

ORISSA ACT 26 OF 1991

[THE CODE OF CIVIL PROCEDURE (ORISSA AMENDMENT) ACT, 1991]

[Received the assent of the President on the 23rd October, 1991 first published in an extraordinary issue of the Orissa Gazette, dated the 7th November, 1991]

AN ACT FURTHER TO AMEND THE CODE OF CIVIL PROCEDURE, 1908 IN ITS APPLICATION TO THE STATE OF ORISSA

Be it enacted by the Legislature of the State of Orissa in the Forty-second Year of the Republic of India as follows:—

1. This Act may be called the Code of Civil Procedure (Orissa Amendment) Act, 1991.

Amendment
of
section 115
Revision.

2. In the Code of Civil Procedure, 1908, for section 115, the following section shall be substituted, namely:—

115. The High Court, in cases arising out of original suits or other proceedings of the value exceeding one lakh rupees, and the District Court, in any other case including a case arising out of an original suit or other proceedings instituted before the commencement of the Code of Civil Procedure (Orissa Amendment) Act, 1991, may call for the record of any case which has been decided by any Court subordinate to the High Court or the District Court, as the case may be, and in which no appeal lies thereto, and if such subordinate Court appears—

(a) to have exercised a jurisdiction not vested in it by law; or

(b) to have failed to exercise a jurisdiction so vested; or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity,

the High Court or the District Court, as the case may be, may make such order in the case as it thinks fit:

Provided that in respect of cases arising out of original suits or other proceedings of any valuation decided by the District Court, the High Court alone shall be competent to make an order under this section:

Provided further that the High Court or the District Court shall not, under this section, vary or reverse any order, including an order deciding an issue, made in the course of a suit or other proceedings, except where—

(i) the order, if so varied or reversed, would finally dispose of the suit or other proceedings; or

(ii) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

Explanation—In this section, the expression “any case which has been decided” includes any order deciding an issue in the course of a suit or other proceeding.”

Saving.

3. The amendment made by this Act shall not affect the validity, invalidity, effect or consequence of anything already done or suffered, or any jurisdiction already exercised, and any proceeding instituted or commenced in the High Court under section 115 of the Code of Civil Procedure, 1908 prior to the commencement of this Act shall, notwithstanding such amendment, continue to be heard and decided by such Court.

1. For Statement of Objects and Reasons see *Orissa Gazette*, Extraordinary, dated the 21st March, 1991 (No. 312).