

### CHAPTER III

#### Jurisdiction of Single Judges and Benches of the High Court

1. The following matters may be heard and disposed of by a Single Judge:
  - (i) <sup>[1]</sup> an appeal from an original decree and any cross objection therein under Order XLI, Rule 22 of the Code of Civil Procedure arising out of an original suit or any proceeding.
  - (ii) an appeal from an appellate decree or order;
  - (iii) a civil appeal under an Act other than the Code of Civil Procedure and an application or reference made under any such Act, if such appeal, application or reference is not otherwise expressly provided for irrespective of value;
  - (iv) an appeal under section 104 (1) (ff) to (h) or under Order XLIII, Rule 1 of the Code of Civil Procedure in a suit irrespective of value;
  - (v) a motion to admit an application and an application when admitted:
    - (a) for an order under section 22 or section 23 of the Code of Civil Procedure;
    - (b) for an order under Order I, rule 8 and 10 read with section 107 of the same Code;
    - (c) under section 115 of the Code of Civil Procedure or under section 25 of the Provincial Small Cause Courts Act, (IX of 1887);
  - (vi) an application for the admission of an appeal in forma pauperis when such appeal is triable by a Single Judge;
  - (vii) a suit coming before the Court in the exercise of its ordinary or extraordinary original civil jurisdiction;
  - (viii) a proceeding under the Indian Companies Act, I of 1956, the Indian Trusts Act, II of 1882, the Indian Patents and Designs Act, II of 1911 or the Indian Banking Companies (Amendment) Act, XX of 1950;
  - (ix) an application against the order of the Registrar when performing a judicial or quasi-judicial act in a single Bench case;

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[1] amended vide c.s. no.91

- (x) any other application:
  - (a) which under these rules may be made to a Judge sitting alone;
  - (b) which under these rules is not expressly required to be made to a Bench of two or more Judges or to the Registrar; and
  - (c) which is made in any matter within the jurisdiction of a Judge sitting alone and which is not otherwise expressly provided for;
- (xi) an appeal, application or reference under the Code of Criminal Procedure, 1973 other than-
  - (a) an appeal in a case in which a sentence of death or of imprisonment for life has been passed;
  - (b) an appeal under section 378 of the Code of Criminal Procedure from an order of acquittal passed in respect of an offence punishable with death or imprisonment for life except an offence under section 409 of the Indian Penal Code;
  - (c) a case submitted under section 366 of the Code of Criminal Procedure; and
  - (d) a case in which a notice has been issued under section 377 or section 401 of the Code of Criminal Procedure to show cause why the sentence should not be enhanced relating to an offence punishable with death or imprisonment for life:
- (xii) <sup>[2]</sup> Transfer Applications.
- (xiii) Criminal Appeals, Government Appeals, Misc. Appeals and Jail Criminal Appeals.
- (xiv) Criminal Revisions.
- (xv) Applications for Bail or Anticipatory Bail matters.
- (xvi) Petitions arising out of Civil Revisions.
- (xvii) Petitions arising out of Section 24 C.P.C.
- (xviii) Petitions arising out of F.A.O.
- (xix) Petitions arising out of M.S.A.
- (xx) Petitions arising out of M.A.C.A.
- (xxi) Petitions arising out of Suit.
- (xxii) Petitions arising out of Major Minerals and Minor Minerals.
- (xxiii) <sup>[3]</sup> All matters relating to cases received on transfer from the Odisha Administrative Tribunal (OAT).

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[2] Clause (xii) to (xxii) inserted vide C.S. No.75 Dtd.15.05.2007

[3] Substitute the following as clause-(xxiii) below the clause-(xxii) and renumber the existing clause-(xxiii) as clause-(xxiv) vide CS No. 95 dtd. 03.12.2019

- (xxiv) <sup>[2]</sup> All cases of routine nature not involving any question of law or merits of the case, shall be placed before a Single Judge for orders irrespective of the fact as to whether the cases are Single Judge or Division Bench cases, and he may while disposing of the matter exercise the powers of dismissal in case of non-compliance.

Provided that all the interlocutory petitions registered as Miscellaneous cases which demand going into question of law or merit would be placed before the Division Bench, if the cases in which those matters arises are required to be heard and disposed of by a Division Bench.

Provided that-

- (a) a Judge may, if he thinks fit, refer any matter mentioned in any of the clauses of this rule other than clauses (viii) and (ix) to a Bench of two Judges. If the case is an appeal from an original decree or order, the questions of law shall alone be referred and the Division Bench shall return the case with an expression of its opinion upon the points of law for final adjudication to the single Judge who referred it, and in case of necessity in consequence of the absence of the referring Judge, for the ultimate decision of another single Judge;
  - (b) a Judge before whom any proceeding mentioned in clause (viii) is pending may, with the sanction of the Chief Justice, obtain assistance of any Judge or Judges for the hearing and determination of such proceeding or of any question arising therein;
  - (c) any application in a suit, appeal or other proceeding which is pending before a Bench shall be presented to that Bench; and
  - (d) any application in a suit, appeal or other proceeding which is in the Daily Cause List of a Bench shall be presented to that Bench.
2. Matters connected with appeals to the Supreme Court where written applications are made shall ordinarily be laid before the Single Judge or the Division Bench, as the case may be, disposing of the matters. If such Single judge or the Division Bench is not available, it may be placed before the Bench presided over by the Chief Justice.
  3. A proceeding of the kind referred to in rule 1 (viii) and Rule 1 (xi) of this chapter may, in the discretion of the Bench hearing the same, be heard either in Court or in Chambers as it may direct. An *ex parte* motion or application entertainable by a Single Judge may be made in Court or in chambers as the Judge may direct. An urgent application may be made to the Vacation Judge in Court or otherwise as he may direct. Every other appeal, motion or application except when specifically provided otherwise shall be presented or made in open Court.

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[2] Clause (xii) to (xxii) inserted vide C.S. No.75 Dtd.15.05.2007

[4] Clause (xii) renumbered as (xxiii) vide C.S. No.75 Dtd.15.05.2007

4. Notwithstanding anything to the contrary contained in these rules, a Single Judge, while acting in long vacation as a Vacation Judge, may issue notice or rule, as the case may be, in any matter which he considers emergent, Civil or Criminal or under the Constitution, and may pass such interim orders regarding stay, injunction, bail and other interim relief as he may deem fit.
  5. When in appeal in any civil matter heard by a Bench of two Judges, a difference of opinion arises between them on a point of law, if either of the Judges desires that the appeal be referred, it shall be referred to and heard and determined by such Judge or Judges as the Chief Justice may appoint. The appeal shall be re-argued before the Judge or Judges to whom it is so referred either sitting apart from or with the referring Bench as the Chief Justice shall direct.
  6. Appeals to the High Court under Article 4 of the Orissa High Court Order, 1948 read with clause 10 of the Letters Patent constituting the High Court of Judicature at Patna from the judgment of a Bench confirming the judgment of a lower Court under section 98 of the Code of Civil Procedure shall be heard by a Bench consisting of at least three Judges including both or either of the Judges of the Bench from whose judgment the appeal is preferred and, if from the judgment of one Judge or a Bench of two Judges, it shall be heard by a Bench consisting of at least two Judges other than the Judge from whose judgment the appeal is preferred.
  7. References under the Indian Divorce Act (IV of 1869) and under section 60 of the Indian Stamp Act (II of 1899) must be placed before a Bench of three Judges.
  8. A charge against a Pleader or Mukhtar in respect of any Misconduct for which he may be suspended or dismissed from practice and a disciplinary case under the Legal Practitioners Act (XVIII of 1879) shall be heard by a Bench of three Judges.
  9. A point of law referred under the provisions of Article 4 of the Orissa High Court Order, 1948 read with clause 18 of the Letters Patent constituting the High Court of Judicature at Patna shall be heard by a Bench of three Judges.
  10. Save as provided by law or by these rules or by an order of the Chief Justice every other case shall be heard by a Bench of two Judges.
  11. Subject to the provisions of these rules, the Chief Justice shall direct what case or classes of cases shall be placed before each Judge or Bench.
  12. Notwithstanding anything to the contrary in the rules, the Chief Justice may direct that any application, petition, suit, appeal or reference shall be heard by the Full Bench, by which is meant a Bench composed of not less than three Judges.
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