

ACT No. XIII OF 1888.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 26th October,
1888.)

An Act to amend the Punjab Courts Act,
1884.

WHEREAS it is expedient to amend the Punjab Courts Act, 1884; It is hereby enacted as follows:— XVIII of 1884.

Title, extent
and com-
mencement.

1. (1) This Act may be called the Punjab Courts Act, 1888.

(2) It has the same local extent as the Punjab Courts Act, 1884; and,

XVIII of
1884.

(3) Except in so far as it amends section 43 of that Act, it shall come into force on the sixteenth day of November, 1888.

(4) In so far as it amends that section, it shall come into force on the first day of January, 1889.

Substitution
of new sec-
tion for sec-
tion 3,
Act XVIII,
1884.

2. For section 3 of the Punjab Courts Act, 1884, the following shall be substituted, namely:— XVIII of 1884.

Definitions.

“3. In this Act, unless there is something repugnant in the subject or context,—

“(1) ‘small cause’ means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887:

IX of 1887.

“(2) ‘land-suit’ means a suit relating to land as defined in section 4, clause (1), of the Punjab Tenancy Act, 1887, or to any right or interest in such land:

XVI of 1887.

“(3) ‘unclassed

“(3) ‘unclassed suit’ means a suit which is neither a small cause nor a land-suit: and

“(4) ‘value’, used with reference to a suit, means the amount or value of the subject-matter of the suit.”

XVIII of
1884.

3. The proviso to section 8, sub-section (1), of the Punjab Courts Act, 1884, is hereby repealed.

Repeal of
proviso to
section 8,
sub-section
(1), Act
XVIII, 1884.

XVIII of
1884.

4. For clause (b) of section 14, sub-section (1), of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

Amendment
of section 14,
sub-section
(1), clause
(b), Act
XVIII, 1884.

“(b) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Punjab, regulating the conduct of business by persons so practising, and determining the authority by which breaches of rules under this clause shall be tried”.

XVIII of
1884.

5. For Chapter IV of the Punjab Courts Act, 1884, the following shall be substituted, namely:—

Substitution
of new
Chapter for
Chapter IV,
Act XVIII,
1884.

CHAPTER IV.

“APPELLATE JURISDICTION IN CIVIL CASES.

“39. Save as otherwise provided by any enactment for the time being in force, appeals from decrees of Courts exercising original jurisdiction shall lie as follows, namely:—

Appeals
from original
decrees.

(a) to the District Judge from a decree of a Munsif in a small cause of value not exceeding five hundred rupees or in an unclassified suit of value not exceeding one hundred rupees;

(b) to the Chief Court from a decree of a Subordinate Judge or District Judge in any original suit of value exceeding five thousand rupees or from a decree of a Divisional Court in any original suit; and

(c) to

- (c) to the Divisional Court from a decree passed in an original suit by a Munsif, Subordinate Judge or District Judge and not hereinbefore provided for.

Appeals
from appel-
late decrees of
Divisional
Courts.

“40. (I) A further appeal shall lie to the Chief Court in any of the following cases from an appellate decree of a Divisional Court on any ground which would be a good ground of appeal if the decree had been passed in an original suit, namely :—

- (a) if the value of the suit is one thousand rupees or upwards, or the decree involves directly some claim to, or question respecting, property of like value ;
- (b) in a land-suit if the Divisional Court consists of a single Judge and the decree varies or reverses, otherwise than as to costs, the decree of the Court below ;
- (c) in a land-suit if, in a Divisional Court consisting of more than one Judge, the appeal is heard by two or more Judges and there is not a majority of those Judges concurring in the decree of the Divisional Court confirming, varying or reversing, otherwise than as to costs, the decision of the Court below ;
- (d) if on the application of any party a Judge of the Divisional Court certifies that there is a question of law or custom involved, and that the case is, in his opinion, of sufficient importance to justify a further appeal :

Provided that—

- (i) an application under clause (d) of this sub-section shall not be received after the expiration of thirty days from the date on which the decree of the Divisional Court is passed, unless the applicant satisfies the Judge that he had sufficient cause for not presenting it within that period ; and

(ii) a

(ii) a further appeal shall not lie in any small cause of value not amounting to one thousand rupees or upwards or in any unclassified suit of value not exceeding one hundred rupees.

(2) When an application under clause (d) of subsection (1) has been refused, an application for revision may, within thirty days from the date of the refusal, be presented to the Chief Court, and if the Chief Court is of opinion that a question of law or custom or of general interest is involved, and that the case is of sufficient importance to justify a further appeal, the Chief Court may deal with the application for revision as if it were a further appeal.

XIV of 1882. "41. Subject to the provisions of the last foregoing section and of sections 595 and 622 of the Code of Civil Procedure, an appellate decree of a District Judge or Divisional Court shall be final.

Appellate decrees of District Judge or Divisional Court otherwise final.

"42. (1) The Local Government may confer on a Subordinate Judge the powers of a District Judge for the purpose of hearing appeals from the Courts of Munsifs in any local area, and may withdraw those powers.

Power to confer appellate jurisdiction on Subordinate Judge.

(2) A Subordinate Judge shall, for purposes connected with the exercise of powers so conferred, be deemed to be a District Judge.

"43. (1) The period of limitation for an appeal under section 39 or section 40 and for an appeal from an order from which an appeal lies shall run from the date of the decree or order appealed against, and shall be as follows, that is to say :—

Period of limitation.

(a) when the appeal lies to the District Judge—
thirty days;

(b) when the appeal lies to the Divisional Court—
sixty days;

(c) when the appeal lies to the Chief Court—
ninety days.

(2) In

(2) In computing these periods of thirty, sixty and ninety days, and in all respects not herein specified, the limitation of the appeals shall be governed by the provisions of the Indian Limitation Act, 1877: XV of 1877.

Provided that, in computing the period of ninety days for an appeal under clause (d) of section 40, sub-section (1), the time during which the application under that clause has been pending shall be excluded.

References to Chief Court under section 617 of Code of Civil Procedure.

“44. For the purpose of section 617 of the Code of Civil Procedure, every appeal to a Divisional Court under this Chapter shall, except when the value of the suit is one thousand rupees or upwards, be deemed to be an appeal in which the decree is final.” XIV of 1882.

Addition of sections to Act XVIII, 1884.

6. The following sections shall be added to the Punjab Courts Act, 1884, namely:—

XVIII of 1884.

Appointment of Additional Divisional and District Judges.

“75. (1) When the business pending before any Divisional Court consisting of one Judge, or before the Court of any District Judge, requires the aid of an Additional Judge for its speedy disposal, the Local Government may appoint to the Court an Additional Divisional Judge or an Additional District Judge, as the case may be.

“(2) An Additional Judge so appointed shall discharge any of the functions of a Divisional Judge or District Judge, as the case may be, which the Divisional Judge or District Judge may assign to him, and shall, as regards the discharge of those functions and subject to the provisions of the next following sub-section, be deemed, for the purposes of this Act, to be a Divisional Judge or District Judge.

“(3) Where an Additional Divisional Judge is appointed to a Divisional Court under sub-section (1), the Court shall not be deemed for the purposes of this Act to be a Divisional Court consisting of more than one Judge.

Transfer of proceedings.

“76. Subject to the provisions of any enactment for the time being in force, the Chief Court may, of its

its own motion or on the application of a party, withdraw any proceeding which is pending in any Court subordinate to it and for the withdrawal of which provision is not made in sections 25 and 647 of the Code of Civil Procedure or in section 526 of the Code of Criminal Procedure, 1882, and may either itself dispose of the proceeding or transfer it for disposal to any other subordinate Court."

IV of 1882.
of 1882.

VIII of
1884.

7. (1) Section 8 of the Punjab Courts Act, 1884, shall apply as amended by section 3 of this Act to proceedings pending at the commencement of this Act.

Effect of this
Act on
decrees
already made.

(2) Subject to the other provisions of this Act, appeals from decrees passed and not appealed from before the commencement of this Act shall lie and be disposed of as if the Punjab Courts Act, 1884, had on the third day of October, 1884, been passed as amended by this Act.