

ACT No. IX OF 1861.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 24th April 1861.)

*An Act to amend the law relating to Minors.*

WHEREAS it is expedient to amend the Law for hearing suits relative to the custody and guardianship of minors; It is enacted as follows :—

Preamble.

I. Any relative or friend of a minor who may desire to prefer any claim in respect of the custody or guardianship of such minor may make an application by petition, either in person or by a duly constituted agent, to the principal Civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition. The Court, if satisfied by an examination of the Petitioner or his agent, if he appear by agent, that there is ground for proceeding, shall give notice of the application to the person named in the petition as having the custody or being in the possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such minor.

Application.

II. The Court may direct that the person having the custody or being in possession of the person of such minor shall produce him or her in Court or in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such minor as may appear proper.

Production, and temporary custody and protection, of minor.

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III. On the day appointed for the hearing of the petition or as soon after  
Court, after hearing statements of the parties, &c., to make order regarding custody or guardianship of minor. as may be practicable, the Court shall hear the statements of the parties or their agents if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such minor and the costs of the case.

IV. In cases instituted under this Act, the Court shall be guided by the  
Procedure. procedure prescribed in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

V. An appeal shall lie to the Sudder Court from any order made by a  
Appeal. lower Court under this Act, under the rules applicable to regular appeals to such Sudder Court, except that the petition of appeal may be written on a stamp paper of the value prescribed for petitions to the Sudder Court.

Orders passed under this Act not liable to be contested in a regular suit. VI. Any order passed under this Act in respect to the custody or guardianship of a minor, shall not be liable to be contested in a regular suit.

VII. Nothing in this Act shall be taken to interfere with the jurisdiction  
Saving of laws. exercised under the Laws in force by any Supreme Court of Judicature or the Courts of Wards; or under Act XXI of 1855 (*for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort Saint George*), and Act XL of 1858 (*for making better provision for the care of the persons and property of minors in the Presidency of Fort William in Bengal*).

VIII. The term "Sudder Court" in this Act shall denote the Highest  
Interpretation. Court of Appeal in any part of the British territories in India.