

ACT No. III OF 1859.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

*(Received the assent of the Governor General on the 25th January 1859.)*

*An Act for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.*

WHEREAS it is expedient that Cantonment Joint Magistrates should be invested with Civil jurisdiction in certain cases within the local limits of their Criminal jurisdiction, and that they should also be appointed Registers of Deeds within the same limits ; it is enacted as follows :—

I. It shall be competent to the Governor General in Council and to the Executive Government of any Presidency or place to invest the Joint Magistrate of any Military Cantonment Bazar or Station, within the limits of their respective Governments, with Civil jurisdiction. Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions in which the value in question shall not exceed the sum of two hundred Rupees and which shall not involve any dispute of caste or any right of real property, against any person who at the time when the cause of action arose and at the time of the institution of the suit shall have been or shall be subject to the Articles of War for the Native Army or residing or carrying on trade or business within the limits of such Military Cantonment Bazar or Station, and not subject to any Articles of War made by Her Majesty.

II. Whenever

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II. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of the preceding Section, and so long as he shall remain so invested, so much of Act XI of 1841 as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such Cantonment Bazar or Station.

Part of Act XI of 1841 suspended in Cantonments where Joint Magistrates are so invested with Civil jurisdiction.

III. Whenever in either of the Presidencies of Madras or Bombay an Officer shall be invested with Civil jurisdiction as aforesaid, and so long as he shall remain so invested, the Rules for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively, shall cease to have effect within the jurisdiction of such Officer.

Also the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazars.

IV. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the Native Army, who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him, shall be sued elsewhere.

Persons amenable to the Articles of War for the Native Army, to be sued before Cantonment Joint Magistrates invested with Civil jurisdiction, and not elsewhere.

V. Provided that nothing in the preceding Sections shall be held to alter or affect the Rules in force in the Madras Presidency for the trial by Panchayet of suits against Military persons belonging to that Presidency.

Saving of Rules in force in the Madras Presidency for the trial by Panchayet of suits against Military persons.

VI. No person carrying on trade or business within the limits of any Military Cantonment, or who shall have carried on trade or business within any such limits, shall be allowed to recover in any Court held under this Act any debt contracted in the way of such trade or business or the loan of money within any such Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting the

Trader not to recover any debt unless registered as a Military Bazar-man.

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the same, have been registered as a Military Bazar-man within such Cantonment.

VII. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having jurisdiction over the same, and if the defendant be a Native Officer or Soldier or a Mustered Camp Follower, the summons to appear and answer to the claim shall be transmitted, for the purpose of being served on the defendant, to the Commanding Officer of the Corps or Detachment to which such defendant may belong ; and the Commanding Officer shall return the summons to the Joint Magistrate, with the acknowledgment of the defendant endorsed thereon ; or if the summons cannot be served, the reason of the non-service shall be stated. In other respects the rules of procedure and all other rules contained in Act XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*) shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable : provided that the decisions of the Joint Magistrate in cases cognizable by him under this Act, shall not be open to revision or appeal ; and provided further that it shall not be necessary to publish in Station Orders the decrees passed in such cases before they are carried into execution, and the Joint Magistrate passing the decree shall determine whether the execution shall be general or special, and shall proceed of his own authority with the execution.

Procedure in cases tried under this Act.

No revision or appeal.

Execution of decrees.

VIII. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the same, it shall be competent to such Joint Magistrate to award against the plaintiff in favor of the defendant, such sum as he may consider a reasonable compensation to the defendant for the loss of time and expense to which he may have been subjected by the institution of the suit against him, and to proceed to recover the amount so awarded under the rules applicable to execution of decrees passed under this Act.

Compensation may be awarded to a defendant if suit be groundless and instituted without probable cause.

IX. It shall

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IX. It shall further be lawful for the Governor General in Council or for the Executive Government of any Presidency or place, to appoint the Joint Magistrate of any Military Cantonment Bazar or Station, subject to their respective Governments, Register of Deeds within the limits of such Cantonment Bazar or Station; and when such appointment is made, and so long as it shall continue in force, the powers of the Register of Deeds of the Zillah or District in which such Cantonment Bazar or Station is situate, shall be suspended within the limits thereof.

Cantonment Joint Magistrates may be appointed Registers of Deeds, within the limits of their jurisdiction.

X. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be appointed Register of Deeds under this Act, all Rules for the time being in force applicable to Registers of Deeds, shall be applicable to such Joint Magistrate and to the deeds registered by him, or brought to him for registry.

Rules applicable to Registers of Deeds to be applicable to Cantonment Joint Magistrates appointed Registers.

XI. Every Joint Magistrate who shall be invested with Civil jurisdiction or who shall be appointed Register of Deeds under the provisions of this Act, shall, previously to entering upon the performance of his duties, make and subscribe before the Chief Civil Officer, or, where there may be no Civil Officer, before the Chief Military Officer of the District or Zillah in which such Cantonment Bazar or Station is situate, the oaths required by law to be made and subscribed by Civil Judges and Registers of Deeds respectively, or the declarations substituted for such oaths.

Oaths of Office.