

SPECIAL APPEALS ACT 1843

ACT No. III. Of 1843

(Rep., Act 16 of 1853)

[1<sup>st</sup> February, 1843].

*Passed by the Right Hon'ble the President of the Council of India in Council, On the 1<sup>st</sup> of February, 1843, with the assent of the Right Hon,ble the Governor General of India.*

An Act to for amending the Rules of Special Appeals.

I. It hereby enacted, that from and after the 1<sup>st</sup> day of May next, a Special Appeal shall lie to the Courts of Sudder Dewanny Adawlut at Calcutta and Allahabad respectively, to the Court of Sudder Adawlut at Madras, and to the Court of Sudder Dewanny Adawlut at Bombay, from all decisions passed on regular Appeals in the Civil Courts subordinate to them respectively, which shall appear to be inconsistent with some law, or usage having the force of law, or some practice of the Courts, or shall involve some question of law, usage, or practice, upon which there may be reasonable doubts.

II. And it is hereby enacted, that applications for Special Appeals shall not be admitted unless they are presented to the proper Court as aforesaid within the period limited for the presentation of regular Appeals.

III. And it is hereby enacted, that every application for a Special Appeal shall be accompanied by copies of the several decrees previously passed on the case.

IV. And it is hereby enacted. That every application for a Special Appeal duly presented to the proper Court as aforesaid shall be heard by a single Judge of the Court in the presence of the Special Appellant, or his Vakeel, or Agent, and it shall be competent to the Judge at his discretion, to call form and peruse any document forming a part of the record of the cause, and to summon the opposite party to answer the application.

V. And it is hereby enacted, that if it shall appear to the Judge that a Special Appeal is admissible under this Act he shall pass an order accordingly, and shall at the same time reduce the point or points to be determined to writing in English in the form of a Certificate which shall be translated into the vernacular language in use in the Court and the Special Appeal shall then be brought on the file of the Court to be heard and determined in due course. Provided that it shall not be necessary to call for or refer to any part of the proceedings the reading of which is not required for deciding the point or points of law stated in the Certificate.

VI. And it is hereby enacted, that if it shall appear to the Judge that a Special Appeal is not admissible under this Act he shall reject the petition, and his order so rejecting a petition for a Special Appeal shall be final.

VII. And it is hereby enacted, that in every case of Special Appeal admitted as aforesaid the Court of Sudder Dewanny Adawlut shall determine the point or points, certified as above enacted, and no other point or part of the case whatever.

VIII. Provided that when the special ground of Appeal may have been incorrectly or incompletely certified, it shall be competent to the Court to amend the Certificate. Provided that such amendment shall relate only to the point or points originally stated in the Certificate, and it shall not be lawful for the Court to receive or add any new point or points.

IX. And it is hereby declared, that the existing Laws and Regulations of the Presidencies of Bengal, Madras and Bombay relating to Special Appeals, shall continue in force so far as they are not inconsistent with the provisions of this Act.

X. And it is hereby enacted, that nothing contained in this Act shall affect the hearing of second or Special Appeals which shall have been admitted and be pending in Appeal before the said 1<sup>st</sup> day of May next, and that all such second or Special Appeals shall be heard and decided in the same manner as if this Act had not passed.

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