

ACT No. X OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd February 1863.)

*An Act to improve the Administration of Justice in the District of Darjeeling.*

WHEREAS it is expedient to improve the Administration of Justice in the District of Darjeeling; It is enacted as follows :—

Preamble.

I. Every decision or order passed by the Superintendent of the District of Darjeeling in suits of the nature cognizable in Courts of Small Causes under Act XLII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), or by the Judge of any Court constituted in the said District under the said Act shall be final, and no appeal shall lie from such decision or order. Provided that it shall be competent to the Superintendent, or Judge of any such Court as aforesaid, if he shall think fit, to grant a new trial, if applied for within the period of thirty days from the date of the decision; but no new trial shall be granted unless the party applying for the same shall, with his application, deposit the amount for which judgment shall have been given against him, including the costs (if any) of the opposite party.

No appeal from decisions in suits of the nature cognizable in Small Cause Courts, under Act XLII of 1860.

Proviso.

II. If in the trial of any suit any question of law or usage having the force of law, or the construction of a document affecting the merits of the decision shall arise on which the Superintendent or Judge of any Court constituted as aforesaid shall entertain reasonable doubt, the Superintendent

In case of doubt as to question of Law, &c., statement of case may be submitted for decision of High Court.

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intendent or Judge as aforesaid may, either of his own motion, or on the application of any of the parties to the suit, draw up a statement of the case and submit it with his own opinion for the decision of the High Court.

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

And decree may be passed contingent thereon, but pending receipt, execution not to issue.

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

IV. Cases referred for the opinion of the High Court shall be dealt with by two or more Judges of that Court.

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

Proclamation thereof.

V. The High 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 High Court in person or by pleader.

VII. The High 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 Superintendent or Judge as aforesaid, and the Superintendent or Judge as aforesaid shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the High Court.

Decision of High Court how to be transmitted.

Costs of reference to High Court.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the High Court shall be costs in the suit.

IX. In

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IX. In all suits other than those mentioned in Section I of this Act, in which the amount or value of the suit shall not exceed Rupees five thousand, an appeal from the decision of the Superintendent, or of any other Court which is or hereafter may be established in the said District of Darjeeling shall lie to the Judge of Dinagepore, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

In suits other than those referred to in Section I, and of an amount or value not exceeding 5,000 Rupees, a regular appeal to lie.

X. A special appeal shall lie to the High Court of Judicature at Fort William from all decisions passed in regular appeal by such Judge, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and upon no other ground, and such special appeal shall be subject to the rules contained in the Code of Civil Procedure regarding special appeals.

Special appeal to High Court in certain cases.

XI. In all suits heard and determined by the Superintendent, or by any other Court which is or hereafter may be established in the said District of Darjeeling in which the amount or value of the suit shall exceed Rupees five thousand, an appeal shall lie to the said High Court, subject to the rules contained in the Code of Civil Procedure regarding regular appeals.

In suits above 5,000 Rupees regular appeal to lie to High Court.

XII. When a commitment in a case triable under the Code of Criminal Procedure by a Court of Sessions is made by the said Superintendent, or by any other Officer in such District competent to make commitments to the Court of Sessions, such commitment shall be made to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Provision for cases triable by Court of Sessions under Code of Criminal Procedure.

XIII. Appeals from sentences and orders passed by the said Superintendent or by any Officer subordinate to him from which an appeal is allowed under the Code of Criminal Procedure shall lie to the Sessions Judge of Dinagepore, and shall be heard and determined by him.

Appeals from sentences, &c., of Superintendent and his subordinates.

XIV. The

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XIV. The High Court of Judicature at Fort William in Bengal shall exercise the same jurisdiction, appellate or otherwise, in respect of any sentence or order passed by such Sessions Judge under this Act, which the said High Court may exercise in respect of any other sentence or order passed by such Judge.

Powers of High Court in respect of sentence, &c., of Sessions Judge under this Act.