessary under the said section.

**26. Procedure where dispute concerning land etc., is likely to cause breach of peace.-** Whenever a Court of the District Council is satisfied that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of its jurisdiction, such Court shall refer the matter to the Deputy Commissioner through the Chief Executive Member and the Deputy Commissioner, whenever such a reference is made to him, shall take such action as he considers necessary under law.

**27. Court to pass sentence authorised by law.-** In criminal cases the Subordinate District Council Court or Additional Subordinate District Council Court may, subject to the provisions of the Constitution and of these rules pass any sentence authorised by any law for the time being in force.

**28. Appeal to District Council Court.-** An appeal shall lie to the District Council Court from the decisions of a Subordinate District Council Court in any case, civil or criminal.

Provided that such appeals are accompanied by a copy of the order appealed against and a clear statement of the grounds of appeal and rare filed within sixty days of the date of the order, excluding the time required for obtaining a copy of the order, appealed against.

### III – DISTRICT COUNCIL COURT

**29. District Council Court to be a Court of Appeal.-** Subject to the provisions of rules 30 and 32 the District Council Court shall be a Court of Appeal in respect of all suits and cases triable by Subordinate District Council Court and Additional Subordinate District Council Court.

**30. District Council Court may direct Subordinate Court to try civil suit nor otherwise triable by it or may try the same itself.-** The District Council Court shall be competent to direct a Subordinate District Council Court or Additional Subordinate District Council Court to try a Civil Suit which is not otherwise triable by such Court, or may try the same itself.

**31. Court to pass orders on appeal authorised by law, Revisional power of District Council Court:**

(1) The District Council Court may, subject to the provisions of these rules, pass any order on appeal authorised by any law for the time being in force.

(2) The District Council Court may call for and examine the records of any Proceedings of a Subordinate District Council Court, Ad Additional Subordinate District Council Court, or a Village Court and may enhance, reduce, cancel or modify any sentence or finding passed by such Court or remand the case for retrial.

**32. District Council Court may transfer case or itself try it.-** If it appears to the District Council Court-

(a) that a fair and impartial inquiry or trial cannot be had in any village Court or Subordinate District Council Court, or Additional Subordinate District Council Court; or

(b) that some question of law, tribal or otherwise of unusual difficulty is likely to arise, it may order-

(i) that nay offence be enquired into or tried by another village Court or Subordinate District Council Court or Additional Subordinate District Council Court;

(ii) that any particular case or class of cases be transferred from one Village Court to another Village Court or from one Village Court to a Subordinate District Council Court, or Additional Subordinate District Council Court, or from one Subordinate District Council Court or Additional Subordinate District Council to another Subordinate District Council Court or Additional Subordinate District Court; or

(iii) that any particular case be transferred to an tried before itself.

(2) When the District Council Court withdraws for trial before itself any case from any Court it shall observe in such trial the same procedure which that Court would have observed, if the case had not been so withdrawn.

(3) That District Council Court may act either on the report of the Lower Court or on the application of a party interested or on its own initiative.

**33. Power of Court to release certain offenders on probation of good conduct instead of sentencing to punishment.**-(1) When any person is convicted of an offence which the District Council Court is competent to try under these rules and no previous conviction is proved against the offender if it appears to that Court, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties to appear and receive sentence when called upon during such period not exceeding three years as the court may direct and in the meantime to keep the peace and be of good behaviour.

Provided that, where any first offender is convicted by a Subordinate District Council Court or Additional Subordinate District Council Court and the court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect and submit the proceedings to the District Council Court forwarding the accused to, or taking bail for his appearance before such court which shall dispose of the case in a manner provided by rule 34.

(2) In any case which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or an offence under the Indian Penal Code punishable with not more than two years imprisonment and no previous conviction is proved against him the District Council Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature of offence or any extenuating circumstances under which the offence was committed, instead of sentencing him to any punishment release him after due admonition.

Provided that, where a person is convicted of such offence by a Subordinate District Council Court or Additional Subordinate District Council Court and the Court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect and submit the proceedings to the District Council Court forwarding the accused to, or taking bail for his appearance before such Court which shall dispose of the case in a manner provided by rule 34.

(3) The provisions of Sections 122, 126-A and 406A of the Code of Criminal Procedure shall apply mutatis mutandis in the case of sureties offered in pursuance of the provisions of this rule.

**34. Power of District Council Court to dispose of proceedings submitted to it.-** Where proceedings are submitted to the District Council Court under rule 33 such Court may thereupon pass sentences or make such orders as it might have passed or made if the case had originally been heard by it, and, if it thinks further inquiry or additional evidence on any point to be necessary, it may make such inquiry or take such evidence itself or direct such inquiry or evidence to be made or taken.

**35. Provision of offender failing to observe conditions of his recognizance.-** (1) If the Court which convinced the offender, or a Court which could have dealt with the offender in respect of his original offence is satisfied that the offender has failed to observe any of the conditions of his recognizance, it may issue a warrant for his apprehension.

(2) An offender when apprehended on any such warrant shall be brought before the Court issuing the warrant as soon as may be within a period of twenty four hours of apprehension excluding the time necessary for the journey from the place of apprehension to such Court and such Court may either remand him in custody until the case is heard or admit him to bail with sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

(3) A warrant for the apprehension of an offender under sub-rule (1) shall ordinarily be directed to through the Chief Executive Member to the Deputy Commissioner, but the Court may, if its immediate execution is necessary, direct it to any other person or persons and such person or persons shall execute the same.

**36. Condition as to abode of Offender.-** The Court directing the release of an offender under sub-rule (1) of rule 33 shall be satisfied that the offender or his surety (if any) has fixed place of abode or regular occupation in is likely to live during the period named for the observance of the conditions.

**37. Appeal against acquittal in criminal cases.-** (1) In a criminal case the Executive Committee may, on application or otherwise, direct an appeal against acquittal to be presented to the District Council Court from any order passed by a Village Court, a Subordinate District Council Court or an Additional Subordinate District Council Court.

(2) An appeal under sub-rule (1) shall be presented within 90 days of the date of order appealed against, excluding the time needed for obtaining a copy of the order.

CHAPTER IV

PROCEDURE

I-Village Courts

**38. Village Court to try suits and cases in accordance with customary law.-** A Village Court shall try all suits and cases in accordance with the customary laws of the village.

**39. Procedure for decision.-** A Village Court shall try all cases in open Darbar in the presence of at least three members and shall decide the issue by a simple majority of votes. After hearing both parties and their witnesses, if any, it shall pronounce a decision forthwith.

Provided that the President or Vice-President shall have a casting vote, when there is a tie.

**40. Verbal notice to parties and time limit of such notice.-** Except where Village Court otherwise decides, only verbal notice is required to be given by the Village Court to parties to a suit and their witness and for a fixed day not exceeding eight days from the day it is given. If a case be postponed, it shall be fixed for a day not exceeding 15 days from the date of the order of postponement and the case may be subsequently adjourned for a period not exceeding 7 days at a time on good cause shown. The order shall be made known to the person concerned or to some adult member of his family, and failing this, shall be openly proclaimed at the place where he is or was known to be, or shall be communicated to him or any member of his family by a written notice in sufficient time to allow him to appear.

A Village Court may pass ex-parte decision if it is satisfied that the other party willfully absents itself.

Provided that if the adjournment is given on the motion of a party that party shall pay the adjournment cost not exceeding Rs.10 to be appropriated to the District Council.

**41. Recording of proceedings.-**(1) The proceedings of a Village Court shall be recorded in writing.

(2) Registers of all suits and cases disposed of try a Village Court shall be kept by the Court in the forms in Appendix III.

**42. Order of attachment of property by Village Court.-** A Village Court may carry out its decision or may, subject to the provisions of rule 55

order attachment of property as soon as judgement is pronounced, but in no case is property so attached to be sold, if the party concerned claim to appeal within 60 days, without the orders of the District Council.

II – Subordinate District Council Court, Additional Subordinate District Council Court and District Council Court.

**43. Procedure in criminal cases.-** (1) In criminal cases the procedure of the Subordinate District Council Court and, Additional Subordinate District Council Court and the District Council Court shall, subject to the provisions of this rule, be in the spirit of the Code of Criminal Procedure, 1898, so far as it is applicable to the circumstances of the district and not inconsistent with these rules.

The chief exceptions are as hereinafter specified in the following sub-rules of this rule –

(2) Wherever a Court constituted under these rules requires in course of the discharge of its functions, the services of the regular police which is at the disposal of the Deputy Commissioner that court may send a requisition for such services to that officer who will generally comply with such requisition unless he considers the compliance to be not possible for any special reasons.

(3) Summons on any person residing outside the jurisdiction of the United Khasi-Jaintia Hills Autonomous district or on a person who does not belong to a Scheduled tribe shall be issued by a court other than the High Court, through the Deputy Commissioner of the District.

(4) A note of the substance of all the proceedings in cases tried before them must be kept by the District Council Court and the Subordinate District Council Courts and the Additional Subordinate District Council Courts in the forms prescribed in Appendix IV.

In a case in which a sentence of imprisonment of not less than three months is imposed full notes of the evidence and proceedings must be kept.

(5) Recognisance to appear need not be taken unless it seems necessary to the District Council Court or Subordinate District Council Court.

(6) Examinations and proceedings in the Subordinate District Council Court, Additional Subordinate District Council Court or District Council Court generally shall be in English or in any of the recognised languages of the district.

**44. Maintenance of Registers by Courts.-** In addition to such other Registers as may be directed by the High Court, the following Registers shall be kept in the District Council Court, Subordinate District Council Courts and the Additional Subordinate District Council Courts in the forms prescribed in Appendix V.

- 1) Register of petitions.
- 2) Register of crimes.
- 3) Register of criminal cases disposed of.
- 4) Register of fines.

**45. Court to adjudicate according to law, justice, etc.-** (1) In all civil cases the cases the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts shall adjudicate according to law, justice, equity and good conscience consistent with the circumstances of the case.

(2) The witnesses shall be examined on oath on solemn affirmation in any form and shall be warned that they are liable to punishment for perjury if they state that which they know to be false.

**46. Deposit of expenses by appellant in Civil Suits.-** Any Court before which an appeal in a civil suit is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses likely in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses, and if the appellant be a judgement debtor may also order security to be given for part or the whole of the decretal amount.

**47. Procedure in Civil Cases.-** In civil, the Procedure of the District Council Court or the Subordinate District Council Courts or the Additional Subordinate District Council Courts shall be guided by the spirit, but not bound by the letter of the Code of the Civil Procedure, 1908, in all matters not covered by recognised customary laws or usages of the District.

**48. Transfer of Decree.-** The decree of the Appellate Courts in a Civil case shall be transferred to the Court passing the original order for execution as a decree of its own.

**49. No Imprisonment for debt.-** There shall be no imprisonment for debt, except, in cases where the District Council Court or the Subordinate District Council Court or Additional Subordinate District Council Court is satisfied that fraudulent disposal or concealment of property has taken place and in such cases the debtor may be detained for a period not exceeding six months.

**50. Legal Practitioner to appear in cases.-** Any Legal Practitioner may appear in any case before the District Council Court, Subordinate District Council Court or Additional Subordinate District Council Court.

Provide that in a case where an accused is not arrested, the legal Practitioner shall take previous permission of the District Council Court for such appearance.

**51. Commission for examination of witnesses. -** Whenever, in the course of an enquiry, trial or other proceedings under these rules before any court other than the District Council Court it appears that a commission ought to be issued for examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case would be unreasonable such court shall apply to the District Council Court stating the reasons for the application and the District Council Court may either issue a Commission or reject the application.

Provided that when a commission is necessary to be issued for examination of a witness outside the jurisdiction of the District Council Court, the District Council Court shall apply to the Deputy Commissioner stating the reasons thereof and the Deputy Commissioner may either issue the Commission or reject the application.



CHAPTER V

Execution of Sentences, Decrees and Orders.

Execution.

**52. Provision for realization of fines and other moneys ordered by Village Court.-** (1) Whenever a Village Court has sentenced an offender to pay a fine in a criminal case or has passed an order for the payment of any money by a person in a civil suit the Court may, subject to the provisions of rule 41-

(a) Issue a Parwana for the payment of the amount by the offender or the person concerned.

(b) May apply, in writing, to the Chief Executive Member to realize the amount of execution according to Civil process against the movable or immovable property, or both of the defaulter.

(2) Where an application is made, under clause (b) of sub-rule (1), to the Chief Executive Member, the application shall be deemed to be a decree and the Chief Executive Member to be the decree-holder. He shall get the decree executed according to the spirit of the Civil Procedure Code.

(3) In the event of the non-recovery of the amount of execution the Chief Executive Member, the application move the Subordinate District Council Court, or the Additional Subordinate District Council Court for the arrest and detention of the offender or the person concerned in execution of the decree.

(4) Whenever an application is made under sub-rule (3) the said Court may order for the arrest and detention of the offender or the person concerned in execution of the decree according to the spirit of the Civil Procedure Code.

**53. Procedure for execution of sentence, or order and decrees passed by Court.-** (1) Subject to the provisions of rule 43 and 47 Subordinate District Council Court or Additional Subordinate District Council Court or the District Council Court shall cause a sentence, order or decree passed by it, to be carried into effect in accordance with the procedure prescribed by the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, as the case may be, reference therein to the "Collector of the District" being construed as referring to the Chief Executive Member of the District Council.

(2) Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in-charge of the jail maintained by the State Government in which the prisoner is, or is to be confined through the Deputy Commissioner.

(3) When the prisoner is to be confined in a jail, the warrant shall be lodged with the Jailor through the Deputy Commissioner.

**54. Attachment of property of person absconding.-** Whenever a Parwana (Warrant) issued by a Court against a person who is absconding or is concealing himself in connection with any criminal proceedings, any property movable or immovable, belonging to him is liable to attachment according to the civil process prescribed in rule 55 of these rules.

Attachment of Property.

**55. Procedure for attachment of property belonging to judgement debtor.-** (1) Property, movable or immovable belonging to the judgement-debtor over which or the profits of which he has a disposing power which he may exercise for his own benefit whether the same be held in the name of the judgement-debtor or any another person in trust for him or on his behalf is liable to attachment and sale in execution of a decree:

Provided that the following shall not be liable to such attachment or sale, namely.-

- (a) The necessary wearing apparel, cooking vessels, beds and bedding of the judgement-debtor, his wife and children, and such personal ornaments as, in accordance with religious usages, cannot be parted with by any woman;
- (b) Tools of artisans and where the judgement-debtor is an agriculturist his implement or husbandry and such cattle and seed-grains as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;
- (c) Books of Accounts;
- (d) A mere right to sue for damages;
- (e) Any right of personal service;
- (f) Stipends and gratuities allowed to pensioners of the Government or payable out of any Service Family Pension Fund notified in this behalf in the official Gazette by the Central Government or State Government, as the case may be, and Political Pension;
- (g) Allowances (being less than salary) of any public officer or of any employee of a railway company or local authority while absent from duty.

- (h) The salary of any such public officer or employee as is referred to in clause (g) to the extent of the first hundred rupees and one-half the remainder of such salary or allowances;

Provided that where the whole or any part of the portion of such salary liable to attachment has been under attachment whether continuously or intermittently for a total period of twenty-four months, such portion shall be exempted from attachment until the expiry of a further period of twelve months and, where such attachment has been made in execution of one and the same decree, shall be finally exempt from the attachment in execution of that decree.

- (i) Any allowance forming part of the emoluments of any public officer or employee as is referred to in (g) above, which the appropriate Government may by notification declare to be exempt from attachment and any subsistence grant or allowance, to any such person while under suspension;
- (j) The pay and allowances of persons to whom the Indian Army Act, 1950, applies or any person other than Commissioned Officers to whom the Indian Navy (Discipline) Act, 1934, applies.
- (k) All compulsory deposits and other sums in or derived from any fund to which the Provident Act, 1925, for the time being applies in so far as they are declared by the said Act not to be liable to attachment.
- (l) Not more than one-third of the wages of the labourers and domestic servants whether payable in money or in kind;
- (m) An expectancy of succession by survivorship or other merely contingent or possible right or interest;
- (n) A right to future maintenance;
- (o) Any allowance declared by any law in force to be exempted from liability to attachment or sale in execution of a decree; and where the judgement debtor is a person liable for the payment of land revenue any movable property, which under any law for the time being applicable to him, is exempted from sale for the recovery of an arrear of such revenue.

**Explanation:-** The particulars mentioned in clauses (f),(g),(j),(l) and (o) are exempted from attachment or sale whether before or after they are actually payable.

(2) Subject to the provisions of rules 42 and 46, the procedure for the attachment of the property shall be in the spirit of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, as the case may be.

**MISCELLANEOUS**

**56. Criminal lunatic:-** Whenever any Court passes any order for the detention of a criminal lunatic the District Council shall refer the matter to the Deputy Commissioner, who shall deal with the case following the spirit of the Code of Criminal Procedure, 1898, and in accordance with rules made by the Government of Assam under the Indian Lunacy Act, 1912.

**57. Presiding or judicial Officer not to try cases in which he is a party** – No Presiding Officer or Judicial Officer shall, except with the permission of the Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party, or personally interested, and no Judicial Officer shall hear an appeal from any judgement or order passed or made by himself.

**Explanation.-** A Judicial Officer shall not be deemed to be a party or personally interested within the meaning of the rules to or in any case by reason only, that he is a member of any Town Committee (or a Municipal Board) or otherwise concerned therein in a public capacity or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the cases is alleged to have occurred and made an inquiry in connection with the case.

**REPEAL AND SAVINGS**

**58. Repeal and Savings.-** (1) The provisions in the Khasi State (Administration of Justice) Order, 1950 published in the Government of Assam's Notification No.SK.149/49/8, dated the 25<sup>th</sup> January, 1950, the Rules for the Administration of Justice and police in the Khasi and Jaintia Hills published in the Government of Assam's Notification N. 2618AP., dated the 29<sup>th</sup> March, 1937 and the Assam Autonomous Districts (Administration of Justice) Regulation, 1952 (Regulation No.III of 1952) published in the Government of Assam's Notification No.TAD/R.II.51.106, dated the 3<sup>rd</sup> April, 1952, are hereby repealed in so far as they relate to the matters dealt with in these Rules.

(2) Notwithstanding such repeal every suit, appeal, application for revision, proceeding and other business relating to both Civil and Criminal Justice, pending on the date of commencement of these Rules, before the Court of the Deputy Commissioner, Additional Deputy Commissioner, United Khasi Jaintia hills or his Assistants shall be transferred or deemed to have been transferred for disposal to the Court which would have been competent to entertain and dispose of such suits, appeal, application for revision,

proceedings or business, or commencement of the same and the latter Court shall deal with, and dispose of the same in accordance with law.

## APPENDIX I

[Vide rule 2 (j)]

- |                 |                         |                   |
|-----------------|-------------------------|-------------------|
| 1. Jowai        | 18. Maskut.             | 35. Nongjri       |
| 2. Raliang      | 19. Saipung.            | 36. Nongtraï      |
| 3. Nongtalang.  | 20. Byrong.             | 37. Nongshluid    |
| 4. Shangpung    | 21. Jyrngam             | 38. Nongriangsi.  |
| 5. Nartiang.    | 22. Laitlyngkot         | 39. Nonglang.     |
| 6. Rymbai       | 23. Laitkroh            | 40. Nonglyngkien. |
| 7. Sutnga.      | 24. Lakading.           | 41. Nonglait.     |
| 8. Nongbah.     | 25. Myrdon.             | 42. Ramdait.      |
| 9. Nongjngi.    | 26. Mawmluh.            | 43. Saitsohpen.   |
| 10. Satpaton.   | 27. Mawbeh Larkhar      | 44. Synnei        |
| 11. Shilliang   | 28. Mawthangsohkhyllung | 45. Sinai         |
| Myntang         |                         | Mawshynrut        |
| 12. Amwi        | 29. Mawsmái             | 46. Sohbar.       |
|                 | Nongthymmai.            |                   |
| 13. Narpuh.     | 30. Marbisu             | 47. Tyrna.        |
| 14. Mynso.      | 31. Mynteng.            | 48. Tynrong       |
| 15. Darrang.    | 32. Nongpoh.            | 49. Tynring.      |
| 16. Nongkhlieh. | 33. Nongbah.            | 50. Umniuh-Tmar.  |
| 17. Lakadong.   | 34. Nongkroh.           |                   |

## APPENDIX II

[Vide rule 2 (j)]

- |               |                  |                        |
|---------------|------------------|------------------------|
| 1. Khyrim.    | 9. Mawsynram.    | 17. Sohiong            |
| 2. Myllem.    | 10. Mariaw.      | 18. Mawphlang.         |
| 3. Nongkhlaw. | 11. Rambrai.     | 19. Lyngiong.          |
| 4. Cherra.    | 12. Mawiang.     | 20. Shella Confederacy |
| 5. Nongstoin  | 13. Bhowal.      | 21. Mawlong.           |
| 6. Maharam.   | 14. Malaishomat. | 22. Mawdon.            |
| 7. Nongspung. | 15. Nobosohphoh. | 23. Dwara-             |
|               |                  | Nongtyrmen.            |
| 8. Langrin.   | 16. Jirang.      | 24. Pamsanngut.        |
|               |                  | 25. Nonglwai.          |

APPENDIX II

[Vide rule 2 (j)]

I. Registers of Petitions.

1. Date.
2. Name of Petitioner.
3. Subject of petition.
4. Name of defendant.
5. Date for hearing.
6. Date of disposal and how disposed of, viz,:-  
Decree for plaintiff or decree for defendant, or withdrawn, as the case may be.

II. Register of Cases.

Name of Parties.

Subject of claim.

Before what Court tried.

In case proceeded with exparte-whether notice on defendant is proved, or, where both or all parties are present or represented, that they are so present or represented.

Statement of plaintiff.

Statement of Defendant.

Evidence for Plaintiff.

Evidence for Defendant.

Judgement and finding of the Court.

Order as to costs.

III. Registers of Executions.

1. Date.
2. Name of decree-holder.
3. Name of Judgement-debtor.
4. Name of property to be attached.
5. Date of issue of attachment.
6. Date fixed for sale (and date to which sale may be postponed).
7. Date of satisfaction of decree by sale of property or payment of payment of amount due and receipt of decree-holder.

APPENDIX V.

(Vide Rule.44)

I – Register of Petitions.

Date	Serial No.	No. of case, if any to which petition relates.	Nature of Document, if a petition, what for	Name of Petitioner	Address of Petitioner.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Note 1:- In column for stating nature of document use P for petitions, PL. for plaints. E.P., for Execution Petitions, O.P. for Original Petitions, AP, for appeals, A for affidavits, V for Vakalatnama, etc.

Note 2:- Petitions, etc., returned should be noted in the remarks columns with date.

II – Register Crimes

Serial No. date and section of first information report, name (and if necessary address) of complainant.	Date time of occurrence with place and of month and day of week.	Offence, modus operandi, cause or subject or crime, nature of weapons and implements used.	Value of property		Name with aliases parentage, caste and residence of persons accused or suspected, with full grounds for suspicion and cross references, if any.	Full name and rank of Investigating Officer, result of cases with name of Judicial Officer and date of disposal.
			Stolen	Re-covered		
(1)	(2)	(3)	(4)	(5)	(6)	(7)

APPENDIX IV.

Vide Rule.43 (4)

Criminal Cases.

Sl No.	Date of Commission of the offence.	Date of report of complaint.	Name of complaint if any.	Name, parentage and residence of the accused.	Offence complained of.	Finding and in case of conviction reason therefore.	Sentence or other final order.	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Sl No.	Date of filing the suits.	Name and address of plaintiff (s)	Name and address of defendant (s)	Civil Suits Claim		Findings of the Court	Date on which the proceedings terminated
				Particulars	Amount or value		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)



## III – Register of Criminal cases disposal of

Serial number of record	Name of Judicial Officer.	Serial No. of Case in the				Name of Complainants.	Name of accused	Nature of the case with the section of the Penal Code or other Act Applicable.	Final order passed and details of sentences.	Result of appeal or revision.	Date of decision.	Names of proclaimed offenders not arrested.	Date when disposed of and shelved in the Record Room.	Number of shelf and rack in the Record Room.	Date of destruction of files and initials of officers superintending destruction.	Remarks.
		Register of Complaints of Offences	Judicial Officer's General Register of cases cognizable by the police.	Register of unimportant cases cognizable by the Police in which the First information report is not used.	Register of Misc. cases.											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

N.B. This list is to be written in English.

Date of dispatch.  
Date of receipt.

Signature of Officer of dispatching Court.  
Signature of District Record-Keeper.

## IV – REGISTER OF FINES.

1	2	3	4	5	6	Impriso nment.		9	10	11	12	13	14	15	16	17	18	19	20	21	22
Consecutive number in month.	Number of Case.	Name of Officer imposing.	Name and place of residence of offender.	Offence and date of sentence.	Amount of fine.	Substantive	In default fine.	Amount remitted or written off.	Date of issue of warrant.	Thana to which issued.	Date of return of Warrant.	Amount realised and date of realisation.	Balance.	Amount paid into District Fund and date of payment.	Signature of Cashier.	Signature of clerk-in-charge of the Fine Register.	Signature of Fine Maharir of Court to which the entry relates.	Signature of Judicial officer.	Date on which the notice of realisation of fine is sent to Jail	Date on which the notice is received back from Jail after amendment of warrant.	Remarks.

F.WAR  
CHAIRMAN,

District Council, United Khasi-Jaintia Hills Autonomous District.

PART IV

GARO HILLS

The 29<sup>th</sup> March, 1937.

RULES FOR THE ADMINISTRATION OF JUSTICE AND POLICE IN THE  
GARO HILLS DISTRICT.

CHAPTER I

GENERAL

**Authorities of Administration.**- The administration of the district known as the Garo Hills is vested in the Governor, Deputy Commissioner and his Assistants, the mauzadars, laskars, sardars, nokmas and gaonburas or such other classes of officers as the Governor may see fit from time to time to appoint in that behalf, subject, so far as their judicial and police jurisdiction is concerned, to the exceptions, restrictions and rules hereinafter recorded.

**\*1A. Power of Governor to appoint Additional Deputy Commissioner.** - The Governor may, when he thinks fit, appoint an Additional Deputy Commissioner, either general, or for the trial of a particular case of particular cases, civil or criminal, and may direct that such Additional Deputy Commissioner shall, for the general or special purpose aforesaid, exercise all or any of the powers of the Deputy Commissioner.

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\* Inserted by the Assam Partially Excluded Areas (Administration of Justice), Regulation, 1946

**\*1B. Power of High Court to transfer original cases.-** The High Court may, for any reason which he considers proper, transfer any original case, whether civil or criminal, at any stage when it is pending or under trial before any Court, to any other Court competent to try it.

## CHAPTER II

### POLICE

**2. Police of Garo Hills.-** The police of the Garo Hills shall consist of:-

- (a) Regular police subject to Act V of 1861 and the Assam Rifles Act.
- (b) Rural police, consisting of laskars, sardars and nokmas or other village authorities recognised by the Deputy Commissioner as such in the hill mauzas, and gaonburas in the plains mauzas.

**2A. Rural police, how deemed.-** Rural police shall not be deemed to be police officers for the purposes of section 26 of the Indian Evidence Act or section 162 of the Code of Criminal Procedure.

**3. Control of Police.-** The control of the police of the Garo Hill is vested in the Deputy Commissioner and in such other officers as the Governor may from time to time appoint. Misconduct on the part of the regular police shall be punished in accordance with Act V of 1861, the Assam Rifles Act and Penal Code or any other enactment to which they may be subject. Misconduct on the part of the rural police is punishable by dismissal or by fine, which may extend to Rs.500, or by imprisonment to an extent which would be awardable under the Penal Code for a like offence. Imprisonment may be awarded in lieu of fine, but only by the Deputy Commissioner or other person duly authorised.

**4. Appeal from Orders of village Authorities.-** An appeal lies from all orders of laskars, sardars, nokmas, gaonburas and other village authorities in police matters to the Deputy Commissioner whose orders are final. But the Governor may call for the proceedings of any officer subordinate to him and modify or reverse any order should he think fit.

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\* Inserted by the Assam Partially Excluded Areas (Administration of Justice), Regulation, 1946.

**5. Rules of Police.-** The ordinary rules of the police shall, as far as they are applicable, be observed by the regular police and all returns in matters of accounts and all registers required to be kept by the police, as far as they are applicable, shall be made and kept up.

**6. Function of regular police.-** The regular police shall only act in the hill mouzas when required to do so by general or special order of the Inspector General of police or Deputy Commissioner or other officer duly authorised, who may assign to the force any portion of the duties of police, under Act V of 1861 or the Assam Rifles Act in any locality.

In the plains mauzas, the regular police shall, as far as is practicable, exercise the powers and perform the duties contained in an enjoined by Chapters IV to XIV (inclusive) of the Code of Criminal Procedure, but the Deputy Commissioner may from time to time exclude any area from their jurisdiction.

**7. Ordinary duties of police.-** The ordinary duties of police shall in the hill mouzas be discharged by laskars, sardars and nokmas. They shall arrest all criminals and repress all disorders within their respective jurisdictions.

In the plains mouzas, gaonburas shall possess such powers and perform such duties as are prescribed for gaonburas by any orders in force in Assam, and shall also perform the duties of village headmen as prescribed in the Code of Criminal Procedure.

**8. Duties of Village Authorities.-** It is the duty of laskars, sardars, nokmas and gaonburas to report to the Deputy Commissioner, in such a manner as the latter may prescribe, all crimes, violent deaths or serious accidents occurring in their jurisdiction and all occurrences, whether within or beyond their jurisdiction, which may come to their knowledge, likely to affect the public peace, at the earliest possible moment and to deliver up offenders to the officer authorised to take cognizance as soon as may be within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the Court of such officer.

**9. Arrest and Report of Criminals -** The laskars, sardars, nokmas, and gaonburas shall watch , report and under the orders of the Deputy Commissioner, apprehend and deliver up all vagrants or bad or suspicious characters found in their jurisdictions. They shall arrest and deliver up all persons in possession of arms contrary to the provision of the law, as soon as may be within a period of twenty-four hours of arrest excluding the time necessary for the journey from the place of arrest to the Court of the Officer authorised to take cognizance.

**10. Jurisdiction to arrest.-** On the occurrence of any heinous crime in his jurisdiction, any village officer, who may by custom or appointment be charged with the duty of arresting criminals, shall at once apprehend the offender (if able) and in any case at once report to the laskar or other police officer, who, if the offender has not been apprehended will proceed without delay to the place where the crime occurred and enquire into the matter. If a crime beyond his jurisdiction has been committed, he will immediately report it to the Deputy Commissioner or other duly authorized officer, whether the offender has been apprehended or not.

Heinous crimes include the following:-

Rebellion , riot counterfeiting coin or passing counterfeit coin, murder, wounding to the injury of life of limb rape, robbery, dacoity, arson, house-breaking, forgery.

**11. Crimes beyond judicial power of Laskar.-** In the case of crimes other than heinous which are beyond their judicial powers as hereinafter defined laskars shall report their occurrence to the Deputy Commissioner or other authorised officer for orders e.g. cheating, extortion, criminal misappropriation, criminal breach of trust, injury to property exceeding to Rs. 50 in value, making of fraudulent documents, offences against the State, etc., etc.)

**12. Arrest from place beyond jurisdiction.-** Laskars and all other police officers may pursue with hue and cry an offender fleeing beyond their jurisdiction and arrest him, but ordinarily no laskar or police officer shall attempt to arrest an offender beyond his own jurisdiction without the cognizance and co-operation of the laskar or other police officer of the jurisdiction to which the offender has fled. When an offender is traced from one jurisdiction to another, it will be sufficient to point him out to the laskar or other police officer of the jurisdiction to which the offender has fled, and request him to make the arrest.

**13. Laskars to apply to Authorities when they feel unable to areas.-** When the laskars or other rural police officers feel unable to arrest an offender, they must apply to the Deputy Commissioner or any officer duly authorised for such aid as he or such officer may consider necessary.

**14. Inhabitants to aid Police.-** All the inhabitants of the Garo Hills are bound to aid the regular and rural police, when required to do so, for the maintenance of order or the apprehension of offenders, and are liable to fine for failure to give such assistance, the fine in the hill mauzas, to be adjudged by the laskar to the extent of his power in criminal cases, or by the Deputy Commissioner, and the plains mauzas by the Deputy Commissioner.

When the particular persons liable for failure to aid cannot be ascertained, the laskar of the hill village or community concerned shall be held primarily answerable and the sardar and nokma next, and in the case of plains villages the gaonburas, and if it appears that the community is to blame and that the particular offender cannot be discovered, a fine may be imposed upon the community, but by the Deputy Commissioner only.

### CHAPTER III

#### CRIMINAL JUSTICE

**15. Administration of Criminal Justice.-** Criminal justice shall be ordinarily administered by the Deputy Commissioner and his Assistants and by the laskars according to their jurisdiction, but mauzadars may be empowered by the Deputy Commissioner to dispose of petty criminal cases. Mauzadars so empowered will exercise the same powers and be subject to the same restrictions as are hereinafter provided for laskars.

**16. Powers of Trial.-** The Deputy Commissioner shall be competent to try any case and to pass sentence of death, transportation or imprisonment up to the maximum amount awardable under the Penal Code, of whipping, and of fine up to any amount. Provided that all sentences of death, transportation or imprisonment of seven years and upwards shall be subject to the confirmation by the High Court.

Assistants to the Deputy Commissioner shall, subject to the Deputy Commissioner's control, exercise such powers, not exceeding those of a Magistrate of the first class as defined in the Criminal Procedure Code; as they may be vested with by the Governor.

**16A. Death Reference.-** When the Deputy commissioner passes sentence of death, the proceedings shall be submitted to the High Court and the sentence shall not be executed unless it is confirmed by the High Court.

**16B. Deputy Commissioner to apprise accused re-Appeals.** The Deputy Commissioner shall inform the accused of the period (namely 7 days) within which, if he wishes to appeal should be preferred.

**16C. Confirmation of sentence etc.-** In any case submitted under Rule 16A the High Court –

- (a) may confirm the sentence or pass any other sentence warranted by law, or
- (b) may annul the conviction and convict the accused of any offence of which the Deputy Commissioner might have convicted him, or order a new trial on the same or an amended charge, or

(c) may acquit the accused person.

Provided that no order of confirmation shall be made under this clause until the period allowed for preferring an appeal has expired, or, if an appeal is presented within such period, until such appeal is disposed of.

**16B. Steps on receipt of High Court's orders.-** When a sentence of death passed by the Deputy Commissioner is submitted to the High Court for confirmation, the Deputy Commissioner shall, on receiving the order of confirmation or other order of the High Court thereon, cause such order to be carried into effect by issuing a warrant in the form given in Schedule V, No. XXXV of the Criminal Procedure Code, or some similar form, or taking such other steps as may be necessary.

**16E – Time and place of execution.-** The Deputy Commissioner shall fix the time and place of execution, and the time fixed shall not be less than 28 days from the date of issue of warrant.

**17. Fine and imprisonment.-** Fine or fine and imprisonment may be awarded in lieu of any other punishment, provided that no offence shall be punishable by a sentence exceeding that awardable for such offence under the provisions of the Indian Penal Code and a fine shall not exceed the value of the offender's property.

**18. Provision for disposal of petty cases.-** Laskars may themselves dispose of the cases of persons charged with the following offences:-

Theft.

Injury to property not exceeding Rs.50.

Injury to person not endangering life or limb.

House-trespass.

Affront of whatever kind.

Gambling.

Drunken or disorderly brawling.

They may impose a fine for any offence they are competent to try to the extent of Rs. 50. They may award restitution or compensation to the extent of the injury sustained and enforce it by distraint of the property of the offender. In cases in which the fine is not paid or realized either in whole or in part, they shall represent the facts and send in the offenders to the Deputy Commissioner or to the Assistant Commissioner duly authorised who may retry the case and impose such other punishment as he is



competent to inflict. All laskars, sardars and gaonburas shall receive a sanad or recognition under the Deputy Commissioner's signature.

**19. Power of Laskar to decide and carry out decisions.-** Laskars may carry out their decision or order attachment of property as soon as judgement is pronounced, but in no case is property attached to be sold if the party convicted claim to appeal within thirty days, without the orders of the Deputy Commissioner, Laskars may not decide cases-

- (a) In which any relative of theirs or their wives is concerned;
- (b) When a defendant is not a native of the Garo Hills or is not resident within their jurisdiction.

**20. Procedure before laskars.-** The laskars shall decide all cases in open Darbar in presence of atleast three witnesses and the complainant and accused, whose attendance they are empowered to compel. Either party may appeal from the decision at the time decision is pronounced or within thirty days thereof to the Deputy Commissioner or his Assistants duly authorised, in which case the laskars will take the parties or cause them to be sent before the Deputy Commissioner or his Assistant, together with the persons required to attend as witnesses. The Court shall then proceed to disposed of the appeal, examining the parties, if necessary. If the Court sees reason to doubt the justice of the laskar's decision, it will try the case de novo.

**21. Appeal to Deputy Commissioner.-** An appeal lies to Deputy Commissioner from the decision of his Assistant if preferred within 30 days.

Provided that no appeal shall lie against the sentence of fine only passed by a Magistrate of the first class when the amount of fine does not exceed rupees fifty.

**22. Provision for appeal to High Court and for Revision.-** (1) An appeal shall lie to the High Court from any sentence passed by the Deputy Commissioner or Additional Deputy Commissioner.

Such appeal must be presented within thirty days of the date of the order appealed against, excluding the time required for procuring a copy of the order:

Provided that an appeal from a sentence of death shall be preferred within seven days from the date of the sentence.

(2) The High Court or the Deputy Commissioner may call for the proceedings of any officer subordinate to it or him and reduce, and enhance, cancel or alter any sentence passed or remand the case for retrial.

**22A. Government Appeal.** The Governor may direct an appeal to be presented to the High Court from an original or appellate order of acquittal passed by any Court other than the High Court.

Such an appeal shall be presented within ninety days from the date of the order of acquittal excluding the time needed for obtaining a copy of the order.

**22B – Issue of Commission,-** (1) Whenever, in the course of an inquiry trial or other proceeding under these rules, it appears to the High Court or the Court of the Deputy Commissioner that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case, would be unreasonable, such Court may dispense with such attendance and may issue a commission for the examination of the witness following the spirit of the Code of Criminal Procedure, 1898.

(2) Whenever in the course of an inquiry, trial or other Proceeding under these rules before the Court of an Additional Deputy Commissioner, or an Assistant to that Deputy Commissioner, it appears that a commission ought to be issued for the examination of witness whose evidence is necessary for the ends of justice and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which under the circumstances of the case, would be unreasonable, such Court shall apply to the Deputy Commissioner, stating the reasons for the application and the Deputy Commissioner may either issue a commission or reject the application.

**[22 C. Return of Commission.-** Whenever a commission for the examination of witness issued under the proceeding rule or under any law for the time being in force India is received by the Deputy Commissioner, he, or such of his Assistants having the powers of a Magistrate of the First Class as he may appoint in this behalf, shall execute and return the commission following the spirit of the Code of Criminal Procedure, 1898.]

**23. Application of Criminal Procedure.-** The Procedure of the high Court and Deputy Commissioner and his Assistants shall be guided by the spirit of the Code of Criminal Procedure, as far as it is applicable to the circumstances of the district and consistent with these rules. The chief exceptions are:-

- (a) Only verbal order or notice shall be requisite, except when the regular police are employed or the person concerned is not a resident of or in the district at the time: or if in the district, but resident beyond it, where his place of abode is not known. But verbal order or summons shall be for a fixed day, not exceeding sixteen days from that upon which the order is issued, and the order shall be made known to the person affected or to some adult member of his family or proclaimed at the place he was last known to be at, in sufficient time to allow him, if he sees fit, to appear.
- (b) A note of the substance of all the proceedings in cases tried before them must be kept by the Deputy Commissioner and his Assistants in the form prescribed by Section 263, Criminal Procedure Code. In cases requiring a sentence of three years or upwards, a full note of the evidence and proceedings must be kept. Examinations and proceedings shall generally be recorded in English only.
- (c) The proceedings of laskars or other duly recognised village authorities need not be in writing, but if at the trial before the village authorities any person who can write can be found, a brief note of the proceedings is to be made.
- (d) All fines levied by laskars and other duly recognised village authorities shall be paid to the Deputy Commissioner or his Assistants or other officer empowered to receive them, within eight days from the date of realization.
- (e) It shall not be necessary to examine witnesses upon oath unless the accused so desire, except in cases where the accused is charged with murder. It shall suffice that the Deputy Commissioner or his Assistant, at the commencement of any trial, inform the accused that. If he so requires the witnesses will be put on oath. It is, however, at all times optional with the Court to put witnesses on oath, but witnesses, whether on oath or not, shall be punishable for giving false evidence.

For the defence of paupers accused of murder rules 19 to 21 of the Assam Law Department Manual- Part II – Criminal Rules – shall be followed *mutatis mutandis*.

- (f) The Deputy Commissioner and his Assistants shall keep such registers as the High Court may from time to time prescribe.

**23A. Suspension or remission of punishment.-** (a) The president or the Governor may, either upon conditions or without conditions suspend the execution of any sentence or remit any punishment.

(b) If any sentence has been suspended or remitted upon conditions, and in the opinion of the President or the Governor as the case may be, those conditions are not fulfilled, the President or the Governor may cancel the remission and order the sentence to be carried out, and thereupon the person in whose favour the sentence had been suspended or remitted, may if at large, be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence.

**23B. Commutation of sentence.-** The President or the Governor may commute any one of the following sentences for any other mentioned after it:-

death, confiscation of property.

imprisonment, whipping, fine.

#### CHAPTER IV

##### Civil Rules

**24. Authorities of Civil Justice.-** The administrations of civil Justice in the Garo Hills is entrusted to the Deputy Commissioner, his Assistants, and the laskars.

**25. Powers of Laskars.-** Laskars are empowered to try civil suit without limit as to amount but with the following reservations-

- (a) They may not try suits in which any relative of their or their wives are parties.
- (b) They may not try suits in which both parties are native of the hill mauzas residing within their jurisdiction.
- (c) All suits must be decided in open Darbar in the presence of the parties and at least three respectable witnesses.

**26. Laskars Power to compel.-** Laskars have power to compel attendants of parties to any suits and their witnesses – all such persons being resident within their jurisdiction, and to fine upto a limit of Rs. 50, persons willfully failing to attend. They have power to award all costs, also compensation to defendants for unfounded or vexations suits brought against them.

**27. Proceedings before Laskar.-** All proceedings shall be viva vose, and after hearing both parties and their witnesses, if any, the laskars shall,

with or without the opinion of assessors as they may think fit pronounce a decision forthwith. If at the trial any person who can write can be found, a brief note of the proceedings is to be made. In all suits affecting the possession of land the laskar shall cause his decisions to be registered in the Deputy Commissioner's office with such particulars as the Deputy Commissioner may require.

**28. Laskars' Power to carry out decision.-** Laskars may carry out their decision at once, and order attachment of property to be made, but in no case is property so attached to sold if the party cast claim to appeal within thirty days. On such appeal being made they shall forthwith send the parties and their witnesses to the Deputy Commissioner or his Assistants duly authorised, and either accompany them or send one respectable person who has been present at the trial with them.

**29. Procedure for notices by Laskar.-** All notices given by laskars to parties and witnesses shall be verbal and for a fixed day not exceeding eight days from the day it is given. On good cause being shown a case shall be postponed for periods not exceeding eight days.

**30. Power of the Deputy Commissioner to exercise Original Jurisdiction.-** The Deputy Commissioner and his Assistants (according to their powers) shall try all suits not triable by laskars, but they may also at their discretion dispose of suits triable by laskars.

The Deputy Commissioners and his Assistant shall keep such registers as the High Court may from time to time direct.

**31. Reference to Panchayat.-** The Deputy Commissioner and his Assistants shall in all cases in which the parties are indigenous inhabitants of the district, and in all other cases may endeavour to induce them to submit their case to a panchayat. If they agree to this, each party shall name an equal number of arbitrators, and shall choose, or leave the arbitrators to choose, an umpire. The name and residence of arbitrators and umpire and the matter in dispute must be recorded before the proceedings commence, and the Court will direct the laskar or other recognised authority to assemble the panchayat and witnesses within eight days. When the case has been decided, the umpire shall appear with the parties before the Court, which shall proceed to record the decision and enforce it as its own. From such decision there shall be no appeal.

**32. Appeal from decision of Laskar.-** An appeal shall lie from the decision of the laskar or other duly recognised village authority to the Deputy Commissioner or his Assistants duly authorised. A record shall be made of the matter in dispute and the decision of the village authority. If

necessary, the Court shall examine the parties, and, if the decision appears to be just, shall affirm and enforce it as one of its own. If the Court sees reason to doubt the justice of the decision, it will try the case de novo, or refer it to a panchayat as above.

**33. Exemption from attachment.-** Houses of house tax paying bill men, needful, clothing, cooking utensils, or implement's whereby the owner subsists, may not be attached, sold or transferred in execution of a decree, unless themselves be the subject of the suit.

**34. Detention for debt.-** There shall be no imprisonment for debt, excepting in cases where the Deputy Commissioner is satisfied that fraudulent disposal or concealment of the property has taken place: in such case the debtor may be detained for a period not exceeding six months.

**35. Appeal and Revision.-** The High Court or Deputy Commissioner may, on application or otherwise, call for the proceedings of any case decided by any officer subordinate to him and pass such order as he may deem fit.

An appeal shall lie to the Deputy Commissioner, against the decision of any of his Assistants and to the High Court against an original decision of the Deputy Commissioner, if the value of the suit be Rs.500 or over, or if the suit involve a question of tribal rights or customs, or of right to, or possession of immovable property: Provided that the petition of appeal accompanied by a copy of the order appealed against and by a clear statement of the grounds of appeal be filed within 30 days from the date of decision excluding the time required for obtaining a copy of the decision.

An appeal which lies to the High Court may be presented to the Deputy Commissioner, who shall, if it be in order and presented in due time, endorse upon it the date of receipt and transmit it with the records of the case the High Court.

The decree of the appellate court shall be transferred to the court passing the original order for execution as a decree of its own.

**35A. Security for costs of Appeal.-** Any Court before which an appeal is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses (including pleader's fees) likely, in the opinion of the court, to be incurred by the respondent in the hearing of the appeal, or may order security to be given for such expenses and if the appellant be a judgement debtor may also order security to be given for part or the whole of the decretal amount.. If the appeal fails the money deposited or secured shall immediately be paid to the respondent.

**36. Application for CPC .-** The High Court and the Courts of the Deputy Commissioner or Additional Deputy Commissioner and his Assistants shall be guided by the spirit, but not be bound by the letter of the Code of Civil Procedure.

(1) The Deputy Commissioner's Assistants shall exercise such powers they may from time to time be invested with by him.

(2) The Deputy Commissioner shall have power to decide any suit and to make any consequential or incidental order thereon, including the awarding or compensation to defendants for unfounded or vexatious suits brought against them.

**37. Omitted.**

**38. Examination of witnesses.-** It shall be discretionary to examine witnesses on oath in any form, or to warn them that they are liable to the punishment for perjury, if they state that which they know to be false.

**39. Application of Limitation Act.-** Although the Indian Limitation Act, 1908 (Act IX of 1908), has been barred by Notification No. 5868-A.P., dated the 8<sup>th</sup> September, 1934, the principles of the Act should be closely followed in disputes between persons not belonging to a Scheduled Tribe or Tribes specified in items 1 and 2 of Part I – Assam, of the Schedule to the Constitution (Scheduled Tribes) Order, 1950.

ASSAM ACT XXII OF 1957

THE ASSAM AUTONOMOUS DISTRICTS

ADMINISTRATION OF JUSTICE

(MISCELLANEOUS PROVISIONS)

Act, 1957.

(Passed by the Assembly.)

(Received the assent of the Governor on the 29<sup>th</sup> November, 1957)

[Published in the Assam Gazette, dated the 14<sup>th</sup> December, 1957.]

An

Act

to provide for the transfer for certain cases from the Courts of the Deputy Commissioner and his Assistant to the District Council Courts.

**Preamble.-** Whereas it is deemed necessary to make provisions for the transfer of certain cases to the Courts constituted under the paragraph 4 of the Sixth Schedule to the Constitution of India in the Autonomous Districts of Assam.

It is hereby enacted in the Eight year of the Republic of India as follows:-

**1. Short title, extent and commencement.-** (1) The Act may be called the Assam Autonomous Districts Administration of Justice (Miscellaneous Provisions) Act, 1957.

(2) It shall extend to the Autonomous Districts of Assam.

(3) It shall come into force on such date as the State Government may direct and it may be brought into force on such date as the State Government may direct and it may be brought into force in different areas on different dates.

**2. Transfer of certain cases.-** The Deputy Commissioner and an Assistant to him shall have no power to try a Case which is exclusively triable by any Court constituted under paragraph 4 of the Sixth Schedule to the Constitution of India and any case which at any stage after the Deputy Commissioner or an Assistant to him has taken cognizance of transpires to be so triable, shall be transferred to a competent Court as soon as it so transpires.



PART V.

THE GARO HILLS AUTONOMOUS DISTRICT

(ADMINISTRATION OF JUSTICE)

RULES, 1953.

The 24<sup>th</sup> March, 1953.

CHAPTER I

PRELIMINARY.

**1. Short title, extent and commencement.**- (1) These Rules may be called the Garo Hills Autonomous District (Administration of Justice) Rules, 1953.

(2) These Rules shall apply to the whole of the Garo Hills Autonomous District.

(3) They shall come into force at once, [but the Courts constituted under these rules shall commence functioning from such date as the Executive Committee may, by notification in the Gazette, appoint in this behalf hereinafter referred to as “the appointed day”]

**2. Definition.**- In these Rules, unless there is anything repugnant or the context otherwise requires,-

- (a) ‘autonomous district’ means a tribal area deemed as such under paragraph 1 (1) of the Sixth Schedule to the Constitution of India, and the term “district” shall be construed accordingly;
- (b) “Constitution” means the Constitution of India;
- (c) “District Council” means the District Council of the Garo Hills autonomous district constituted under the provisions of the Sixth Schedule to the Constitution and in accordance with the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951;
- (d) ‘Gazette’ means the Assam Gazette.
- (e) “Executive Committee” means the Executive Committee of the Garo Hills District Council constituted under the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951, and the terms “Chief Executive Member” and “Member of the Executive Committee” shall be construed accordingly;
- (f) “Governor” means the Governor of Assam;
- (g) “High Court” means the High Court of Assam;

- (h) “Scheduled tribe or tribes” means such tribe or tribes as are specified by order by the President of India under article f342 (1) of the Constitution as modified by law made by Parliament from time to time in so far as the specification pertains to the autonomous district of Assam;
- (i) “Village” means the entire area within the jurisdiction on of a Laskar or an area declared as such by the District Council;
- (j) “Village Council” means a Village Council constituted for a village under rule 5.

**3. Interpretation.-** Except where the context otherwise requires, the General Clauses act, 1897 and the Assam General Clauses Act, 1915, shall apply for the interpretation of these rules, as they apply for the interpretation of an Act of Parliament or of the Legislature of the State of Assam, as the case may be.

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<sup>1</sup>Sub rule (3) of Rule 1 has been amended as such, vide Notification No. GDC-E/53/52 (a), dated 23<sup>rd</sup> April, 1954 published in the Assam Gazette.

CHAPTER II

CONSTITUTION OF VILLAGE COUNCILS.

**4. Constitution of Village Councils.-** (1) There shall be a Village Council for each village within the jurisdiction of the District Council, to be composed in the manner hereinafter provided in sub-rule (2) of this rule.

(2) Each Village Council shall be composed of:-

(a) the Laskar of the village to be recognised by the District Council.

(b) elders half of whom shall be nominated by the Executive Committee and the other half elected by the adult members of the village, the number of elders for each Village Council being determined by the District Council.

[Provided that in case the election of elders to constitute a Village Council or Councils under this sub rule cannot be held due to any reason to any reason considered unavoidable by the Executive Committee by the circumstances demand the immediate constitution of such a Village Council or Councils, the Executive Committee may also nominate the other half of the total number of elders of such Council or Councils, and the elders so nominated shall hold office for a period not exceeding two years from the date of the first meeting of the Council or Councils.]

(3) There shall be a President and Vice-President of each Village Council. The President and the Vice-President shall be elected by the members of the Council form amongst themselves by a majority of votes.

(4) Every Village Council shall have a life of five years from the date of its first meeting unless dissolved earlier by the District Council.

(5) For the purpose of this rule, the District Council shall publish in the Gazette a list of villages within its jurisdiction.

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<sup>1</sup>This proviso has been added vide Gazette Notification no. GDC.E/53.52 (a) dated 23<sup>rd</sup> April, 1954, and subsequently amended vide No GDC L/0/57, dated 8<sup>th</sup> July, 1957.

## CHAPTER

## CONSTITUTION OF COURTS

**5. Classes of Courts.-** There shall be three classes of Court, as specified below, in the areas within the Garo Hills autonomous district, to be constituted by the District Council for the trial of suits and cases between the parties all of whom belong to a Scheduled Tribe or Tribes within such areas other than suits and cases to which the provisions of sub-para.(1) para. 5 of the Sixth Schedule to the Constitution apply-

- (i) Village Court.
- (ii) Subordinate District Council Courts.
- (iii) District Council Court.

I – Village Courts.

**6. Village Court –** (1) Each Village Court shall ordinarily consist of-

- (a) the Laskar of the Village or in the case of a non-Laskar Village member of the Village Council nominated by the District Council.
- (b) two members of the Village Council who shall be elected by the Council by a majority of votes:

Provided that the District Council may, whenever it deems necessary, appoint three persons from amongst the members of the Village Council to sit as a Bench of the Village Court for the trial of any particular class of classes of suits and cases.

<sup>1</sup> [“Provided further that until such time a Village Court or Courts is or are constituted under this rule, the Laskar of a Village, either recognised or appointed as such by the District Council, shall exercise the powers of a Village Court under these Rules”.]

(2) The Laskar of the Village, and in case of a non-Laskar of a Village, the member nominated by the District Council, shall ordinarily be the ex-officio President of the Village Court.

Provided that in the case of a Laskar Village or the District Council may, whenever it deems necessary, nominate a person other than the Laskar of the Village as the President of the Village Court and in such event the Laskar shall not be a member of the Village Court.

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<sup>1</sup>The proviso has been added vide Notification No. GDC.E/S3/52/ (a) dated 23rd April, 1954.

(3) The jurisdiction of a Village Court shall extend to the hearing and trial of suits and cases arising within the territorial limits of the village.

<sup>2</sup>[(4) There shall be a Secretary to the Village Court to be appointed by the Executive Committee of the District Council in consultation with the Village Court and District Council Court.]

<sup>3</sup>[(5) The tenure of the office of the members of a Village Court, except the Ex-Officio member, shall be coterminous with the tenure of the office of the members of the Village Council. But retiring members shall be eligible for re-election. In the event of the dissolution of a Village Council, the members of the Village Court under that Council, shall continue to be members of the court, until new members are elected, in accordance with these rules]

## II – Subordinate District Council Court.

**7. Subordinate Court.-** (1) The Headquarters of the Subordinate District Council Court shall be at Tura. Each Court shall be presided over by a Judicial Officer appointed by the District Council with the approval of the Governor and the Judicial Officer shall also act as Recorder of the Court.

Provided further that Chief Executive Member or a member of the Executive Committee or any other Member of the District Council shall not be entitled to hold office as Judicial Officer:

Provided further that the District Council may, whenever it deems necessary, direct two or more Judicial Officers to sit together as a Bench and may by order invest such Bench with any of the powers conferred or conferrable by or under these rules on a Judicial Officer and direct it (Bench) to exercise such powers of the trial of particular class or classes of suits and cases arising within the Garo Hills Autonomous, and in that case all references to a Judicial Officer shall be construed as references to the said Bench.

Provided also that the District Council may, whenever it deems necessary, nominate two or more local elders well conversant with the tribal usages and customary laws, to sit with the Judicial Officer of the Court as a Bench and may by order invest such Bench with any of the powers conferred or conferrable by or under these rules on a Judicial Officer, and direct it (Bench) to exercise such powers for the trial of suits and cases based on the tribal usages and the tribal customary laws only.

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<sup>2</sup> Inserted by an Amendment Act/1962 vide Gazette Notifications No. GDC L/59/13171 dated 5<sup>th</sup> October, 1962.

<sup>3</sup>. ditto ... ditto ...

(2) The jurisdiction of the Court at Tura shall extend to the hearing and trial of suits and cases arising within the Garo Hills autonomous district.

(3) The Executive Committee of the District Council shall provide the Subordinate Court with such clerical staff as may be required to enable the Court to keep all necessary records and registers and to issue summons in the name of the Court.

**8. Provision for Additional Subordinate Court.-** Notwithstanding anything contained in rule 7, the District Council with the previous approval of the Governor, may constitute by order notified in the Gazette an Additional Subordinate District Council Court to Courts with such powers jurisdiction and seat as may be specified in the order, in respect of areas within the autonomous district and make consequential alteration in the jurisdiction of the Courts established under rule 7.

**9. Services of Judicial Officers.-** The conditions of service of the Judicial Officers of a Subordinate District Council Court or an Additional Subordinate District Council court and the staff appointed therefore shall be regulated by the rules or orders made or issue, as the case may be, under rule 15 of the Assam Autonomous Districts (Constitution of District Councils), Rules, 1951.

### III – District Council Court.

**10. District Council Court.-** (1) There shall be one District Council Court for the Garo Hills autonomous district which shall be called the Garo Hills District Council Court. It shall consist of such number of Judicial Officers as may be determined by the district Council with the previous approval of the Governor.

(2) The District Council may direct any two or more Judicial Officers to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under these rules on a judicial Officer, and direct it to exercise such powers in such class or classes of cases as the District Council thinks fit.

**11. Appointment of Judicial Officer.-** The District Council shall appoint Judicial Officers of the District Council Court subject to the approval of the Governor:

Provided that the Chief Executive member or a Member of the Executive Committee or any other Member of the District Council shall not be entitled to hold office as Judicial Officer of the District Council Court.

**12. Venue of Court.-** The District Council Court shall ordinarily sit Tura. The court may sit at such other place or places as may be directed by general or special order by the District Council for the disposal of a particular case or cases or class or classes of cases specified in the order.

**13. Services condition of Judicial Officer.-** The conditions of service of the Judicial Officers of the District Council Court shall be regulated by the rules or order made or issued, as the case may be, under rule 15 of the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951.

## CHAPTER IV

### POWERS OF COURTS

#### I- Village Courts.

**14. Jurisdiction of Village Court.-** A Village Court shall try suits and cases of the following nature in which both the parties belong to a Scheduled tribe or tribes resident within its jurisdiction:-

- (a) Cases of civil and miscellaneous nature falling within the purview of village or tribal laws and customs;
- (b) Criminal cases falling within the purview of tribal laws and customs and offences of petty nature, such as petty theft and pilfering, mischief and trespass of petty nature, simple assault and hurt, affront and affray of whatever kind, drunken or disorderly brawling, public nuisance and simple cases of whatever kind, drunken or disorderly brawling, public nuisance and simple cases of wrongful restraint:

Provided that the Village Court shall not be competent to try offence in respect of which the punishment of imprisonment is obligatory under the Indian Penal Code.

**15. Powers of Village Court.-** (1) A Village court shall not be competent to pass a sentence of imprisonment in any criminal case. It shall have power to impose a fine for any offence it is competent to try, upto a limit of Rs.50 (Rupees fifty). It may award payment in restitution or compensation to the aggrieved or injured party in accordance with the customary law.

(2) In a civil case a Village Court shall have power to award all costs, as also compensation to those against who unfounded or vexations suits and cases have been instituted before the Court.

(3) The fines and payment imposed and ordered under sub-rules (1) and (2) may be enforced by distraint of the property of the offender.

**16. Power of Village Court to order attendance.-** A Village Court shall have power to order in writing for attendance of the accused and the witnesses to be examined in the case and to impose a fine not exceeding Rs. 25 (Rupees twenty-five) on any person willfully failing to attend when so ordered.

**17. Power of Village Court to order attendance.-** If any person on whom a fine or any payment has been imposed by a Village Court fails to deposit the amount at once or within such time as the Village Court may allow, the Court shall report the matter to the District Council for necessary action to realize the fine or dues in such manner as it may deem fit unless the accused person gives notice to appeal against such decision.

**18. Reference to Competent Court.-** Where a Village Court is of opinion that the sentence it is competent to pass is insufficient in the circumstances of the case it shall without delay refer the case to the competent Court, and that Court shall dispose of the case in accordance with these rules.

**19. Appeal from orders of Village Court.-** An appeal shall lie to the <sup>1</sup>[subordinate] District Council Court <sup>2</sup>[or Additional Subordinate District Council Court] from any order or sentence passed by a Village Court in a criminal case, or from the decision of the Village Court in any other case, or from the decision of the Village Court in any other case, if the appeal is preferred within sixty days of the conviction or sentence or decision of the Village Court. The <sup>3</sup>[Subordinate] District Council Court <sup>4</sup>[or Additional Subordinate District Council Court] while hearing the appeal, may either decide the appeal after perusal of the records of the case only or may try the case de-novo.

## II- Subordinate District Council Court

<sup>5</sup>**20. Powers of Subordinate Court.-** Save as otherwise provided in the Constitution and in these Rules, a Judicial Officer appointed to preside over the Subordinate District Council Court shall exercise such powers as defined in Chapter III of the Code of Criminal Procedure, 1898, as may be invested upon him by the Executive Committee of the District Council with the prior approval of the Governor.]



**21. Original Jurisdiction of Subordinate Court.-** A Subordinate District Council Court shall have original jurisdiction in all suits and cases in which both the parties do not fall within the local jurisdiction of the same Village Court, but within the areas under the jurisdiction of the subordinate District Council Court and also in cases and suits referred to it by Village Court under rule 158.

<sup>6</sup>[The Subordinate District Council Court and the Additional Subordinate District Council Court shall be competent to try all suits and cases in which both the parties belong to a Scheduled tribe or tribes resident within the jurisdiction of the Subordinate District Council Court, other than the suits and cases referred to in rule 23.

**22. Limits of Jurisdiction of Subordinate Court.-** A Subordinate District Council Court shall be competent to try all suits and cases in which both the parties belong to a Scheduled tribe or tribes resident within the jurisdiction of the Subordinate District Council Court, other than the suits and cases referred to in rule 23.

**23. Cases beyond competence of Subordinate Court.** (1) A Subordinate District Court shall not be competent to try suits and cases –

- (a) to which the provisions of sub-paragraph (1) of paragraph 5 of the Sixth Schedule to the Constitution apply, unless the Court has been authorised by the Governor to exercise such powers for the trial of particular class or classes of cases and suits specified in that behalf by the Governor as required under the said sub-paragraph (1) of paragraph 5 of the Sixth Schedule,
- (b) in which one of the parties is a person not belonging to a Scheduled Tribe,
- (c) in respect of offences –
  - (i) under Sections 124-A, 147 and 153 of the Indian Penal Code.
  - (ii) under Chapter X of the same Code in so far as they relate to the contempt of a lawful authority other than an authority constituted by the District Council.
  - (iii) Of giving or fabricating false evidence, as specified in Section 193 of the same Code, in any case triable by a Court other than a Court constituted by the District Council under these rules.

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5 Substituted by an amendment Act, 1962 vide Gazette Notification No. GDC-L/8/59/13171 dated 5<sup>th</sup> October, 1962,

6. Aided by the same amendment Act, 196.

(2) Unless specially empowered by the Governor by notification in the Gazette a Subordinate District Council Court shall not be competent to exercise powers in –

- (a) cases relating to the security for keeping the peace and good behaviour similar to those contemplated under section 107 of the Code of Criminal Procedure, 1898;
- (b) cases relating to the security for good behaviour from persons disseminating seditious matter similar to those contemplated under section 108 of the same code;
- (c) cases relating to the security for good behaviour from vagrants and suspected persons similar to those contemplated under section 109 of the same Code;
- (d) cases relating to the security for good behaviour from habitual offenders similar to those contemplated under section 110 for the same Code;
- (e) urgent cases of nuisances or apprehended danger similar to those contemplated under section 144 of the same Code;
- (f) disputes as to immovable, property of the nature similar to that contemplated under section 145 of the same Code;
- (g) cases in which a public servant who is not removable from his office save by or with the sanction of the Government of Assam or some higher authority is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty.

**24. Powers of existing Courts.-** (1) Suits and cases referred to in rule 23 shall continue to be tried and dealt with by the existing Courts until such time as the Governor deems fit to invest the Subordinate District Council Court with such powers by notification in the Gazette.

(2) For the purposes of this rule the existing Courts mean the Courts of the Deputy Commissioner and his Assistants.

**25. Reference to Deputy Commissioner.-** Whenever there is any likelihood of breach of peace or whenever any person accused of any offence involving a breach of peace, or of abetting the same or any person accused

of committing criminal intimidation is convinced is convicted of such offence by any Court of the District Council and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, the matter shall be referred to the Deputy Commissioner who shall take necessary action in accordance with law.

**26. Reference to Chief Executive Member.-** Whenever any Court of the District Council is informed that –

(a) any person is likely to commit a breach of the peace or disturb the public tranquility, or to do any wrongful act that may probably occasion a breach of the peace, or disturb the public tranquility.

(b) There is within the limits of its jurisdiction any person who within or without such limits, either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of:-

(i) any seditious matters, that is to say, any matter the publication of which is punishable under Section 124-A or Section 153-A of the India Penal Code.

or

(ii) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Indian Penal Code.

(c) any person is taking precautions to conceal his presence within the local limits of such Court's jurisdiction, and there is reason to believe that such person is taking such precautions with a view to committing any offence.

or

there is any person within such limits who has to ostensible means of subsistence or who cannot give a satisfactory account of himself;

(d) any person within the local limits of the Court's jurisdiction,

(i) is by habit a robber, house breaker, thief or forger, or

(ii) is by habit a receiver of stolen property knowing the same to have been stolen, or

(iii) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(iv) habitually commits, or attempts to commit or abets the commission of the offense of kidnapping, abducting, extortion,

cheating or mischief or any offence punishable under Chapter XII of the Indian Penal Code or under Section 489-A, Section 489-B, Section 489-C, or Section 489-D of that Code,

- (v) habitually commits, or attempts to commit or abets the commission of offences involving a breach of the peace, or
- (vi) is so desperate and dangerous as to render his being at large without security hazardous to the community.

the Court shall refer the matter to the Chief Executive Member for reference to the Deputy Commissioner, who shall, on such reference being made to him, deal with the case in accordance with law.

**27. Reference to Chief Executive Member.-** In cases where, in the opinion of a Court of the District Council there is sufficient ground for proceeding under section 144 of the Code of Criminal Procedure, 1898 and immediate preventive or speedy remedy is desirable, such Court shall refer the matter to the Chief Executive-Member for making a reference to the Deputy Commissioner who shall on such a reference being made to him take such action as he considers necessary under the said Section.

**28. Reference to Deputy Commissioner.-** Whenever a Court of the District Council is satisfied that a dispute likely to cause a breach of the peace exists concerning any land or water or the boundaries thereof, within the local limits of its jurisdiction, such Court shall refer the matter to the Deputy Commissioner through the Chief Executive Member and the Deputy Commissioner, whenever such a reference is made to him, shall take such action as he considers necessary under law.

**29. Powers to pass sentence.-** In criminal cases the Subordinate District Council Court or Additional Subordinate District Council Court may, subject to the provisions of the Constitution and of these rules, pass any sentence authorised by any law for the time being in force.

<sup>1</sup>[ **30. Appeal from decision of Subordinate Court.-** Appeal shall lie to the District Council Court from the decision of the Subordinate District Council Court or Additional Subordinate District Council Court, in the exercise of their original or appellate jurisdiction, in any case, civil or criminal.

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1. Substituted by an amendment Act, 1962 vide Gazette Notification No. GDC-L/8/59/13171 dated 5<sup>th</sup> October, 1962,

2. The proviso was added by the same Amendment Act, 1962 as state in 1.

Provided that such appeals are accompanied by a copy of the order appealed against and a clear statement of the grounds of appeal and are filed within 60 days of the date of the orders, excluding the time required for obtaining a copy of the order appealed against.]

III – District Council Court.

**31. Jurisdiction of District Council Court.-** Subject to the provisions of rules 33 and 35, the District Council Court shall be a Court of Appeal in respect of all suits and cases triable by Subordinate District Council Courts. Additional Subordinate District Council Courts and Village Courts.

<sup>2</sup>[Provided that the Judicial Officer appointed to preside over the District Council Court, shall also exercise original jurisdiction to try cases and suits and shall exercise such powers as defined in Chapter III Code of the Criminal Procedure, 1898, and such other powers conferred by or under these rules, as he may be invested with by the Executive Member of the District Council with the approval of the Governor for the disposal of the cases and suits arising within the territorial jurisdiction of the said Court.]

**32. Appellate and Revisional powers of District Council Court.-** (1) The District Council Court may, subject to the provisions of these rules, pass any order on appeal authorised by any law for the time for the time being in force.

(2) The District Council Court may call for and examine the record of any proceedings of a Subordinate District Council Court or an Additional Subordinate District Council Court or a Village Court and may enhance, reduce, cancel or modify and sentence or finding passed by such Court or remand the case for retrial.

**33. Transfer of cases.-** (1) If it appears to the District Council Court –

- (a) that a fair and impartial inquiry or trial cannot be had in any Village Court or Subordinate District Council Court or an Additional Subordinate District Council Court, or
- (b) that some question of law, Tribal or otherwise, of unusual difficulty is likely to arise;
- (c) it may order -
  - (i) that any offence be inquired into or tried by another Village Court or Subordinate District Council Court or an Additional Subordinate District Council Court.
  - (ii) that any particular case or class of cases be transferred from one Village Court to another Village Court or from

one Village Court to a Subordinate District Council Court or an Addition Subordinate District Council Court or from one Subordinate District Council Court or an Additional Subordinate District Council Court to another Subordinate District Council Court or an Additional Subordinate District Council Court;

(iii) that any particular case be transferred to an tried before itself.

(2) When the District Court withdraws for trial before itself any case from any Court of origin it shall observe in such trial the same procedure which that Court would have observed, if the case had not been so withdrawn.

(3) The District Council Court may act either on the report of the lower Court or on the application of a party interested or on its own initiative.

**34. Provision for release of offender.-** (1) When any person is convinced of an offence which the District Council Court is competent to try under these rules, and no previous conviction is proved against the offender, if it appears to that Court, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond with or without sureties to appear and receive sentence when called upon during such period not exceeding three years as the Court may direct and in the meantime to keep the peace and be of good behaviour;

Provided that, where any first offender is convicted by a Subordinate District Council Court and the Court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect, and submit the proceedings to the District Council Court forwarding the accused or taking bail for his appearance before such Court which shall dispose of the case in manner provided by rule 35.

(2) In any case in which a person is convicted of theft, theft in a building, dishonest misappropriation, cheating or any offence under the Indian Penal Code punishable with not more than two years imprisonment and no previous conviction is proved against him, the District Council Court before which he is so convicted may, if it thinks fit, having regard to the age, character, antecedents or physical or mental condition of the offender and to the trivial nature or offence or any extending circumstances under which the offence was committed, instead of sentencing him to any punishable release him after due admonition:

Provided that, where a person is convicted of such offence by a Subordinate District Council Court or Additional Subordinate District Council Court and no previous conviction is proved against him, and the Court is of opinion that the powers conferred by this rule should be exercised, it shall record its opinion to that effect and submit the proceedings to the District Council Court forwarding the accused to, or taking bail for his appearance before such Court which shall dispose of the case in manner provided by rule 35.

(3) The provisions of section 122, 126-A and 406-A of the Code of Criminal Procedure shall apply mutatis mutandis in the case of sureties offered in pursuance of the provisions of this rule.

**35. Passing of sentence or orders on reference.-** Where proceedings are submitted to the District Council Court under rule 34 such Court may thereupon pass such sentence or make such orders as it might have passed or made if the case had originally been heard by it and, if it thinks further inquiry or additional evidence on any point to be necessary, it may make such inquiry or take such evidence itself or direct such inquiry or evidence to be made or taken.

**36. Warrant against offender.-** (1) If the Court which convicted the offender, or a Court which could have dealt with the offender in respect of his original offence, is satisfied that the offender has failed to observe any of the conditions of this recognisance, it may issue a warrant for his apprehension.

(2) An offender when apprehended on any such warrant shall be brought before the Court issuing the warrant as soon as may be within a period of twenty-four hours of apprehension excluding the time necessary for the journey from the place of apprehension to such Court and such Court may either remand him in custody until the case is heard or admit him to bail with a sufficient surety conditioned on his appearing for sentence. Such Court may, after hearing the case, pass sentence.

(3) A warrant for the apprehension of an offender under sub-rule (1) shall ordinarily be directed to a police officer, but the Court may, if its immediate execution is necessary direct it to any other person or persons, such person or persons shall execute the same.

**37. Place of offender.-** The court directing the release of an offender under sub-rules (1) or rule 34 shall be satisfied that the offender or his surety (if any) has a fixed place of abode or regular occupation in the place for which the Court acts or in which the offender is likely to live during the period named for the observance of the conditions.

**38. Governmental appeal.-** (1) In a criminal case the District Council or the Governor may direct an appeal to be presented to the District Council Court from any order passed by a Village Court or a Subordinate District Council Court or an Additional Subordinate District Council Court.

(2) An appeal under sub-rule (1) shall be presented within 90 days of the date of order appealed against excluding the time needed for obtaining a copy of the order.

## CHAPTER V

### PROCEDURE

#### I – Village Courts.

**39. Trial in Village Court.-** A Village Court shall try all suits and cases in accordance with the customary laws of the Village.

**40. Procedure for decision.-** A Village Court shall try all cases in open Darbar in the presence of atleast three witnesses and of the complainant and the accused and shall decide the issue by simple majority of votes. After hearing both parties and their witnesses, if any, it shall pronounce a decision forthwith.

<sup>1</sup>[Provided that the President shall have a casting vote where there is a tie.]

**41. Notices of Village Court.-** All notices required to be given by the Village Court to parties to a suit and their witnesses shall be in writing and for a fixed day not exceeding eight days from the day it is given.

If a case be postponed, it shall be fixed for a day not exceeding **15** days from the date of the order of postponement, and the case may be subsequently adjourned for a period not exceeding 7 days at a time on good cause shown. The order shall be made known to the person concerned or to some adult members of his family, and failing this, shall be openly proclaimed at the place where he is or was known to be, or shall be communicated to him or any member of his family by a written notice, in sufficient time to allow him to appear.

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1. Added vide Amendment No. GDC-L/8/59/13171 dated 5<sup>th</sup> October, 1962, published in the Gazette.

2, 3. Rule 41 (A) and 41 (B) have been inserted vide Amendment No. GDC-L/8/59/1317 dated 5<sup>th</sup> October, 1962 published in the Gazette.

4. Subs. By Amendment Act 1962, published in the Gazette vide No. GDC-L/8/59/13171, dated 5<sup>th</sup> October, 1962.



<sup>2</sup>[ **41. (A) Power of Village Court to pass an ex-parte order.-** A Village Court may pass an ex-parte order, if it is satisfied that any of the parties is willfully absenting itself from appearing in the Court.]

<sup>3</sup>[ **41. (B) Adjournment in Village Court.-** If any party seeks an adjournment of the hearing of a case, the Court may grant such an adjournment and may in its discretion order payment by the party seeking adjournment, of an adjournment cost, not exceeding Rs.10 which cost, when paid, shall be appropriated to the District Council Fund.]

<sup>4</sup>[ **42. Proceedings of Village Court.-** (1) The proceedings of a Village Court shall be in writing.]

(2) Registers of all suits and cases disposed of by a Village Court shall be kept by the Court in the forms in Appendix I.

**43. Power to carry out decision.-** A Village Court may carry out its decision or may, subject to the provisions of rule 56, order attachment of property as soon as judgement is pronounced, but in no case is property so attached to be sold, if the party concerned claim to appeal within 60 days, without the orders of the District Council.

## II- Subordinate District Council Courts and District Council Court.

**44. Application of Criminal Procedure.-** (1) In criminal cases the procedure of the Subordinate District Council Courts, Additional Subordinate District Council Courts and the District Council Court shall, subject to the provisions of this rule, be in the spirit of the Code of Criminal Procedure, 1898, so far it is applicable to the circumstances of the district and not inconsistent with these rules. The chief exceptions are:-

(2) Wherever a Court constitute under these rules requires, in course of the discharge of its functions, the services of the regular police which is at the disposal of this Deputy Commissioner, that court may send a requisition for such services to the Deputy Commissioner who will generally comply with such requisition unless he considers the compliance to be not possible for any special reasons.

(3) Summons on any person residing outside the jurisdiction of the Garo Hills autonomous district or on a person who does not belong to a Schedule tribe shall be issue by a Court other than the High Court, through the Deputy Commissioner of the District.

(4) A note of the substance of all the proceedings in cases tried before them must be kept by the District Council Court, the Subordinate District

Council Courts and Additional Subordinate District Council Courts in the form prescribed in Appendix II.

In cases in which a sentence of imprisonment of not less than three months is imposed full note of the evidence and proceeding must be kept,

(5) There shall be no preliminary enquiries by regular or village police unless the District Council Court or Subordinate District Council Court or Additional Subordinate District Council Court sees fit to direct one.

(6) Recognisance to appear need not be taken unless it seems necessary to the District Council Court or Subordinate District Council Court or Additional Subordinate District Council Court.

(7) Examinations and proceedings in the Subordinate District Council Court or Additional Subordinate District Council Court or District Council Court generally shall be in English or in any of the recognised languages of the District.

(8) It shall not be necessary to examine witnesses upon oath or affirmation unless the accused so desired. It shall suffice if the District Council Court or Subordinate District Council Court or Additional Subordinate District Court Council Court at the commencement of any trial, informed the accused that, if he so requires, the witnesses will be put on oath. It is however, at all times optional with the court to put witnesses, on oath or affirmation but witnesses, whether on oath or affirmation or not, shall be punishable for giving false evidence.

**45. Maintenance of Registers.-** In addition to such other Registers as may be directed by the High Court. The following Registers shall be kept in the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts in the forms prescribed in Appendix III –

- 1) Register of Petitions.
- 2) Register of Crimes.
- 3) Register of Criminal Cases disposed of,
- 4) Register of Fines.

**46. Adjustment of Civil cases.-** (1) In all civil cases the District Council Court, the Subordinate District Council Courts and the Additional Subordinate District Council Courts shall adjudicate according to law, justice, equity and good conscience consistent with the circumstances of the case.

(2) It shall be discretionary to examine witnesses on oath or affirmation in any form or to warn them that they are liable to punishment for perjury if they state that which they know to be false.

**47. Deposit of expenses.-** Any Court before which an appeal in a civil suit is filed may, before admitting the appeal, order the deposit by the appellant of all reasonable expenses likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses, and if the appellant be a judgement debtor, may also order security to be given for part or the whole of the decretal amount.

**48. Application of C.P.C.-** In civil cases, the procedure of the District Council Court or the subordinate District Council Court, or the Additional Subordinate District Council Court shall be guided by the spirit, but not bound by the letter, of the Code of Civil Procedure, 1908 in all matters not covered by recognised customary laws or usages of the District.

**49. Transfer of decree.-** The decree of the appellate Court in a Civil case shall be transferred to the Court passing the original order for execution as a decree of its own.

**50. No imprisonment for debt.-** There shall be no imprisonment for debt, except in cases where the District Council Court or the Subordinate District Council Court or the Additional Subordinate District Council Court is satisfied that fraudulent disposal or concealment of property has taken place and in such cases the debtor may be detained for a period not exceeding six months.

**51. Legal Practitioners.-** Any legal practitioner may appear in any case before the District Council Court or Subordinate District Court or Additional Subordinate District Council Court.

Provided that in cases where an accused is not arrested the legal practitioner shall take previous permission of the <sup>1</sup>[Court] for such appearance.

**52. Appointment of Commissioner.-** Whenever, in the course of an inquiry trial or other proceeding under these rules before any Court it appears that a commission ought to be issued for examination of a witness whose evidence is necessary for the examination of a witness whose evidence is necessary for the ends of justice and that the attendance of such

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1. Substituted by Amendments Act, 1052, vide No. GDC-L/8/59/13171 dated 5<sup>th</sup> October, 1962 published in the Gazette.

witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Court shall apply to the Deputy Commissioner stating the reasons for the application, and the Deputy Commissioner may either issue a commission or reject the application.

## CHAPTER VI

### EXECUTION OF SENTENCES, DECREES AND ORDERS-EXECUTION.

**53. Execution of decrees and orders.-** (1) Whenever a village Court has sentenced an offender to pay a fine in a criminal case or has passed an order for the payment of any money by a person in a civil suit the Court may, subject, to the provisions of rules 38 –

(a) issue a Parwana for the Payment of the amount by the offender or the person concerned; or

(b) may apply; in writing, to the Chief Executive Member of the District Council to realize the amount of execution according to civil process against the movable or immovable property, or both of the defaulter.

(2) Where an application is made, under clause (b) of sub-rule (1), to the Chief Executive Member, the application shall be deemed to be a decree and the Chief Executive Member to be the decree holder. He shall get the decree executed according to the spirit of the Civil Procedure Code.

(3) In the event of non-recovery of the amount of execution the Chief Executive Member may by an application move the Subordinate District Council Court or the Additional Subordinate District Council Court for the arrest and detention of the offender or the person concerned in execution of the decree.

(4) Whenever an application is made under under-rule (3), the said Court may order for the arrest and detention of the offender or the person concerned in execution of the decree according to the spirit of the Civil Procedure Code.

**54.- Application of C.P.C. and Cr.P.C.-** (1) Subject to the provisions of rules 44 and 48 Subordinate District Council Court or Additional Subordinate District Council or the District Council Court shall cause a sentence, order or decree passed by it, to be carried into effect in accordance with the procedure prescribed by the Code of Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, as the case may be, references therein to the “Collector of the District” being construed as referring to the “Chief Executive Member of the District Council”.

(2) Every warrant for the execution of a sentence of imprisonment shall be directed to the officer in charge of the Jail maintained by the State Government in which the prisoner is, or to be confined through the Deputy Commissioner.

(3) When the prisoner is to be confined in a Jail, the warrant shall be lodged with the Jailor through the Deputy Commissioner.

**55. Property of absconder.-** Whenever a Parwana (Warrant) is issued by a Court against a person who is absconding or is concealing himself in connection with any criminal proceedings, any property, movable or immovable, belonging to him is liable to attachment according to the civil process prescribed in rule 56 of these rules.

#### ATTACHMENT OF PROPERTY.

**56. Attachment of property.-** (1) Property, movable or immovable, belonging to the judgement-debtor over which or the profits of which he has a disposing power which he may exercise for his own benefit, whether the same be held in the name of the judgement-debtor or by another person in trust for him or in his behalf is liable to attachment and sale in execution of a decree:

Provided that houses, needful clothing, cooking utensils or implement whereby or implement whereby the owner subsists should not be attached or sold in execution of a decree unless themselves the subject matter of the case or suit. Land may be sold or temporarily transferred where custom admits of individual right in it being transferred.

(2) Nothing in this rule shall be deemed to exempt houses and other buildings (with the materials and the sites thereof and the lands immediately appurtenant thereto and necessary for their enjoyment) from attachment or sale in execution of decrees for rent of any such house, building, site or land or if themselves the subject of the suit.

(3) Subject to the provisions of rule 42, the procedure for the attachment of the property shall be in the spirit of the Code of the Criminal Procedure, 1898 or the Code of Civil Procedure, 1908, as the case may be.

MISCELLANEOUS

**57. Detention of Lunatic.-** Whenever any Court passes any order for the detention of a lunatic accused, the District Council shall refer the matter to the Deputy Commissioner, who shall deal with the case following the spirit of the Code of Criminal Procedure, 1898 and in accordance with rules made by the Government of Assam under the Indian Lunacy Act, 1912.

**58. Bar to trial.-** No Judicial Officer shall, except with the permission of the Court to which an appeal lies from his Court to which an appeal lies from his Court, try or commit for trial any case to or in which he is a party or personally interested, and no Judicial Officer shall hear an appeal from any judgement or order passed or made by himself.

**Explanation.-** A Judicial Officer shall not be deemed to be a party or personally interested within the meaning of this rule to or in any case by reason only that he is a Member of any Town Committee or otherwise concerned therein in a public capacity, or by reason only that he has viewed the place in which an offence is alleged to have been committed, or any other place in which any other transaction material to the case is alleged to have occurred, and made an inquiry in connection with the case.

**159. "Repeal and Savings.-** (1) The provisions of the Rules for the Administration of Justice and Police in the Garo Hills District published in the Government of Assam's Notification No. 2616-A.P., dated 29<sup>th</sup> March, 1937, as subsequently amended and adapted, in so far as they relate to the matters dealt with in these Rules are hereby repealed with effect from appointed day.

(2) Notwithstanding such repeal every suit, appeal, application for revision, proceedings and other business relating to both civil and criminal justice pending on the appointed day with the village judicial functionaries or before the Court of the Deputy Commissioner, Garo Hills or his Assistants shall be transferred or deemed to have been transferred for disposal to the Court which would have been competent to entertain and dispose of such suit, appeal, application for revision, proceedings or business had these Rules been into force on the date of institution or commencement of the same and the latter Court shall deal with and dispose of the same in accordance with law".

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1. Rule 59 (1), (2) have been added as a new Rule vide Gazette Notification No. GDC-E/53/52 (a), dated 23<sup>rd</sup> April, 1954.

APPENDIX I

[*Vide rule 42 (2)*]

*I. – Register of Petitions*

1. Date
2. Name of petitioner.
3. Subject of petition.
4. Name of defendant.
5. Date for hearing.
6. Date of disposal and how disposed of viz:-

Decree for plaintiff or decree for defendant, or withdrawn, as the case may be.

*II – Register of Cases*

Names of parties.  
Subject claim.  
Before what Court tried.

In case proceeded with *ex parte*-whether notice on defendant is proved, or were both or all parties are present or represented, that they are so present or presented.

Statement of Plaintiff,  
”                   ”                   defendant,  
Evidence for plaintiff.  
”                   defendant.  
Judgement and finding of the Court.  
Order as to costs.

*II – Register of Executions*

1. Date.
2. Name of decree- holder.
3. Name of Judgement-debtor.
4. Name of property to be attached.
5. Date of issue of attachment.
6. Date fixed for sale (and date to which sale may be postponed).
7. Date of satisfaction of decree by sale of property or payment of amount due and receipt of decree-holders.





APPENDIX III

(Vide rule 45)

I – REGISTER OF PETITIONS, ETC.

Date	Serial No.	No. of cases if any to which petition relates	Nature of document, if a petition, what for	Name of Petitioner	Address of Petitioner	Remarks
1	2	3	4	5	6	7

Note 1 – In column 4 for stating nature of document use P for petitions, Pl for plaints, E.P. for execution petitions, O.P. for Original petitions, Ap. For appeals, A for affidavits, V for Vakalatnama, etc.

Note 2. Petitions, etc, returned should be noted in the remarks columns with date.

II – REGISTER OF CRIMES

Serial number, date and if section first information report name (and its necessary address) of complainant.	Date and time of occurrence with phase of moon and day of week	Offences, modus <i>perandi</i> , causes or object of crime, nature of weapons and implements used	Value of property		Name with <i>aliases</i> , parentage, caste and residence of persons accused or suspected, with full grounds for suspicion and crime references if any.	Full name and rank of Investigation Officer, result of cases with name of Judicial Officer and date of disposal.
			Stolen	Recovered		
1	2	3	4	5	6	7

III - REGISTER OF CRIMINAL CASES DISPOSED OF

Serial number of record	Name of Judicial Officer.	Serial No. of Case in the				Name of Complainants.	Name of accused	Nature of the case with the section of the Penal Code or other Act Applicable.	Final order passed and details of sentences.	Result of appeal or revision.	Date of decision.	Names of proclaimed offenders not arrested.	Date when disposed of and shelved in the Record Room.	Number of shelf and rack in the Record Room.	Date of destruction of files and initials of officers superintending destruction.	Remarks.
		Register of Complaints of Offences	Judicial Officer's General Register of cases cognizable by the police.	Register of Unimportant cases cognizable by the Police in which the First information report is not used.	Register of Miscellaneous cases.											
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

N.B. This list is to be written in English.

Date of dispatch.

Date of receipt.

*Signature of Officer of dispatching Court.*

*Signature of District Record-Keeper.*



PART VI.

The 16<sup>th</sup> January, 1954

THE ASSAM HIGH COURT (JURISDICTION OVER DISTRICT COUNCIL COURTS) ORDER, 1954.

**1. Short title.-** (1) This order may be cited as the Assam High Court (Jurisdiction over District Council Courts) Order, 1954.

(2) It shall come into force at once.

**2. Definitions.-** In this order –

(a) “Advocate-General” means the Advocate General of Assam;

(b) “Autonomous District” means a tribal area deemed as such under paragraph 1 (1) of the Sixth Schedule to the Constitution of India;

(c) “Constitution” means the Constitution of India;

(d) “District Council” means the District Council of an Autonomous District constituted under the provisions of the Sixth Schedule to the Constitution and in accordance with the Assam Autonomous Districts (Constitution of District Councils) Rules, 1951;

(e) “District Council Court” means a District Council Court constituted under the provisions of sub-paragraph (2) of paragraph 4 of the Sixth Schedule to the Constitution;

(f) “Governor” means the Governor of Assam;

(g) “High Court” means the High Court of Assam;

(h) “Government Advocate” means the Government Advocate appointed by the Government of Assam;

(i) “Subordinate District Council Court” means a subordinate District Council Court constituted under the provisions of sub-paragraph (1) of paragraph 4 of the Sixth Schedule to the Constitution and includes an Additional Sub-ordinate District Council Court;

(j) “Village Court” means a Village Court constituted under the provisions of sub-paragraph (1) of paragraph 4 of the Sixth Schedule to the Constitution.

**3. Civil Appeal.-** An Appeal against a final order or decision of District Council Court in a civil suit where the valuation of the suit is Rs.1,000 or more, shall lie to the High Court:

Provided that such appeal shall be presented within ninety days from the date of the order of decision appealed against, exclusive of the time requisites for obtaining a copy of the said order or decision:

Provided further that the High Court may admit an appeal filed beyond the period of Limitation if the appellant satisfies the court that he had sufficient cause for not preferring the appeal within the specified period.

**Explanation:-** The term “suit” includes execution proceedings.

**4. Criminal Appeal.-** (1) In Criminal case an appeal shall lie to the High Court from any order of conviction of the District Council Court awarding a sentence of six months imprisonment or upwards.

(2) An appeal under sub-clause (1) shall be presented within sixty days of the date of order appealed against excluding the time needed for obtaining a copy of the order:

Provided that the High Court may admit an appeal filed beyond the period of limitation if the appellant satisfied the Court that he had sufficient cause for not preferring the appeal within the specified period.

**5. Appeal against Acquittal.-** (1) The Governor may direct the Government Advocate to present an appeal to the High Court against any order of acquittal by the District Council Court.

(2) Such appeals must be presented within ninety days from the date of the order appealed against excluding the time requisite for obtaining a copy of the order.

**6. Revision.-** The High Court may, on application or otherwise, call for the proceedings of any civil or criminal case decided by or pending in any Court in the autonomous district constituted under the provisions of sub-paragraph (1) and (2) of paragraph 4 of the Sixth Schedule to the Constitution (hereinafter called the Court of the District Council) and pass such orders as it may deem fit.

**7. Transfer of cases and Appeals -** (1) Whenever it is made to appear to the High Court-

(a) that a fair and impartial inquiry trial or adjudication cannot be had in any court of the District Council, or

(b) that some question of law, tribal or otherwise of unusual difficulty is likely to arise, or

(c) that a view of the place in or near which any offence has been committed may be required for the satisfactory inquiry into or trial of the same or

(d) that an order under this clause will tend to the general convenience of the parties or witness, or

(e) that such an order is expedient for the ends of justice or is required by the provision of any law applicable to the case, it may order-

(i) that any offence be inquired into or tried or a suit be adjudicated by any court other than the court of origin;

(ii) that any particular case or appeal, or class of cases or appeals, be transferred from any one Court to any other Court of equal or superior jurisdiction;

(iii) that any particular appeal be transferred to and heard before itself.

(2) The High Court may act either on the report of the lower Court or on the application of a party interested or on its own initiative.

(3) Every application for the exercise of the power conferred by this clause shall be made by motion, which shall except when the applicant is the Advocate General or Government Advocate be supported by affidavit or affirmation.

(4) When an accused person makes an application under this rule the High Court may direct him to execute a bond with or without sureties on the condition that he will, if so ordered, pay any amount which the High Court may, under this clause, award by way of compensation to the person opposing the application.

(5) Every accused person making any such application shall give to the Government Advocate or accredited representative of the District Council as the case may be notice in writing of the application together with a copy of the grounds on which it is made; and no order shall be made on the merits of the application, unless at least forty eight hours have elapsed between the giving of such notice and the hearing of the application.

(6) Where any application for the exercise of the power conferred by this clause is dismissed, the High Court may, if it is of opinion that the application was frivolous or vexation, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstance of the case.

(7) If, before the argument (if any) for the admission of an appeal begins, or in the case of an appeal admitted before the argument for the appellant begins any party interested intimates to the Court that he intends to make an application under this clause, the Court shall upon such party executing, if so required a bond without sureties, of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.

**8. Security deposits.-** The High Court before which an appeal in a civil suit is filed, may, before admitting the appeal, order the deposit by the appellant of all reasonable expenditure likely, in the opinion of the Court, to be incurred by the respondent in the hearing of the appeal or may order security to be given for such expenses, and if the appellant be a judgement debtor may also order security to be given for part or the whole of the decretal amount.

**9. Execution of Decree.-** The decree of the High Court in a Civil case shall be transferred to the Court passing the original order for execution as a decree of its own.

R.V.SUBRAHMANIAN,  
Secretary to the Government of Assam,  
Tribal Areas Development.



APPENDIX

1. Complaint in regard to offence u/s 153 B.I.P.C.  
GOVERNMENT OF MEGHALAYA  
POLITICAL DEPARTMENT

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ORDER BY THE GOVERNOR

**NOTIFICATION**

Date Shillong, the 7<sup>th</sup> February, 1973

No. POL. 222/72/34.- In Exercise of the powers conferred under section 196 of the code of Criminal Procedure (Act V of 1898), the Governor of Meghalaya is hereby pleased to empower all the District Magistrate of the State to authorise an Officer under their respective jurisdiction to make a complaint for an offence under section 153B of the I.P.C. as amended by Criminal Law Amendment Act, 1972, in a Court having jurisdiction to try such an offence.

By order and in the name of the  
Governor of Meghalaya,  
C.N.S. Nair,

Deputy Secretary to the Government  
of Meghalaya,  
Political Department.

2. Supreme Court's full Judgment in Civil Appeal No.659/57.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

Civil Appeal No. 659 of 1957.

Appeal by Special leave from the Judgement and Order dated the 13<sup>th</sup> May, 1955 of the Judicial Commissioner's Court, Manipur, in First Civil Appeal No.9 of 1956.

Gurumayum Sekhigopal Sarma – Appellant.

Versus

K.Onghi Anisija Devi. – Respondent.

The 9<sup>th</sup> day of February, 1961.

Present:-

The Hon'ble Mr. Justice J.L. Kapur.

The Hon'ble Mr. Justice M.Hidayatullah.

The Hon'ble Mr. Justice J.C.Shah.

For the Appellant:- Mr.S.Ghose, Advocate.

For the Respondent:- Mr.B.R.L. Iyengar, Advocate.

### JUDGEMENT

The following judgement of the Court was delivered by Hidayatullah, J.- This is an appeal with special leave against a judgement of the Judicial Commissioner, Manipur, by which the learned Judicial Commissioner held, in disagreement with the Subordinate Judge, that Civil suit No.56 of 1952 filed by the appellant was not maintainable.

The facts of the case are simple. The appellant (Plaintiff) purchased some paddy lands for Rs. 1,600/- from the respondent (defendant) under a registered deed of sale, When he asked for mutation of the fields in his name, the respondent object, on the ground that the sale was really a mortgage. The Sub-Divisional Officer, Imphal East Tehsil, upheld, upheld the objection and directed the appellant to obtain an order of the Civil Court. On July 20, 1951, the appellant brought his first suit for declaration of title and recovery of possession. That suit was numbered as Title suit No.59 of 1951 in the Court of the Subordinate Judge, Manipur. The suit was dismissed on November 8, 1951. The order passed that day was as follows :-

“Case put up today in presence of parties. The plaintiff has filed some documents and a list of witnesses. It appears that – 30, 10, 51 was fixed for peremptory hearing of the suit. The case has been put up today for necessary orders for want of prosecution. The Court has no jurisdiction to grant the application filed today. Necessary steps should have been taken in time for the hearing fixed for 30.10.51. The Court has not fixed another date and is unable to fix another date without any prayer. There is no sufficient material on record to pronounce judgement. Ordered that the suit be dismissed, Announced.

M.R. Singh  
8.11.1951.”

The appellant filed an application on November 26, 1951, requesting that the order of dismissal be set aside. The Subordinate Judge who heard the application held that the suit was dismissed neither under O, 17.R.3 nor under O.9 R.\* of the Code of Civil Procedure, and that the Court had “no jurisdiction to proceed further”. The Subordinate Judge, however, observed as follows:-

“In such cases remedy lies only under Sec.

151 of C.P.C. or plaintiff may file fresh suit.

The application under O.9.R.9 of C.P.C. is not entertainable.”

The appellant then filed his second suit. It is not necessary to mention the averments of the appellant or those of the respondent. The respondent questioned the maintainability of the suit. The Subordinate Judge, however, held that the suit was maintainable, because the appellant had been directed by the Court to file a fresh suit. He also accepted the appellant’s case. The respondent then appealed to the Judicial Commissioner. The Judicial Commissioner by the order under appeal held that the order dated November 8, 1951 was one under O.9 R.8 of the Code of Civil Procedure, and that, though the earlier application for restoration was rejected on what he described as a queer ground, the second suit was not maintainable, and in view of the specific provision of law in O.9 and S.12 of the Code, the inherent powers could not be invoked. He accordingly reversed the decision of the Subordinate Judge, and ordered the dismissal of the suit.

The question is whether the suit was dismissed under 0.9, R.8 or 0.17, R.2 or 3 of the Code of Civil Procedure. At the very outset, there is difficulty in this case, because by S.1 of the Code of Civil procedure, the Code does not apply to Manipur, and it was excluded by legislation then in force. Under the Manipur State Hill Peoples (Administration) Regulation, 1947, S.52, it is provided as follows:-

“All Courts shall be guided by the spirit but shall not be bound by the letter of the Code of Civil Procedure, 1908, and shall follow the State Limitation Act.”

This is a piece of legislation which is somewhat strange, but the reason appears to be that the technicalities of the Code, such as we know, should not trammel litigation embarked upon by a people unused to them. We have, therefore, to apply the spirit of the Code of Civil Procedure to the present case.

That the earlier suit was dismissed is clear enough. By the order of November 8, 1951, the Court did not dismiss the suit for default in appearance of the appellant but on merits, since he had brought no material on the record to entitle him to a judgement in his favour. The words, “There is no sufficient material on record to pronounce judgement. Ordered that the suit be dismissed”, clearly show a final decision of the suit. Whether this be referable to the spirit of 0.9, R.8 or of 0.17, R. 3, the order dismissing the suit had to be set aside. Under S.12 of the Code of Civil procedure (or its spirit), no second suit could be brought on the same cause of action without getting rid of the order dated November 8, 1951. The principle of res judicata applies even where it has not been made statutorily applicable, and is an immemorial principle governing civil litigation. Even that principle, if applied to this case, would make the second suit incompetent, quite apart from the spirit of S.11 of the Code of Civil Procedure, as we know it. In our opinion, the order of the Judicial Commissioner, in all the circumstances of this case, was correct, and we see no reason to interfere.

The appeal fails, and is dismissed; but in the circumstances of this case, we make no order as to costs here.

(Sd) J.L.Kapur J.

(Sd) M.Hidayatullah J.

(Sd) J.C.Shah J.

9<sup>th</sup> February, 1961.