

ACT No. XII OF 1861.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 20th May 1861.)

An Act to Amend Act XLII of 1860.

WHEREAS it is expedient to amend Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the jurisdiction of the Supreme Courts of Judicature established by Royal Charter*); It is enacted as follows:—

Preamble.

I. The Local Government may invest any Judge of a Court of Small Causes constituted under Act XLII of 1860, with the powers of a Principal Sudder Ameen within such local limits as the local Government shall from time to time appoint.

Local Government may invest Small Cause Court Judge with powers of a Principal Sudder Ameen.

II. The Local Government may also invest the Judge of any Court of Small Causes, constituted as aforesaid, with all or any of the powers of a Magistrate within such local limits as the local Government shall from time to time appoint for the trial and decision of cases cognizable by a Magistrate; but no other jurisdiction in Criminal matters shall be exercised by any Court so constituted.

Also with powers of a Magistrate.

III. In the places in which the provisions of Act X of 1859 (*to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal*) are in force, the local Government may empower any Judge of a Court of Small Causes, constituted as aforesaid, to hear and determine, under the rules contained in the said Act X of 1859 applicable to trials before a Collector and subject to the same regular and special appeal, the claims cognizable under that Act arising within

And with power to try suits under Act X of 1859.

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within the local limits of the jurisdiction of such Court. Any Judge so empowered shall exercise all the powers of a Collector under the said Act X of 1859, except the power of hearing appeals.

IV. An Officer, to be styled the Clerk of the Court, may be appointed to any Court of Small Causes constituted as aforesaid, on such salary as shall be authorized by the Governor General of India in Council. The appointment and removal of such Officer shall rest with the Court, subject to the approval of the local Government.

V. When a Clerk is appointed to any Court of Small Causes constituted as aforesaid, such Clerk shall, subject to the orders of the Court, issue all Summonses, Warrants, Orders, and Writs of Execution, and keep an account of all proceedings of the Court, and shall take charge of and keep an account of all moneys payable or paid into or out of Court, and shall enter an account of all such moneys in a book belonging to the Court to be kept by such Clerk for that purpose.

VI. Whenever more Courts than one are constituted in any District under the said Act XLII of 1860, the local Government may appoint one of the said Courts to be the Principal Court of Small Causes in such District.

VII. The Judge of the Principal Court of Small Causes in any District may sit with the Judge of any other Court of Small Causes, constituted as aforesaid, in the same District, for the trial and determination of any suit cognizable under the said Act XLII of 1860, which the Judge of such other Court may reserve for trial by himself and the Judge of the Principal Court of Small Causes.

VIII. When two Judges sit together for the trial of a suit under the last preceding Section, and they concur in the decision or order to be passed, such decision or order shall be the decision or order of the Court, and shall be signed by both Judges. If in the trial of any suit such Judges shall differ on a point of law, or usage having the force of law, or on the construction of a document affecting the merits of the decision, they shall submit a case for the opinion of the Sudder Court on the point of difference between them in the manner prescribed

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prescribed in Section XIII of the said Act XLII of 1860; and the rules applicable to a reference to the Sudder Court contained in Sections XIV, XV, XVI, XVII, XVIII, and XIX of the said Act, shall be applicable to the reference made in such suit.

If Judges differ, the Judge of the principal Court to have the casting voice.

IX. If such Judges differ on any matter other than the matters abovementioned, the Judge of the Principal Court of Small Causes shall have the casting voice.

X. All suits cognizable under the provisions of the said Act XLII of 1860, which shall be pending before any Court within the limits of the jurisdiction of a Court of Small Causes constituted under the said Act, at the time of the constitution of such Court, shall be heard and determined in the same manner as if such Court had not been constituted.

Trial of pending suits.