

ACT No. XXVI OF 1864.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 14th April 1864).

An Act to extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts.

WHEREAS it is expedient to increase the limit of the jurisdiction of the Courts of Small Causes held under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), and to increase the number of Judges of the said Courts: It is enacted as follows:—

I. The words "Local Government" and "High Court" as used in this Act, shall bear respectively the same meaning as the words "Governor in Council" and "Supreme Court," as used in the said Act IX of 1850.

II. The jurisdiction of the Courts held or to be held under the said Act IX of 1850 shall extend to the recovery of any debt, damage, or demand exceeding the sum of five hundred Rupees but not exceeding the sum of one thousand Rupees, and to all actions in respect thereof (except the several actions specified in the proviso in Section XXV of the same Act), provided that the cause of action shall have arisen or the defendant at the time of bringing the action shall dwell or carry on business or personally work for gain within the local limits of the jurisdiction of the Court.

III. If both parties shall agree by a Memorandum signed by them or by their Attornies and filed with the Clerk of the Court of Small Causes, that the said Court shall have power to try any action (not included in the proviso in Section XXV of Act IX of 1850), in which the debt or damage claimed or value of

Courts held under Act IX of 1850 may take cognizance of suits for sums not exceeding one thousand Rupees.

Such Courts may take cognizance of suits for sums exceeding one thousand Rupees, if the parties consent.

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of the property in dispute whether on balance of account or otherwise shall exceed the sum of one thousand Rupees, then and in such case the said Court shall have jurisdiction to try such action.

IV. The powers and provisions of Act VII of 1847 (*to regulate distresses for small rents in Calcutta*) shall be extended to the recovery of all arrears of rent not exceeding one thousand Rupees, and the Judges of the Calcutta Court of Small Causes under Act IX of 1850 shall be empowered to exercise within their jurisdiction the extended powers of the said Act VII of 1847: and the said Act shall be construed as if, instead of Calcutta and the Settlement of Fort William in Bengal, the limits of the jurisdiction of the Court had been therein mentioned, and the Judges of the Calcutta Court of Small Causes under Act IX of 1850 instead of the Commissioners of the Court therein mentioned, and the amount of one thousand Rupees instead of one hundred Rupees, and the forms contained in the Schedule annexed to the said Act VII of 1847 shall be altered accordingly, and shall refer to Act IX of 1850 and to this Act instead of to Act VII of 1847.

Powers under Act VII of 1847 extended to recovery of arrears of rent not exceeding one thousand Rupees, and the Calcutta Court of Small Causes to exercise such powers.

V. The powers and provisions of Section XCI of Act IX of 1850 are hereby extended so as to apply to the case of any person who shall hold or occupy any house, land, or tenement of which the value or the rent payable in respect thereof does not exceed the rate of one thousand Rupees by the year, and the said Section XCI of Act IX of 1850 shall be read as if the words "five hundred" were omitted, and the words "one thousand" substituted for them.

Provisions of Section XCI, Act IX of 1850 extended to tenements not exceeding in value one thousand Rupees.

VI. The several powers and provisions of the said Act IX of 1850 and all rules, orders, and regulations which have been or may be made in pursuance of the said Act, shall extend to all debts, damages, and demands which may be sued for in the said Courts exceeding the sum of five hundred Rupees, and to all proceedings and judgments for the recovery of the same, or otherwise in relation thereto respectively, as fully and effectually, to all intents and purposes, as the same respectively are now or may be applicable to debts, damages, and demands within the present jurisdiction of the said Courts.

Provisions of Act IX of 1850 and all rules, &c., made in pursuance thereof extended to demands under this Act.

VII. In

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VII. In any cause of an amount exceeding five hundred Rupees, the Judges of the said Courts of Small Causes shall reserve any question of law or equity or any question as to the admission or rejection of any evidence as to which they shall entertain any doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the High Court, and shall give judgment contingent upon the opinion of the said High Court, on a case which they shall thereupon be entitled to state to the said Court. If only two Judges sit together and shall differ in opinion, the question on which they differ shall be so reserved.

In what cases questions to be reserved for the opinion of the High Court.

VIII. When judgment is given contingent upon the opinion of the High Court, the party against whom such judgment is given shall, unless he be willing to submit to such judgment, forthwith give security to be approved by the Clerk of the Court, for the costs of the reference to the High Court and for the amount of the judgment; provided nevertheless, that such security, so far as regards the amount of the judgment, shall not be required in any case where the Judge of the Court of Small Causes who tried the suit shall have ordered the defendant to pay the amount of such judgment into the hands of the Clerk of the said Court, and the same shall have been paid accordingly; and the said High Court may either order a new trial on such terms as it thinks fit, or may order judgment to be entered for either party as the case may be, and may make such order with respect to the costs of reserving the question and stating the same for their opinion, and otherwise arising thereout or connected therewith, as such High Court may think proper. And all orders made by the High Court under this Section shall be final.

Security to be given in certain cases when question is reserved for the opinion of the High Court.

Costs arising from the reserving the question to be at the discretion of the High Court.

IX. If any action shall after the passing of this Act be commenced in the High Court, for any cause other than those specified in Section C of Act IX of 1850, for which a summons might have been taken out from a Court held under the said Act IX of 1850 or under this Act, and in which such Court would have had jurisdiction, and if a verdict shall be found for the plaintiff for a sum less than one thousand Rupees if the said action is founded on contract, or less than three hundred Rupees if it is founded on wrong, the plaintiff shall have judgment to recover such sum only and no costs, and if a verdict shall not be found for the plaintiff, the defendant shall be entitled

No costs in cases brought in the High Court when verdict is for less than a certain amount.

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to his costs as between Attorney and client, unless in either case the Judge who shall try the case shall certify that by reason of the difficulty, novelty, or general importance of the case, or of some erroneous course of decisions in like cases in the Court of Small Causes, the action was fit to be brought in the High Court.

X. If any person shall bring any suit in the High Court in respect of any grievance committed by the Clerk, Bailiff, or Officer of any Court held under Act IX of 1850 or under this Act, or under color or pretence of the process of the said Court, and upon the trial of the action no greater damages shall be found for the plaintiff than the sum of one thousand Rupees, no cost shall be awarded to the plaintiff in such action unless the Judge shall certify in Court that the action was fit to be brought in the High Court.

No costs to be allowed in suit in High Court against Officer of Court held under Act IX of 1850, if verdict for no more than one thousand Rupees, unless Judge shall certify.

XI. There shall be payable in the Court of Small Causes at Calcutta, Madras, and Bombay respectively, in every cause of an amount to which jurisdiction is given to the said Court by this Act, the fees set forth in the Schedule hereto annexed, besides the sum of two annas in each Rupee of the amount sued for, so far as such amount does not exceed five hundred Rupees, and one anna in the Rupee so far as such amount exceeds five hundred Rupees, which fee shall be paid over to the same account as that to which the fees payable under Section XIX of Act IX of 1850 are paid over.

Fees payable in the Courts of Small Causes in suits under this Act.

XII. Whereas by Section VIII of the said Act IX of 1850, provision is made for the appointment of so many persons as may be necessary not exceeding three, to be Judges of the said Courts of Small Causes respectively, it is hereby enacted that it shall be lawful for the local Government with the previous sanction of the Governor-General of India in Council, to appoint as many persons as may be necessary to be Judges of the said Courts respectively.

Local Governments, with the sanction of the Governor-General of India, to appoint as many Judges as may be necessary.

XIII. The fees to be taken by Barristers at Law and Attornies practising in the said Courts in cases brought within the jurisdiction given by this Act, shall be as follows:—an Attorney shall be entitled to have or recover a sum not exceeding fifty-one Rupees for his fees and costs, and in no case shall any fee exceeding eighty-five Rupees be allowed for employing a Barrister as Counsel in the cause. The expense of employing a Barrister or an Attorney, or both a Barrister and an Attorney,

Fees payable to Barristers and Attornies in suits tried under this Act.

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Attorney, either by plaintiff or defendant, shall not be allowed as costs, unless by order of the Judge, and the Judges of the said Court shall determine in what cases such expenses shall be so allowed.

XIV. Of the Judges appointed under Section VIII of the said Act IX of 1850, the one who is a Barrister at Law or Advocate of one of the High Courts of India or of the Court of Session of Scotland shall be styled the First Judge. The First Judge shall make such arrangements as he shall think fit, with regard to the distribution of the suits and of the general business of the Court among the various Judges thereof: and he may vary such arrangements from time to time.

One of the Judges appointed under Act IX of 1850 to be styled First Judge; and to arrange the distribution of business among the Judges.

XV. The Local Government may, with the sanction of the Governor-General of India in Council, declare that the whole or any part or parts of the Code of Civil Procedure shall be applicable to any Court held under Act IX of 1850 or under this Act: and the procedure prescribed in the said Code or the part or parts thereof so declared to be applicable shall thereupon be the procedure followed in such Court: Provided that no right of appeal or review shall in any case be given by any declaration made under this Section.

Code of Civil Procedure may be extended to Small Cause Courts.

XVI. This Act and the said Act IX of 1850 shall be read and construed as one Act, as if the several provisions in the said Act contained, not inconsistent with the provisions of this Act, were repealed and re-enacted in this Act.

This Act to be read as part of Act IX of 1850.

SCHEDULE OF FEES.

Sums not above.	Every Summons or Subpcna.		Warrant.	
	Rs.	As.	Rs.	As.
600	2	4	6	0
700	2	8	7	0
800	2	12	8	0
900	3	0	9	0
1,000	3	4	10	0