

**SUPREME COURTS.--BENGAL MADRAS AND BOMBAY.--EQUITY
PROCEDURE.**

ACT No. VI. OF 1854.

[*Passed on the 10th February, 1854.*

1, 2. *Prescribes in what style and form Bills in Equity shall be ; they shall not contain any interrogatories ; but (2) plaintiff may file interrogatories afterwards if he requires an answer, and defendant not obliged to answer if interrogatories are not filed.*

3. *Regulates the defendant's right as to answering, &c.*

4. *Prescribes the form of the answer.*

5. *Plaintiff may on notice move for such decree as he may think himself entitled to and affidavits may be made on both sides. Such motion not to be where there has been a replication.*

6. *Court may make decree on motion.*

7. *Exceptions for scandal and impertinence discontinued, but scandalous or impertinent matter may be ordered to expunged.*

8. *Court may order defendant to produce documents whether he has answered or not.*

9. *Substitutes interrogatories by defendant for cross bill of discovery, &c. except by order of Court.*

10. *Empowers Court to order plaintiff to produce documents.*

11. *Same formalities as in swearing affidavit, sufficient in swearing pleas, answers, &c.*

12. *Issue to be joined by a replication when decree not moved for ; and defendant not answering to be considered a traverse of the plaintiff's case.*

13. *Motion to dismiss bill where no answer required, to be regulated by rules.*

14. *Affidavits to be paragraphed, and paragraphs numbered.*

15. *With consent of all parties, their cases may be verified by affidavit.*

16. *Regulates mode of proof. Evidence generally to be given orally, but Court may order examination on interrogatories, or receive affidavits.*

17. *Further regulates mode of proof. On hearing of suit or of any motion, &c. Court may order oral examination, &c.*

18. *Further regulates mode of proof. Parties may obtain subpoenas for attendance of witnesses, &c.*

19, 20. *Persons making affidavits may be required to attend to be cross-examined on them, &c. (20) provides for costs in such cases.*

21. Prescribes rules for the institution of claims by residuary legatees, next of kin, heirs, executors, &c. &c. and in cases to which the rules apply defendant not to object want of parties.
22. Cause never to be set down on objection for want of parties.
23. In suits concerning matters in which a deceased person not represented is interested, Court may order for his representation.
- 24, 25, 26. Creditors, &c. may without bill, &c. obtain summons on executor or administrator for administration of estate. (25) Duplicate for summons to be filed. (26) Same procedure to be pursued for obtaining administration of Hindoo and Mahomedan estates.
27. In suits for foreclosure Court may order sale, &c.
28. Suits not to be dismissed for misjoinder of parties as plaintiffs.
29. Suit not to be open to objection on ground that merely declaratory decree is sought, &c.
30. Court may adjudicate on matters in which others besides the parties to the suit have an interest and though connected with other matters not before the Court.
31. Regulates mode of receiving suits.
32. Dispenses with supplemental bill in case of new matter arising after filing of bill and regulates mode of bringing new matter before the Court.
33. Empowers the Court to direct in what manner accounts shall be taken.
34. Empowers the Court to order the sale of real estate, if necessary, for purposes of suit.
35. Empowers the Court to allow to parties interested the free enjoyment of any portion of property over and above what is necessary for the objects of the suit.
36. On application for injunctions or receiver, the answer to be regarded merely as an affidavit, and affidavits may be read in opposition thereto.
37. In case of departure from regular course of practice, Court may allow correction of proceedings.
38. The Court may determine questions of legal right or title arising, without referring it to common law side.
39. Empowers Court to refer to judge, matters not referred to master, or to decide without any reference.
40. Report of master deemed to be confirmed if no exceptions filed within 14 days,

41. *No reference to Court or to master after exceptions necessary, but Court or Judge may decide.*;

42. *Judge in chambers may decide on application for time to plead, &c. leave to amend, &c. for production of documents, &c. the conduct of suits, guardianship, management of property, &c.*

43. *Empowers the Court to make general rules, &c.*

44. *Interpretation clause.*

45. *Act to take effect from 1st May, 1854.*

An Act to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras, and Bombay.

Whereas it is expedient to amend the practice and course of proceeding on the Equity side of Her Majesty's Supreme Courts of Judicature at Fort William in Bengal, Madras and Bombay respectively; It is enacted as follows:

I. Every bill of complaint to be filed in any of the said Courts after the time hereinafter appointed for the commencement of this Act, shall contain, as concisely as may be, a narrative of the material facts, matters and circumstances on which the plaintiff relies, such narrative being divided into paragraphs numbered consecutively, and each paragraph containing, as nearly as may be, a separate and distinct statement or allegation, and shall pray specifically for the relief which the plaintiff may conceive himself entitled to, and also for general relief, but such bill of complaint shall not contain any interrogatories for the examination of the defendant.

II. Within a time, to be limited by the rules or orders to be made by the Judges of the said Courts respectively in that behalf, the plaintiff in any suit in any of the said Courts commenced by bill may, if he requires an answer from any defendant thereto, file in the sworn clerk's or other proper office of the said Court,

interrogatories for the examination of the defendant or defendants, or such of them from whom he shall require an answer, and deliver to the defendant or defendants so required to answer, or to his or their solicitor, a copy of such interrogatories, or of such of them as shall be applicable to the particular defendant or defendants, and no defendant shall be called upon or required to put in any answer to a bill unless interrogatories shall have been so filed, and a copy thereof delivered to him or his solicitor, within the time so to be limited, or within such further time as the Court shall think fit to direct.

III. Whether the plaintiff in any suit in any of the said Courts shall or shall not require any answer from the defendant, or any one or more of the defendants to the bill, such defendant or defendants may, without leave of the Court, put in a plea, answer, or demurrer to the plaintiff's bill within the time now allowed to the defendant for demurring alone to a bill, or within such other time as shall be fixed by any rules or orders to be framed by the Judges of the said Courts respectively in that behalf; but after that time a defendant or defendants not required to answer the plaintiff's bill shall not be at liberty to put in a plea, answer, or demurrer to the bill, without leave of the Court; provided that the power of the Court to grant further time for pleading, answering, or demurring to any bill, upon the application of any defendant or defendants thereto, whether required to answer the bill or not, shall remain in full force, and shall not be in any wise prejudiced or affected; provided also that if the Court shall grant any further time to any defendant for pleading, answering, or demurring to the bill, the plaintiff's right to move for a decree under the provisions hereinafter contained shall in the mean time be suspended.

IV. The answer of the defendant to any bill of complaint in any of the said Courts may contain not only the answer of the defendant to the interrogatories so filed as aforesaid, but such statements material to the case as the defendant may think it necessary or advisable to set forth therein, and such answer shall also be divided into paragraphs, numbered consecutively, each paragraph containing, as nearly as may be, a separate and distinct statement or allegation.

V. The plaintiff in any suit commenced by bill shall be at

liberty, at any time after the time allowed to the defendant for answering the same shall have expired (but before replication), to move the Court, upon such notice as shall in that behalf be prescribed by any rule or order to be made by the Judges of the said Courts respectively, for such decree or decretal order as he may think himself entitled to, and the plaintiff and defendant respectively shall be at liberty to file affidavits in support of and in opposition to the motion so to be made, and to use the same on the hearing of such motion; and if such motion shall be made after an answer filed in the cause the answer shall, for the purposes of the motion, be treated as an affidavit.

VI. Upon any such motion for a decree or decretal order, it shall be discretionary with the Court to grant or refuse the motion, or to make an order giving such directions for or with respect to the further prosecution of the suit as the circumstances of the case may require, and to make such order as to costs as it may think right.

VII. The practice of excepting to bills, answers and other proceedings in the said Courts for scandal or impertinence, shall be, and the same is hereby abolished; provided that it shall be lawful for any of the said Courts or for a Judge thereof to order any scandalous or impertinent matter introduced into any proceeding in the Court to be expunged, and any costs occasioned thereby, together with the costs of any application for the purpose to be paid by the party introducing the same.

VIII. It shall be lawful for the Court, upon the application of the plaintiff in any suit in any of the said Courts, whether commenced by bill or by claim, and as to a suit commenced by bill, whether the defendant may or may not have been required to answer the bill, or may or may not have been interrogated as to the possession of documents, to make an order for the production by any defendant, upon oath, of such of the documents in his possession or power relating to matters in question in the suit as the Court shall think right, and the Court may deal with such documents when produced in such manner as shall appear just.

IX. It shall be lawful for any defendant in any suit, whether commenced by bill or by claim, but in suits commenced by bill which the defendant is required to answer not until after he

shall have put in a sufficient answer to the bill, and without filing any cross bill of discovery, to file, in the sworn clerk's or other proper office of the Court wherein such suit is pending, interrogatories for the examination of the plaintiff, to which shall be prefixed a concise statement of the subjects on which a discovery is sought, and to deliver a copy of such interrogatories to the plaintiff or his solicitor, and such plaintiff shall be bound to answer such interrogatories, in like manner as if the same had been contained in a bill of discovery filed by the defendant against him on the day when such interrogatories shall have been filed, and as if the defendant to such bill of discovery had on the same day duly appeared; and the practice of the Court with reference to excepting to answers for insufficiency, or for scandal, shall extend and be applicable to answers put in to such interrogatories; provided that in determining the materiality or relevancy of any such answer, or of any exception thereto, the Court is to have regard, in suits commenced by bill, to the statement contained in the original bill, and in the answer which may have been put in thereto by the defendant exhibiting such interrogatories for the examination of the plaintiff, and in suits commenced by claim, to the statements therein and in any affidavits which may have been filed either in support thereof or in opposition thereto; provided also that a defendant, if he shall think fit so to do, may by leave of the Court or of a Judge thereof exhibit a cross bill of discovery against the plaintiff, instead of filing interrogatories for his examination.

X. It shall be lawful for the Court, upon the application of any defendant in any suit, whether commenced by bill or by claim, but as to suits commenced by bill where the defendant is required to answer the plaintiff's bill not until after he has put in a full and sufficient answer to the bill, unless the Court shall make any order to the contrary, to make an order for the production by the plaintiff in such suit, on oath, of such of the documents in his possession or power relating to the matters in question in the suit as the Court shall think right, and the Court may deal with such documents when produced in such manner as shall appear just.

XI. Every plea, answer, disclaimer, or examination may be

sworn and filed without any further or other formality than is required in the swearing and filing of an affidavit.

XII. In suits commenced in any of the said Courts by bill, where notice of motion for a decree or decretal order shall not have been given, or, having been given, where a decree or decretal order shall not have been made thereon, issue shall be joined by filing a replication, in the form or to the effect of the replication now in use in the said Courts respectively, and where a defendant shall not have been required to answer and shall not have answered the plaintiff's bill he shall be considered to have traversed the case made by the bill.

XIII. Where a defendant to a suit in any of the said Courts commenced by bill shall not have been required to answer the bill, and shall not have answered the same, such defendant shall be at liberty to move to dismiss the bill for want of prosecution at such times and under such circumstances, and subject to such restrictions, as shall be in that behalf prescribed by any rules or orders to be made by the Judges of the said Courts respectively in that behalf.

XIV. Every affidavit to be used in any of the said Courts shall be expressed in the first person and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Provided that nothing herein contained shall preclude the Court or any Judge thereof in any case in which such Court or Judge may think fit so to do, from allowing any affidavit to be used, notwithstanding the same may not be made according to the provisions of this Section.

XV. When any suit commenced in any of the said Courts by bill shall be at issue, the Court or a Judge thereof may upon the application of any of the parties to the suit, and by consent of all the other parties thereto, make an order that the parties shall be at liberty to verify their respective cases by affidavit, and such cases may thereupon be verified accordingly. If any one or more of the parties, who shall not have a sufficient interest in the matters in question to require the evidence to be oral, shall not consent to the making of such order, the Court

or a Judge thereof, may make the same without the consent of such party or parties.

XVI. If no such order shall be made, the evidence to be adduced in the cause after issue joined therein shall be taken orally before the Court, and the attendance of witnesses and the production of documents may be enforced in the manner for the time being in use on the Common Law side of the said Courts respectively; provided that the Court may order any particular witness or witnesses within the jurisdiction of the Court, or any witness or witnesses out of the jurisdiction of the Court, to be examined, upon interrogatories or otherwise, under a commission, and to make such order relating to such examination as the Court may think fit; and provided also that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may by consent of the parties, or by leave of the Court obtained upon notice, be used on the hearing of any cause; such consent, and also the consent required by Section XV. of this Act, may, with the approbation of the Court, be given by or on the part of any married woman, infant or other persons under disability.

XVII. Upon the hearing of any suit depending in any of the said Courts, whether commenced by bill or claim, and also upon the hearing of any motion, petition or other proceeding in any of the said Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness, or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party and of the production of such document or documents to be paid by such of the parties to the suit, or in such manner as it may think fit.

XVIII. Any party in any suit or matter may, by order of the Court or of a Judge thereof, issue a writ of subpœna and testificandum or duces tecum, for the purpose of compelling the attendance of any person before the said Courts, or before a Commissioner or Commissioners at a time and place to be specified in such subpœna, to give evidence and produce docu-

ments in support of or in opposition to any claim, motion, petition, or other proceeding before the Court; and every person served with such subpoena shall be bound to attend in pursuance thereof, and to produce documents, and to give evidence, in like manner and subject to the same rules as a witness subpoenaed to attend or produce documents upon the trial of any cause in the said Court.

XIX. Any person who shall make an affidavit which shall be used or filed by any party to a suit in any of the said Courts, may, by the order of the Court or of a Judge thereof, be subjected to oral cross-examination by or before the Court, or by or before a Commissioner or Commissioners, and may be subpoenaed to attend for that purpose, and to produce any document or documents, at a time and place to be specified in the subpoena; and any person so subpoenaed shall be bound to attend and produce such document or documents in pursuance of such subpoena, in the same manner and subject to the same rules, as a witness subpoenaed to attend and give evidence or produce documents on the trial of a cause, and such person may be cross-examined and re-examined orally; provided that the Court shall always have a discretionary power of acting upon such evidence as may be before it at the time, and of making such interim orders as may appear necessary to meet the justice of the case.

XX. The costs of the attendance of any person, for the purpose of cross-examination as aforesaid, and of the said cross-examination and re-examination, shall be paid by the parties respectively, in like manner as if the person so attending to be cross-examined were the witness of the party cross-examining, and shall be deemed costs in the cause of such parties respectively, unless the Court shall otherwise direct.

XXI. It shall not be competent to any defendant in any suit in any of the said Courts to take any objection for want of parties to such suit, in any case to which the rules hereinafter set forth extend, and such rules shall be deemed and taken as part of the law and practice of the said Courts respectively, and any law or practice of any of the said Courts inconsistent therewith shall be and is hereby abrogated and annulled.

Rule 1st.—Any residuary legatee or next of kin may, without

serving the remaining residuary legatees or next of kin, have a decree for the administration of the personal estate of a deceased person.

Rule 2nd.—Any legatee interested in a legacy charged upon real estate and any person interested in the proceeds of real estate directed to be sold, may, without serving any other legatee or person interested in the proceeds of the estate, have a decree for the administration of the estate of a deceased person.

Rule 3rd.—Any residuary devisee or heir may, without serving any co-residuary devisee or co-heir, have the like decree.

Rule 4th.—Any one of several cestuis que trust under any deed or instrument may, without serving any other of such cestuis que trust, have a decree for the execution of the trusts of the deed or instrument.

Rule 5th.—In all cases of suits for the protection of property pending litigation, and in all cases in the nature of waste, one person may sue on behalf of himself and of all persons having the same interest.

Rule 6th.—Any executor, administrator or trustee may obtain a decree against any one legatee, next of kin, or cestui que trust, for the administration of the estate or the execution of the trusts.

Rule 7th.—In all the above cases the Court, if it shall see fit, may require any other person or persons to be made a party or parties to the suit, and may, if it shall see fit, give the conduct of the suit to such person as it may deem proper, and may make such order in any particular case as it may deem just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question.

Rule 8th.—In all the above cases the persons who, according to the present practice of the Court, would be necessary parties to the suit shall be served with notice of the decree, and after such notice they shall be bound by the proceedings in the same manner as if they had been originally made parties to the suit, and they may, by an order of Court, have liberty to attend the proceedings under the decree: and any party so served may, within such time as shall in that behalf be prescribed by any

general rule or order to be made by the said Courts respectively in that behalf, apply to the Court to add to the decree.

Rule 9th.—In all suits concerning real or personal estate which is vested in trustees under a will, settlement, or otherwise such trustees shall represent the persons beneficially interested under the trust, in the same manner and to the same extent as the executors or administrators in suits concerning personal estate represent the persons beneficially interested in such personal estate, and in such cases it shall not be necessary to make the persons beneficially interested under the trusts parties to the suit, but the Court may upon consideration of the matter on the hearing if it shall so think fit order such persons or any of them to be made parties.

XXII. The practice of setting down a cause merely on an objection for want of parties to the suit shall be abolished.

XXIII. If in any suit or other proceeding before any of the said Courts it shall appear to the Court that any deceased person who was interested in the matters in question has no legal personal representative, it shall be lawful for the Court either to proceed in the absence of any person representing the estate of such deceased person, or to appoint some person to represent such estate for all the purposes of the suit or other proceeding, on such notice to such person or persons, if any, as the Court shall think fit, either specially or generally by public advertisements; and the order so made by the Court, and any orders consequent thereon, shall bind the estate of such deceased person, in the same manner in every respect as if there had been a duly constituted legal personal representative of such deceased person and such legal personal representative had been a party to the suit or proceeding, and had duly appeared and submitted his rights and interests to the protection of the Court.

XXIV. It shall be lawful for any person claiming to be a creditor, or a specific pecuniary or residuary legatee, or the next of kin, or some or one of the next of kin of a deceased person, to apply for and obtain as of course without bill or claim filed, or any other preliminary proceedings, a summons from a Judge of any of the said Courts, requiring the executor or administrator, as the case may be, of such deceased person, to attend before him at chambers for the purpose of showing

cause why an order for the administration of the personal estate of the deceased should not be granted, and upon proof by affidavit of the due service of such summons, or on the appearance in person, or by his solicitor or counsel, of such executor or administrator, and upon proof by affidavit of such other matters, if any, as such Judge shall require, it shall be lawful for such Judge, if in his discretion he shall think fit so to do, to make the usual order for the administration of the estate of the deceased with such variations, if any, as the circumstances of the case may require, and the order so made shall have the force and effect of a decree to the like effect made on the hearing of a cause or claim between the same parties; provided that such Judge shall have full discretionary power to grant or refuse such order, or to give any special directions touching the carriage or execution of such order, and in the case of applications for any such order by two or more different persons or classes of persons, to grant the same to such one or more of the claimants, or of the classes of claimants, as he may think fit; and if the Judge shall think proper, the carriage of the order may subsequently be given to such party interested, and upon such terms as the Judge may direct.

XXV. A duplicate or copy of such summons shall, previously to the service thereof, be filed in the office of the Registrar or other proper officer of the Court, and no service thereof upon any executor or administrator shall be of any validity unless the copy so served shall be countersigned by such Registrar or other officer as an indication of the filing thereof, and the filing of such summons shall have the same effect with respect to *lis pendens* as the filing of a bill or claim.

XXVI. It shall be lawful for any person claiming to be a creditor of a deceased person, or interested under his will, to apply for and obtain in a summary way, in the manner hereinbefore provided with respect to the personal estate of a deceased person, an order for the administration of the immoveable estate of such deceased person, if a Hindoo or a Mahomedan, or a Parsee; or for the administration of the real estate of any deceased person, not being a Hindoo, or Mahomedan, or a Parsee where the whole of such real estate is by devisee vested in trustees who are by will empowered to sell such real estate, and autho-

ized to give receipts for the rents and profits thereof, and for the produce of the sale of such real estate; and all the provisions hereinbefore contained with respect to the application for such order, in relation to the personal estate of a deceased person and consequent thereon, shall extend and be applicable to applications for such orders as hereinbefore mentioned with respect to immovable or real estate.

XXVII. It shall be lawful for the Court, in any suit for the foreclosure of the equity of redemption in any mortgaged property, upon the request of the mortgagee or of any subsequent incumbrancer, or of the mortgager, or any person claiming under them respectively, to direct a sale of such property instead of a foreclosure of such equity of redemption on such terms as the Court may think fit to direct, and if the Court shall so think fit without previously determining the priorities of incumbrances, or giving the usual or any time to redeem; provided that if such request shall be made by any subsequent incumbrancer, or by the mortgager, or by any person claiming under them respectively, the Court shall not direct any such sale without the consent of the mortgagee, or the persons claiming under him, unless the party making such request shall deposit in Court a reasonable sum of money, to be fixed by the Court, for the purpose of securing the performance of such terms as the Court may think fit to impose on the party making such request.

XXVIII. No suit in any of the said Courts shall be dismissed by reason only of the misjoinder of persons as plaintiffs therein, but wherever it shall appear to the Court that notwithstanding the conflict of interest in the co-plaintiffs, or the want of interest in some of the plaintiffs, or the existence of some ground of defence affecting some or one of the plaintiffs, the plaintiffs or some or one of them are or is entitled to relief, the Court shall have power to grant such relief and to modify the decree according to the special circumstances of the case; and for that purpose to direct such amendments, if any as may be necessary, and at the hearing, before such amendments are made to treat any one or more of the plaintiffs as if he or they was or were a defendant or defendants in the suit, and the remaining or other plaintiff or plaintiffs was or were the only plaintiff or

plaintiffs on the record; and where there is a misjoinder of plaintiffs and the plaintiff having an interest shall have died leaving a plaintiff on the record without an interest, the Court may, at the hearing of the cause, order the cause to stand revived, as may appear just, and proceed to a decision of the cause if it shall see fit, and to give such directions as to costs or otherwise as may appear just and expedient.

XXIX. No suit in any of the said Courts shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Court to make binding declarations of right without granting consequential relief.

XXX. It shall be lawful for the Court to adjudicate on questions arising between parties notwithstanding that they may be some only of the parties interested in the property respecting which the question may have arisen, or that the property in question is comprised with other property in the same settlement, will, or other instrument, without making the other parties interested in the property respecting which the question may have arisen, or interested under the same settlement, will, or other instrument, parties to the suit, and without requiring the whole trusts and purposes of the settlement, will, or other instrument to be executed under the direction of the Court, and without taking the accounts of the trustees or other accounting parties, or ascertaining the particulars or amount of the property touching which the question or questions may have arisen; provided always, that if the Court shall be of opinion that the application is fraudulent or collusive, or for some other reason ought not to be entertained, it shall have power to refuse to make the order prayed.

XXXI. Upon any suit in any of the said Courts becoming abated by death, marriage or otherwise, or defective by reason of some change or transmission of interest or liability, it shall not be necessary to exhibit any bill of revivor or supplemental bill in order to obtain the usual order to revive such suit or the usual or necessary decree or order to carry on the proceedings; but an order to the effect of the usual order to revive, or of the usual supplemental decree, may be obtained as of course, upon a suggestion of the abatement of such suit or of the same having

become defective, and of the change or transmission of interest or liability; and an order so obtained when served upon the party or parties who according to the present practice of the Court, would be defendant or defendants to the bill or revivor or supplemental bill, shall from the time of such service be binding on such party or parties in the same manner in every respect as if such order had been regularly obtained according to the existing practice of the Court, and such party or parties shall thenceforth become a party or parties to the suit, and shall be bound to enter an appearance thereto in the office of the Registrar or other officer of the Court within such time and in like manner as if he or they had been duly served with process to appear to a bill of a revivor or supplemental bill filed against him or them; provided that it shall be open to the party or parties so served, within such time after service as shall be in that behalf prescribed by any rule or order to be made by the Judges of the said Courts respectively to apply to the Court by motion or petition to discharge such order on any ground which would have been open to him or them on a bill of revivor or supplemental bill, stating the previous proceedings in the suit and the alleged change or transmission of interest or liability, and praying the usual relief consequent thereon provided also, that if any party so served shall be under any disability, other than coverture, such order shall be of no force or effect as against such party until a guardian or guardians *ad litem* shall have been duly appointed for such party, and such time shall have elapsed thereafter as shall be prescribed by any rule or order to be made by the Judges of the said Courts respectively in that behalf.

XXXII. It shall not be necessary to exhibit any supplemental bill in any of the said Courts for the purpose only of stating or putting in issue facts or circumstances which may have occurred after the institution of any suit; but such facts or circumstances may be introduced by way of amendment into the original bill of complaint in the suit, if the cause is otherwise in such a state as to allow of an amendment being made in the bill, and if not the plaintiff shall be at liberty to state such facts or circumstances on the record, in such manner and subject to such rules and regulations, with respect to the proof thereof, and the affording

to the defendant leave and opportunity of answering and meeting the same, as shall in that behalf be prescribed, by any rule or order to be made by the Judges of the said Courts respectively.

XXXIII. It shall be lawful for the Court in any case where any account is required to be taken, to give such special directions, if any, as it may think fit, with respect to the mode in which the account should be taken or vouched, and such special directions may be given either by the decree or order directing such account, or by any subsequent order or orders, upon its appearing to the Court that the circumstances of the case are such as to require such special directions, and particularly it shall be lawful for the Court, in cases where it shall think fit so to do to direct that in taking the account, the books of account in which the accounts required to be taken have been kept, or any of them, shall be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objections thereto as they may be advised.

XXXIV. If after a suit shall have been instituted in any of the said Courts in relation to any real estate it shall appear to the Court that it will be necessary or expedient that the said real estate, or any part thereof should be sold for the purposes of such suit it shall be lawful for the said Court to direct the same to be sold at any time after the institution thereof, and such sale shall be as valid to all intents and purposes as if directed to be made by a decree or decretal order on the hearing of such cause; and any party to the suit in possession of such estate, or in receipt of the rents and profits thereof, shall be compelled to deliver up such possession or receipt to the purchaser or such other person as the Court shall direct.

XXXV. Where any real or immoveable or any personal property shall form the subject of any proceedings in any of the said Courts, and the Court shall be satisfied that the same will be more than sufficient to answer all the claims thereon, which ought to be provided for in such suit, it shall be lawful for the said Court, at any time after the commencement of such proceedings, to allow to the parties interested therein, or any one or more of them, the whole or part of the annual income of such real or immoveable property, or a part of such personal property, or a part or the whole of the income thereof; up to such time as

the said Court shall direct, and for that purpose to make such orders as may appear to the said Court necessary or expedient, and from time to time to alter the same.

XXXVI. Upon application, by motion or petition to any of the said Courts in any suit depending therein for an injunction or for a receiver, or to dissolve an injunction or discharge an order appointing a receiver, the answer of the defendant shall, for the purpose of evidence on such motion or petition, be regarded merely as an affidavit of the defendant, and affidavits may be received and read in opposition thereto.

XXXVII. In case any of the directions herein contained with respect to the practice and course of proceedings in any of the said Courts shall, by mistake of parties, fail to be followed in any suit or proceeding in any of the said Courts, it shall be lawful for the Court, if it shall think fit upon payment of such costs as such Court shall direct, to make such order giving effect to and rectifying such proceedings as may be justified by the merits of the case.

XXXVIII. In cases where, according to the present practice of the said Courts, they decline to grant equitable relief until the legal title or right of the party or parties seeking such relief shall have been established in a proceeding at law, any of the said Courts, sitting as a Court of Equity, may itself determine such title or right without requiring the parties to proceed at law to establish the same.

XXXIX. It shall be lawful for any of the said Courts in any case in which it shall think fit so to do to refer to a Judge of the Court any matters now usually referred to the Master; and also for any of the said Courts to hear and investigate either in Court or in Chambers any such matters, and to decide any case without a reference either to a Judge or to a Master; and all the powers, authority and jurisdiction given to or vested in the Masters of the said Courts respectively by any Act, law, or practice shall be deemed to have been given to or vested in any of the Judges of the said Courts respectively as well as to or in the said Masters.

XL. If exceptions to the report of a Judge or Master of any of the said Courts be not filed within fourteen days after the date of the report, it shall not be necessary to obtain any

order of the Court for the confirmation of such report; but such report shall be deemed to be confirmed from and after the expiration of such fourteen days.

XLI. If any exception to the Report or Certificate of a Judge or Master be allowed by the Court it shall not be necessary to refer the case back to the Judge or Master; but the Court may, if it think fit so to do, hear and investigate in Court or in Chambers any matter which it may be necessary to decide in consequence of the allowance of such exception, and to decide the case without any further reference to a Judge or to the Master.

XLII. Any of the following matters may be disposed of by a Judge of any of the said Courts respectively while sitting in Chambers, videlicet, applications for time to plead, answer, or demur, for leave to amend bills or claims for the production of documents, also applications relating to the conduct of suits or matters, and as to the guardianship and maintenance of infants, matters connected with the management of property, and such other matters as any Judge shall from time to time see fit, or as the Court shall by any general rule or order direct. Provided that any order of a Judge sitting in Chambers may be set aside or altered by the Court upon such terms as the Court shall think fit.

XLIII. The Judges of the said Courts respectively may, from time to time, make General Rules and orders for carrying the purposes of this Act into effect; for regulating the times and form and mode of proceeding, in Court and in Chambers and in the offices of the Masters of the said Courts respectively, for abolishing common injunctions in any case where the practice exists, and generally for regulating the practice of the said Court, in respect of the matters to which this Act relates; for fixing and regulating the fees and allowances to all officers of the said Court and solicitors thereof, and, so far as may be found expedient, for altering the course of proceeding hereinbefore prescribed in respect to the matters to which this Act relates or any of them; and such Rules and Orders may, from time to time, be rescinded or altered by the like authority, and all such Rules and Orders shall be subject to be confirmed or disallowed by the Governor General of India in Council, and

to be altered or rescinded by Her Majesty; her heirs or successors in Council, in the same manner as the like Rules and Orders would have been, if made by the said Courts respectively under their general or statutory power of making Rules.

XLIV. This Act shall extend to suits and proceedings on the Equity side only of the said Supreme Courts: and in the constructions of this Act the words "Bill of Complaint" shall mean and include "Information," and the word "Affidavit" shall mean and include "Affirmation" in cases where affirmation is allowed.

XLV. This Act shall commence and take effect from and after the 1st day of May 1854. Provided that it shall be lawful for the Judges of the said Courts respectively to make and issue any such Rules or Orders as aforesaid at any time after the passing of this Act, but the same shall not take effect before the time appointed for the commencement of this Act.