

ACT No. IV OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 23rd January 1860.)

An Act to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter).

WHEREAS it is expedient to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter): It is enacted as follows:—

Preamble.

I. From and after the passing of this Act so much of the 332nd Section of Act VIII of 1859, as enacts that "If the appeal lie to the Sudder Court it shall be heard and determined by a Court consisting of three or more Judges of that Court," shall be repealed, and in lieu thereof the following shall form portion of the said Section:—

Appeal to Sudder Court to be heard by two or more Judges.

"If the appeal lie to the Sudder Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court shall consist of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence, and one Judge concur in opinion with the Lower Court as to the facts, the case shall be determined accordingly: If in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point upon which they differ, and the case shall be re-argued upon that question before one or more of the other Judges and shall be determined according to the opinion of the majority of the Judges of the Sudder Court by whom the appeal is heard."

II. From

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II. From and after the passing of this Act the 215th Section of the said Act shall be repealed, and in lieu thereof the following Procedure on receiving application for execution of decree shall be the 215th Section:—

“The Court, on receiving any application for execution of a decree containing the particulars above mentioned or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the Register of the suit. If it shall be shown to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.”

III. When under the provisions of Section 385 of the said Act the Act is extended to any part of the territories not subject to the Extension of Act to Non-Regulation Provinces. general Regulations of Bengal, Madras, and Bombay, it shall be lawful for the Government to which the territory is subordinate to declare that the Act shall take effect therein subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension. When the Act is extended by the Local Government to any territory subordinate to such Government and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor General of India in Council shall be requisite.