

THE



Bombay Government Gazette

Published by Authority.

SATURDAY, 29TH SEPTEMBER 1888.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 20th September 1888 :—

Bill No. 13 of 1888.

A Bill 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. The City of Bombay Municipal Act, 1888, and the Calcutta Municipal Consolidation Act, 1889, shall, so far as regards—

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.

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. (1) If before or on the hearing of an appeal under section 217 of the [Act XIV of 1882, s. 617.]

Reference of questions by the Chief Judge of the Bombay Small Cause Court to the Bombay High Court.

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 XIV of 1882. of Civil Procedure 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. (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

Appeal to the Bombay High Court from certain orders of the Chief Judge of the Bombay Small Cause Court.

[Act XXII of 1870, and see 34 & 35 Vict., c. 34, s. 3.]

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 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. (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. [Act XIV of 1882, s. 219.]

(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. [Act X, 1882, s. 148.]

5. 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, be deemed to be an appeal under the Code of Civil Procedure in a case not provided for by No. 151 and No. 153 of that schedule. [Act XV of 1877, XIV of 1882.]

STATEMENT OF OBJECTS AND REASONS.

THE object of the first section of the accompanying Bill is to remove all room for doubt as to the validity of those clauses of the Calcutta Municipal Consolidation Act, 1869, and the City of Bombay Municipal Act, 1888, which, as creating in Presidency-towns tribunals having authority to make final orders, might be held to be in derogation of the jurisdiction of the High Courts of Judicature at Fort William and at Bombay respectively.

The other sections of the Bill invest the High Court at Bombay, as a Court of Reference and Appeal, with certain jurisdiction which can certainly be conferred by the Governor-General in Council, but the conferment of which by the Governor of Bombay in Council might possibly be called in question.

The 20th September 1888.

(Signed) ANDREW R. SCOBLE.

S. HARVEY JAMES,
Secretary to the Government of India.