

THE SMALL CAUSE COURTS ACT, 1887

(Act No. : IX of 1887)

[Date of Assent : 24th February, 1887]

¹ An Act to consolidate and amend the law relating to Courts of Small Causes.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes; It is hereby enacted as follows:-

CHAPTER I

PRELIMINARY

1. Title, extent and commencement

(1) This Act may be called the ²[* * *] Small Cause Courts Act, 1887.

(2) It extends to the whole of Bangladesh; and

(3) It shall come into force on the first day of July, 1887.

2. [Repealed]

[Repealed partly by the Amending Act, 1891(XII of 1891), section 2 and Schedule I, and partly by section 2 and Schedule of the Repealing Act, 1938 (I of 1938).]

3. Savings

Nothing in this Act shall be construed to affect-

(a) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(b) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, ³[* * *]; or

(c) any local law or any special law other than the ⁴[Code of Civil Procedure, 1908.]

4. Definition

In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II

CONSTITUTION OF COURTS OF SMALL CAUSES

5. Establishment of Courts of Small Causes

(1) The Government may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration.

(2) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Government may define, and the Court may be held at such place or places within those limits as the Government may appoint.

6. Judge

When a Court of Small Causes has been established there shall be appointed, by order in writing, a Judge of the Court:

Provided that if the Government so direct, the same person shall be the Judge of more than one such Court.

7. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

8. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

9. [Repealed]

[Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]

10. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

11. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

12. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

13. [Repealed]

[Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]

14. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

CHAPTER III

JURISDICTION OF COURTS OF SMALL CAUSES

15. Cognizance of suits by Courts of Small Causes

(1) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed ⁵[twenty five thousand Taka] shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed ⁶[thirty thousand Taka] shall be cognizable by a Court of Small Causes mentioned in the order.

16. Exclusive jurisdiction of Courts of Small Causes

Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV

PRACTICE AND PROCEDURE

17. Application of the Code of Civil Procedure

(1) The procedure prescribed in the Code of Civil Procedure, 1908, shall, save in so far as is otherwise provided by that Code or by this Act, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *exparte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give such security for the performance of the decree or compliance with the judgment as the Court may, on a previous application made by him in this behalf, have directed.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 145 of the Code of Civil Procedure, 1908.

18. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

19. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

20. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

21. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

22. [Omitted]

[Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

23. Return of plaints in suits involving questions of title

(1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a court returns a plaint under sub-section (1), it shall comply with the provisions of the ⁷[Code of Civil Procedure, 1908, Schedule I, Order VII, rule 10]; and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the ⁸[Limitation Act, 1908], be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

24. Appeal from certain orders of Courts of Small Causes

Where an order specified in clause (ff) or clause (h) of sub-section (1) of section 104 of the Code of Civil Procedure, 1908, is made by a Court of Small Causes, an appeal therefrom shall lie to the District court on any ground on which an appeal from such order would lie under that section.

25. Revision of decrees and orders of Courts of Small Causes

The ⁹[High Court Division], for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

26. [Repealed]

[Repealed by section 4 of the Presidency Small Cause Courts Law Amendment Act, 1888 (Act No. X of 1888).]

27. Finality of decrees and orders

Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

¹⁰[**27A. Application for distress warrant**

(1) Any person claiming to be entitled to arrears of rent of any house or premises situate within the local limits of the Court's jurisdiction of which the annual rent does not exceed ¹¹[twenty five thousand Taka] or, where the Court is empowered under sub-section (3) or section 15, ¹²[thirty thousand Taka] may apply to the Court for a distress warrant.

(2) The application shall be supported by an affidavit or affirmation to the effect of Form A given in the Third Schedule.

(3) Nothing in this section shall apply to-

(a) any rent due to Government;

(b) any rent which has been due for more than twelve months before the application mentioned in sub-section (1) is made.

27B. Application to discharge or suspend warrant

(1) The debtor or any other person alleging himself to be the owner of any property seized under a distress warrant under section 27A may, at any time within five days or such extended time as the Court may grant for reasons recorded in writing from such seizure, apply to the Court to discharge or suspend the warrant, or to release a distrained article and the court may discharge or suspend such warrant or release such article accordingly, upon such terms as it thinks just and the Court may, in its discretion, give reasonable time to the debtor to pay the rent due from him.

(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 Court and shall be paid as the Court directs.]

CHAPTER V

SUPPLEMENTAL PROVISIONS

28. Subordination of Courts of Small Causes

(1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the ¹³[High Court Division], and shall-

(a) keep such registers, books and accounts as the ¹⁴[High Court Division] from time to time prescribes, and

(b) comply with such requisitions as may be made by the District Court, the ¹⁵[High Court Division] or the Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of ¹⁶[one lac Taka] in that portion of the territories administered by the Government in which the Court of Small Causes is established.

¹⁷[**28A. Power of District Court to withdraw and transfer cases**

(1) Where a District Court is satisfied that any particular suit cannot be adequately tried by a Court of Small Causes it may withdraw such suit from that Court and-

(i) try or dispose of that suit itself, or

(ii) transfer such suit to another Court subordinate to the District Court.

(2) Where any suit is so withdrawn, the District Court or the Court to which such suit is transferred shall try and dispose of the same as if such suit were not cognizable by a Court of Small Causes.]

29. Seal

A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Government.

30. Abolition of Courts of Small Causes

The Government may, by order in writing, abolish a Court of Small Causes.

31. Saving of Power to appoint Judge of Court of Small Causes to other office

(1) Nothing in this Act shall be construed to prevent the appointment of a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

32. Application of Act to Courts invested with jurisdiction of Courts of Small Causes

(1) So much of Chapters III and IV as relates to-

(a) the nature of the suits cognizable by Courts of Small Causes,

(b) the exclusion of the jurisdiction of other Courts in those suits,

(c) the practice and procedure of Courts of Small Causes,

(d) appeal from certain orders of those Courts and revision of cases decided by them, and

(e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

33. Application of Act and Code to Court so invested as to two Courts

A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts.

34. Modification of Code as so applied

Notwithstanding anything in the last two foregoing sections,-

(a) when in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes, the documents mentioned in ¹⁸[Order XXI, rule 6 of the Code of Civil Procedure, 1908,] shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

35. Continuance of proceedings of abolished Courts

(1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the ¹⁹[Code of Civil Procedure, 1908,] as extended to Courts of Small Causes or in any other enactment for the time being in force.

36. [Repealed]

[Repealed by the Limitation Act, 1908 (Act No. IX of 1908).]

37. Publication of certain orders

All orders required by this Act to be made in writing by the Government shall be published in the official Gazette.

SCHEDULE

Annotations

¹ Throughout this Act, except otherwise provided, the words "Bangladesh", "Government" and "Taka" or "Tk." were substituted, for the words "Pakistan", "Provincial Government" and "rupees" or "Rs." respectively by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

² The word "Provincial" was omitted by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

³ The words, comma and figure "or of village munsifs under the Dekkan Agriculturists Relief Act, 1879" were omitted by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

⁴ The words, comma and figure "Code of Civil Procedure, 1908." were substituted, for the words "Code of Civil Procedure" by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

⁵ The words "twenty five thousand Taka" were substituted, for the words "twelve thousand Taka" by the Small Cause Courts (Amendment) Act, 1990 (Act No. XLVII of 1990), section 2.

⁶ The words "thirty thousand Taka" were substituted, for the words "fifteen thousand Taka" by the Small Cause Courts (Amendment) Act, 1990 (Act No. XLVII of 1990), section 2.

⁷ The words, commas and figures "Code of Civil Procedure, 1908, Schedule 1, Order VII, rule 10" were substituted, for the words and figure "second paragraph of section 57 of the Code of Civil Procedure" by the Bangladesh Laws (Revision and Declaration), Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

⁸ The words, comma and figure "Limitation Act, 1908" were substituted, for the words, comma and figure "Indian Limitation Act, 1877" by the Bangladesh Laws (Revision And Declaration) Act 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

⁹ The words "High Court Division" were substituted, for the words "High Court" by the Bangladesh Laws (Revision And Declaration) Act 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

¹⁰ Sections 27A and 27B were inserted by the Provincial Small Cause Courts (Amendment) Ordinance, 1962 (Ordinance No. LI of 1962), section 3.

¹¹ The words "twenty five thousand Taka" and "thirty thousand Taka" were substituted, for the words "twelve thousand Taka" and "fifteen thousand Taka" respectively by the Small Cause Courts (Amendment) Act, 1990 (Act No. XLVII of 1990), section 3.

¹² The words "twenty five thousand Taka" and "thirty thousand Taka" were substituted, for the words "twelve thousand Taka" and "fifteen thousand Taka"

¹³ The words "High Court Division" were substituted, for the words "High Court" by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

¹⁴ The words "High Court Division" were substituted, for the words "High Court" by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

¹⁵ The words "High Court Division" were substituted, for the words "High Court" by section the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), 3 and 2nd Schedule.

¹⁶ The words "one lac Taka" were substituted, for the words "fifty thousand Taka" by the Small Cause Courts (Amendment) Act, 1990 (Act No. XLVII of 1990), section 4.

¹⁷ Section 28A was inserted by the Provincial Small Cause Courts (Amendment) Ordinance, 1962 (Ordinance No. LI of 1962), section 4.

¹⁸ The words, letter, commas and figures "Order XXI, rule 6 of the Code of Civil Procedure, 1908," were substituted, for the words and figure "section 224 of the Code of Civil Procedure" by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

¹⁹ The words, comma and figures "Code of Civil Procedure, 1908," were substituted, for the words "Code of Civil Procedure" by the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.

Amending Law(s)

The Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

The Small Cause Courts (Amendment) Act, 1990 (Act No. XLVII of 1990).

The Provincial Small Cause Courts (Amendment) Ordinance, 1962 (Ordinance No. LI of 1962).

Provision(s) Repealed/Omitted by

The Amending Act, 1891 (Act No. XII of 1891).

The Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

The Government of India (Adaptation of Indian Laws) Order, 1937.

The Limitation Act, 1908 (Act No. IX of 1908).

The Presidency Small Cause Courts Law Amendment Act, 1888 (Act No. X of 1888).

The Repealing Act, 1938 (Act No. I of 1938).

Translation

No Translation Available.

Associated Subordinate Legislation(s)

No Subordinate Legislation Available.

Related Law(s)

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Related Judgment Categories

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This law has been updated upto (last amending law):

The Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).