

NATIVE SOLDIERS ACT 1845

ACT No. XV. OF 1845

(Rep., by Act 10 of 1872)

[16<sup>th</sup> August, 1845].

*Passed by the Governor General of India in Council on the 16<sup>th</sup> August, 1845.*

AN Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of Judicial and Revenue proceedings.

I. Whereas doubts have arisen whether the Regulation XV. of 1816 of the Bengal Code is still in force, or how much, if any, of its provisions is still in force:

It is therefore hereby declared and enacted, that the said Regulation and every provision thereof are still in force.

II. And whereas by virtue of Regulations VII. of 1817 of the Madras Code, the Law for the Madras Army is the same as the Law hereinbefore declared and enacted for the Bengal Army, and whereas it is expedient and just that the Law should be the same for the Bombay Army also:

It is therefore hereby enacted, that the said Regulations of the Bengal Code is extended to the Army of Bombay, except in so far as any of its provisions may be in their own nature inapplicable to that army.

III. And whereas it is just and reasonable to extend the privileges conferred upon Native Officers and Soldiers by the Regulations aforesaid in respect of exemption from Stamps in legal proceedings.

It is hereby enacted, that all the Courts of the East India Company shall receive Plaints in original Suits, not being Suits originating in Loans or in pecuniary transactions of a Commercial nature upon unstamped paper when the plaintiff is a Native Officer or Soldier in the Military Establishment of the Presidency of Fort William, Fort St. George, or Bombay.

IV. Provided that the value of any Stamp from which a plaintiff may be exempted by the last preceding Section shall be charged in the Decree on behalf of Government to the Party cast or to the Parties respectively in such proportions as may be deemed equitable.

V. And it is hereby enacted, that if any Native Officer or Soldier shall institute a Suit under this Act in which he is not bona fide interested or not interested to the extent alleged in the Plaint, for the purpose of enabling some other person to avail himself fraudulently of the advantages conferred by this Act, such Native Officer or Soldier shall be liable to a fine not exceeding five times the value of the stamped paper which the party interested would have required for the institution of the Suit otherwise than under this Act, such fine to be levied in the manner prescribed for the execution of decrees.

VI. And whereas by Section IV. of Act IV. of 1840 it is enacted, that if any party shall complain to a Magistrate or other Officer exercising the powers of a Magistrate, that he has been without authority of Law forcibly dispossessed of any Land, Premises, Water, Fisheries, Crops or other produce of Land within the jurisdiction of such Magistrate or other Officer as aforesaid, whether the same were possessed by such party as Proprietor, dependant Talookdar, Farmer, Under-Farmer, Ryot, or otherwise, the Magistrate or other Officer as aforesaid shall require the parties complained against, and any other parties concerned to appear and make defence in person or by Agent within a reasonable time; and if after the examination of the necessary witnesses and documents the complaint appears to him to be substantiated, he shall record a proceeding ordering the party complaining to be put again into possession of the subject of dispute and maintained in possession until the right to possession be determined by a competent Court; provided that no such order shall be passed unless the party complaining of having been so dispossessed prefer his claim within one month from the time of such dispossession:

And whereas it is just that when the party complaining is a Naïve Officer or Soldiers, a longer period than one month from the time of dispossession should be allowed for preferring his claim:

It is therefore hereby enacted, that so much of the above recited Section of Act IV. of 1840 as provides that no such order as is therein mentioned shall be passed

unless the party complaining of having been dispossessed in the manner therein mentioned prefer his claim within one month form the time of the dispossession, is repealed so far as regards complaints preferred by Native Officers or Soldiers.

VII. And it is hereby enacted, that no such order as is mentioned in the above recited Section of Act IV. of 1840 shall be passed, when the party complaining of having been dispossessed is a Native Officer or Soldier unless such party prefer his claim within such period as may be considered by the Magistrate, reasonable with reference to the distance of the party and the difficulty of communication.

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