



GOVERNMENT OF MAHARASHTRA
LAW AND JUDICIARY DEPARTMENT

THE PRESIDENCY
SMALL CAUSE COURTS ACT, 1882
(XV OF 1882)

(IN ITS APPLICATION TO THE STATE OF MAHARASHTRA)

(As modified up to the 7th January 2004)

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THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882

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1. The Amending Act, 1891 (12 of 1891).
2. The Madras City Civil Court Act, 1892 (7 of 1892).
3. The Presidency Small Cause Courts Act, 1895 (I of 1895).
4. The Presidency Small Cause Courts (1882) Amendment Act, 1896 (7 of 1896).
5. The Presidency Small Cause Courts Act, 1899 (3 of 1899).
6. The Presidency Small Cause Courts Act, 1906 (4 of 1906).
7. The Code of Civil Procedure, 1908 (5 of 1908).
8. The Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912).
9. The Presidency Small Cause Courts (Amendment) Act, 1912 (9 of 1912).
10. The Repealing and Amending Act, 1914 (10 of 1914).
11. The Presidency Small Cause Courts (Amendment) Act, 1917 (23 of 1917).
12. The Devolution Act, 1920 (38 of 1920).
13. The Repealing Act, 1927 (12 of 1927).
14. The Government of India (Adaptation of Indian Laws) Order, 1937.
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16. The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
17. The Adaptation of Laws Order, 1950.
18. The Adaptation of Laws (NO. 2) Order, 1956.
19. The Presidency Small Cause Courts (Bombay Amendment) Act, 1933 (Bom. V of 1933).
20. The Presidency Small Cause Courts (Bombay Amendment) Act, 1948 (Bom. XLIV of 1948).
21. The Presidency Small Cause Courts (Bombay Amendment) Act, 1952 (Bom. XVII of 1952).
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23. The Presidency Small Cause Courts (Bombay Amendment) Act, 1955 (Bom. XLIV of 1955).
24. The Presidency Small Cause Courts (Bombay Amendment) Act, 1959 (Bom. XI of 1959).
25. The Presidency Small Cause Courts (Maharashtra Amendment) Act, 1961 (Mah. XXXV of 1961).
26. The Presidency Small Cause Courts (Maharashtra Amendment) Act, 1963 (Mah. XLI of 1963).
27. The Presidency Small Cause Courts (Maharashtra Amendment) Act, 1966 (Mah. XV of 1966) (20-1-1967).*
28. The Presidency Small Cause Courts (Maharashtra Amendment) Act, 1975 (Mah. XIX of 1976) (1-7-1976).*
29. The Maharashtra Civil Courts (Enhancement of Pecuniary Jurisdiction and Amendment) Act, 1977 (Mah. XLVI of 1977) (1-1-1978).*
30. The Presidency Small Cause Courts (Maharashtra Amendment) Act, 1977 (Mah. LIX of 1977) (1-1-1978).*
31. The Provincial Small Cause Courts and Presidency Small Cause Courts (Maharashtra Amendment) Act, 1984 (Mah. 24 of 1984) (1-1-1989).*
32. The Presidency Small Cause Courts (Maharashtra Amendment) Act, 1987 (Mah. XXVI of 1987).

* This indicates the date of commencement of the Act.

List of Abbreviations used

- A. O. 1937for Government of India (Adaptation of
Indian Laws) Order, 1937.
- A. O. 1948for Indian Independence (Adaptation of
Central Acts and Ordinances)
Order, 1948.
- A. O. 1950 for Adaptation of Laws Order, 1950.
- A. O. (2) 1956for Adaptation of Laws (No. 2) Order,
1956.
- Ins for Inserted.
- Rep.....for Repealed.
- S.for Section.
- Sch. for Schedule.
- Subs.for Substituted.
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THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882

ACT No. XV OF 1882 ¹

[17th March 1882]

An Act to consolidate and amend the law relating to the Courts of Small Causes established in the Presidency-towns.

WHEREAS ; it is expedient to consolidate and amend the law relating to the Courts of Small Causes established in the towns of Calcutta, Madras and Bombay ; It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

1. This Act may be called the Presidency Small Cause Courts Act, 1882 ; and it shall come into force on the first day of July 1882. Short title and commencement.
- But nothing herein contained shall affect the provisions of the Army Act (44 and 45 Vict. c. 58),² section 151, or the rights or liabilities of any person under any decree passed before that day.
2. Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch. Repeal of enactments.
3. Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch. Amendments of Acts.
4. In this Act, " the Small Cause Court " means the Court of Small Causes constituted under this Act in the towns of Calcutta, Madras or Bombay as the case may be, ³[and the expression " Registrar " includes a Deputy Registrar]. "Small Cause Court" and "Registrar" defined.

CHAPTER II

CONSTITUTION AND OFFICERS OF THE COURT

5. There shall be in each of the towns of Calcutta, Madras and Bombay a Court to be called the Court of Small Causes of Calcutta, Madras or Bombay as the case may be. Courts of Small Causes established.

¹ For Statement of Objects and Reasons, see Gazette of India, 1880, Pt. V., p. 376 ; for first Report of the Select Committee, see *ibid.* 1881, Pt. V., p. 981, for further Report of the Select Committee see *ibid.* 1882, Pt. V., p. 3 ; for Proceedings in Council, see *ibid.* Supplement, 1880, pp. 1394 and 1433 ; *ibid.*, 1882, Supplement, p. 204, and *ibid.*, 1882, Extra Supplement, p. 43.

This Act has been amended in its local application by Bengal Acts 4 of 1922 and 20 of 1932 Bombay Act 5 of 1933 and Madras Acts 5 of 1916, 3 of 1922 and 3 of 1927.

² The figures "1881" rep. by Act 12 of 1891.

³ Added by Act 3 of 1899, s. 2.

Court to be deemed under superintendence, etc. of High Court.

6. The Small Cause Court shall be deemed to be a Court subject to the Superintendence of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be, within the meaning of the Letters Patent, respectively, dated the 28th day of December 1865, for such High Courts, and within the meaning of the ¹Code of Civil Procedure (XIV of 1882) ²[and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879 (XVIII of 1879)], and the High Court shall have, in respect of the Small Cause Court the same powers as it has under the ³[twenty-fourth and twenty-fifth of Victoria, Chapter 104; section 15, in respect of Courts subject to its appellate jurisdiction.]

Appointment of Judges.

⁴[7. ⁵[(1)] There shall be appointed from time to time a Chief Judge of the Small Cause Court and as many other judges as the ⁶[State] Government thinks fit].

⁷[(2) The State Government may also appoint any person to be an Additional Chief Judge ; and the Additional Chief Judge shall exercise such powers and perform such duties of the Chief Judge under this Act or under any law for the time being in force, as the State Government may direct].

Rank and precedence of Judges.

8. The Chief Judge shall be the first of the Judges in rank and precedence.

The other judges shall have rank and precedence as the ⁶[State] Government may, from time to time, direct.

Performance of duties of absent Judge.

⁸[8A. (1) During any absence of the Chief Judge or any Judge of the said Court, or during the period for which any Judge is acting as Chief Judge, the ⁶ [State] Government may appoint any person, having ⁴[the requisite qualifications], to act as chief Judge or Judge of the said Court, as the case may be.

(2) Every person so appointed shall be authorised to perform the duties of the Chief Judge or a Judge of the said court until the return of the absent chief Judge or Judge or of the Judge acting as Chief Judge, or until the ⁶[State] Government sees cause to cancel the appointment of such acting Chief Judge, or Judge as the case may be.]

¹ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

² Ins. by Act I of 1895, s. 2.

³ The Indian High Courts Act, 1861, rep. by the Government of India Act, 1915, See now the Government of India Act, 1935 (26 Geo. 5, 5, Ch. 2) s. 224.

⁴ Subs. by the A. O. 1937.

⁵ Section 7 was renumbered as Sub-section (1) thereof by Mah. Act 15 of 1966, s. 2.

⁶ Subs. by the A. O. 1950.

⁷ Added by Mah. Act. 15 of 1966, s. 2.

⁸ Subs. by Act 3 of A. O. 1889, s. 3.

¹[9. (1) The High Court may, from time to time, by rules, having the force of law,—

Procedure and practice of Small Cause Court.

²(a) prescribe the procedure to be followed and the practice to be observed by the Small Cause Court either in supersession of or in addition to any provisions which were prescribed with respect to the procedure or practice of the Small Cause Court on or before the thirty-first day of December 1894, in or under this act or any other enactment for the time being in force; and

³(aa) empower the Registrar to hear and dispose of undefended suits and interlocutory applications or matters, and]

(b) cancel or vary any such rule or rules.

Rules made under this section may provide among other matters, for the exercise by one or more of the Judges of the Small Cause Court of any powers conferred on the Small Cause Court by this Act or any other enactment for the time being in force.

(2) The law, and any rules and declarations made, or purporting to be made, thereunder, with respect to procedure or practice, in force or treated as in force in the Small Cause Court on the thirty-first day of December 1894, shall be in force, unless and until cancelled or varied by rules made by the High Court under this section.]

10. Subject to such rules, the Chief Judge may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.

Chief Judge to distribute business of Court.

11. Save as hereinafter otherwise provided, when two or more of the Judges sitting together differ on any question, the opinion of the majority shall prevail, ⁴[and if the Court is equally divided, the Judges shall state the point upon which they differ, and the case shall then be heard upon that point by another Judge nominated by the Chief Judge and the point shall be decided, according to the opinion of the majority of the Judges, who have heard the case, including those who first heard it].

Procedure in case of difference of opinion.

12. The Small Cause Court shall use a seal of such form and dimensions as are for the time being prescribed by the ⁵[State] Government.

Seal to be used.

⁶[**13.** There shall be appointed an officer to be called the Registrar of the Court who shall be the Chief ministerial officer of the Court; there shall also be appointed a Deputy Registrar and as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

Appointment of Registrar and other officers.

¹ Subs. by Act I of 1895 s. 5, for the original section.

² Cf. the Code of Civil procedure, 1908 (Act 5 of 1908), s. proviso.

³ Ins. by Act 3 of 1899, s. 4.

⁴ Subs. by Mah. 35 of 1961, s. 2.

⁵ Subs. by the A. O. 1950.

⁶ Subs. for the A. O. 1937 for the original section 13.

The Registrar and other officers so appointed shall exercise such powers and discharge such duties of a ministerial nature, as the Chief Judge may, from time to time, by rule direct.]

Registrar may be invested with powers of a Judge in suits not exceeding ⁴[five hundred rupees].

14. The ¹[State] Government may invest the registrar with the powers of a Judge under this Act for the trial of suits in which the amount or value of the subject matter does not exceed ²[Five hundred rupees]. And subject to the orders of the Chief Judge, any Judge of the Small Cause Court may, whenever he thinks fit, transfer from his own file to the file of the Registrar any suit which the latter is competent to try.

3* * * * *

Judge or other officer not to practice or trade.

15. No Judge or other officer appointed under this Act shall, during his continuance as such Judge or officer, either by himself or as a partner of any other person, practise or act, either directly or indirectly, as an advocate, attorney, vakil or other legal practitioner or be concerned, either on his own account or for any other person, or as the partner of any other person, in any trade or profession.

Any such Judge or officer so practising, acting or concerned shall be deemed to have committed an offence under section 168 of the Indian Penal Code (XLV of 1860).

Nothing herein contained shall be deemed to prohibit any such Judge or officer from being a member of any company incorporated or registered under Royal Charter, Letters Patent, ⁵[Act of Parliament of the United Kingdom or Central Act or Provincial Act or ⁵ [State Act]].

CHAPTER III

LAW ADMINISTERED BY THE COURT

Question arising in suits, etc. under Act to be decided according to law administered by High Court.

16. All questions, other than questions relating to procedure or practice, which arise in suits or other proceedings under this Act in the Small Cause Court shall be dealt with and determined according to the law for the time being administered by High Court in the exercise of its ordinary original civil jurisdiction.

¹ Subs. by the A. O. 1950.

² Subs. for the words "one hundred rupees" by Mah. 15 of 1987, s. 4(a).

³ Original Explanation was deleted by Mah. XLVI of 1977, s. 4(b).

⁴ Subs. for the words "one hundred rupees" by Mah. 15 of 1987, s. 4(b).

* Section 19 of the Mah. XLVI of 1977 reads as follows :—

Saving. "19. The amendments made by this Act in any of the Acts aforesaid shall not have any effect in respect of and apply to any suits, appeals or other proceedings of a civil nature filed and pending before any Court on the date of commencement of this Act, and such proceedings shall be continued and disposed of by that Court, as if this Act had not been passed ; and any appeal, revision application or other proceedings of a civil nature in respect of any decree or order passed by any Court before the date of commencement of this Act shall be filed before and heard and disposed of the Court competent to entertain such proceedings before such commencement, as if this Act had not been passed."

⁵ Subs. by the A. O. 1950.

⁶ Subs. by the A.O. (2) 1956.

CHAPTER IV

JURISDICTION IN RESPECT OF SUITS

17. The local limits of the jurisdiction of each of the Small Cause Courts shall be the local limits for the time being of the ordinary original civil jurisdiction of the High Court. Local limits of jurisdiction of Court.

18. Subject to the exceptions in section 19, the Small Cause Court shall have jurisdiction to try all suits of a civil nature— Suits in which Court has jurisdiction.
when the amount or value of the subject matter does not exceed ¹[twenty-five thousand rupees] ; and—

(a) the cause of action has arisen, either wholly or in part, within the local limits of the jurisdiction of the Small Cause Court, and the leave of the Court, has, for reasons to be recorded by it in writing, been given before the institution of the suit ; or

(b) all the defendants, at the time of the institution of the suit, actually and voluntarily reside, or carry on business, or personally work for gain, within such local limits ; or

(c) any of the defendants at the time of the institution of the suit, actually and voluntarily resides, or carries on business, or personally works for gain within such local limits and either the leave of the Court has been given before the institution of the suit, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution :

²[Provided that where the cause of action has arisen wholly within the local limits aforesaid and the Court refuses to give leave for the institution of the suit, it shall record in writing its reasons for such refusal.]

@³[Provided further that the Chief Judge may, subject to the direction and control of the High Court and to such conditions and limitations as he deems fit to impose, empower the Registrar to entertain and dispose of applications for the purpose of giving such leave under clauses (a) and (c) and, when so empowered, the Registrar shall be deemed to be the Court for that purpose.]

¹ Subs. for the words "ten thousand rupees" by Mah. 15 of 1987, s. 5.

² Added by Act I of 1895, s. 7.

³ This proviso was inserted and shall be deemed to have been inserted with effect from the 3rd July 1975 by Mah. 26 of 1987, s. 2.

@ Section 3 of Mah. 26 of 1987 reads as follows namely :—

3. Notwithstanding anything contained in the principal Act or any other law for the time being in force, or in any judgment, decree or order of any Court, every leave to institute a suit under clause (a) or (c) of Section 18 of the Principal Act given by the Registrar during the period commencing on the 3rd day of July 1975 and ending on the 31st day of August 1984, in exercise or purported exercise of the power conferred on him by the Chief Judge, shall be deemed to be, and shall be deemed always to have been, validly given in accordance with law by the Court of competent jurisdiction, as if the provisions of section 18 of the principal Act, as amended by this Act, were in force at all material times when such leave was given ; and that the leave so given shall not be called in question in any Court of law or before any authority, only on the ground that the Registrar had no jurisdiction to give such leave to institute a suit. Validation.

Explanation I.—When in any suit sum claimed is, by a set off admitted by both parties, reduced to a balance not exceeding ¹[twenty-five thousand rupees] the Small Cause Court shall have jurisdiction to try such suit.

Explanation II.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

Explanation III.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in ²[India] or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Plaintiff may abandon suit against defendant resident out of jurisdiction. ³**18A.** The Small Cause Court may allow a plaintiff at or before the first hearing of a suit in which a joint and several liability is alleged on a cause of action arising either wholly or in part within the local limits of the jurisdiction of the Court to abandon the suit as against any defendant who does not reside, or carry on business or personally work for gain within such local limits, and to sue for a decree against such defendants only as do so reside, carry on business or personally work for gain.

Suits in which Court has no jurisdiction.

19. The Small Cause Court shall have no jurisdiction in—

(a) suits concerning the assessment or collection of the revenue ;

⁴[(b) suits concerning any act done by or by order of the Central Government, ⁵*** or the ⁶[State] Government] ;

(c) suits concerning any act ordered or done by any Judge or judicial officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court or any such Judge or Judicial officer.

~~(d)~~ suits for the recovery of immovable property ;

(e) suits for the partition of immovable property ;

(f) suits for the foreclosure or redemption of a mortgage of immovable property ;

(g) suits for the determination of any other right to or interest in immovable property ;

~~(h)~~ suits for the specific performance or rescission of contracts ;

~~(i)~~ suits to obtain an injunction ;

(j) suits for the cancellation or rectification of instruments ;

(k) suits to enforce a trust ;

¹ Subs. for the words "ten thousand rupees" by Mah. 15 of 1987, s. 5.

² Subs. by the A. O. (2) 1956.

³ Ins. by Act I of 1895, s. 8.

⁴ Subs. by the A. O. 1937.

⁵ The words "the (Crown Representative)" omitted by the A. O., 1950.

⁶ Subs. by A. O. 1950.

- (l) suits for a general average loss and suits on policies of insurance on sea going vessels ;
- (m) suits for compensation in respect of collisions on the high seas ;
- (n) suits for compensation for the infringement of a patent, copyright or trade-mark ;
- (o) suits for a dissolution of partnership or for an account of partnership-transactions ;
- (p) suits for an account of property and its due administration under the decree of the Court ;
- (q) suits for compensation for libel, slander, malicious prosecution, adultery or breach of promise of marriage ;
- (r) suits for the restitution of conjugal rights ¹* * * or for a divorce ;
- (s) suits for declaratory decrees ;
- (t) suits for possession of a hereditary office ;
- (u) suits against Sovereign Princes or Rulling Chiefs, or against Ambassadors or Envoys of Foreign States ;
- (v) suits on any judgement of a High Court ;
- (w) suits on the cognizance whereof by the Small Cause Court is barred by any law for the time being in force.

²[19A. Whenever the Court finds that for want of jurisdiction it cannot finally determine the question at issue in the suit, it may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the question. When the Court so returns a plaint, it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure ³[XIV of 1882] and make such order with respect to costs as it may think just, and the Court shall for the purposes of the Indian Limitation Act, 1877 ⁴[XV of 1877] be deemed to have been unable to entertain the suit by reason of defect of jurisdiction. When a plaint so returned is afterwards presented to a High Court, credit shall be given to the Plaintiff for the amount of the court-fee paid in the Small Cause Court in respect of the plaint in the levy of any fees which according to the practice of the High Court are credited to the Government.

Return of
Plaint.

20. When the parties to a suit, which if the amount or value of the subject-matter thereof did not exceed ⁵[twenty-five thousand] rupees would be cognizable by the Small Cause Court have entered into an agreement in writing that the Small Cause Court shall have jurisdiction to try such suit, the Court shall have jurisdiction to try the same, although the amount or value or the subject-matter thereof may exceed ⁵[twenty-five thousand] rupees.

Court may
by consent
try suits
beyond
pecuniary
limits of
jurisdiction.

¹ The words "for the recovery of a wife" rep. by Act 10 of 1914, s. 3 and Sch. II.

² Ins. by Act I of 1895, s. 9.

³ See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. I, order VII, rule 10 (2).

⁴ See now the Limitation Act, 1963.

⁵ Subs. by Mah. 15 of 1987, s. 6 for the words "ten thousand".

Every such agreement shall be filed in the Small Cause Court, and when so filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by its decision in such suit.

Suits by
and against
officers of
Court.

21. All suits to which an officer of the Small Cause Court is, as such, a party, except suits in respect of property taken in execution of its process, or the proceeds or value thereof ¹* * * may be instituted in the ²[Bombay City Civil Court] at the election of the plaintiff as if this Act had not been passed.

Costs when
plaintiff
sues in
High Court
or in
Bombay
City Civil
Court in
other cases
cognizable
by Small
Cause
Court.

³**22.** If in any suit instituted in the High Court or in the Bombay City Civil Court, other than a suit to which section 21 applies, the judge who tries it is of the opinion that it ought to have been instituted in the Small Cause Court and if in such suit—

(a) where it is instituted in the High Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client ; or

(b) where it is instituted in the Bombay City Civil Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs and may also be awarded such additional amount not exceeding one thousand rupees by way of compensation as the Judge may award ; or

(c) where it is instituted in the High Court or in the Bombay City Civil Court the plaintiff obtains a decree for any matter of an amount or value less than ⁴[twenty-five thousand rupees], no costs shall be allowed to the plaintiff.

CHAPTER V

PROCEDURE SUITS

23. [Portions of Civil Procedure Code extending to Court.] Rep. by the Bombay Small Cause Courts Act, 1895 (I of 1895) s. 12.

No written
statement
except in
cases of
set-off.

24. Except in cases of set-off under the Code of Civil Procedure ⁵[XIV of 1882], section III, the written statement shall be received unless required by the Court.

¹ The words "and all suits whereof the amount or value of the subject matter exceeds one thousand rupees" were deleted by Bom. 44 of 1948, s. 2 (a).

² Subs. by Bom. 44 of 1948, s. 2 (b) for "High Court".

³ Section 22 was substituted for the original by Bom. 44 of 1948, s. 3.

⁴ Subs. by Mah 15 of 1987, s. 7 for the words "ten thousand rupees".

⁵ See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. 1, Order VIII, rule 6.

25. When a period of eight days from the decision of a suit has expired without any application for a new trial or re-hearing of such suit having been made, or when any such application has been made within such period and such application has been refused, or the new trial or re-hearing (as the case may be) had ended, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record, shall unless the document is impounded under section 143 of the Code of Civil Procedure ¹[XIV of 1882] be, entitled to receive back the same :

Return of documents admitted in evidence.

Provided that a document may be returned at any time before any of such events on such terms as the Court may direct; provided also that no document shall be returned which, by force of the decree, has become void or useless.

On the return of a document which has been admitted in evidence, a receipt shall be given by the party receiving it, in a receipt-book to be kept for the purpose.

26. In any suit in which the defendant appears and does not admit the claim and the plaintiff does not obtain a decree for the full amount of his claim, the Small Cause Court may in its discretion order the plaintiff to pay to the defendant, by way of satisfaction for his trouble and attendance, such sum as it thinks fit.

Compensation payable by plaintiff to defendant in certain cases.

When any claim preferred, or objection made, under section 278 of the Code of Civil Procedure ²[XIV of 1882] is disallowed, the Small Cause Court may in its discretion order the person preferring or making such claim or objection to pay to the decree-holder, or to the Judgement-debtor or to both by way of satisfaction as aforesaid, such sum or sums as it thinks fit.

And when any claim or objection is allowed the Court may award such compensation by way of damages to the claimant or objector as it thinks fit; and the order of the Court awarding or refusing such compensation shall bar any suit in respect of injury caused by the attachment.

Any order under this section may, in default of payment of the amount payable thereunder, be enforced by the person in whose favour it is made against the person against whom it is made as if it were a decree of the Court.

27. Whenever the Small Cause Court issues a warrant for the arrest of a judgement-debtor or the attachment of his property, the decree-holder, or some other person on his behalf shall accompany the officer of the Court entrusted with the execution of such warrant, and shall point out to such officer the judgement-debtor or the property to be attached, as the case may be.

Decree-holder to accompany officer executing warrant.

¹ See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. I, Order XIII, rule 8.

² See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. I, Order XXI, rule 58.

Things attached to immovable property and removable by tenant to be deemed movable in execution.

28. When the judgement-debtor under any decree of the Small Cause Court is a tenant of immovable property, anything attached to such property, and which he might before the termination of his tenancy lawfully remove without the permission of his landlord, shall, for the purpose of the execution of such decree [and for the purpose of deciding all questions arising in the execution of such decree,] be deemed to be movable property and may, if sold in such execution, be served by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgement-debtor would have been bound to do it if he had removed such thing.

Discharge of judgement-debtor on sufficient security.

29. Whenever any judgement-debtor, who has been arrested or whose property has been seized in execution of a decree of the Small Cause Court, offers security to the satisfaction of such Court for payment of the amount which he has been ordered to pay and the costs, the Court may order him to be discharged or the property to be released.

Court may in certain cases suspend execution of decree.

30. Whenever it appears to the Small Cause Court that any judgement-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or if such Court has ordered the same to be paid in instalments, the amount of any instalment thereof, it may, from time to time, for such time and upon such terms as it thinks fit, suspend the execution of such decree and discharge the debtor, or make such order as it thinks fit.

Execution of decree of Small Cause Court by other Courts.

31. If the judgement-debtor under any decree of the Small Cause Court has not, within the local limits of its jurisdiction, movable property sufficient to satisfy the decree, the Court may, on the application of the decree holder, send the decree for execution—

(a) in the case of execution against immovable property situate within such local limits—²[to the Madras City Civil Court or, ³[the Bombay City Civil Court or the High Court of Judicature at Fort William ⁴*** as the case may be;]]

(b) in all other cases—to any Civil Court within the local limits of whose jurisdiction such judgement-debtor, or any movable or immovable property of such judgement-debtor, may be found.

Procedure when decree transferred.

The procedure prescribed by the Code of Civil Procedure ⁵[XIV of 1882], for the execution of decrees by Courts other than those which made them shall be the procedure followed in such cases.

Minors may sue in certain cases as if of full age.

32. Notwithstanding anything contained in the Code of Civil procedure ⁵[XIV of 1882], as applied by this Act, any minor may institute a suit for any sum of money, not exceeding five hundred rupees, which may be due to him under section 70 of the Indian Contract Act, 1872 (IX of 1872), for wages or piece-work or for work as a servant, in the same manner as if he were of full age.

¹ Ins. by Act 4 of 1906, s. 2.

² Subs. by Act 7 of 1892, s. 12, for "to the High Court".

³ Inserted by Bom. 44 of 1948, s. 4 (a).

⁴ The words "or Bombay" were deleted, *ibid.*, s. 4(b).

⁵ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

33. Any non-judicial or quasi-judicial act which the Code of Civil Procedure ¹[XIV of 1882] as applied by this Act requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code as so applied, may be done by the Registrar of the Small Cause Court or by such other officer of that Court as that Court may, from time to time, appoint in this behalf.

Power to delegate non-judicial duties.

The High Court may, from time to time, by rule, declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

34. The suits cognizable by the Registrar under section 14 shall be heard and determined by him in like manner in all respects as a Judge of the Court might hear and determine the same :

Registrar to hear and determine suits like a Judge.

Provided that, subject to the control of the Chief Judge, any Judge of the Court may, whenever he thinks fit, transfer to his own file any suit on the file of the Registrar.

35. The Registrar may receive applications for the execution of decrees of any value passed by the Court, and may commit and discharge judgment-debtors, and make any order in respect thereof which a Judge of the Court might make under this Act.

Registrar may execute all decrees with the same powers as a Judge.

36. Every decree and order made by the Registrar in any suit or proceeding shall be subject to the same provisions in regard to new trial as if made by a Judge of the Court.

Decrees and orders of Registrar to new trial as if made by a Judge.

²[CHAPTER VI

NEW TRIALS AND APPEALS

37. Save as otherwise provided by this Chapter ³[or by Chapter VII] or by any other enactment for the time being in force, every decree and order of the Small Cause Court in a suit shall be final and conclusive.

General finality of decrees and orders of Small Cause Court.

38. Where a suit has been contested, the Small Cause Court may, on the application of either party, made within eight days from the date of the decree or order in the suit (not being a decree passed under section 522 of the ⁴[Code of Civil Procedure] (XIV of 1882), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

New trial of contested cases.

¹ See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

² Subs. by Act 1 of 1895, s. 13, for the original Chapter VI.

³ Inserted by Māh. XIX of 1976, s. 2.

⁴ See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. II. s. 16.

¹[*Explanation 1*]:—Every suit shall be deemed to be contested in which the decree is made otherwise than by consent of or in default of appearance by the defendant.

²[*Explanation 2* .—Nothing contained in this section shall apply to suit under Chapter VII.].

39. Removal of certain causes into High Court.—*Deleted by Bom. Act 44 of 1948, s. 5.*

40. Rules with respect to suits removed under the last foregoing section.—*Deleted by Bom. Act 44 of 1948, s. 5.*

³[CHAPTER VII

RECOVERY OF POSSESSION OF CERTAIN IMMOVABLE PROPERTY AND CERTAIN LICENCE FEES AND RENT.

Suits or Proceedings between licensors and licensees or landlords and tenants for recovery of possession of immovable property and licence fees or rent, except to those to which other Acts apply to lie in Small Cause Court.

41. (1) Notwithstanding anything contained elsewhere in this Act ⁴[** **] but subject to the provisions of sub-section (2), the Court of Small Causes shall have jurisdiction to entertain and try all suits and proceedings between a licensor and licensee, or a landlord and tenant, relating to the recovery of possession of any immovable property situated in Greater Bombay, or relating to the recovery of the licence fee or charges or rent therefor, irrespective of the value of the subject matter of such suits or proceedings.

(2) Nothing contained in sub-section (1) shall apply to suits or proceedings for the recovery of possession of any immovable property, or of licence fee or charges or rent thereof, to which the provisions of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, the Bombay Government Premises (Eviction) Act, 1955, the Bombay Municipal Corporation Act ⁵[the Maharashtra Housing and Area Development Act, 1976 or any other law for the time being in force, apply.]

Bom.
LVII of
1947.
Bom.
II of
1956.
Bom.
III of
1888.
Mah.
XXVIII
of
1977.

¹ Renumbered as "Explanation 1" by Mah. XIX of 1976, s. 3(a).

² Inserted *ibid.*, s. 3(b).

³ Chapter VII was substituted for the original Chapter VII (sections 41 to 49) by Mah. XIX of 1976, s. 4.

⁴ The words "or in any other law for the time being in force" were deleted by Mah. 24 of 1984, s. 6(1).

⁵ These words and Figures were substituted for the word and signed "the Bombay Housing Board Act, 1948 or any other law for the time being in force, apply" were submitted, *ibid.*, s. 6(2).

42. (1) An appeal shall lie from a decree or order made by the Small Cause Court exercising jurisdiction under section 41, to a bench of two Judges of the said Court, which shall not include the Judge who made such decree or order : Appeal.

Provided that, no such appeal shall lie from a decree or order made in any suit or proceeding in respect of which no appeal lies under the Code of Civil Procedure, 1908. V of 1908.

(2) Every appeal under sub-section (1) shall be made within thirty days from the date of the decree or order, as the case may be :

Provided that, in computing the period of limitation prescribed by this sub-section, the provisions contained in sections 4, 5 and 12 of the Limitation Act, 1963, shall, so far as may be, apply. XXXVI of 1963.

(3) No further appeal shall lie against any decision in appeal under sub-section (1).

(4) Where no appeal lies under this sub-section from a decree or order in any suit or proceeding, the bench of two Judges specified in sub-section (1) may, for the purpose of satisfying itself that the decree or order was according to law, call for the case in which such decree or order was made and pass such order with respect thereto as it thinks fit.

43. In all suits, appeals and proceedings under this Chapter, the Small Cause Court shall, as far as possible and except as herein otherwise provided, follow the procedure prescribed by the Code of Civil Procedure, 1908. Procedure.

44. *(Court fees) Deleted by Mah. LIX of 1977, section 2.*

45. Nothing contained in this Chapter shall be deemed to bar a party to a suit, appeal or proceeding mentioned therein in which a question of title to any immovable property arises and is determined, from suing in a competent court to establish his title to such property. Savings of suits involving title.

46. (1) All suits and other proceedings cognizable by the Small Cause Court under this Chapter and pending in the High Court or the Bombay City Civil Court, on the date of coming into force of the Presidency Small Cause Courts (Maharashtra Amendment) Act, 1975, shall be continued and disposed of by the High Court or the City Civil Court, as the case may be, as if this Act had not been passed. Saving of pending proceedings.

Mah.
XIX
1976.

(2) All applications and other proceedings filed in the Small Cause Court under this Chapter and pending in that Court on the date aforesaid, shall be continued and disposed of by the Small Cause Court, as if this Act had not been passed.]

CHAPTER VIII

DISTRESSES

Local extent of Chapter. Saving of certain rents. **50.** This Chapter extends to every place within the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature at Fort William, Madras and Bombay. But nothing contained in this Chapter applies—

(a) to any rent due to Government;

(b) to any rent which has been due for more than twelve months before the application mentioned in section 53.

Appointment of bailiff, and appraisers. **51.** Four or more persons shall be appointed bailiffs and appraisers for the purposes of this Chapter.]

Appointees to be public servants. **52.** The persons so appointed² * * * shall be deemed to be public servants within the meaning of the Indian Penal Code (XLV of 1860).

Application for distress warrant. **53.** ³[(1)] Any person claiming to be entitled to arrears of rent of any house or premises to which this Chapter extends, or his duly constituted attorney, may apply to any Judge of the Small Cause Court, or to the Registrar of the Small Cause Court, for such warrant as is hereinafter mentioned:

⁴[Provided that before making an application such person shall give 15 days' notice to the person liable to pay the arrears of rent making a demand of the said arrears.]

⁵[(2)] The application ⁶[made under sub-section (1)] shall be supported by an affidavit or affirmation to the effect of the form (marked A) in the third schedule hereto annexed.

Issue of distress-warrant. **54.** The Judge or Registrar may thereupon issue a warrant under his hand and seal and returnable within six days, to the effect of the form (marked B) contained in the same schedule, addressed to any one of such bailiffs.

The Judge or Registrar may at his discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

Time for distress. **55.** Every distress under this Chapter shall be made after sunrise and before sunset, and not at any other time.

¹ Subs. by the A. O. 1937 for the original section.

² Certain words omitted, *ibid.*

³ The first paragraph of section 53 was numbered as sub-sections (1) of that section by Mah. 35 of 1961, s. 3(a).

⁴ The proviso was added; *ibid.*

⁵ The second paragraph of section 53 was numbered as sub-section (2) of that section *ibid.* s. 3 (b).

⁶ These words, brackets and figures were inserted, *ibid.*

56. The bailiff directed to make the distress may force open any stable, outhouse or other building, and may also enter any dwelling-house, the outer door of which may be open, and may break open the door of any room in such dwelling-house for the purpose of seizing property liable to be seized under this Chapter :

What places
bailiff may
force open.

Provided that he shall not enter or break open the door of any room appropriated for the *Zenana* or residence of women, which by the usage of the country is considered private.

57. In pursuance of the warrant aforesaid the bailiff shall seize the movable property found in or upon the house or premises mentioned in the warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may in the bailiff's judgment, be sufficient to cover the amount of the said rent, together with the costs of the said distress :

Property
which may
be seized.

Provided that the bailiff shall not seize—

(a) things in actual use ; or

(b) tools and implements not in use, where there is other movable property in or upon the house or premises sufficient to cover such amount and costs ; or

(c) the debtor's necessary wearing apparel ; or

(d) goods in the custody of the law.

58. The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

Impounding
distress.

59. On seizing any property under section 57 the bailiff shall make an inventory of such property and shall give a notice in writing to the effect of the form (marked C) in the third schedule hereto annexed to the debtor, or to any other person upon his behalf in or upon the said house or premises.

Inventory
Notice of
intended
appraisement
and sale.

The bailiff shall, as soon as may be, file in the Small Cause Court copies of the said inventory and notice.

Copies of
inventory
and notice
to be filed.

60. ¹[(1)] The debtor or any other person alleging himself to be the owner of any property seized under this Chapter, or the duly constituted attorney of such debtor or other person, may, at any time within ²[fifteen days] from such seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such Judge may discharge or suspend such warrant or release such article accordingly, upon such terms as he thinks just,

Application
to discharge
or suspend
warrant.

and any of the Judges of the said Court may in his discretion give reasonable time to the debtor to pay the rent due from him.

¹ The first sentence of section 60 was numbered as sub-section (1) by Bom. 11 of 1959, s. 2 (a) (i).

² Substituted for the words "five days" *ibid.*

¹[Provided that where the Judge is satisfied that there is sufficient cause for extending the period within which an application may be made under this sub-section, he may extend the period to such extent as he may consider necessary].

²[(2)] Upon any such application, the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Judge, and shall be paid as he directs.

Claim to
goods
distrained
made by a
stranger.

61. If any claim is made to, or in respect of, any property seized under this Chapter or in respect of the proceeds or value thereof, by any person not being the debtor, the Registrar of the Small Cause Court, upon the application of the bailiff who seized property, may issue a summons, calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court ³[or the Bombay City Civil Court] in respect of such claim shall be stayed, and any Judge of the High Court ³[or the Bombay City Civil Court] or proof of the issue of such summons and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons :

And a Judge of the Small Cause Court shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as he thinks fit.

And such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Small Cause Courts in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Court.

Power to
award
compensa-
tion to
debtor or
claimant.

62. In any case under section 60 or section 61 the Judge by whom the case is heard may award such compensation by way of damages to the applicant or claimant (as the case may be) as the Judge thinks fit ;

and may for that purpose make any inquiry he thinks necessary ;

and the order of the Judge awarding or refusing such compensation shall bar any suit for the recovery of compensation for any damage caused by the distress.

Power to
transfer
High Court
cases
involving
more than
⁴[five
thousand
rupees].

63. In any case under section 60 or section 61, if the value of the subject-matter in dispute exceeds ⁴[five thousand rupees], the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court, on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order passed in the case by a Judge of the Small Cause Court, and may make such order therein as the High Court thinks fit.

¹ Added by Bom. 11 of 1959, s. 2 (a) (ii).

² The second sentence of section 60 was numbered as sub-section(2), *ibid.*

³ Inserted by Bom. 44 of 1948, s. 8.

⁴ Subs. for the words "two thousand rupees", by Mah. 46 of 1977, s. 8.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit.

The procedure in cases transferred under this section shall conform, as far as may be to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction ; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction, and every such order awarding or refusing compensation shall bar any suit for the recovery of compensation for any damage caused by the distress which gave rise to the case wherein such order was made.

64. In default of any order to the contrary by a Judge of the Small Cause Court or by the High Court, any two of the said bailiffs, may ¹[at the expiration of fifteen days from a seizure of property under this Chapter, or, as the case may be, of the extended period under the proviso to sub-section (1) of section 60,] appraised the property so seized and give the debtor notice in writing to the effect of the form (marked D) in the third schedule hereto annexed. Appraisal-
ment Notice
of sale.

The bailiffs shall file in the Small Cause Court a copy of every notice given under this section.

65. In default of any such order to the contrary, the distrained property shall be sold on the day mentioned in such notice, and the said bailiffs shall, on realizing the proceeds, pay over the amount thereof to the Registrar of Small Cause Court ; and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt ; and the surplus, if any, shall be returned to the debtor : Sale
Application
of proceeds.

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

66. No costs of any distress under this Chapter shall be taken or demanded except those mentioned in the part (marked E) of the third schedule hereto annexed. Costs of
distresses.

2* * * * *

67. The Registrar of the Small Cause Court shall keep a book in which all sums received as costs upon distresses made under this Chapter, and all sums paid remuneration to the said bailiffs, and all contingent charges incurred in respect such distresses, shall be duly entered. Account of
cost and
proceeds.

He shall also enter in the said book all sums realised by sale of the property distrained and paid over to landlords under the provisions of this Chapter.

¹ Subs. by Bom. 11 of 1959, s. 2(b), for "at the expiration of five days from a seizure of property under this Chapter,"

² The second paragraph omitted by the A. O. 1937.

Bar of
distresses
except
under this
Chapter.

68. No distress shall be levied for arrears of rent except under the provisions of this Chapter ;

Penalty for
making
illegal
distresses.

and any person, except a bailiff appointed under section 51, levying or attempting to levy any such distress, shall, on conviction before a Presidency Magistrate, be liable to be punished with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to three months, in addition to any other liability he may have incurred by his proceedings.

CHAPTER IX

REFERENCES TO HIGH COURT

Reference
when
compulsory.

¹**69.** (1) If two or more Judges of the Small Cause Court sit together in any suit, or in any proceedings under ²* * * this Act, and differ in their opinion as to any question of law or usage having the force of law or the construction of a document, which construction may affect the merits, or

If in any suit or in any such proceeding, in which the amount or value of the subject-matter exceeds five hundred rupees, any such question arises upon which the Court entertains reasonable doubt, and either party so requires,

the Small Cause Court shall draw up a statement of the facts of the case and the point on which there is a difference of opinion or on which doubt is entertained, and refer such statement with its own opinion on the point for the opinion of the High Court ; and the provisions of sections 619 to 621 of the ³[Code of Civil Procedure (XIV of 1882)] shall, so far as they are applicable, be deemed to apply as if such reference had been made under section 617 ⁴[of the said Code].

(2) When the Small Cause Court refers any question for the opinion of the High Court as provided in sub-section (1), it shall either reserve judgment of give judgment contingent upon such opinion.]

¹ Subs. by Act 4 of 1906, s. 4, for the original section 69.

² The words and figures "Chapter VII of " were deleted by Mah. 19 of 1976, s. 5.

³ See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. I, Order XLVI, rules 3 to 5.

⁴ See now rule 1, *ibid.*

70. When judgment is given under section 69 contingent upon the opinion of the High Court, the party against whom such judgment is given shall at once furnish security, to be approved by the Small Cause Court, for the costs of the reference to the High Court and for the amount of such judgement :

Security to be furnished on such reference by party against whom contingent judgement given.

Provided that no security for the amount of such judgment shall be required in any case in which the judge who tried the case has ordered such amount to be paid into Court, and the same has been paid accordingly.

Unless such security as aforesaid is at once furnished, the party against whom such contingent judgment has been given shall be deemed to have submitted to the same.

If no such security given, party to be deemed to have submitted to judgement.

CHAPTER X

FEEs AND COSTS

¹[71. The court-fees leviable in suits, appeals and proceedings under this shall be the same as are leviable under Chapter III of the Bombay Court-fees Act, 1959, and the provisions of that Act shall, *mutatis mutandis*, apply to the recovery of such court-fees.]

Court-fees.

Bom.
XXXVI
of
1959.

²[72. Save as otherwise provided by or under any provisions of this Act, the fees chargeable for serving and executing any processes issued by the Small Cause Court shall be the same as are prescribed by the High Court under section 32 of the Bombay Court-fees Act, 1959, and are for the time being applicable to the corresponding process issued by the Bombay City Civil Court, until any other provision is made by the High Court under the said section 32 in respect of any processes issued by the Small Cause Court.]

Process fees.

Bom.
XXXVI
of
1959.

73. ⁴[(1)] Whenever any such suit ⁵[or application or appeal] is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be paid by the Small Cause Court to the parties by whom the same have been respectively paid :

³[Repayment of fees under certain circumstances].

⁶[Provided that no such fees shall be repaid if the amount of institution fee on the plaint or application ⁷[or memorandum of appeal] does not exceed five rupees or the claim for repayment is not made within one year from the date on which the suit ⁵[or application of appeal] was so settled.

¹ Subs. for the original section 71 by Mah. 59 of 1977, s. 3.

² Subs. by Mah. 59 of 1977, s. 4 for original section 72.

³ Subs. by Bom. 44 of 1955, s. 2 (2).

⁴ This section was renumbered as sub-section (1) of section 73, *ibid.* s. 2 (1).

⁵ Subs. by Mah. 41 of 1963, s. 7(a), for the words, "or proceedings".

⁶ Proviso and sub-section (2) were inserted by Bom. 44 of 1955, s. 2(1).

⁷ Inserted by Mah. 41 of 1963, s. 7(a).

(2) The State Government may, from time to time, by order, provide for repayment to plaintiffs or applicants ¹[or appellants] of any part of the fees paid on plaints or applications ¹[or memorenda of appeals] by them in suits ²[or applications or appeals], as the case may be, disposed of under such circumstances and subject to such conditions as may be specified in the order.]

Fees and costs of poor persons. **74.** The Small Cause Court may, whenever it thinks fit, receive and register suits instituted ³ * * * by poor persons, and may issue process on behalf of such persons, without payment or on a part-payment of the fees mentioned in sections ⁴ ⁵ * * * 71 and 72].

Power to vary fees. **75.** The ⁶[State Government] may, from time to time, by notification in the *Official Gazette*, vary the amount of the fees payable under sections 71 and 72 :

Provided that the amount of such fees shall in no case exceed the amount prescribed by the said sections.

Expense of employing legal practitioners. **76.** The expense of employing an advocate, vakil, attorney or other legal practitioner incurred by any party shall not be allowed as costs in any suit ^{7***} in the Small Cause Court, in which suit, ^{8***} the amount or value of the subject-matter does not exceed twenty rupees, unless the Court is of opinion that the employment of such practitioner was under the circumstances reasonable.

77. [Sections 3, 5 and 25 of Court-fees Act, 1870, Saved] deleted by Mah. LIX of 1977, S. 6.

¹ Inserted by Mah. 41 of 1963, s. 7(b).

² Subs. *ibid.* for the words, "or proceedings".

³ The words, figures and letters "and applications under section 41 made, and appeals under section 42A made," were deleted by Mah. 19 of 1976, s. 8(a).

⁴ Subs. by Mah. 19 of 1976, s. 8(b), for the words and figures "sections 71 and 72".

⁵ The figures "44" were deleted by Mah. 59 of 1977, s. 5.

⁶ Subs. by the A. O. 1950.

⁷ The words and figures "or in any application or appeal under Chapter VII of this Act" were deleted by Mah. 19 of 1976, s. 9 (a).

⁸ The words "or application or appeal" were deleted, *ibid.*, s. 9(b).

CHAPTER XI

MISCONDUCT OF INTERIOR MINISTERIAL OFFICERS

¹[78. *[Power to fine Officers.] Rep. by the A. O. 1937.*

79. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court, who is employed as such in the execution of any order or warrant, loses, by neglect, connivance or omission, an opportunity of executing such order or warrant, he shall be liable, by order of the Chief Judge, on the application of the person injured by such neglect, connivance or omission, to pay such sum not exceeding in any case the sum for which the said order or warrant was issued, as, in the opinion of the Chief Judge, represents the amount of the damage sustained by such person thereby.

Default of bailiff or other officer in execution of order or warrant.

80. If any clerk, bailiff or other inferior ministerial officer of the Small Cause Court is charged with extortion or misconduct while acting under colour of its process or with not duly paying or accounting for any money levied by him under its authority the Court may inquire into such charge, and may make such order for the repayment or payment of any money so extorted, or of any money so levied as aforesaid, and of damages and costs, by such officer, as it thinks fit.

Extortion or default of officers.

81. For the purposes of any inquiry under this Chapter, the Small Cause Court shall have all the powers of summoning and enforcing the attendance of witnesses and compelling the production of documents which it possesses in suits under this Act.

Court empowered to summon witnesses, etc.

82. Any order under this Chapter for the payment or repayment of money may, in default of payment of the amount payable thereunder, be enforced by the person to whom such amount is payable as if the same were a decree of the Small Cause Court in his favour.

Enforcement for order.

CHAPTER XII

CONTEMPT OF COURT

83. *[Procedure of Court in certain cases of contempt.] Repealed by the Repealing and Amending Act, 1914 (10 of 1914).*

84. *[Record in such cases.] Repealed by the Repealing and Amending Act, 1914 (10 of 1914).*

85. *[Procedure where Court considers that case should not be dealt with under section 83.] Repealed by the Repealing and Amending Act, 1914 (10 of 1914).*

86. *[Discharge of offender on submission of apology.] Repealed by the Repealing and Amending Act, 1914 (10 of 1914).*

¹ This power is now regulated by rules made or deemed to have been made under Art. 309 of the Constitution of India.

87. If any witness before the Small Cause Court refuses to answer such questions as are put to him, or to produce any document in his possession or power which the Court requires him to produce and does not offer any reasonable excuse for such refusal, the Court may sentence him to simple imprisonment, or commit to the custody of an officer of the Court, for any term not exceeding seven days, unless in the meantime such person consents to answer such questions or to produce such document, as the case may be, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of sections ¹[480 or section 482 of the Code of Criminal Procedure, 1898 (V of 1998)].*

88. Any person deeming himself aggrieved by an order under ^{2***} section 87 may appeal to the High Court, and the provisions of the ³[Code of Criminal Procedure, 1898 (V of 1898)]* relating to appeals shall, so far as may be, apply to appeals under this section.

CHAPTER XIII

MISCELLANEOUS

89. Notices to produce documents, summons to witnesses, and all other process issued in the exercise of any jurisdiction conferred on the Small Cause Court by this Act, except summonses to defendants and writs of execution, may, if the Court by general or special order so directs, be served by such persons as the Court, from time to time, appoints in this behalf.

90. The Small Cause Court shall keep such registers, books and accounts and submit to the High Court such statements and returns, as may, subject to the approval of the ⁴[State Government], be prescribed by the High Court.

91. The Small Cause Court shall comply with such requisitions as may, from time to time, be made by the ⁴[State Government] or High Court for records, returns and statements in such form and manner as such Government or Court, as the case may be, thinks fit.

92. The Small Cause Court shall, at the commencement of each year draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for the approval of the ⁵[High Court]. Such list, when it has received such approval, shall be published in the ⁶[Official Gazette], and the said holidays and vacations shall be observed accordingly.

¹ Subs. by Act 10 of 1914, s. 2 and Sch. I for "83 or s. 85".

² The words and figures "s. 83 or" rep. by s. 3 and Sch. A. *ibid.*

³ Subs. by s. 2 and Sch. I., *ibid.*, for "Presidency Magistrate Act, 1897".

⁴ Subs. by the A. O. 1950.

⁵ Subs. by Bom. 17 of 1952. for "State Government", s. 6.

⁶ Subs. by the A. O. 1937, for "Local Official Gazette".

93. The ¹[President] ²* * the Governors of ³[Madras], ⁴[Maharashtra and ¹[West Bengal], ⁵] * * * *] and the Chief Justice and Judges of the High Court ⁶[* * * *] shall not be liable to arrest by order of the Small Cause Court.

Certain persons exempt from arrest by Court.

94. No suit shall lie on any decree of the Small Cause Court.

No suit to lie upon decree of Court.

95. Any person ordered by the Small Cause Court to be imprisoned may be imprisoned in such place as the ¹[State Government] from time to time, appoints in this behalf.

Place of imprisonment.

96. If any person against whom any suit is brought for anything purporting to be done by him under this Act, has before the institution of the suit, tender sufficient amends to the plaintiff, the plaintiff shall not recover.

Tender in suit for anything done under Act.

97. All prosecutions for anything purporting to be done under this Act must be commenced within three months after the offence was committed.

Limitation of prosecutions.

THE FIRST SCHEDULE

[*Enactments repealed*]

Rep. by the Repealing Act, 1938 (I of 1938), S. 2 and Sch.

THE SECOND SCHEDULE

[PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.]

Rep. by the Presidency Small Cause Courts Act, 1895 (I of 1895), S. 12.

THE THIRD SCHEDULE

FORMS

A

(See Section 53.)

In the Small Cause Courts for

A. B.(Plaintiff) ;

versus

C. D.(Defendant).

¹ Subs. by the A. O. 1950.

² Certain words rep. by the A. O. 1948.

³ Subs. *ibid.*

⁴ Subs. by Act 7 of 1912, S. 7 and Sch. E.

⁵ Certain words omitted, *ibid.*

⁶ The words "for Part A States" omitted by the A. O. (2), 1956.

* See now the Code of Criminal Procedure, 1973 (Act 2 of 1974).

A. B. of in, the town of maketh
oath [or affirms] and saith that C. D., of is
just by indebted to in the sum of Rs. for arrears
of rent of the house and premises No. situated at
in the town of, due for months, to wit, from
..... to, at the rate of Rs. per mensem
Sworn (or affirmed) before me the day of 20 .

Judge (or Registrar)

(The Schedules)

B

[See section 54]

In the Small Cause Court For

FORM OF WARRANT

I hereby direct you to distrain the movable property, of C. D., on the
house and premises situate at No., in the town of
for the sum of Rs. and the costs of the distress,
according to the provisions of Chapter VIII of the Presidency Small Cause
Court Act, 1882, dated day of 20

(Signed and sealed).

To E. F., Bailiff and Appraiser.

C

[See section 59]

In the Small Cause Court For

FORM OF INVENTORY AND NOTICE

(State particulars of property seized)

Take notice that I have this day seized the moveable property contained
in the above inventory for the sum ofRs., being the amount
of months' rent due to A. B., at last, and that
unless you pay the amount thereof, together with the costs of this distress,
within ¹[fifteen days], from the date hereof, or obtain an order from one of
the Judges or the Registrar of the Small Cause Court to the contrary, the
same will be appraised and sold pursuant to the provisions of Chapter VIII
of the Presidency Small Cause Courts Act, 1882. Dated the
day of 20

(Signed) E. F.,
Bailiff and Appraiser.

To C. D.

¹ Subs. by Bom. 11 of 1959, S. 2(c), for "five days".

D

[See section 64]

In the Small Cause Court For

Take notice that we have appraised the movable property seized on the day of, under the provisions of Chapter VIII of the President, Small Cause Courts Act, 1882, of which seizure and property a notice and inventory were duly served upon you (or upon on your behalf *as the case may be*) under date the and that the said property will be sold on the [two clear days at least after the date of the notice] at pursuant to the provisions of the said Act. Dated this day of 20

(Signed) E. F.,

G. H.,

Bailiff and Appraiser.

To C. D.

(The Schedules)

E

[See section 66]

In the Small Cause Court For

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT

Sums used for		Affidavit and warrant to distrain		Order to sell		Commission		Total	
Rs.	Rs.	Rs.	a. p.	Rs.	a. p.	Rs.	a. p.	Rs.	a. p.
1 and under—5	0	4 0	0	8 0	0	8 0	1	4 0
5	.. 10	0	8 0	0	8 0	1	0 0	2	0 0
10	.. 15	0	8 0	0	8 0	1	8 0	2	8 0
15	.. 20	0	8 0	1	0 0	2	0 0	3	8 0
20	.. 25	0	12 0	1	0 0	2	8 0	4	4 0
25	.. 30	1	0 0	1	0 0	3	0 0	5	0 0
30	.. 35	1	0 0	1	0 0	3	8 0	5	8 0
35	.. 40	1	0 0	1	8 0	4	0 0	6	8 0
40	.. 45	1	4 0	2	0 0	4	8 0	7	12 0
45	.. 50	1	8 0	2	0 0	5	0 0	8	8 0
50	.. 60	2	0 0	2	0 0	6	0 0	10	0 0
60	.. 80	2	8 0	2	8 0	6	8 0	11	8 0
80	.. 100	3	0 0	3	0 0	7	0 0	13	0 0
Upwards of 100	3	0 0	3	0 0	7 per centum.			

The above scale includes all expenses, except in suits where the tenant disputes the landlord's claim and witnesses have to be sub-poenaed, in which case each sub-poena for sums under Rs. 40 must be paid for at four annas each, and twelve annas above that amount; and also where peons are kept in charge of property distrained, [such fee not exceeding twelve annas per day as may be fixed by the Registrar of the Small Cause Court] must be paid per man.

¹ Subs. by Bom. 5 of 1933, S. 2, for the words "four annas per day".

THE FOURTH SCHEDULE

[FEES FOR SUMMONSES AND OTHER PROCESSES.]

Deleted by Mah. 59 of 1977, section 7.

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