

ACT No. XLIII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor-General on the 6th. October 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 the provisions relating to special appeals contained in 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. No special appeal shall lie from any decision or order which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sudder Court, in any suit of the nature cognizable in Courts of Small Causes under Act XLII of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed five hundred Rupees. But every such order or decision shall be final.

No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

II. If in any suit in which an order or decision is made final under this Act, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court trying such suit shall entertain reasonable doubts, the Court may either of its own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Sudder Court.

Reference of question to the Sudder.

III. The

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III. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the Sudder Court, until the receipt of the order of that Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

Full bench of the Sudder Court to decide cases referred under this Act.

IV. Cases referred for the opinion of the Sudder Court shall be dealt with by a full bench of that Court.

Sudder Court to fix an early day for the hearing of the case.

Proclamation thereof. that Court.

V. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Parties may appear and be heard in person or by pleader.

VI. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

VII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment under the seal of the Court and the signature, of the Register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Decision of Sudder Court how to be transmitted.

Costs of reference to Sudder Court.

costs in the suit.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be

Act not to extend to decisions passed on regular appeal by Assistant Judges in Bombay.

IX. Nothing in this Act shall extend to any decision or order passed on regular appeal by any Assistant Judge in the Presidency of Bombay.

Construction of Act

X. This Act shall be construed and read as part of Act VIII of 1859.