

HIGH COURT (MASTER'S OFFICE AND OATHS) ACT.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Power to Master to summon Parties, &c., and to settle and wind up proceedings before him.
2. Power to Court, upon Master's Report or Certificate, to make order for prosecution and final disposal of any suit, &c., and for payment of costs, &c.
3. Neglect to bring Report before the Court.
4. No fresh references to Master except in suits already before him.
5. All powers possessed by Master may be exercised by Judges.
6. Power to Court to dismiss suits upon Certificate of Master that no proceedings have been taken for a year.
7. Power of Division Court to refer matters for investigation by a single Judge.
8. Power to make rules.
9. Extension of Act V of 1840, concerning Oaths and Declarations of Hindoos and Mahomedans, to High Court.
10. Process from High Court may be served by Attorneys and others.
11. Not to be necessary for a Judge to sign process.
12. Extension of Act to High Courts at Madras and Bombay.

ACT No. XVIII OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 10th March 1863.)

An Act to make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the Oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its Original Civil Jurisdiction.

WHEREAS, at the time of the abolition of the late Supreme Court of Judicature at Fort William in Bengal, many matters which
Preamble. had been referred to the Master of the said Court were pending before him, and many of them are still pending before the Master of the High Court, and it is expedient that all such matters should be wound up and determined as expeditiously as possible, and whereas it is expedient that the law concerning the administration of oaths to Hindoos and Mahomedans in such Court should be assimilated to the law concerning such oaths in Courts not established by Royal Charter ; and that the Code of Civil Procedure should be amended in respect of process issued out of the said High Court in the exercise of its Ordinary Original Civil Jurisdiction ; It is enacted as follows :—

I. In order as expeditiously as may be to wind up all the suits, matters, and things which are now pending before the Master of the said High Court of Judicature at Fort William in Bengal, it shall be lawful for the Master, at any time after the passing of this Act, at his own discretion, and without application on behalf of any of the parties to the suit or reference, and in such manner as he shall deem fit, to summon all or any of the parties to any suit, matter, or thing so pending, or their Solicitors, and thereupon to proceed with such suit, matter,
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or thing, and to give such directions and make such orders as he may think necessary for the purpose of settling and winding up the same; but any such order shall be subject to be discharged or varied by the said Court upon application made for that purpose, and the Master shall be at liberty to proceed *ex-parte* for the purposes aforesaid in the absence of any of the parties, or their Solicitors neglecting or refusing to attend the summons, and it shall also be lawful for the Master at his discretion to proceed with the reference, and to make a special report to the Court notwithstanding the death of any of the parties to the suit or reference, or their absence from the Jurisdiction of the Court, or in cases in which, after search to the satisfaction of the Master, parties are not to be found within the Jurisdiction of the Court, or it is uncertain whether such parties are living or dead.

II. In case the Master shall be unable by reason of the conduct of parties, or otherwise, to dispose finally of any suit, matter, or thing referred to or pending before him (within such time as he shall in that behalf determine), he shall be at liberty to report on or to dispose of any part thereof within his power, and to report or certify on the whole of the case; and upon such report or certificate the Court shall make such order as it shall think proper on all or any of the parties, for the further prosecution of the suit or matter, or for the final disposal thereof, and for the payment of the costs thereof, including any of the costs which may have been incurred by reason of the conduct of the parties.

Power to Court, upon Master's report or certificate, to make order for prosecution and final disposal of any suit, &c., and for payment of costs, &c.

III. If within a time to be fixed by the Master in that behalf, the report or certificate of the Master shall not be brought before the Court, the Registrar shall bring such report or certificate before the Court, and the Court is hereby empowered to make such order or decree in the suit as to the Court shall seem fit.

Neglect to bring report before the Court.

IV. From and after the passing of this Act no reference shall be made to the Master except in cases in which, from some previous reference made in the suit or matter, or in some other suit or matter connected therewith, the Court may think it expedient to make such reference.

No fresh references to Master except in suits already before him.

V. From

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V. From and after the passing of this Act all or any of the powers, authorities, and Jurisdiction, which at the time of the abolition of the said Supreme Court were vested in the Master in Equity, may be exercised by the High Court, or by a Judge of the said Court.

All powers possessed by Master may be exercised by Judges.

VI. Whenever it shall appear from the certificate of the Master that no proceedings have been taken in his Office for a period of one year in any reference pending before him, the Court shall have power to dismiss such suit, or to make such other order or decree in the suit as to the Court shall seem fit.

Power to Court to dismiss suits upon certificate of Master that no proceedings have been taken for a year.

VII. It shall be lawful for any division Court consisting of more than one Judge to adjourn, for the consideration of a single Judge, any matters of account, detail, or other description which, in the opinion of such Court, may be more conveniently investigated by a single Judge sitting in Chambers, and such matters shall thereupon be investigated by a single Judge, who shall proceed with such investigation sitting either in Chambers or in open Court, and shall report thereon to a division Court, and such report shall as regards such division Court be final, but shall be open to revision by any Court of Appeal to whom the order or decree founded thereon may be appealed. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation.

Power of division Court to refer matters for investigation by a single Judge.

VIII. The said High Court shall have power to make general rules for orders for winding up the business now pending in the Office of the said Master, and generally for regulating the conduct of business, and the manner in which the same shall be transacted in the Master's Office, and for regulating the procedure of a single Judge touching investigations before him under the provisions of this Act. Provided that such rules and orders shall not be inconsistent with the provisions of this Act, or of any Act for the time being in force relating to such matters.

Power to make rules.

IX. The

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IX. The proviso contained in Section IV of Act V of 1840 (*concerning the oaths and declarations of Hindoos and Mahomedans*), that the said Act shall not apply to any declaration or affirmation made in any of Her Majesty's Courts of Justice, is hereby repealed, and Section I of the said Act V of 1840 shall be read as if the words following had been added thereto.

Extension of Act V of 1840, concerning oaths and declarations of Hindoos and Mahomedans, to High Court.

“ And when verifying an Affidavit to the following effect :—I solemnly affirm in the presence of Almighty God that the signature to this is my name and hand-writing, and that the contents of this Affidavit are true.”

X. After the passing of this Act notices to produce documents or writings, summonses to witnesses, and all other judicial process issued in the exercise of the Ordinary Original Civil Jurisdiction of the High Court of Judicature at Fort William in Bengal, except writs of summons to defendants issued under Section XLI of Act VIII of 1859 (*the Code of Civil Procedure*) and writs of execution, may be served by the Attorneys in the suit, or by persons employed by them, or in such other manner as the said High Court shall by any rules or orders from time to time direct.

Process from High Court may be served by Attorneys and others.

XI. It shall not be necessary for a Judge of the said High Court to sign any writ, order, summons, or other judicial process issued or made in the exercise of the Ordinary Original Civil Jurisdiction of the said High Court. The said High Court shall have power from time to time to direct that such writs, orders, or other process shall be signed by such Officer or Officers of the said Court as to the Court may seem fit.

Not to be necessary for a Judge to sign process.

XII. This Act may be extended to the High Court of Judicature at Madras, and the High Court of Judicature at Bombay, by an order of the Governor in Council of Fort Saint George, and the Governor in Council of Bombay, respectively, to be published in the Official Gazettes of Madras and Bombay, respectively ; and when so extended by such order, shall take effect in the said Courts from the date

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date of the publication of such order. When so extended to either of such High Courts, this Act shall in all respects apply to such High Court in the same manner as if the name of such High Court had appeared in this Act wherever the name of the High Court of Judicature at Fort William in Bengal appears.

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