

PROVINCIAL COURTS OF APPEAL, MADRAS ACT 1843

ACT NO. VIII. OF 1843

(Rep., Act 8 of 1868)

[28th April, 1843.]

Passed by the Hon'ble the President of the Council of India in Council, on the 28th of April, 1843, with the assent of the Right Hon'ble the Governor General of India.

AN Act for disposing of the Original Suits and Appeals depending before the Provincial Courts of Appeal in the Presidency of Fort St. George, the abolition of which is authorized by Act No. VII. of 1843.

WHEREAS it is necessary that provision should be made for the disposal of Original Suits and Appeals depending before the Provincial Courts of Appeal in the Presidency of Fort St. George, the abolition of which is authorized by Act No. VII. of 1843.

I. It is hereby enacted, that the Governor in Council of Fort St. George be empowered to appoint a Single Judge to hold a Court in place of each of the said Provincial Courts at the Station of such Provincial Court, with a Special Commission to dispose of all Original Suits and Appeals which may be depending before such Court, on the date on which the said Governor in Council shall order the functions of the Provincial Courts to cease.

II. And it is hereby enacted, that the Judges, who shall be appointed for this purpose, shall be styled respectively, viz.

Special Commissioner for disposing of the causes depending before the late Provincial Court for the (Northern, Southern, Centre or Western) Division.

III. And it is hereby enacted, that every Special Commissioner so appointed, previously to entering upon the execution of the duties of his office, shall take and subscribe the oath prescribed to be taken by Judges of the Provincial Courts of Appeal, before any person who shall be commissioned by the Governor in Council of Fort Saint George to administer it.

IV. And it is hereby enacted, that the Special Commissioners shall transfer the Original Suits on the files of Provincial Courts, in which no proceedings have been held beyond the filing of the pleadings, and exhibits, to the Zillah Courts within whose jurisdiction they would fall respectively if they were commenced *de novo*, and such suits shall be tried and decided by the Judges of such Zillah Courts subject to Appeal to the Sudr Udalut.

V. *First.*—And it is hereby enacted, that all other Original Suits, and all Appeals on the file of the Provincial Courts, shall be tried and decided by the Special Commissioners, who shall have the same power as heretofore have been vested in two or more Judges of such Courts sitting together, subject to the same rules and restrictions, and under the same provisions for Appeals to the Sudr Udalut.

Second.—Provided, that in a case of Special Appeal from a Lower Courts, if a Special Commissioners differs from the Court from whose decision the Appeal is preferred, he shall not pass a final judgment reversing the decision, but shall record his opinion and transmit the record of the case to the Sudr Udalut, to be laid before a Single Judge of that Courts, whose judgment, confirming or reversing the decree appeals against, shall be final.

VI. And it is hereby enacted, that the execution of Decrees of the Special Commissioners, and also of the Provincial Courts for which process was not issued previously to their abolition, shall be committed to the Judge of the Zillah in which the Suit was instituted, or if the Suit was instituted in the Provincial Court, to the Judge to whose jurisdiction the Suit would fall if it were commenced *de novo*. The records of the cases shall be transmitted, together with the Decrees, to the respective Zillah Judges, who shall proceed in the execution of the Decrees in the same manner as if they were passed by themselves, and appeals from their orders shall lie to the Sudr Udalut.

VII. And it is hereby enacted, that the Judges of the Zillah Courts shall proceed in like manner to complete the execution of Decrees of the Provincial Courts under Process previously issued, subject to appeal to the Sudr Udalut.

VIII. And it is hereby enacted, that from decisions passed by Zillah Judges, Assistant Judges, and Principal Sudder Ameens, previously to the abolition of the Provincial Courts, in cases appealable to those Courts, in which the time allowed for appealing shall not have expired at the date of their abolition, an appeal shall lie to the Sudr Udalut, provided that the petition of appeal be presented to the Sudr Udalut or to the Civil Judge of the Zillah in which the original suit was decided, within one month from the expiration of the period within which it ought to have been presented under the Rules applicable to appeals to the Provincial Courts.

IX. And it is hereby enacted, that it shall be competent to the Governor in Council of Fort Saint George to authorize the appointment of Ministerial Officers, and Vakeels of the Courts of the Special Commissioners, who shall be subject to the same Rules as are applicable to the Ministerial Officers and Vakeels of the Provincial Courts.
