

ACT No. VII OF 1868.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(*Received the assent of the Governor General on the 27th March 1868.*)

An Act to amend the law relating to Appeals and Reviews of Judgment in the Panjáb.

WHEREAS it is expedient to amend the law relating to appeals and reviews of judgment in the Courts established in the Panjáb; It is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Panjáb Appeals' Act, 1868."

Extent of Act.

Commencement and continuance of Act.

2. This Act shall extend only to the territories for the time being under the government of the Lieutenant Governor of the Panjáb. It shall come into operation from the thirtieth day of April 1868, in regard to all appeals preferred after that day, and shall continue in force to the thirtieth day of April 1873 :

Provided that, as to such appeals (if any) as shall before the day last mentioned have been preferred under the provisions herein contained, and shall not have been disposed of, this Act shall remain in force until such appeals shall have been disposed of as aforesaid.

Appeals when to lie.

3. Except when otherwise provided in this Act or any other Act in force for the time being, an appeal shall lie from the decrees of the Courts of original and appellate jurisdiction to the Courts authorized under Act No. XIX of 1865 (*The Panjáb Courts' Act*) and Act IV of 1866 (*The Panjáb Chief Court Act*) to hear appeals.

Code of Civil Procedure to apply to appeals.

4. All appeals falling within the jurisdiction of the Courts established in conformity with the said Acts shall, save as in the said Acts and in this Act is otherwise provided, be regulated by the Code of Civil Procedure.

5. If

5. If the decision of a Deputy Commissioner or of a Commissioner passed in regular appeal reverse or modify the decision of the Court of original jurisdiction on a point material to the merits of the case, the Commissioner, where the decision shall have been passed on regular appeal by the Deputy Commissioner, and the Chief Court where the decision shall have been passed on regular appeal by the Commissioner, may receive a second appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the Courts below, a further consideration of the case appear to the Commissioner or the Chief Court (as the case may be) requisite for the ends of justice.

6. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, accompanied by copies of the judgments of the lower Courts, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, within sixty days if the appeal lie to the Court of a Deputy Commissioner or Commissioner, and within ninety days if the appeal lie to the Chief Court.

The period shall be reckoned from and exclusive of the day on which the judgment and decree appealed against was pronounced and also exclusive of such time as may be requisite for obtaining a copy of the judgment and decree from which the appeal is made.

7. When a memorandum of appeal, or an application for the admission of a special appeal, has been registered, the Appellate Court may, if it sees fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the lower Court, without sending intimation of the appeal to such Court and without issuing notice to the respondent.

8. The Chief Court of the Panjáb may, whenever it thinks proper to do so, either on the agreement of the parties to that effect or for purposes of justice, remove and try any appeal falling within the jurisdiction of any Court subject to its superintendence.

9. Any

9. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no appeal shall have been preferred to a superior Court, or by a decree of a District or Divisional Court from which no regular or special appeal shall have been admitted by the Chief Court, or by a decree of the Chief Court from which either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council, and who, from the discovery of new matter or evidence which was not within his knowledge, or could not have been adduced by him at the time when such decree was passed, or from any other good or sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Civil Court which passed the decree, or by any Court to which the business of the former Court has been transferred.

Except as hereinbefore provided, the judgments of the Civil Courts established in conformity with the said Acts and with Act No. III of 1868 (*to authorize the Local Government of the Panjáb, to invest any person with the powers of an Assistant Commissioner or Tahsildár*) shall not be subject to revision.

10. If in any suit pending when this Act comes into operation, it appears to the Court that the application of its provisions would deprive any party to a suit of a right of appeal which, but for the passing of this Act, would have belonged to him, the Court shall proceed according to the law in force immediately before this Act takes effect.