



The Presidency Small Cause Courts Act, 1882

Act 15 of 1882

Keyword(s):
Small Causes Court, Registrar

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Act XV of 1882

(THE PRESIDENCY SMALL CAUSE
COURTS ACT, 1882.)

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THE SECOND SCHEDULE.—[*Repealed.*]

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PROCESSES.

THE FIFTH SCHEDULE.

Act No. XV of 1882

(The Presidency Small Cause Courts Act, 1882.)¹

AMENDED	<ul style="list-style-type: none"> Act VII of 1892. Act III of 1899. Act IV of 1906. Act IX of 1912. Act XXIII of 1917. Ben. Act IV of 1922. Ben. Act XX of 1932. Ben. Act VIII of 1934. West Ben. Act XI of 1955. West Ben. Act XVI of 1958. West Ben. Act XXXII of 1969. West Ben. Act LX of 1978. West Ben. Act XLVIII of 1980.
REPEALED IN PART	<ul style="list-style-type: none"> Act XII of 1891. Act VII of 1896. Act V of 1908. Act XXXVIII of 1920. Act XII of 1927. Act I of 1938. West Ben. Act VII of 1948.
REPEALED IN PART AND AMENDED...	...	<ul style="list-style-type: none"> Act I of 1895. Act VII of 1912. Act X of 1914.
ADAPTED	<ul style="list-style-type: none"> (a) The Government of India (Adaptation of Indian Laws) Order, 1937. (b) The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948. (c) The Adaptation of Laws Order, 1950. (d) The Adaptation of Laws (No. 2) Order, 1956.

[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—

Preamble.

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.
Commencement.

¹For Statement of Objects and Reasons, see the *Gazette of India*, 1880, Pt. V, page 376; for first Report of the Select Committee, see *ibid.*, 1881, Pt. V, page 381; for further Report of the Select Committee, see *ibid.*, 1882, Pt. V, page 3; for Proceedings in Council, see *ibid.*, Supplement, 1880, pages 1394 and 1433; *ibid.*, 1882, Supplement, page 204; and *ibid.*, 1882, Extra Supplement, page 43.

For portions of the Code of Civil Procedure extended to the Presidency Small Cause Court at Calcutta, see Schedule A to Rules of Practice, *Calcutta Gazette* of 1910, Part 1, page 814.

*In its application to West Bengal only.

[Act XV

(Chapter I.—Preliminary.—Sections 2-4.—Chapter II.—
Constitution and Officers of the Court.—Section 5.)

But nothing herein contained shall affect the provisions of the Army Act ¹* *section 151, or the rights or liabilities of any person under any decree passed before that day. 44 & 45
Vict., c 58.

2. [Repeal of enactments].—Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch. and the West Bengal Repealing and Amending Act, 1948 (West Ben. Act VII of 1948), s. 3 and Second Sch.

3. [Amendments of Acts].—Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch. and the West Bengal Repealing and Amending Act, 1948 (West Ben. Act VII of 1948), s. 3 and Second Sch.

"Small Cause Court" and "Registrar" defined.

4. In this Act, "the Small Cause Court" means the Court of Small Causes constituted under this Act in the town of Calcutta, Madras or Bombay, as the case may be, ²[and the expression "Registrar" includes a Deputy Registrar.]

CHAPTER II

CONSTITUTION AND OFFICERS OF THE COURT.

Courts of Small Causes established.

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.

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

The Small Cause Court shall be deemed to be a Court subject to the superintendence of ³[the High Court at Calcutta,] Madras or Bombay, as the case may be, within the meaning of the Letters Patent, respectively, dated the twenty-eighth day of December, 1865, for such High Courts, and within the meaning of the ⁴Code of Civil Procedure, 1882 ⁵[and to be a Court subordinate to the High Court within the meaning of section 6 of the Legal Practitioners Act, 1879.]

XIV of 1882.
XVIII of 1879.

* * * * *

¹The figures "1881" were repealed by s. 2 and Sch. I of the Amending Act, 1891 (XII of 1891).

²These words were added by s. 2 of the Presidency Small Cause Courts Act, 1899 (III of 1899).

³These words were substituted for the words "the High Court of Judicature at Fort William," by s. 3(i) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

⁴See now the Code of Civil Procedure, 1908 (Act V of 1908).

⁵These words were inserted by s. 2 of Presidency Small Cause Courts Act, 1895 (I of 1895).

⁶The words "and the High Court shall have, in respect of the Small Cause Court, the same powers as it has under the twenty-fourth and twenty-fifth of Victoria, Chapter 104, section 15, in respect of Court subject to its appellate jurisdiction" were omitted by s. 3(ii) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

of 1882.]

(Chapter II.—Constitution and Officers of the Court.—Sections 7—9.)

¹7. There shall be appointed from time to time a Chief Judge of the Small Cause Court and as many other Judges as the ²[State] Government thinks fit.

Appointment of Judges.

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

Rank and precedence of Judges.

The other Judges shall have rank and precedence as the ²[State] Government may, from time to time, direct.

³8A.(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 ²[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.

Performance of duties of absent Judge.

(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 ²[State] Government sees cause to cancel the appointment of such acting Chief Judge or Judge, as the case may be.

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

Procedure and practice of Small Cause Court.

(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

⁶ [(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.

¹Substituted for the original section by para. 3 and the First Schedule to the Government of India (Adaptation of Indian Laws) Order, 1937.

²Substituted for the word "Provincial" by paragraph 4(1) of the Adaptation of Laws Order, 1950.

³Substituted by s. 3 of the Presidency Small Cause Courts Act, 1899 (III of 1899) for the original s. 8A which had been inserted by s. 4 of the Presidency Small Cause Courts Act, 1895 (I of 1895).

⁴Substituted for the words "the qualifications required by section 7" by para. 3 and the First Schedule to the Government of India (Adaptation of Indian Laws) Order, 1937.

⁵Substituted for the original section by s. 5 of the Presidency Small Cause Courts Act, 1895 (I of 1895).

⁶Inserted by s. 4 of the Presidency Small Cause Courts Act, 1899 (III of 1899).

(Chapter II.—Constitution and Officers of the Court.—Sections. 10—14.)

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.

Chief Judge to distribute business of Court.

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.

Procedure in case of difference of opinion.

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, and, if the Court is equally divided, the Chief Judge, if he is one of the Judges so differing, or, in his absence, the Judge first in rank and precedence of the Judges so differing, shall have the casting voice.

Seal to be used.

12. The Small Cause Court shall use a seal of such form and dimensions as are for the time being prescribed by the ¹[State] Government.

Appointment of Registrar and other officers.

²13. 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.

The Registrar and other officers so appointed shall exercise such powers and discharge such duties, of 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 twenty 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 twenty 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.

¹See foot-note 2 on page 377, *ante*.

²Substituted for the original section by para. 3 and the First Schedule to the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1882.]

(Chapter II.—Constitution and Officers of the Court.—Section 15.—Chapter III.—Law administered by the Court.—Section 16.—Chapter IV.—Jurisdiction in respect of suits.—Section 17.)

¹*Explanation.*—For the purpose of this section an application for possession under section 41 shall be deemed to be a suit.

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.

Judge or other officer not to practise or trade.

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, ²[Act of Parliament of the United Kingdom or Central Act or Provincial Act or State Act.]

CHAPTER III

LAW ADMINISTERED BY THE 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 the High Court in the exercise of its ordinary original civil jurisdiction.

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

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.

¹Added by s. 6 of the Presidency Small Cause Courts Act, 1895 (I of 1895).

²The words "Act of Parliament of the United Kingdom or Central Act or Provincial Act or Act of the Legislature of a Part A State or a Part C State" were originally substituted for the words "Act of Parliament or Act of the Central Legislature or any Legislature established in a Province of India" by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950. Thereafter the words "State Act" were substituted for the words "Act of the Legislature of a Part A State or a Part C State" by para. 3 and the Schedule of the Adaptation of Laws (No. 2) Order, 1956.

(Chapter IV.—Jurisdiction in respect of Suits.—Section 18.)

Suits in which
Court has
jurisdiction.

18. Subject to the exceptions in section 19, ¹[the Small Cause Court shall have jurisdiction and the High Court shall not have jurisdiction to try all suits of a civil nature—]

when the amount or value of the subject-matter ²[does not exceed ten 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 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 :

³Provided 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.

Explanation I.—When in any suit the sum claimed is, by a set-off admitted by both parties, reduced to a balance ⁴[not exceeding ten 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.

¹The words within square brackets were substituted for the words "the Small Cause Court shall have jurisdiction to try all suits of a civil nature—" by s. 3 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1980 (West Ben. Act XLVIII of 1980).

²The words "does not exceed five thousand rupees" were substituted for the original words "does not exceed two thousand rupees" by s. 3 (1) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXXII of 1969) and subsequently, the words within square brackets were substituted by s. 3 (1) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1978 (West Ben. Act LX of 1978).

³Added by s. 7 of the Presidency Small Cause Courts Act, 1895 (I of 1895).

⁴The words "not exceeding five thousand rupees" were substituted for the original words "not exceeding two thousand rupees" by s. 3 (2) of Presidency Small Cause Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXXII of 1969) and subsequently, the words within square brackets were substituted by s. 3 (2) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1978 (West Ben. Act LX of 1978).

of 1882.]

(Chapter IV.—Jurisdiction in respect of Suits.—Sections 18A, 19.)

Explanation III.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in ¹[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.

²18A. 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.

19. The Small Cause Court shall have no jurisdiction in—
- (a) suits concerning the assessment or collection of the revenue ;
 - ³(b) suits concerning any act done by or by order of the Central Government, ⁴* * * * * or by the ⁵[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 ;
 - (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 ;

Suits in which Court has no jurisdiction.

¹The words "a Part A State or a Part C State" were originally substituted for the words "the Provinces", by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950. Thereafter the word "India" was substituted for the words "a Part A State or a Part C State" by para. 3 and the Schedule to the Adaptation of Laws (No. 2) Order, 1956.

²Inserted by s. 8 of the Presidency Small Cause Courts Act, 1895 (I of 1895).

³Paragraph (b) was substituted for the following paragraph, namely :—

"(b) suits concerning any act done by or by Order of the Central Government, the Crown Representative or the Provincial Government." by s. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.

⁴The words "the Crown Representative" were omitted by para. 3 and the First Schedule to the Adaptation of Laws Order, 1950.

⁵See foot-note 2 on page 377, *ante*.

(Chapter IV.—Jurisdiction in respect of Suits.—Section 19A.)

- (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 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 Ruling Chiefs, or against Ambassadors or Envoys of Foreign States ;
- (v) suits on any judgment of a High Court ;
- (w) suits the cognizance whereof by the Small Cause Court is barred by any law for the time being in force.

Return of
plaint.

²19A. 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, 1882³, 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, 1877⁴, 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.

XIV of
1882.

XV of
1877.

¹The words "for the recovery of a wife" were repealed by s. 3 and Sch. II of the Repealing and Amending Act, 1914 (X of 1914).

²Inserted by s. 9 of the Presidency Small Cause Courts Act, 1895 (I of 1895).

³See now the Code of Civil Procedure, 1908 (V of 1908), Sch. I, Order VII, rule 10(2).

⁴See now the Indian Limitation Act, 1908 (IX of 1908).

of 1882.]

(Chapter IV.—Jurisdiction in respect of Suits.—Sections 20—22.)

¹20. [Court may by consent try suits beyond pecuniary limits of jurisdiction.—Omitted by s. 4 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958.)]

West Ben.
Act XXI
of 1953.

²21. Notwithstanding anything contained in this Act or the City Civil Court Act, 1953, 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, may be instituted in the Calcutta City Civil Court at the election of the plaintiff.

Suits by and
against
officers of
Court.

³21A. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other law, including in particular the Letters Patent of the High Court.

Act to override
other laws
including Letters
Patent.

⁴22. [Costs when plaintiff sues in High Court in other cases cognizable by Small Cause Court.—Omitted by s. 6 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958.)]

¹The section which was omitted reads as follows, namely :—

"Court may by consent try suits beyond pecuniary limits of jurisdiction.—When the parties to a suit, which, if the amount or value of the subject-matter thereof did not exceed two 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 of the subject-matter thereof may exceed two thousand rupees.

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."

²This new section was substituted by s. 5 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958), for the following existing section, namely :—

"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 and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees may be instituted in the High Court at the election of the plaintiff as if this Act had not been passed."

³This section was inserted by s. 4 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1980 (West Ben. Act LXVIII of 1980).

⁴The section which was omitted reads as follows, namely :—

"Costs when plaintiff sues in High Court in other cases cognizable by Small Cause Court.—If any suit cognizable by the Small Cause Court, other than a suit to which section 21 applies, is instituted in the High Court, and if in such suit the plaintiff obtains, in the case of a suit founded on contract, a decree for any matter of an amount or value less than one thousand rupees, and in the case of any other suit a decree for any matter of an amount or value of less than three hundred rupees, no cost shall be allowed to the plaintiff ;

and if in any such suit the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client.

The foregoing rules shall not apply to any suit in which the Judge who tries the same certifies that it was one fit to be brought in the High Court."

(Chapter V.—Procedure in Suits.—Sections 23—26.)

CHAPTER V

PROCEDURE IN SUITS.

23. [Portions of Civil Procedure Code extending to Court.]—Rep. by s. 12 of the Presidency Small Cause Courts Act, 1895 (1 of 1895).

No written statement except in cases of set-off.

24. Except in cases of set-off under the ¹Code of Civil Procedure, 1882, section 111, no written statement shall be received unless required by the Court.

XIV of 1882.

Return of documents admitted in evidence.

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) has 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 ²Code of Civil Procedure, 1882, be entitled to receive back the same :

Provided that a document may be returned at any time before any of such events on such terms as the Court may direct : provided further 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.

Compensation payable by plaintiff to defendant in certain cases.

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.

When any claim preferred, or objection made, under section 278 of the ³Code of Civil Procedure, 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 judgment-debtor, or to both, by way of satisfaction as aforesaid, such sum or sums as it thinks fit.

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

²See now Order XIII, rule 8, *ibid.*

³See now Order XXI, rule 58, *ibid.*

of 1882.]

(Chapter V.—Procedure in Suits.—Sections 27—30.)

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 judgment-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 judgment-debtor or the property to be attached, as the case may be.

Decree-holder to accompany officer executing warrant.

28. When the judgment-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 ¹[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 severed by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgment-debtor would have been bound to do to it if he had removed such thing.

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

29. Whenever any judgment-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.

Discharge of judgment-debtor on sufficient security.

30. Whenever it appears to the Small Cause Court that any judgment-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.

Court may in certain cases suspend execution of decree.

¹Inserted by s. 2 of the Presidency Small Cause Courts Act, 1906 (IV of 1906).

(Chapter V.—Procedure in Suits.—Sections 31—34.)

Execution of decree of Small Cause Court by other Courts.

31. If the judgment-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—¹[to the Madras City Civil Court²(or the Calcutta City Civil Court) or the High Court of Judicature at * * * Bombay, as the case may be] ;
- (b) in all other cases—to any Civil Court within the local limits of whose jurisdiction such judgment-debtor, or any movable or immovable property of such judgment-debtor, may be found.

Procedure when decree transferred.

The procedure prescribed by the Code of Civil Procedure⁴ for the execution of decrees by Courts other than those which made them shall be the procedure followed in such cases.

XIV of 1882.

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

32. Notwithstanding anything contained in the Code of Civil Procedure⁴ 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, for wages or piece-work or for work as a servant, in the same manner as if he were of full age.

IX of 1872.

Power to delegate non-judicial duties.

33. Any non-judicial or quasi-judicial act which the Code of Civil Procedure⁴ 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.

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.

Registrar to hear and determine suits like a Judge.

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 :

¹Substituted by the Madras City Civil Court Act, 1892 (VII of 1892).

²These words were inserted by s. 7(i) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

³The words "Fort William or" were omitted by s. 7(ii), *ibid.*

⁴See now the Code of Civil Procedure, 1908 (Act V of 1908).

of 1882.]

(Chapter V.—Procedure in Suits.—Sections 35, 36.—Chapter VI.—New Trials and Appeals.—Sections 37, 38.)

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 Jud.

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 be subject to new trial as if made by a Judge.

CHAPTER VI

NEW TRIALS AND APPEALS.

37. Save as otherwise provided by this Chapter 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 ²Code of Civil Procedure) 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.

Explanation.—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 defendant.

XIV of 1882.

¹Substituted for the original Chapter VI, by s. 13 of the Presidency Small Cause Courts Act, 1895 (1 of 1895).

²See now the Code of Civil Procedure, 1908 (Act V of 1908), Sch. II, s.16.

(Chapter VI.—New Trials and Appeals.—Sections 39, 40.)

¹39. [Removal of certain causes into High Court.—Omitted by s. 8 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958)].

²40. [Rules with respect to suits removed under the last foregoing section.—Omitted by s. 9 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958)].

¹The section which was omitted reads as follows, namely :—

"Removal of certain causes into High Court.—(1) In any suit instituted in a Small Cause Court in which the amount or value of the subject-matter exceeds the sum of one thousand rupees, the defendant or any one of the defendants may, before the day fixed by the summons for the appearance of the defendant or within eight days after the service of the summons on him, whichever period shall last expire, apply *ex parte* on an affidavit setting forth the facts on which he relies for his defence to a Judge of the High Court for an order removing the cause into the High Court.

(2) Unless the Judge is of opinion that the application has been made solely for the purpose of delay, the applicant shall be entitled to such order as of right :

Provided that the removal directed by such order shall, unless the Judge otherwise directs, be conditional upon the applicant giving security, to the approval of the Judge, within a reasonable time to be prescribed in the order for the payment of the amount claimed and of the costs which may become payable by him to the plaintiff in respect of the said suit.

(3) If the applicant fail or neglect to complete the required security (if any) within the prescribed time (if any), the said order shall be discharged and the suit shall proceed in the Small Cause Court as if such order had never been made.

(4) If the plaintiff in any case which has been removed under this section into the High Court has abandoned a portion of his claim in order to be able to bring the suit within the jurisdiction of a Small Cause Court, he shall be permitted to revive the portion of his claim so abandoned."

²The section which was omitted reads as follows, namely :—

"Rules with respect to suits removed under the last foregoing section.—(1) When a suit has been removed into the High Court under the last foregoing section, it shall be heard and disposed of by such Court in the exercise of its original jurisdiction, and the said Court shall have all the same powers and jurisdiction in respect thereof as if it had been originally instituted in such Court.

(2) In every suit so removed as aforesaid the affidavit filed under section 39, sub-section (1), shall be treated as a written statement of the defendant tendered under section 110 of the Code of Civil Procedure (XIV of 1882), unless the Court shall otherwise order.

(3) In every suit so removed as aforesaid 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 payable to the Government."

of 1882.]

(Chapter VII.—Recovery of Possession of Immovable Property.—Sections 41—43.)

CHAPTER VII

RECOVERY OF POSSESSION OF IMMOVABLE PROPERTY.

41. When any person has had possession of any immovable property situate within the local limits of the Small Cause Court's jurisdiction and of which the annual value at a rack-rent does not exceed ¹[ten] thousand rupees, as the tenant, or by permission, of another person, or of some person through whom such other person claims,

Summons against person occupying property without leave.

and such tenancy or permission has determined or been withdrawn,

and such tenant or occupier or any person holding under or by assignment from him (hereinafter called the occupant) refuses to deliver up such property in compliance with a request made to him in this behalf by such other person,

such other person (hereinafter called the applicant) may apply² to the Small Cause Court for a summons against the occupant, calling upon him to show cause, on a day therein appointed, why he should not be compelled to deliver up the property.

XIV of 1882.

42. The summons shall be served on the occupant in the manner provided by the Code of Civil Procedure³ for the service of a summons on a defendant.

Service of summons.

43. If the occupant does not appear at the time appointed and show cause to the contrary, the applicant shall, if the Small Cause Court is satisfied that he is entitled to apply under section 41, be entitled to an order addressed to a bailiff of the Court directing him to give possession of the property to the applicant on such day as the Court thinks fit to name in such order.

Order for possession.

Explanation.—If the occupant proves that the tenancy was created or permission granted by virtue of a title which determined previous to the date of the application, he shall be deemed to have shown cause within the meaning of this section.

¹The word "two" was substituted for the original word "one" by s. 2 of the Presidency Small Cause Courts (Amendment) Act, 1912 (IX of 1912). Then the word "five" was substituted for the word "two" by s. 4 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXXII of 1969). Finally, the word within square brackets was substituted for the word "five" by s.4 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1978 (West Ben. Act LX of 1978).

²For the fee on such application, see s. 71, *infra*.

³See foot-note 4 on page 386, *ante*.

(Chapter VII.—Recovery of Possession of Immovable Property.—Sections 44—46.)

Such order to justify bailiff entering on property and giving possession. Bar to proceedings against Judge or officer for issuing, etc.. order or summons.

44. Any such order shall justify the bailiff to whom it is addressed in entering after the hour of six in the morning and before the hour of six in the afternoon upon the property named therein, with such assistants, as he thinks necessary, and giving possession of such property to the applicant ; and no suit or prosecution shall be maintainable against any Judge or officer of the Small Cause Court by whom any such order as aforesaid was issued, or against any bailiff or other person by whom the same was executed, or by whom any such summons as aforesaid was served, for the issue, execution or service of any such order or summons, by reason only that the applicant was not entitled to the possession of the property.

Applicant, if entitled to possession, not to be deemed trespasser for any error in proceedings.

45. When the applicant, at the time of applying for any such order as aforesaid, was entitled to the possession of such property, neither he nor any person acting in his behalf shall be deemed, on account of any error, defect or irregularity in the mode of proceeding to obtain possession thereunder, to be a trespasser ; but any person aggrieved may bring a suit for the recovery of compensation for any damage which he has sustained by reason of such error, defect or irregularity :

Occupant may sue for compensation.

when no such damage is proved, the suit shall be dismissed ; and when such damage is proved but the amount of the compensation assessed by the Court does not exceed ten rupees, the Court shall award to the plaintiff no more costs than compensation, unless the Judge who tries the case certifies that in his opinion full costs should be awarded to the plaintiff.

Liability of applicant obtaining order when not entitled.

46. Nothing herein contained shall be deemed to protect any applicant obtaining possession of any property under this Chapter from a suit by any person deeming himself aggrieved thereby, when such applicant was not at the time of applying for such order as aforesaid entitled to the possession of such property.

Application for order in such case an act of trespass.

And when the applicant was not, at the time of applying for any such order as aforesaid, entitled to the possession of such property, the application for such order, though no possession is taken thereunder, shall be deemed to be an act of trespass committed by the applicant against the occupant.

of 1882.]

(Chapter VII.—Recovery of Possession of Immovable Property.—Sections 47—49.)

47. ¹[If, within twenty-one days from the date of service under section 42] of a summons on the occupant or where the summons has not been duly served from the date of the knowledge of the proceedings under section 41 the occupant binds himself, with two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, having regard to the value of the property and the probable costs of the suit next hereinafter mentioned, to institute ²* * * a suit in the High Court ³[for the Calcutta City Civil Court, as the case may be] against the applicant, for compensation for trespass and to pay all the costs of such suit in case he does not prosecute the same or in case judgment therein is given for the applicant, the Small Cause Court shall ⁴[make an order staying the proceedings on the application made under section 41 until such suit is disposed of :

Stay of proceedings on occupant giving security to bring suit against applicant.

Provided that an order of stay made under this section shall be vacated if the occupant fails to institute such suit within twenty-one days from the date of the order.]

If the occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order (if any) made under section 43.

Nothing contained in section 22 shall apply to suits under this section.

48. In all proceedings under this Chapter, the Small Cause Court shall, as far as may be and except as herein otherwise provided, follow the procedure prescribed for a Court of first instance by the ⁵Code of Civil Procedure.

Proceedings to be regulated by Code of Civil Procedure.

49. Recovery of the possession of any immovable property under this Chapter shall be no bar to the institution of a suit in ⁶[any Court having jurisdiction] for trying the title thereto.

Recovery of possession no bar to suit to try title.

XIV of 1882.

¹These words within square brackets were substituted for the words "Whenever on an application being made under section 41" by s. 3(1) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1955 (West Ben. Act XI of 1955).

²The words "without delay" were omitted by s. 3(2), *ibid*.

³These words within square brackets were inserted by s. 10 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

⁴These words within square brackets were substituted for the words "stay the proceedings on such application until such suit is disposed of" by s. 3(3) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1955 (West Ben. Act XI of 1955).

⁵See foot-note 4 on page 386, *ante*.

⁶These words within square brackets were substituted for the words "the High Court" by s. 11 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

(Chapter VIII.—Distresses.—Sections 50—54.)

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 [at Calcutta], 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
bailiffs and ap-
praisers.

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 appointed ³* * * shall be deemed to be public servants within the meaning of the Indian Penal Code.

x
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Application for
distress-warrant.

53. 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.

The application 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.

¹These words were substituted for the words "of Judicature at Fort William," by s. 12 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

²Substituted for the original section by para. 3 and the First Schedule to the Government of India (Adaptation of Indian Laws) Order, 1937.

³The words "shall give security, to be approved by the said Judges, faithfully to discharge the duties of their office, and they" were omitted, *ibid.*

of 1882.]

(Chapter VIII.—Distresses.—Sections 55—59.)

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

Time for distress.

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 appraisal 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.

[Act XV

(Chapter VIII.—Distresses.—Sections 60—62.)

Application to discharge or suspend warrant.

60. 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 five 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,

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.

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 the 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 ¹[or the Calcutta City Civil Court, as the case may be,] in respect of such claim shall be stayed, and any Judge of the High Court, ²[or of the Calcutta City Civil Court, as the case may be,] on 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 Courts.

Power to award compensation 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,

¹These words were inserted by s. 13(i) of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

²These words were inserted by s. 13(ii), *ibid.*

of 1882.]

(Chapter VIII.—Distresses.—Sections 63—65.)

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.

¹63. [Power to transfer to High Court cases involving more than one thousand rupees.—Omitted by s. 14 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958)].

64. In default of any order to the contrary by a judge of the Small Cause Court, ²* * * any two of the said bailiffs may, at the expiration of five days from a seizure of property under this Chapter, appraise 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.
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 the 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.

¹The section which was omitted reads as follows, namely :—

²Power to transfer to High Court cases involving more than one thousand rupees.—In any case under section 60 or section 61, if the value of the subject-matter in dispute exceeds one 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.

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."

²The words "or by the High Court." were omitted by s. 15 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1958 (West Ben. Act XVI of 1958).

[Act XV

(Chapter VIII.—Distresses.—Sections 66—68.—
Chapter IX.—References to High Court.—Section 69.)

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.

Costs of
distresses.

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.

* * * *

Account of
costs and
proceeds.

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 as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses, shall be duly entered.

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.

Bar of distresses
except under
this Chapter.
Penalty for
making illegal
distresses.

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

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.

²69. (1) If two or more Judges of the Small Cause Court sit together in any suit, or in any proceeding under Chapter VII of 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

¹The second paragraph, relating to the application of sums raised as costs towards payment of contingent charges and remuneration of bailiffs, was omitted by para. 3 and the First Schedule to the Government of India (Adaptation of Indian Laws) Order, 1937.

²Substituted for the original section by s. 4 of the Presidency Small Cause Courts Act, 1906 (IV of 1906).

of 1882.]

(Chapter IX.—References to High Court.—Section 70.—
Chapter X.—Fees and Costs.—Section 71.)

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 Code of Civil Procedure, shall, so far as they are applicable, be deemed to apply as if such reference had been made under section 617² of the said Code.

XIV of
1882.

(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 or give judgment contingent upon such opinion.

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 judgment :

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

CHAPTER X

FEEs AND COSTS.

71. A fee not exceeding—

Institution-fee.

¹See now the Code of Civil Procedure, 1908 (Act V of 1908), Sch. 1, Order XLVI, rules 3—5.

²See now rule 1, *ibid.*

[Act XV

(Chapter X.—Fees and Costs.—Sections 72, 72A.)

- (a) when the amount or value of the subject-matter does not exceed ¹[fifty rupees] the sum of two *annas* in the rupee or such amount or value,
- ²(b) when the amount or value of the subject-matter exceeds fifty rupees, but does not exceed five hundred rupees—the sum of six rupees four *annas* and three *annas* in the rupee on the excess of such amount or value over fifty-rupees,
- ³(c) when the amount or value of the subject-matter exceeds five hundred rupees—the sum of ³[ninety rupees ten *annas*], and one *anna* ⁴[six *pies*] in the rupee on the excess of such amount or value over five hundred rupees,

shall be paid on the plaint in every suit, and every application under ^{4***} section 41; and no such plaint or application shall be received until such fee has been paid.

An additional fee of ten rupees shall be paid on the filing of every agreement under section 20.

Fees for
processes.

72. The fees specified in the third and fourth columns of the fourth schedule hereto annexed shall be paid previous to the issue in any suit or in any proceeding under Chapter VII of this Act of the processes, to which the said columns respectively relate, by the persons on whose behalf such processes are issued, when the amount or value of the subject-matter exceeds the sum specified in the first column, but does not exceed the sum specified in the second column of the said schedule.

Conveyance
charges for
service of
certain
processes.

⁵72A. Conveyance charges to bailiffs on such scale as may, from time to time, be fixed by the Chief Judge with the previous approval of the ⁶[State Government] shall be paid previous to the issue in any suit or proceeding under this Act of processes by the persons on whose behalf such processes are issued.

¹These words were substituted for the words "five hundred rupees" by s. 16(1) of the Bengal Court-fees (Amendment) Act, 1922 (Ben. Act IV of 1922).

²This clause was inserted by s. 16(2), *ibid.*

³Clause (b) was renumbered as clause (c), for the words "sixty-two rupees eight *annas*" the words "ninety rupees ten *annas*" were substituted, and after the words "one *anna*" the words "six *pies*" were inserted by s. 16(3), *ibid.*

⁴The words and figures "section 38 or" were repealed by the Presidency Small Cause Courts (1882) Amendment Act, 1896 (VII of 1896.)

⁵Section 72A was inserted by s. 3 of the Presidency Small Cause Courts (Bengal Amendment) Act, 1932 (Ben. Act XX of 1932).

⁶The words "Provincial Government" were first substituted for the words "Local Government" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937, and thereafter the word "State" was substituted for the word "Provincial" by para. 4(1) of the Adaptation of Laws Order, 1950.

of 1882.]

(Chapter X.—Fees and Costs.—Sections 72B—73.)

72B. A fee of two *annas* when the amount or value of the subject-matter of the suit or the amount of the decree does not exceed fifty rupees, and a fee of twelve *annas* in any other case, shall be paid on every application mentioned in the fifth schedule hereto annexed in all suits or other proceedings under this Act.

Fees for certain applications.

Every such application shall be in writing and no such applications shall be received until such fee has been paid :

Provided that an application referred to in item 15 of the said schedule may be received without payment of such fee but notice shall not be issued until the fee has been paid.

Explanation.—For the purposes of this section 'suit' includes a proceeding under Chapter VII.

72C. A fee amounting to one-half of the fee payable on the plaint in a suit for the amount or value of the relief claimed in the application, including the value of any relief claimed in respect of costs, shall be paid on every application made under section 38 on which the Court orders that notice be issued on the opposite party, and such notice shall not be issued until such fee has been paid :

Fees for applications under section 38.

Provided that where a new trial is ordered to be held in respect of the whole of the subject-matter of the suit the Court may direct that such fee be repaid, in whole or in part, to the party by whom it has been paid.

73. Whenever any suit, or any proceeding under Chapter VII, is settled by agreement of the parties before the hearing half the amount of all fees paid up to that time shall be repaid by the Small Cause Court to the parties by whom the same have been respectively paid, provided that—

Repayment of half fees on settlement before hearing.

- (a) the fact of such settlement is communicated, by a petition signed by the parties or their agents, to the Court before or within twenty-one days after the expiry of the period fixed by the Court or the Registrar for entering appearance, or, in the case of a proceeding under Chapter VII, before or within twenty-one days after the day appointed for showing cause, and

¹New sections 72B and 72C were inserted by s. 3 of the Presidency Small Cause Courts (Amendment) Act, 1934 (Ben. Act VIII of 1934).

²This new section was substituted by s. 4, *ibid.*, for the following existing section, namely :—

"Repayment of half fees, on settlement before hearing.—Whenever any such suit or proceeding is settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the Small Cause Court to the parties by whom the same have been respectively paid."

[Act XV

(Chapter X.—Fees and Costs.—Sections 74—77.—Chapter XI.—
Misconduct of Inferior Ministerial Officers.—Sections 78, 79.)

(b) application for the repayment is made within twelve months after the date of such petition or within such further period, if any, as the Chief Judge, for reasons to be recorded in writing, may allow.

Fees and costs
of poor persons.

74. The Small Cause Court may, whenever it thinks fit, receive and register suits instituted, and applications under section 41 made, by poor persons, and may issue processes on behalf of such persons, without payment or on a part-payment of the fees mentioned in sections 71 and 72.

Power to vary
fees.

75. The ¹[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 suit or in any proceeding under Chapter VII of this Act, in the Small Cause Court, in which suit or proceeding 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.

Sections 3, 5 and
25 of Court-fees
Act, 1870, saved.

77. Nothing contained in this Chapter shall affect the provisions of sections 3, 5 and 25 of the Court-fees Act, 1870.

VII of
1870.

CHAPTER XI

MISCONDUCT OF INFERIOR MINISTERIAL OFFICERS.

²78. [Power to fine officers.—Rep. by para. 3 and the First Schedule of the Government of India (Adaptation of Indian Laws) Order, 1937.]

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

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.

¹See foot-note 6 on page 398, *ante*.

²This power is now regulated by rules made or deemed to have been made under article 309 of the Constitution of India.

of 1882.]

(Chapter XI.—Misconduct of Inferior Ministerial Officers.—Sections 80—82.—Chapter XII.—Contempt of Court.—Sections 83—87.)

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 of order.

CHAPTER XII

CONTEMPT OF COURT.

83. [Procedure of Court in certain cases of contempt.—Repealed by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Schedule II].

84. [Record in such cases.—Repealed by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Schedule II].

85. [Procedure where Court considers that case should not be dealt with under section 83.—Repealed by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Schedule II].

86. [Discharge of offender on submission or apology.—Repealed by the Repealing and Amending Act, 1914 (X of 1914), s. 3 and Schedule II].

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 him 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

Imprisonment or committal of person refusing to answer or produce document.

[Act XV

(Chapter XII.—Contempt of Court.—Section 88.—Chapter XIII.—Miscellaneous.—Sections 89—92.)

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 section ¹[480 or section 482 of the Code of Criminal Procedure, 1898].

Act V
of 1898.Appeal from
orders under
section 87.

88. Any person deeming himself aggrieved by an order under²* * * section 87 may appeal to the High Court, and the provisions of the ³[Code of Criminal Procedure, 1898] relating to appeals shall, so far as may be, apply to appeals under this section.

CHAPTER XIII

MISCELLANEOUS.

Persons by
whom process
may be served.

89. Notices to produce documents, summonses to witnesses, and all other processes 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.

Registers and
returns.

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.

Court to furnish
records, etc., called
for by State
Government or
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.

Holidays and
vacations.

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 ⁴[State Government].

Such list, when it has received such approval, shall be published in the ⁵[Official Gazette], and the said holidays and vacations shall be observed accordingly.

¹Substituted for the words "83 or section 85" by s. 2 and Sch. I of the Repealing and Amending Act, 1914 (X of 1914).

²The words and figures "section 83 or" were repealed by s. 3 and Sch. II, *ibid.*

³Substituted for the words and figures "Presidency Magistrates' Act, 1877" by s. 2 and Sch. I, *ibid.*

⁴See foot-note 6 on page 398, *ante.*

⁵Substituted for the words "local official Gazette" by para. 4(1) of the Government of India (Adaptation of Indian Laws) Order, 1937.

of 1882.]

(Chapter XIII.—Miscellaneous.—Sections 93—97.—the First and Second Schedules.)

93. The ¹[President]²* * *, the Governors of ³[Madras], ⁴[Bombay and West Bengal], ⁵* * * and the Chief Justices and Judges of the High Courts 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 ⁷[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, tendered 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 (1 of 1938), s. 2 and Sch. and the West Bengal Repealing and Amending Act, 1948 (West Ben. Act VII of 1948), s. 3 and the Second Sch.

THE SECOND SCHEDULE.

Portions of Civil Procedure Code extending to Court.—

Rep. by the Presidency Small Cause Courts Act, 1895 (1 of 1895), s. 12.

¹Substituted for the words "Governor General" by para. 4(1) of the Adaptation of Laws Order, 1950.

²The words "and members of his Council" were omitted by para. 3 and the First Schedule of the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

³Substituted, *ibid.*, for the words "Fort St. George."

⁴The words "Bombay and Fort William in Bengal" were first substituted for the words "and Bombay" by s. 7 and Sch. E of the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912) and thereafter the words "West Bengal" were substituted for the words "Fort William in Bengal" by para. 3 and the First Schedule to the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.

⁵The words "and the Members of their respective Councils" were omitted by para. 3 and the First Schedule to the Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948, and the words "the Lieutenant-Governor of Bengal" were omitted by s. 7 and Sch. E of the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (VII of 1912).

⁶The words "for Part A States" were first substituted for the words "established under the twenty-fourth and twenty-fifth of Victoria, Chapter 104," by para. 3 and the First Schedule of the Adaptation of Laws Order, 1950, and thereafter the words "for Part A States" were omitted by para. 3 and the Schedule of the Adaptation of Laws (No. 2) Order, 1956.

⁷See foot-note 6 on page 398, *ante*.

[Act XV

*(The Third Schedule.)***THE THIRD SCHEDULE.**

FORMS

A

*(See section 53.)**In the Small Cause Court for*

A. B. _____ (plaintiff),

Versus

C. D. _____ (defendant).

A. B. of _____, in the town of _____, maketh oath [*or affirms*] and saith that C. D. _____ of _____, is justly 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 188 _____ :Judge [*or Registrar*] :

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 the provisions of Chapter VIII of the Presidency Small Cause Courts Act, 1882.

Dated _____ day of _____ 18 _____

(Signed and sealed.)

To E. F., Bailiff and Appraiser.

of 1882.]

(The Third Schedule.)

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 movable property contained in the above inventory of the sum of Rs. _____, 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 five 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 _____ 18

(Signed) E. F.,

Bailiff and Appraiser.

To C. D.

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 Presidency 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 _____ 18 .

(Signed) E. F.,

G. H.,

To C. D.

Bailiffs and Appraisers.

(Third Schedule.)

'E

*(See section 66.)**In the Small Cause Court for***SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE-RENT.**

Sums sued for		Affidavit and warrant to distrain		Order to sell	Commission	Total
Rs.		Rs.	Rs. p.	Rs. p.	Rs. p.	Rs. p.
1	and under	5	0.25	0.50	0.50	1.25
5	and under	10	0.50	0.50	1.00	2.00
10	and under	15	0.50	0.50	1.50	2.50
15	and under	20	0.50	1.00	2.00	3.50
20	and under	25	0.75	1.00	2.50	4.25
25	and under	30	1.00	1.00	3.00	5.00
30	and under	35	1.00	1.00	3.50	5.50
35	and under	40	1.00	1.50	4.00	6.50
40	and under	45	1.25	2.00	4.50	7.75
45	and under	50	1.50	2.00	5.00	8.50
50	and under	60	2.00	2.00	6.00	10.00
60	and under	80	2.50	2.50	6.50	11.50
80	to	100	3.00	3.00	7.00	13.00
Upwards of		100	3.00	3.00	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 subpoenaed, in which case each subpoena for sums under Rs. 40 must be paid for at twenty-five paise each, and seventy-five paise above that amount; and also where peons are kept in charge of property distrained, such sum not exceeding fifty paise per day as may be fixed from time to time by the Chief Judge must be paid per man.]

¹Form E of the Third Schedule was substituted by s. 5 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXXII of 1969).

of 1882.]

(Fourth Schedule.)

¹ [THE FOURTH SCHEDULE

[See section 72.]

FEEES FOR SUMMONSES AND OTHER PROCESSES.

When the amount or value of the subject-matter exceeds	But does not exceed	Fee for summonses	Fee for other processes
Rs.	Rs.	Rs. P.	Rs. P.
0 ..	10	0.15	0.15
10 ..	20	0.25	0.25
20 ..	50	0.50	0.50
50 ..	100	1.00	1.00
100 ..	200	1.25	2.00
200 ..	300	1.50	3.00
300 ..	400	1.75	4.00
400 ..	500	2.00	5.00
500 ..	600	2.25	6.00
600 ..	700	2.50	7.00
700 ..	800	2.75	8.00
800 ...	900	3.00	9.00
900 ...	1,000	3.25	10.00
1,000 ...	1,100	3.40	10.50
1,100 ...	1,200	3.50	11.00
1,200 ...	1,300	3.65	11.50
1,300 ...	1,400	3.75	12.00
1,400 ...	1,500	3.90	12.50
1,500 ...	1,600	4.00	13.00
1,600 ...	1,700	4.15	13.50
1,700 ...	1,800	4.30	14.00
1,800 ...	1,900	4.45	14.50
1,900 ...	2,000	4.60	15.00
2,000 ...	2,200	4.75	15.50
2,200 ...	2,400	4.90	16.00
2,400 ...	2,600	5.05	16.50
2,600 ...	2,800	5.20	17.00
2,800 ...	3,000	5.35	17.50
3,000 ...	3,200	5.45	17.75
3,200 ...	3,400	5.55	18.00
3,400 ...	3,600	5.65	18.25

¹Firstly, the Fourth Schedule was substituted by s. 6 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1969 (West Ben. Act XXXII of 1969) and subsequently, this Schedule was substituted by s. 5 of the Presidency Small Cause Courts (West Bengal Amendment) Act, 1978 (West Ben. Act LX of 1978).

[Act XV

(The Fourth Schedule.)

When the amount or value of the subject-matter exceeds		But does not exceed	Fee for summonses	Fee for other processes
Rs.	Rs.	Rs. P.	Rs. P.	
3,600	...	3,800	5.75	18.50
3,800	...	4,000	5.85	19.00
4,000	...	4,200	5.95	19.15
4,200	...	4,400	6.05	19.30
4,400	...	4,600	6.20	19.45
4,600	...	4,800	6.30	19.60
4,800	...	5,000	6.40	19.75
5,000	...	5,200	6.65	20.25
5,200	...	5,400	6.90	20.75
5,400	...	5,600	7.15	21.25
5,600	...	5,800	7.40	21.75
5,800	...	6,000	7.65	22.25
6,000	...	6,200	7.90	22.75
6,200	...	6,400	8.15	23.25
6,400	...	6,600	8.40	23.75
6,600	...	6,800	8.65	24.25
6,800	...	7,000	8.90	24.75
7,000	...	7,200	9.15	25.25
7,200	...	7,400	9.40	25.75
7,400	...	7,600	9.65	26.25
7,600	...	7,800	9.90	26.75
7,800	...	8,000	10.15	27.25
8,000	...	8,200	10.40	27.75
8,200	...	8,400	10.65	28.25
8,400	...	8,600	10.90	28.75
8,600	...	8,800	11.15	29.25
8,800	...	9,000	11.40	29.75
9,000	...	9,200	11.65	30.25
9,200	...	9,400	11.90	30.75
9,400	...	9,600	12.15	31.25
9,600	...	9,800	12.40	31.75
9,800	...	10,000	12.65	32.25].

of 1882.]

(Fifth Schedule.)

THE FIFTH SCHEDULE¹

[See section 72B.]

Applications—

- (1) for leave to sue,
- (2) for leave to sue as a pauper,
- (3) for amendment of the pleadings except for a slight amendment of the cause-title only,
- (4) for appointment of a guardian *ad litem* for a minor defendant or opposite party,
- (5) for substitution of the successor of a deceased party or of the transferee of a party,
- (6) for issue of a commission, to examine a witness or to hold a local inspection,
- (7) for an account to be taken by the Court accountant or by any other person,
- (8) for payment of a decretal debt by instalments, except applications made on the day on which the decree is passed,
- (9) for execution of a decree or order,
- (10) complaining against resistance to attachment,
- (11) claiming attached property,
- (12) by the decree-holder for permission to bid at a sale,
- (13) for permission to draw money from Court—
 - (a) without production, by the plaintiff, of the plaint-receipt granted to him or without production, by the defendant, of the summons served on him,
 - (b) on the day the money is deposited in Court,
- (14) by a third party for permission to take certified copy of proceedings,
- (15) for purposes other than those specified above, on which the Court orders that notice be issued on the opposite party.

¹This Schedule was inserted by s. 5 of the Presidency Small Cause Courts (Bengal Amendment) Act, 1934 (Ben. Act VIII of 1934).