



SUPPLEMENT

TO THE

BOMBAY GOVERNMENT GAZETTE,

CONTAINING

Acts and Bills of the Legislative Council of India.

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Legislative Council of India.

19th February 1859.

The following Bill, as settled in Committee of the whole Council, was ordered to be published for general information, and to be re-considered after Two Months:—

A Bill to Provide for the Limitation of Suits.

Whereas it is expedient to amend and consolidate the laws relating to the limitation of suits; It is enacted as follows:—

Preamble.

of suits; It is enacted as follows:—

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in

India in which this Act shall be in force unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding; and the periods of limitation, and the suits to which the same respectively shall be applicable, shall be the following, that is to say:—

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract—the period

Limitation of one year.

Pre-emption suits.

of one year, to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

2. To suits for pecuniary penalties or forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property,

Limitation of one year.

Suits for damages, summary suits, &c.

or to the reputation; to suits for damages for the infringement of copyright, or of any exclusive privilege; to suits to recover the wages of servants, artisans, or labourers; the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue authorities regarding arrears and

exactions of rent—the period of one year from the time the cause of action arose.

3. To suits to set aside the sale of any property, moveable or immoveable, sold under an execution of a decree of any Civil Court not established by Royal Charter when such suit is

Limitation of one year.

Suits to set aside sales under decrees, or for arrears of Government Revenue, &c.

maintainable; to suits to set aside the sale of any property, moveable or immoveable, for

arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putneedar or the proprietor of any other intermediate tenure saleable for current arrears of rent, or other person claiming under him; to set aside the sale of any Putnee Talook or such other tenure sold for current arrears of rent; to suits to set aside the sale of any property, moveable or immoveable, sold in pursuance of any summary award or order of a Collector or other Officer of Revenue in disputes regarding arrears and exactions of rent—the period of one year from the date at which such sale was confirmed, or would otherwise have become final and conclusive if no such suit had been brought.

4. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter, when such

Limitation of one year.

Suits to set aside summary decisions, &c.

suit is maintainable; to suits

to alter or set aside summary awards or orders by Collectors and other Officers of Revenue in disputes regarding arrears and exactions of rent—the period of one year from the date of the final decision, award, or order in the case.

5. To suits not falling within the last preceding Clause brought by any person

Limitation of three years.

Suits to contest certain awards.

to contest the justice of an award which shall have been made under Regulation VII.

1822, Regulation IX. 1825, and Regulation IX. 1833, of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

6. To suits by any party bound by any order re-

Limitation of three years.

Suits to recover property comprised in an order made under Clause 2, Section I. Act XVI. of 1838, or Act IV. of 1840.

of the property comprised in such order—the period of three years from the date of the final order in case.

7. To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits for the rents of any buildings or lands (other than summary suits before the Revenue authorities regarding arrears and exactions of rent)—the period of three years from the time the cause of action arose.

Limitation of three years.

Suits for goods sold by retail, &c.

brought first took place, unless there is a written engagement to pay the money lent or interest, or a contract in writing signed by the party to be bound thereby, or by his duly authorised agent.

8. To suits brought to recover money lent or interest or for the breach of any contract—the period of three years from the time when, the debt became due or when the breach of contract, in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest, or a contract in writing signed by the party to be bound thereby, or by his duly authorised agent.

Limitation of three years.

Suits for money lent on interest, or for breach of contract where no written contract exists.

brought first took place, unless there is a written engagement to pay the money lent or interest, or a contract in writing signed by the party to be bound thereby, or by his duly authorised agent.

9. To suits brought to recover money lent or interest, or for the breach of any contract in cases in which there is a written engagement or contract, and in which such engagement or contract could have been registered by virtue of any Law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due, or when the breach of contract, in respect of which the action is brought, first took place, unless such engagement or contract shall have been registered within six months from the date thereof.

Limitation of three years.

Suits for the same where there is a written contract which has not been registered within three months.

could have been registered by virtue of any Law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due, or when the breach of contract, in respect of which the action is brought, first took place, unless such engagement or contract shall have been registered within six months from the date thereof.

10. To suits in cases governed by English law upon all debts and obligations of record and specialties; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.

Limitation of 12 years.

Suits for specialty-debts and legacies.

twelve years from the time the cause of action arose.

11. To suits for the recovery of immoveable property, or of any interest in immoveable property, to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.

Limitation of 12 years.

Suits for immoveable property.

of twelve years from the time the cause of action arose.

12. To suits to enforce the right to share in any property, moveable or immoveable, on the ground that it is joint family property; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance, as the case may be.

Limitation of 12 years.

Suits for shares in joint family property and for maintenance.

right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance, as the case may be.

13. To suits by the proprietor of any land, or by any person claiming under him, for the resumption or assessment of any Lakheraj or rent-free land—the period of twelve years from the time when the title of the person

Limitation of 12 years. Suits to resume or assess Lakheraj or rent-free land.

of twelve years from the time when the title of the person

claiming the right to resume and assess such lands, or of some person under whom he claims, first accrued. Provided that, in estates permanently settled, no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained, if it is shown that the land has been held Lakheraj or rent-free from the period of the permanent settlement.

Provido if the land has been held rent-free from the time of the permanent settlement.

land has been held Lakheraj or rent-free from the period of the permanent settlement.

14. To suit against a depositary, pawnee, or mortgagee of any property, moveable or immoveable, for the recovery of the same—a period of thirty years if the property be moveable, and sixty years if it be immoveable, from the time of the deposit, pawn, or mortgage; or if, in the meantime, an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption shall have been given in writing, signed, by the depositary, pawnee, or mortgagee, or some person claiming under him, from the date of such acknowledgment in writing.

Limitation for 30 and 60 years, respectively.

Suits against depositaries, pawnees, or mortgagees to recover immoveable property.

able, from the time of the deposit, pawn, or mortgage; or if, in the meantime, an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption shall have been given in writing, signed, by the depositary, pawnee, or mortgagee, or some person claiming under him, from the date of such acknowledgment in writing.

15. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

Limitation of 6 years applicable to all suits not especially provided for.

II. No suit against a trustee in his lifetime, and no suit against his representatives for following in their hands the specific property which is the subject of the trust, shall be barred by any length of time; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts unless the same is instituted within the proper period of limitation, according to the last preceding Section, to be computed from the decease of such trustee; Provided that nothing herein contained shall prevent a co-trustee from enforcing, against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Suits against trustees and their representatives for breach of trust, &c.

the subject of the trust, shall be barred by any length of time; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts unless the same is instituted within the proper period of limitation, according to the last preceding Section, to be computed from the decease of such trustee; Provided that nothing herein contained shall prevent a co-trustee from enforcing, against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Provido.

of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

III. When, by any law now or hereafter to be in force, a shorter period in limitation than that prescribed by this Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

Shorter periods of limitation, if prescribed by particular Acts, to prevail.

of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

IV. If, in respect of any legacy or debt, the person who, but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due by an acknowledgment in writing signed by him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; Provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Revival of right to sue by admission in writing.

that such debt or legacy or any part thereof is due by an acknowledgment in writing signed by him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; Provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Provido.

none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bonâ fide*, and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase; Provided that in the case of purchase from depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 14, Section I.In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bonâ fide*, and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase; Provided that in the case of purchase from depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 14, Section I.

Provido.

no such suit shall be maintained unless brought within the time limited by Clause 14, Section I.

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagee the possession of the immovable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of such mortgage debt.

VII. In suits to avoid incumbrances or under-tenures in an estate sold for arrears of Government Revenue due from such estate, or in a Putnee Talook or other saleable tenure sold for arrears of rent, which, by virtue of such sale, becomes freed from incumbrances and under-tenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, Talook, or tenure became final and conclusive.

VIII. In suits for balances of accounts current between merchants and traders who have had mutual dealings, the cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from, the close of the year in the accounts of which there is the last item admitted or proved indicating the continuance of mutual dealings; such year to be reckoned as the same is reckoned in the accounts.

IX. If any person entitled to, by means of fraud, have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessory thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration,—shall be reckoned from the time when the fraud first became known to the person injuriously affected by it, or when he first had the means of producing or compelling the production of the concealed document.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

XI. If, at the time when the right to bring an action first accrues, the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out

of the British territories in India shall be excluded from such computation, unless service of a summons to appear and answer in the suit can, during the absence of such defendant, be made in any mode prescribed by law.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents, *bona fide* and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal, shall have been annulled for any such cause, including the time during which such appeal, if any, has been pending, shall be excluded from such computation.

XV. If any person shall, without his consent, have been dispossessed of any immovable property otherwise than by due course of law, such person, or any person claiming through him, shall, in a suit brought to recover possession of such property, be entitled to recover possession thereof, notwithstanding any other title that may be set up in such suit; Provided that the suit be commenced within six months from the time of such dispossession. But nothing in this Section shall bar the person from whom such possession shall have been so recovered, or any other person instituting a suit to establish his title to such property, and to recover possession thereof within the period limited by this Act.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force.

XVIII. All suits that may be now pending, or that shall be instituted within the period of two years from the date of the passing of this Act, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted after the expiration of the said period shall be governed by this Act, and no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

XIX. No proceeding shall be taken to enforce any judgment, decree, or order of any Court established by Royal Charter, but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same, unless in the meantime such judgment, decree, or order shall have been duly revived, or some part of the principal money secured by such judgment, decree, or order, or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person

of the British territories in India shall be excluded from such computation, unless service of a summons to appear and answer in the suit can, during the absence of such defendant, be made in any mode prescribed by law.

Person unlawfully dispossessed of immovable property may recover possession, notwithstanding any title that may be set up.

Suit for dispossession to be brought within six months.

Suit to establish title not to be affected.

Act not to interfere with equitable jurisdiction of Supreme Courts.

Act not to extend to public property, nor to suits for the recovery of public claims.

Act not to apply to suits now pending, or to suits instituted within two years.

Suits afterwards instituted to be governed by this Act.

Proceedings for enforcing judgments, &c. of Supreme Courts to be taken within 12 years.

What persons to be deemed to be under legal disability under preceding Section.

Computation of period of limitation in case of absence of defendant.

Act not to interfere with jurisdiction of any Court established by Royal Charter.

Act not to extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever.

by whom the same shall be payable or his agent, to the person entitled thereto or his agent; and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment, or acknowledgment, or the latest of such revivors, payments, or acknowledgments, as the case may be; Provided that

Proviso as to judgments now in force. or acknowledgments, as the case may be; Provided that for three years next after the passing of this Act, every judgment, decree, and order, which may be in force at the date of the passing of this Act, shall be governed by the law now in force, anything herein contained notwithstanding.

XX. No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order, or to keep the same in force within three years next preceding the application for such execution.

Time for enforcing execution of judgment, &c. of a Civil Court not established by Royal Charter.

XXI. Nothing in the preceding Section shall apply to any judgment, decree, or order in force at the time of the passing of this Act, but process of execution may be issued, either within the time now limited by law for issuing process of execution thereon or within three years next after the passing of this Act, whichever shall first expire.

XXII. No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter, or of any Revenue authority, unless some proceeding shall have been

Time for execution of a summary award of Civil Court or Revenue authority.

taken to enforce such decision or award, or to keep the same in force within one year next preceding the application for such execution.

XXIII. Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued, either within the time now limited by law for issuing process of execution thereon or within two years next after the passing of this Act, whichever shall first expire.

XXIV. This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including the Presidency Towns and the Straits' Settlement; but shall not take effect in any non-Regulation Province or place until the same shall be extended thereto by public Notification by the Governor General in Council, or by the local Government to which such Province or place is subordinate. Whenever this Act shall be extended to any non-Regulation Province or place by the Governor General in Council, or by the local Government to which such Province or place is subordinate, all suits which, within such Province or place, shall be pending at the date of such Notification, or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if this Act had not been passed; but all suits, to which the provisions of this Act are applicable, that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act and by no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

Operation of Act.

Trial of pending suits, &c. in any non-Regulation Province or place to which the Act is extended.

W. MORGAN,
Clerk of the Council.