

1780
ACT No. XLII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 6th. October 1860.)

An Act for the Establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter.

WHEREAS, with a view to the more easy recovery of small debts and demands, it is expedient to establish Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of judicature established by Royal Charter at the several Presidencies of Calcutta, Madras, and Bombay ; It is enacted as follows :—

Preamble.

I. It shall be lawful for the Executive Government of any of the said Presidencies or of any place, with the previous sanction of the Governor-General in Council, to constitute Courts of Small Causes, with the required establishment of Officers, at any place within the limits of their respective Governments, for the trial of suits under this Act, and to abolish any Court so constituted. Provided that no Judge of any Court constituted under this Act shall exercise any Civil jurisdiction except under the provisions of this Act.

Constitution of Small Cause Courts.

II. Whenever any such Court may be so constituted, the Executive Government shall fix the territorial jurisdiction of such Court, and may, from time to time, alter the same as may appear proper.

Limits of territorial jurisdiction to be fixed.

III. The following are the suits which shall be cognizable by Courts of Small Causes constituted under this Act, namely, claims for money due, whether on bond or other contract, or for rent, or for personal property, or for the value of such property,

Description of suits cognizable by Small Cause Courts.

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erty, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees. Provided that no action shall lie in any such Court on a balance of partnership account, unless the balance shall have been struck by the parties or their agents; or for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will; or for any claim for the rent of land or any other claim for which a suit may be brought before a Revenue Officer, or for the recovery of damages on account of alleged personal injuries, unless special damage of a pecuniary nature shall have resulted from such injury.

IV. Every Court of Small Causes constituted under this Act shall have cognizance of all such suits as are mentioned in the last preceding Section, if the defendant at the time of the commencement of the suit shall dwell or personally work for gain within the local limits of the jurisdiction of such Court.

V. Every Court constituted under this Act shall use a seal, bearing the following inscription in English and in the language of the Court—"Court of Small Causes of _____;" and every such Court shall be subject to the general control and orders of the Sudder Court.

VI. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court under the provisions of this Act shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Small Cause Court. Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or a Deputy Magistrate, can now exercise in regard to debts or other claims of a civil nature; or the jurisdiction which can be exercised by Village Moonsiffs or Village or District Panchayets under the provisions of the Madras Code, or by Military Courts of Request, or by

Proviso.

Jurisdiction of the Court.

Seal of the Court.
Court to be generally subject to the Sudder Court.

Suits within the jurisdiction of and cognizable by Small Cause Courts, not to be heard by any other Court.

Saving of jurisdiction of Magistrate, &c.

Of Village Moonsiffs and Village or District Panchayets in Madras.

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by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III of 1859, or by a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military Bazzars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively, or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

of Military Courts of Request—
of single Officers appointed to try small suits in Madras and Bombay.

and of Military Panchayets in Madras.

VII. Courts of Small Causes constituted under this Act shall be held at such place or places within the local limits of their respective jurisdictions as shall from time to time be appointed by the local Government to which such Courts are subordinate.

Courts where to be held.

VIII. Whenever any such Court is directed to be held at more places than one within the local limits of its jurisdiction, the Judge of such Court, subject to the control of the Sudder Court, shall appoint the time at which the Court shall hold its sittings in every such place. Due notice of the time so appointed shall be given by a proclamation to be fixed up in some conspicuous place in the Court-house or other building in which the sittings of the Court are to be held.

Time of holding Courts, if they be directed to be held in more places than one.

IX. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

Summons.

X. At the time of passing a decree under this Act, the Court may on the verbal application of the party in whose favor the decree is passed, direct immediate execution of the same by the issue of a warrant directed either generally against the personal property of the judgment debtor wherever it may be found within the local limits of the Court's jurisdiction, or specially against any personal property belonging to the judgment debtor within the same limits which may be indicated by the judgment creditor.

On application, immediate execution of decree may be granted against personal property of judgment debtor.

XI. In

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XI. In the execution of a decree under this Act, if, after the sale of the moveable property of a judgment debtor, any portionⁿ of a judgment shall remain due and the holder of such judgment desire to issue execution upon any immovable property belonging to the judgment debtor, the Court, on the application of such judgment creditor, shall grant him a copy of the judgment and a certificate of any sum remaining due under it, and on the presentation of such copy and certificate to any Civil Court having general jurisdiction in the place in which the immovable property of the judgment debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

XII. In suits tried under this Act, all decisions and orders of the Court shall be final. Provided that it shall be competent to the Court, if it shall think fit, to grant a new trial if applied for within the period of thirty days from the date of the decision ; but no new trial shall be granted unless the party applying for the same shall with his application deposit in Court the amount for which judgment shall have been given against him including the costs (if any) of the opposite party.

XIII. If in the trial of any suit under this Act any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion or on the application of any of the parties to the suit, draw up a statement of the case and submit it, with its own opinion, for the decision of the Sudder Court.

XIV. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred ; but no execution shall be issued in any case in which a reference shall be made to the Sudder Court, until the receipt of the order of that Court.

XV. Cases referred for the opinion of the Sudder Court shall be dealt with by a full bench of that Court.

XVI. The

Sudder Court to fix an early day for the hearing of the case.
Proclamation thereof.

Court.

XVI. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that

Parties may appear and be heard in person or by pleader.

XVII. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

XVIII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Decision of Sudder Court how to be transmitted.

XIX. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Costs of reference to Sudder Court.

XX. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of the Courts established under this Act, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force.

Sudder Court empowered to make rules of practice &c.

XXI. Except as hereinbefore provided, the provisions of Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) shall be applicable to cases cognizable under this Act in so far as the same may be applicable and necessary.

Provisions of Act VIII of 1859 made applicable to cases cognizable under this Act.