

The City of Bombay Municipal (Supplementary) Act, 1888

ACT NO. XII OF 1888.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 12th October, 1888.)

An Act to supplement certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889.

WHEREAS it is expedient to supplement by legislation in the Council of the Governor General for making Laws and Regulations certain provisions of the City of Bombay Municipal Act, 1888, and of the Calcutta Municipal Consolidation Act, 1889; It is hereby enacted as follows :—

1. Confirmation of the City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, so far as regards Benches, Magistrates and Courts of Small Causes .—The City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—

(a) the jurisdiction thereby conferred upon Appellate Benches of Municipal Authorities and upon Presidency and other Magistrates and Courts of Small Causes or any Judge of such a Court, and

(b) the decisions, orders and other proceedings of those Benches, Magistrates and Courts or of any such Judge,

be as valid as if they had been passed by the Governor General of India in Council at a meeting for the purpose of making Laws and Regulations.

2. Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court .— (1) If before or on the hearing of an appeal under section 217 of the City of Bombay Municipal Act, 1888, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Chief Judge of the Court of Small Causes of Bombay entertains reasonable doubt, the Chief Judge may, either of his own motion or on the application of either or any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer the statement, with his own opinion on the point, for the decision of the High Court of Judicature at Bombay.

(2) When a reference is made to the High Court under sub-section (1), the provisions of sections 618 to 621, both inclusive, of the Code of Civil Procedure (XIV of 1882.) shall, so far as they can be made applicable, apply to the Chief Judge of the Court of Small Causes and to the High Court, respectively.

3. Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.— (1) An appeal shall lie to the High Court of Judicature at Bombay from a decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, when the amount of the claim in respect of which the decision is passed exceeds two thousand rupees.

(2) The provisions of the Code of Civil Procedure (XIV of 1882.) with respect to appeals from original decrees shall, so far as they can be made applicable, apply to appeals under sub-section (1), and orders passed therein by the High Court may, on application to the Chief Judge of the Court of Small Causes, be executed by him as if they were decrees made by himself.

(3) A decision passed by the Chief Judge of the Court of Small Causes of Bombay under section 503 or section 504 of the City of Bombay Municipal Act, 1888, shall, if an appeal does not lie therefrom under sub-section (1), be final.

4. Appeal to the Bombay High Court from orders of Presidency Magistrates in Bombay.— (1) An appeal shall lie to the High Court of Judicature at Bombay from an order passed by a Presidency Magistrate under section 515 of the City of Bombay Municipal Act, 1888.

(2) The High Court may from time to time make rules for regulating the admission of appeals under sub-section (1) and the procedure to be followed in the adjudication thereof.

(3) When an appeal has been preferred to the High Court under this section, the Municipal Commissioner for the City of Bombay shall defer action upon the order of the Presidency Magistrate until the appeal has been disposed of .

(4) But, when the appeal has been disposed of, he shall forthwith give effect to the order passed therein by the High Court, or, if the order of the Presidency Magistrate has not been disturbed by the High Court, then to his order.

(5) When disposing of an appeal under this section the High Court may direct by whom the costs of the appeal are to be paid, and whether in whole or in what part or proportion.

(6) Costs so directed to be paid may, on application to a Presidency Magistrate, be recovered by him, in accordance with the direction of the High Court, as if they were a fine imposed by himself.

5. Period of limitation for appeals to the Bombay High Court under the two last foregoing sections.— An appeal to the High Court of Judicature at Bombay under either of the two last foregoing sections shall, for the purposes of No. 156 of the second schedule to the Indian Limitation Act, 1877(XV of 1877.), be deemed to be an appeal under the Code of Civil Procedure(XIV of 1882.) in a case not provided for by No. 151 and No. 153 of that schedule.