

ACT No. XIX OF 1875.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 13th October 1875).

An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.

WHEREAS it is expedient to give a right of appeal from certain decrees and orders of the Chief Court of the Panjáb, and to enable the appellate Court to remand suits and order retrials, and to empower Judges of the said Chief Court to make references as to points of law; It is hereby enacted as follows:—

Preamble.

1. Subject to the provisions hereinafter contained, an appeal shall lie to the said Chief Court from any decree or order (not being an order made in any criminal trial) made in the exercise of original jurisdiction either by one Judge of the said Chief Court, or by a Bench of two Judges of the same Court, unless such Judges concur in the judgment.

Appeal from decrees in exercise of original jurisdiction.

When a suit is heard by a Bench of two Judges exercising original jurisdiction, the judgment of the senior Judge shall be the judgment of the Bench, and the decree or order shall follow thereupon, and any appeal therefrom shall be heard by a Full Bench.

If the decree or order appealed from was made by a single Judge, the appeal shall be heard either by the two other Judges of the said Chief Court or by a Full Bench, as the Court may determine, either by rule made under Act No. IV of 1866, section 43, or, in the absence of such rule, by order in the particular case.

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When the appeal is heard by two Judges, and they do not concur in varying the decree or order appealed from, such decree or order shall be taken as the final decree or order of the said Chief Court, unless such Court orders (as it is hereby empowered to do) the appeal to be reheard before the Full Bench.

Time for presenting such appeals.

2. Every appeal under this Act must be presented within thirty days from the date of the decree or order appealed against.

But if the period of limitation so prescribed expires on a day when the Court is closed, the appeal may be presented on the day that the Court reopens.

Admission after period has expired.

3. Any such appeal may be admitted after the period of limitation so prescribed, when the appellant satisfies the Court that he had sufficient cause for not presenting it within such period; and in the case of any decree against which the Chief Court has declared an appeal to Her Majesty in Council to be admitted under Act No. VI of 1874, the non-existence of this Act shall be deemed to be sufficient cause within the meaning of this section: provided that the copy of the record has not been transmitted to Her Majesty in Council.

Computation of period.

4. In computing such period, the day on which the judgment complained of was pronounced, and the time requisite for obtaining a copy of the decree or order appealed against, shall be excluded.

Power to remand or order new trial.

5. When an appeal under this Act has been heard, the appellate Court may remand the suit in accordance either with section 371 or section 374 of the Code of Civil Procedure, or may order that the case be tried again either by a Full Bench or by the Court that has already tried it.

Power to make reference on points of law.

6. A single Judge, or a Bench of two Judges (whether exercising original or appellate jurisdiction), may refer for the decision of a Full Bench any question of law arising in any suit or on any appeal before such Judge or Bench of two Judges; and the Judge or Bench making the reference shall dispose of the

case

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case conformably to the decision of the Full Bench of the question so referred.

7. In case of a difference of opinion among the Judges forming the Full Bench as to the decision to be given on any question coming before them under any provision of this Act, such question shall be decided according to the opinion of the majority of such Judges.

Difference among Judges forming Full Bench.

8. This Act shall be read with, and taken as part of, the Panjáb Chief Court Act, 1866.

This Act to be read with Act IV of 1866.