

ORIGINAL CIVIL.

Before Mr. Justice Cunliffe.

IN THE MATTER OF THE INDIAN SUCCESSION ACT,
1925, AND THE ESTATE OF L.A.R. AROONACHEL-
LAM CHETTYAR, DECEASED.*

1931
Feb. 20.

Indian Succession Act (XXXIX of 1925), s. 2.—Indian Succession Amendment Act, 1929 (XVIII of 1929), s. 2.—“District Judge”—Succession Certificates—Jurisdiction of High Court.

The High Court on the Original Side has the power to issue succession certificates in view of the amendment of S. 2 of the Indian Succession Act, by the Indian Succession (Amendment) Act, 1929.

Jeejeebhoy for the petitioner. By the Succession Act of 1925 the High Court had no power to grant Succession Certificates. The amending Act of 1929 has given the High Court power to issue Succession Certificates, thus removing an anomaly whereby the High Court could not grant such relief as the District Courts could grant under the Act; see *In re Kuppuswami*, (1930) 53 Madras, p. 237, and *In re Bholanath*, 35 Calcutta Weekly Notes, p. 122.

CUNLIFFE, J.—This is an application for the grant of a succession certificate, put forward by one Letchmanan Chettyar, with reference to the estate of the late Aroonachellam Chettyar.

I am informed that this court formerly refused to issue succession certificates under the Indian Succession Act of 1925, although that Act gave power to District Judges to issue these certificates. The Act of 1925 has been the subject of an amendment by the statute passed in 1929, and section 2 of the

* Civil Miscellaneous No. 22 of 1931.

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amending Act defines a 'District Judge' as 'the Judge of the principal civil court of Original Jurisdiction'. The question is whether by reason of this amendment power is now given to High Courts on the Original Side to issue these certificates.

I have never understood why this right should be given to District Courts and not given to High Courts, and until I am corrected by the Court of Appeal, I propose to construe this amendment as rectifying what seems to me to be an unintelligible omission on the part of the Legislature. The administration of probate and succession as far as the jurisdiction of this Court is concerned, will be greatly facilitated if that view is taken, and it seems to me that such a construction of the amendment is both good law and good sense.

I, therefore, grant this petition and issue to the petitioner a succession certificate in the form prayed.