

ACT No. XII OF 1856.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 9th May 1856.)

AN ACT to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.

WHEREAS the law by which the Civil Courts are authorized to employ Ameens upon local investigations is defective, and requires amendment; and whereas, in consequence of the extended jurisdiction which has been given to Moonsiffs and the change which has been made in the constitution of the office, it is no longer expedient that Moonsiffs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in Sections L, LI, and LIII, Regulation XXIII. 1814; and it is necessary to make provision for the performance of those duties by other agency: It is enacted as follows:—

I. Section XVII, Regulation IV. 1793, Section XVIII, Regulation III. 1803, and Clauses 2 and 3 of Section LI, and Section LII, Regulation XXIII. 1814, are repealed.

II. In each District officers to be designated Civil Court Ameens shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries. The number of Ameens to be employed in each District, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.

III. The

PRICE TWO ANNAS.

ACT No. XII OF 1856.

III. The Civil Court Ameens shall be appointed by the Judge of the District with the sanction of the Court of Sudder Dewanny Adawlut, and the Judge shall from time to time attach them to the several Courts of the District according as the state of business may require. Provided that an Ameen attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

Civil Court Ameens by whom to be appointed and to what Courts to be attached.

Declaration to be made by Civil Court Ameens.

IV. Before entering upon the duties of their office, the Civil Court Ameens shall subscribe a declaration in the following form :—

I, A. B., appointed to the office of Civil Court Ameen, solemnly declare that, in the performance of the duties of my office, I will act according to the best of my abilities and judgment, without partiality, favor, or affection; and that I will not directly or indirectly receive for my own benefit, or knowingly permit any other person to receive on my behalf, any money, effects, or property on account of any duty which I may have to execute, except the authorized allowances of my office.

V. Subject to such general directions and restrictions as may from time to time be prescribed by the Sudder Court, the Civil Court Ameens may be employed in any of the following duties :—

Duties of Civil Court Ameens.

1. In investigating or adjusting accounts in any suit or other judicial proceeding.

2. In making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding.

3. In delivering over possession of lands, houses, and other immoveable property, in execution of decrees or orders of Court.

4. In

ACT No. XII OF 1856.

4. In the sale of moveable property, and of houses, gardens, and other immoveable property of the kind described in Section III, Regulation VII. 1825.

5. In ascertaining the sufficiency of sureties and the means of persons suing *in formá pauperis*.

VI. Whenever any accounts shall be referred to a Civil Court Ameen for investigation or adjustment, the Court shall direct the parties or their agents to attend the Ameen, and shall furnish him with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance, and the instructions shall specify whether the Ameen is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the matter referred for his investigation.

Procedure in referring accounts to Civil Court Ameen for investigation or adjustment.

VII. *Clause 1.* Whenever a local enquiry is directed, the Court shall distinctly specify the point or points to be investigated, and the Civil Court Ameen shall have power to examine, on oath or affirmation, such witnesses as may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence; and also to call for and examine documents and other papers relevant to the subject of enquiry; and persons not attending on the requisition of a Civil Court Ameen, or refusing to give their testimony or sign their depositions, or to produce any documents or other papers, shall be subject to the like penalties and punishments by order of the Court on the report of the Ameen, as they would incur for the same offences in suits tried in Court.

Procedure in cases of local enquiry.

*Clause 2.* Having completed his proceedings, the Civil Court Ameen shall return the depositions taken by him together with his report in writing to the Court. The report and depositions shall be received as evidence in the case; but it shall be competent to the Court, or to the parties, or any of them, with the permission of

Report of the Civil Court Ameen and return of the depositions taken by him.

ACT No. XII OF 1856.

of the Court, to examine the Ameen personally in open Court touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted his investigation.

VIII. Whenever a Civil Court Ameen may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Ameen such fixed rate *per diem* as may be determined by the Sudder Court. The amount shall be paid into Court by the party at whose instance or for whose benefit the Ameen is deputed, and shall be added to the costs of suit.

Expense of Civil Court Ameen how to be charged.

IX. When a Civil Court Ameen shall be employed to sell property, a deduction at the rate of one anna in the Rupee shall be made from the proceeds of the sale. If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the Ameen according to the time he may be employed. A deposit to meet this charge, calculated in the manner prescribed in the preceding Section, shall be made before the Ameen is deputed, and shall be returned to the depositor if the sale takes place. All sums paid for the employment of Ameen, and all sums deducted from the proceeds of sales, shall be credited to Government.

When employed to sell property, deduction to be made from proceeds.

Expenses, if no sale takes place.

X. Nothing contained in this Act shall be held to prohibit the Civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue Officers in investigations and adjustments of accounts connected with land paying revenue to Government, under such general directions as may from time to time be prescribed by the Sudder Court. Whenever a Tuhseeldar, a Naib Tuhseeldar, or a Peshkar, shall be employed in any such investigation or adjustment under the orders of a Civil Court, he shall possess all the powers vested in Civil Court Ameen by Section VII of this Act; and the provisions of the said Section shall be applicable to the proceedings held by such officer.

Civil Courts in the North-Western Provinces may employ Revenue Officers in certain cases.