

## **BOMBAY COURT FEES ACT, 1959**

**36 of 1959**

**[16th June 1959]**

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## **BOMBAY COURT FEES ACT, 1959**

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**[16th June 1959]**

WHEREAS it is expedient, to consolidate and amend the law relating to fees taken in courts and public offices and fees taken in respect of certain matters in the State of Bombay, other than fees falling under entries 77 and 96 of List I in the Seventh Schedule to the Constitution of India: It is hereby enacted in the Tenth Year of the Republic of India as follows:-

### **CHAPTER 1**

#### **Preliminary**

#### **1. Short title, extent, commencement and application :-**

(1) This Act may be called the Bombay Court-fees Act, 1959 .

(2) It extends to the whole of the <sup>1</sup> [State of Gujarat].

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

(4) The provisions of this Act shall not apply to fees or stamps relating to documents presented or to be presented before any officer serving under the Central Government.

(5) In the absence of any specific provision to the contrary, nothing in this Act shall affect any special law now in force relating to fees

taken in the courts and public offices.

1. Substituted for the words "State of Bombay" by A.O. 1960.

## **2. Definitions :-**

In this Act, unless the context otherwise requires-

(a) "Chief Controlling Revenue Authority" means such officer as the State Government may by notification in the Official Gazette, appoint in this behalf for the whole or any part of the <sup>1</sup> [State of Gujarat];

(b) "Collector" includes any officer authorised by the Chief Controlling Revenue Authority to perform the functions of a Collector under this Act;

(c) "Plaint" includes a written statement pleading a set off or counter claim.

1. Substituted for the words "State of Bombay" by A.O. 1960.

## **CHAPTER 2**

Fees in the High Court [and in the Court of Small Causes of Ahmedabad]

## **3. Levy of fees in High Court on Its original side[and in the Court of Small causes of Ahmedabad :-**

<sup>1</sup>.-The fees payable for the time being to the clerks and officers (other than the sheriffs and attorneys) of the High Court: or chargeable in that Court under No. 10 of the first, and Nos. 11, 14, 17, 20 and 21 of the Second Schedule to this Act annexed: <sup>2</sup>[x x x] <sup>3</sup> [and the fees for the time being chargeable In the Court of Small Causes of Ahmedabad and its office,] shall be collected in manner hereinafter appearing.

1. Inserted by Gujarat 29 of 1962.

2. Omitted by Gujarat A.O.. 1960.

3. Inserted by Gujarat 29 of 1962.

## **4. Procedure in case of difference as to necessity or amount of fees :-**

(1) When any difference arises between the Officer whose duty it is to see that any fee Is paid under this Chapter and any suitor or attorney, as to the necessity of paying a fee or the amount thereof, the question shall, when the difference arises in the High Court, be referred to the taxing officer, whose decision thereon shall be final, subject to revision, on an application, made within sixty days from the date of the decision by the suitor or attorney or such officer as

may be appointed in this behalf by the State Government, by the Chief Justice or by such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf. The Chief Justice shall declare who shall be taxing officer within the meaning of this sub-section.

<sup>1</sup> [(2) When any such difference arises in the Court of Small Causes of Ahmedabad the question shall be referred to the Registrar, whose decision thereon shall be final, subject to revision, on an application, made within sixty days from the date of the decision, by the party

1. Inserted by Gujarat 29 of 1962.

### CHAPTER 3

#### Computation of Fees

### **5. Fees on documents filed, etc., in Courts or in public offices :-**

(1) No document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless In respect of such document there has been paid a fee of an amount not less than that Indicated by either of the said schedules as the proper fee for such document.

(2) When any difference arises between the officer whose duty it is to see that any fee is paid under this Act and any suitor or his pleader, as to the necessity of paying a fee or the amount thereof, the question shall, when the question arises in the High Court, be referred to the taxing officer whose decision thereon shall be final, subject to revision, on an application, made within sixty days from the date of the decision, by the suitor or his pleader or such officer as may be appointed in this behalf by the State Government, by the Chief Justice or by such Judge of the High Court as the Chief Justice shall appoint either generally or specially in this behalf.

<sup>1</sup> [(3) When any such difference arises in the Ahmedabad City Civil Court, the question shall be referred to the Registrar of the City Civil Court whose decision shall be final, subject to revision, on an application, made within sixty days from the date of the decision, by the party concerned or such officer as may be appointed In this behalf by the State Government, by the Principal Judge or such other Judge of the said Court as the Principal Judge shall appoint

either generally or specially in this behalf.]

(4) When such difference arises In any other Court, the question shall be referred to the final decision of the Judge presiding over such Court.

[(5) Nothing in this section shall affect the provisions of the Presidency Small Cause Courts Act, 1882 (XV of 1882), in its application to the State of Gujarat].

1. As amended by Gujarat 12 of 1995.

**6. Computation of fees payable in certain suits :-**

The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:-

(i) for money.-In suits for money (including suits for damages or compensation, arrears of maintenance, of annuities, or of other sums payable periodically) according to the amount claimed:

(ii) for maintenance and annuities.-In suits for maintenance (with or without a prayer for the creation of a charge), and for annuities or other sums payable periodically according to the value of the subject matter of the suit, and such value shall be deemed to be, in the case of a suit for maintenance, the amount claimed to be payable for one year and in any other case, ten times such amount:

Provided that if in a suit for maintenance the plaintiff obtains a decree for maintenance the defendant shall be liable to make good the deficit, if any, between the fee payable on ten times the amount awarded for one year and the fee already paid by the plaintiff: and the amount of such deficit shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue:

(iii) for other movable property having a market value.-In suits for movable property other than money, where the subject-matter has a market value- according to such value at the date of presenting the plaint:

(iv) against recovery of any money due as a tax etc.-

(a) In suits for declaration to obtain adjudication against recovery of money from the plaintiff, whether recovery is as land revenue or arrears of land revenue or tax or duty or cess or fee or fine or penalty or under any decree or order of a court or any certificate or award other than under the Arbitration Act, 1940 (X of 1940) or in

any other manner-one fourth of ad. valorem fee leviable on the amount sought to be recovered according to the scale prescribed under Article I of Schedule I with a minimum fee of fifteen rupees:

Provided that when In addition any consequential relief other than possession is sought, the amount of fee shall be one half of ad valorem fee on the amount sought to be recovered:

Provided further that when the consequential reliefs also sought include a relief for possession the amount of fee shall be the full ad valorem fee on the amount sought to be recovered:

(b) similar claim in respect of movable property.-In suits for declaration similar to those falling under sub-paragraph (a) in respect of movable property-one fourth of ad valorem fee leviable on the value of the moveable property subject to the minimum fee as under subparagraph (a):

Provided that when in addition any consequential relief other than possession is sought, the amount of fee shall be one half of ad valorem fee leviable on the value of such property:

Provided further that when the consequential reliefs also sought include a relief for possession the amount of fee shall be the full ad valorem fee leviable on such value:

(c) for status with monetary attribute.-In suits for declaration of the status of plaintiff, to which remuneration, honorarium, grant. salary, income, allowance or return is attached, one fourth of ad valorem fee leviable on the emoluments or value of return for one year:

Provided that when in addition any consequential relief other than possession is sought the amount of fee shall be one half of ad valorem fee on such emoluments or value of return:

Provided further that when the consequential reliefs also sought include a relief for possession the amount of fee shall be the full ad valorem fee on such emoluments or value of return:

(d) for ownership etc. of immovable property, etc.-In suits for declaration In respect of ownership, or nature of tenancy, title, tenure, right, lease, freedom or exemption from, or non-liability to, attachment with or without sale or other attributes, of immovable property, such as a declaration that certain land is personal property of the Ruler of any former Indian State or public trust



property or property of any class or community-one fourth of ad valorem fee leviable for a suit for possession on the basis of title of the subject-matter, subject to a minimum fee of eighteen rupees and seventy-five naye paise:

Provided that if the question is of attachment with or without sale the amount of fee shall be the ad valorem fee according to the value of the property sought to be protected from attachment with or without sale or the fee of fifteen rupees, whichever is less:

Provided further that, where the defendant is or claims under or through a limited owner, the amount of fee shall be one sixth of such ad valorem fee, subject to the minimum fee specified above:

Provided also that, in any of the cases falling under this clause except its first proviso, when in addition any consequential relief other than possession is sought the amount of fee shall be one half of ad valorem fee and when the consequential reliefs also sought include a relief for possession the amount of fee shall be the full ad valorem fee:

(e) declaration for easements etc.-In suits for declaration of easement or right to benefits arising out of immovable property, with or without an injunction or other consequential relief, the amount of fee shall be as shown in the Table below:-

Table		
Area		Fee
(a)	The area within the limits of the	One eighth of the ad
	Municipal Corporations of	valorem fee leviable for a
	Greater Bombay, Ahmedabad,	suit for possession of the
	Poona and Nagpur,	servient tenement or the
		dominant tenement.
		whichever is less. subject
		to a minimum fee of fifteen
		rupees.
(b)	Areas within the limits of	One twelfth of the ad
	Municipalities of Sholapur,	valorem fee leviable for a
	Kolhapur, Surat, Baroda, Nasik,	suit for possession of the
	Thana, Dhulia, Jalgaon, Kalyan,	servient tenement or the
	Rajkot, Bhavnagar, Jamnagar,	dominant tenement,
	Akola, Amraoti, Aurangabad and	whichever is less, subject
	Jalna.	to a minimum fee of fifteen
		rupees,
(c)	Any other area in the State of	Fifteen rupees.

	Bombay.	
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(f) for other status without monetary attribute. In suits for declaration of status to which no direct monetary attribute is attached such as a declaration that the plaintiff is a married husband or wife of the defendant or divorced husband or wife of the defendant or a declaration about legitimacy of children or about citizenship rights or about an adoption-thirty rupees:

Provided that where injunction or other consequential relief is also sought in such case, the amount of fee shall be fifty rupees:

(g) for charge on property.-In suits for declaration of a charge in favour of the plaintiff on moveable or immoveable property-one half of ad valorem fee payable on the charge amount:

Provided that where injunction or other consequential relief is also sought in such cases, the amount of fee shall be the full ad valorem fee payable on the charge amount:

(h) for periodical money returns.-In suits for declaration in respect of periodical charge or money return in favour of or against the plaintiff-one half of ad valorem fee payable on the charge for 5 years if the charge is annual and on the charge for one year if the period of the charge is less than one year:

(i) for accounts.-In suits for accounts-according to the amount at which the relief sought is valued in the plaint or memorandum of appeal, subject to the provisions of section 8, and subject to a minimum fee of twenty rupees:

(j) for other declarations.-In suits where declaration is sought, with or without injunction or other consequential relief and the subject matter in dispute is not susceptible of monetary evaluation and which are not otherwise provided for by this Act- thirty rupees<sup>1</sup> [two hundred rupees];

In all suits under clauses (a) to (i), the plaintiff shall state the amount at which he values the relief sought, with the reasons for the valuation:

(v) for possession of lands, houses and gardens.-In suits for the possession of land, houses and gardens-according to the value of the subject-matter; and such value shall be deemed to be, where the subject-matter is a house or garden-according to the market

value of the house or garden and where the subject-matter is land, and-

(a) where the land is held on settlement for a period not exceeding thirty years and pays the full assessment to Government-a sum equal to twelve and a half times the survey assessment:

(b) where the land is held on a permanent settlement, or on a settlement for any period exceeding thirty years, and pays the full assessment to Government-a sum equal to twenty times the survey assessment: and

(c) where the whole or any part of the annual survey assessment is remitted-a sum computed under sub-paragraph (a) or sub-paragraph (b), as the case may be, in addition to twenty times the assessment, or the portion of assessment, so remitted:

(vi) to enforce a right of pre-emption.-In suits to enforce a right of pre-emption-according to the value (computed in accordance with paragraph (v) of this section) of the land, house or garden in respect of which the right is claimed:

(vii) for share in joint property.-In suits for partition and separate possession of a share of joint family property or of joint property, or to enforce a right to a share in any property on the ground that it is joint family property or joint property whether or not the plaintiff is in actual or constructive possession of the property of which he claims to be a co-partner or co-owner-according to the value of the share In respect of which the suit is Instituted:

Explanation.-For the purposes of this paragraph, if the property in which a share is claimed consists of or includes any land assessed to land revenue for the purpose of agriculture, the value of such land shall be deemed to be the value as determined under paragraph (v) of this section:

(viii) for Interest of assignee of land revenue .-In suits for the interest of an assignee of land-revenue, fifteen times his net profits as such for the year next before the date of presenting the plaint:

(ix) to set aside an attachment.-In suits to set aside an attachment of land or of an interest in land or revenue-according to the amount for which the land or interest was attached:

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for

the possession of such land or interest:

(x) to redeem.-In suits against a mortgagee for the recovery of the property mortgaged, and in suits by a mortgagee to foreclose the mortgage,

To foreclose.-or, when the mortgage is made by conditional sale, to have the sale declared absolute-

according to the principal money expressed to be secured by the instrument of mortgage:

(xi) for specific performance.-In suits for specific performance-

(a) of a contract of sale-according to the amount of the consideration,

(b) of a contract of mortgage-according to the amount agreed to be secured,

(c) of a contract of lease-according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term,

(d) of an award-according to the amount or value of the property in dispute.

(xii) between landlord and tenant.-In the following suits between landlord and tenant:-

(a) for the delivery by a tenant of the counterpart of a lease,

(b) to enhance the rent of a tenant having a right of occupancy,

(c) for the delivery by a landlord of a lease,

(d) for the recovery of immoveable property from a tenant, including a tenant holding over after the determination of a tenancy,

(e) to contest a notice of ejectment,

(f) to recover the occupancy of immoveable property from which a tenant has been illegally ejected by the landlord, and

(g) for abatement of rent-

1. As amended by Gujarat 12 of 1995.

**7. Fee on memorandum of appeal against order or award**

### **relating to compensation in certain cases :-**

(1) The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

(2) The amount of fee payable under this Act on a memorandum of appeal against an award of a Claims Tribunal preferred under section 110-D of the Motor Vehicles Act, 1939 (IV of 1939), shall be computed as follows:-

(i) If such appeal is preferred by the insurer or owner of the motor vehicle- the full ad valorem fee leviable on the amount at which the relief is valued in the memorandum of appeal according to the scale prescribed under Article I of Schedule 1:

(ii) If such appeal is preferred by any other person-one half of ad valorem fee leviable on the amount at which the relief is valued in the memorandum of appeal according to the said scale:

Provided that if such person succeeds in the appeal, he shall be liable to make good the deficit. If any, between the full ad valorem fee payable on the relief awarded in the appeal according to the said scale and the fee already paid by him: and the amount of such deficit shall, without prejudice to any other mode of recovery, be recoverable as an arrear of land revenue.

### **8. Inquiry as to valuation of suits :-**

If the Court is of opinion that the subject matter of any suit has been wrongly valued or if an application is made to the Court for the revision of any valuation made, the Court may revise the valuation and determine the correct valuation and may hold such inquiry as it thinks fit for such purpose.

### **9. Investigation to ascertain proper valuation :-**

(1) For the purpose of an inquiry under section 8 the Court may depute, or issue a commission to, any suitable person to make such local or other investigation as may be necessary and to report thereon to the Court. Such report and any evidence recorded by such person shall be evidence in the inquiry.

(2) The Court may, from time to time, direct such party to the suit as it thinks fit to deposit such sum as the Court thinks reasonable

as the costs of the inquiry, and if the costs are not deposited within such time as the Court shall fix, may, notwithstanding anything contained in any other Act, reject the plaint or as the case may be the appeal, if such party is the plaintiff or the appellant and, in any other case, may recover the costs as a public demand:

Provided that when any plaint or appeal is rejected under this section the court fee already paid shall not be liable to be refunded.

**10. Power of persons making inquiry under sections 8 and 9**  
:-

(1) The Court, when making an inquiry under section 8 and any person making an investigation under section 9 shall have respectively for the purposes of such inquiry or investigation, the powers vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), In respect of the following matters, namely:-

(a) enforcing the attendance of any person and examining him on oath or affirmation:

(b) compelling the production of documents or material objects;

(c) Issuing commissions for the examination of witnesses;

(d) taking or receiving evidence on affidavits.

(2) An Inquiry or investigation referred to in sub-section (1) shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code, 1860 (XLV of 1860).

**11. Costs of inquiry as to valuation and refund of excess fee**  
:-

If in the result of an inquiry under section 8 the Court finds that the subject-matter of the suit has been undervalued, the Court may order the party responsible for the under valuation to pay all or any part of the costs of the inquiry.

If in the result of such inquiry the Court finds that the subject-matter of the suit has not been undervalued the Court may, in its discretion, order that all or any part of such costs shall be paid by Government or by any party to the suit at whose instance the inquiry has been undertaken and if any amount exceeding the proper amount of fee has been paid shall refund the excess amount so paid.

**12. Appointment of inspecting officers and recovery in**

### **cases reported by them :-**

(1) The State Government may appoint generally, or In any case, or for any specified class of cases, in any local area. one or more officers to be called inspecting officers.

(2) The inspecting officer may, subject to the control of the Court concerned, examine the records of any case which is pending or has been disposed of, with a view to finding out whether proper fees have been paid therein.

(3) If on such examination, the Inspecting officer finds that the fee payable under this Act on any document filed, exhibited or recorded in such case has not been paid or has been Insufficiently paid, he shall report the fact to the presiding officer of the Court.

(4) Such presiding officer, after satisfying himself of the correctness of such report, shall record a provisional finding that the proper fee has not been paid and determine the amount of the fee payable and such further sum as he thinks reasonable as the costs of the inquiry and the person from whom the fee or the difference thereof. If any, and the costs shall be recoverable.

(5) After recording a finding under sub-section (4), the presiding officer shall issue a notice to the person referred to in that sub-section to show cause why he should not be ordered to pay the fee and the costs determined hereunder, and. If sufficient cause is not shown, the presiding officer shall confirm the finding and make an order requiring such person to pay the proper fee and the costs before a specified date.

(6) If such person falls to pay the fee and the costs In accordance with the provisions of sub-section (5), they shall, on the certificate of such presiding officer, be recoverable as an arrear of land revenue.

### **13. Taxing of court-fees and their recovery in suits for mesne profits or account :-**

(1) In a suit for the recovery of possession of immovable property and mesne profits or for mesne profits or for an account, the difference. If any, between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount found due shall, on delivery of Judgment, be taxed by the Court and shall be leviable from the plaintiff and if not

paid by him within thirty days from the date of the judgment be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(2) The Court shall send a copy of the decree passed in such suit to the Collector.

(3) No decree for mesne profits passed in any such suit by the Court shall be executed, until a certificate to the effect that such difference is paid or recovered, signed by the Court which passed the decree or by the Collector who recovered the amount, is produced along with the application for such execution.

Explanation.-For the purpose of this section, "plaintiff" includes any party to a suit to whom any profits or amount are or is found to be due.

#### **14. Decision of questions as to valuation :-**

(1) Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this Chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

(2) But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been rightly decided.

#### **15. Refund of fees paid on memorandum of appeal :-**

If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, 1908 (V of 1908), is ordered to be received or if a suit is remanded in appeal, on any of the grounds mentioned in rule 23 of Order XLI in the first Schedule to the same Code for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorising him to receive back from the Collector the full amount of fee paid on the memorandum of appeal:

Provided that if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorise the appellant to



receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

**16. Refund of fee on application for review of judgment :-**

Where an application for review of judgment is presented on or after the ninetieth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches, may, in its discretion, grant him a certificate authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

**17. Refund where Court reverses or modifies its former decision on ground of mistake :-**

Where an application for a review of judgment is admitted, and where, on the rehearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Collector so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under the second schedule to this Act, No. I clause (c) or clause (f).

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

**18. Multifarious suits :-**

Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, 1908 (V of 1908), Schedule I, Order II, rule 6.

**19. Written examinations of complainants :-**

When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act, is reduced

to writing under the provisions of the Code of Criminal Procedure, 1898 (V of 1898), the complainant shall pay a fee of one rupee unless the Court thinks fit to remit such payment.

**20. Exemption of certain documents :-**

Nothing contained in this Act shall render the following documents chargeable with any fee:-

(i) Power of attorney to Institute or defend a suit when executed by a member of any Armed Forces of the Union not in civil employment.

(ii) Application for certified copies of documents or for any other purpose in the course of a criminal proceeding presented by or on behalf of the State Government to a criminal Court.

(iii) Written statement called for by the Court after the first hearing of a suit.

(iv) Probate of a will, letters of administration, and, save as regards debts and securities, a certificate under Bombay Regulation VIII of 1827 or any corresponding law in force, where the amount or value of the property in respect of which the probate or letters or certificates shall be granted does not exceed one thousand rupees.

(v) Application or petition to a Collector or other officer making a settlement of land revenue, or to a Board of Revenue, or a Commissioner of Revenue, relating to matters connected with the assessment of land or the ascertainment of rights thereto or interest therein. If presented, previous to the final confirmation of such settlement.

(vi) Application relating to a supply for irrigation of water belonging to Government.

(vii) Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.

(viii) Application for service of notice of relinquishment of land or of enhancement of rent.

(ix) Written authority to an agent to distraint.

(x) Petition, application, charge or information respecting any offence when presented, made or laid to or before a Police Officer,

or to or before the Heads of Villages or the Village Police.

(xi) Petition by a prisoner, or other person in duress or under restraint of any Court or its Officer.

(xii) Complaint of a public servant (as defined In the Indian Penal Code), 1860 (XLV of 1860), a Municipal Officer, or an officer or servant of a Railway Company.

(xiii) Application for the payment of money due by Government to the applicant.

(xiv) Petition of appeal against any municipal tax.

(xv) Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes, other than those chargeable under Article 15 of Schedule 1.

#### CHAPTER 4

Probates, Letters of Administration and Certificates of Administration.

### **21. Relief where too high a court fee has been paid :-**

Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if, within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue Authority for the focal area in which the probate or letters has or have been granted, and delivers to such Authority a particular Inventory and valuation of the property of the deceased, verified by affidavit or affirmation, and If such Authority is satisfied that a greater fee was paid on the probate or letters than the law required, the said Authority may-

(a) cancel the stamp on the probate or letters If such stamp has not been already cancelled:

(b) substitute another stamp for denoting the court-fee which should have been paid thereon: and

(c) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

### **22. Relief when debts due from a deceased person have**

**been paid out of his estate :-**

Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act, such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

**23. Relief In case of several grants :-**

Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

**24. Probates declared valid as to trust property though not covered by court-fee :-**

The probate of the will or the letters of administration of the effects of any person deceased here to before or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any movable or immovable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee, notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such

probate or letters of administration.

**25. Provision for case where too low a court-fee has been paid on probates, etc :-**

Where any person on applying for probate or letters of administration has estimated the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Chief Controlling Revenue Authority for the local area In which the probate or letters has or have been granted may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from the date of the grant, of five times, or, if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that if the application be made within six months after the ascertainment of the true value of the estate and the discovery that too low a court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without any intention of fraud or to delay the payment of the proper court-fee, the said Authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

**26. Administrator to give proper security before letters stamped under section 25 :-**

In case of letters of administration on which too low a court-fee has been paid at first, the said Authority shall not cause the same to be fully stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof In case the full value of the estate of the deceased had been then ascertained.

**27. Executors etc., not paying full court-fee on probates, etc. within six months after discovery of under-payment :-**

Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupee per cent on the amount of the sum wanting to make up the proper court fee.

**28. Notice of applications for probate or letters of administration to be given to Revenue authorities, and procedure thereon :-**

(1) Where an application for probate or letters of administration is made to any Court other than the High Court, the Court shall cause notice of the application to be given to the Collector.

(2) Where such an application as aforesaid is made to the High Court, the High Court shall cause notice of the application to be given to the Chief Controlling Revenue Authority.

(3) The Collector within the local limits of whose revenue-jurisdiction the property of the deceased or any part thereof is, may at any time inspect or cause to be inspected, and take or cause to be taken copies of, the record of any case in which application for probate or letters of administration has been made: and if, on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Collector shall forward his report, giving therein his reasons for his opinion and his estimate of the true valuation, to the Prothonotary of the High Court or the Court, as the case may be, serving at the same time a copy of his report on the petitioner.

(4) If within thirty days from the date of receipt of the copy of the Collector's report served on him under sub-section (3), the petitioner does not file in court his objections to the Collector's valuation, the Court shall make an order amending the petitioner's valuation, in accordance with the report of the Collector.

(5) If within the aforesaid period the petitioner files in court his objection, the Court shall hold, or cause to be held, an inquiry in

accordance with the provisions of sections 9, 10 and II as if the application were a suit, shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Collector shall be deemed to be a party to the inquiry.

(6) The finding of the Court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue Authority of any application under section 25.

(7) The State Government may make rules for the guidance of Collectors in the exercise of the powers conferred by sub-section (3).

**29. Payment of court-fee in respect of probate and letters of administration :-**

(1) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the third Schedule, and the Court is satisfied that the fee mentioned in No. 10 of the first Schedule has been paid on such valuation.

(2) The grant of probate or letters of administration shall not be delayed by reason of any report made by the Collector under section 28, sub-section (3).

**30. Recovery of penalties, etc :-**

(1) Any excess fee found to be payable on an Inquiry held under section 28 and any penalty or forfeiture under section 27, may, on the certificate of the Chief Controlling Revenue Authority, be recovered from the executor or administrator as if it were an arrear of land-revenue by any Collector.

(2) The Chief Controlling Revenue Authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 25 or of any court-fee under section 25 in excess of the full court-fee which ought to have been paid.

**31. Sections 5 and 40 not to apply to probates or letters of administration :-**

Nothing in section 5 or section 40 shall apply to probates or letters of administration.

**32. Rules as to costs of processes :-**

The High Court shall make rules as to the following matters:-

(i) the fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction:

(ii) the fees chargeable for serving and executing processes issued by the Criminal Courts, established within such limits in the case of offences other than offences for which police officers may arrest without a warrant; and

(iii) the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The High Court may from time to time, alter and add to the rules so made.

Confirmation and publication of rules.-All such rules, alterations and additions shall, after being confirmed by the State Government, be published in the Official Gazette, and shall thereupon have the force of law.

**33. Tables of process fees :-**

A table In the English and regional languages, showing the fees chargeable for such service and execution, shall be exposed to view in a conspicuous part of each court.

**34. Number of peons in District and subordinate Courts :-**

Subject to rules to be made by the High Court and approved by the State Government every District Judge, <sup>1</sup>[the Principal Judge of the Ahmedabad City Civil Court]<sup>2</sup> [x x x] and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court, and each of the Courts subordinate thereto,

Number of peons in mofussil Small Cause Courts.-and for the purposes of this section, every Court of Small Causes established under the Provincial Small Cause Courts Act, 1887 (IX of 1887) shall be deemed to be subordinate to the Court of the District Judge.



1. Inserted by Gujarat 29 of 1962.
2. Delete by A.O. 1960.

**35. Number of peons In Revenue Courts :-**

Subject to rules to be framed by the Chief Controlling Revenue Authority and approved by the State Government, every officer performing the functions of a Collector of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

**CHAPTER 6**

Of the Mode Of Levying Fees.

**36. Rate of fee in force on date of presentation of document to be applicable :-**

All fees shall be charged and collected under this Act at the rate in force on the date on which the document chargeable to court-fee is or was presented.

**37. Collection of fees by stamps :-**

**1**

[(1)] All fees referred to in section 3 or chargeable under this Act shall be collected by stamps.

[(2)] Notwithstanding anything contained in sub-section (1), where,-

(a) the State Government, in relation to any area in the State, or

(b) the Collector, in relation to any area in the district under his charge,

(3) An endorsement made on any document under sub-section (2) shall have the same effect as if the fee of an amount equal to the amount stated in the endorsement had been paid in respect of, and such payment had been indicated on, such document by means of stamps under sub-section (1)]

1. Inserted by Gujarat 15 of 1965.

**38. Stamps to be Impressed or adhesive :-**

The stamps used to denote any fees chargeable under this Act shall be impressed or adhesive or partly impressed or partly adhesive, as the State Government may, by notification in the Official Gazette from time to time, direct.

**39. Rules for supply number, renewal, and keeping accounts of stamps :-**

The State Government may, from time to time, make rules for regulating-

- (a) the supply of stamps to be used under this Act,
- (b) the number of stamps to be used for denoting any fee chargeable under this Act,
- (c) the renewal of damaged or spoiled stamps, and
- (d) the keeping accounts of all stamps used under this Act:

Provided that in the case of stamps used under section 3 in the High Court, such rules shall be made, with the concurrence of the Chief Justice of such Court.

All such rules shall be published in the Official Gazette and shall thereupon have the force of law.

**40. Stamping documents inadvertently received :-**

No document which ought to bear a stamps under this Act shall be of any validity, unless and until It is properly stamped.

But, if any such document is through mistake or inadvertence received, filed or used in any Court or office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of the High Court, any Judge of such Court may, if he thinks fit, order that such document be stamped as he may direct: and, on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

**41. Amended document :-**

Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

**42. Cancellation of stamp :-**

No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled.

Such officer as the Court or the head of office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure head to as to

leave the amount designated on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

## CHAPTER 7

### Miscellaneous

#### **43. Repayment of fee in certain circumstances :-**

(1) When any suit in a court is settled by agreement of parties before any evidence is recorded, or any appeal or cross objection is settled by agreement of parties before It is called on for effective hearing by the Court, half the amount of the fee paid by the plaintiff, appellant, or respondent on the plaint, appeal or cross objection, as the case may be, shall be repaid to him by the Court:

Provided that no such fee shall be repaid if the amount of fee paid does not exceed five rupees or the claim for repayment is not made within one year from the date on which the suit, appeal or cross objection was settled by agreement.

(2) The State Government may, from time to time, by order, provide for repayment to the plaintiffs, appellants or respondents of any part of the fee paid by them on plaints, appeals or cross objections, in suits or appeals disposed of under such circumstances and subject to such conditions as may be specified In the order.

Explanation.-For the purpose of this section, effective hearing shall exclude the dates when the appeal Is merely adjourned without being heard or argued.

#### **44. Admission in criminal cases of documents for which proper fee has not been paid :-**

Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 5 shall be deemed to prohibit such filing or exhibition.

#### **45. Sale of stamps :-**

(1) The State Government may, from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted and the duties and remuneration of such persons.

(2) All such rules shall be published in the Official Gazette and shall thereupon have the force of law.

(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**46. Power to reduce or remit fees :-**

The State Government may, from time to time, by notification In the Official Gazette, reduce or remit, in the whole or in any part of the territories under its administration all or any of the fees mentioned in the first and second schedules to this Act annexed, and may in like manner cancel or vary such order.

**47. Saving of fees to certain officers of High Court :-**

Nothing in Chapters II and VI of this Act applies to the fees which any officer of the High Court is allowed to receive in addition to a fixed salary.

**48. Saving as to stamp duties :-**

Nothing in this Act shall be deemed to affect the stamp duties chargeable under any other law for the time being In force relating to stamp duties.

**49. Repeal and saving :-**

(1) On the commencement of this Act, the laws specified In column 3 of Schedule IV hereto annexed shall be repealed in the manner and to the extent specified in column 4 thereof:

Provided that such repeal shall not affect the previous operation of any of the laws so repealed and anything done or any action taken (including any appointment, notification, order, rule, form, application, reference, notice, report or certificate made or issued) under any such law shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be In force accordingly, unless and until superseded by anything done or any action taken under this Act:

Provided further that all the fees shall be charged and collected under this Act at the rate in force on the date on which the document chargeable to court-fee is or was presented.

(2)

(a) All stamps in denominations of annas four or multiples thereof

shall be deemed to be stamps of the value of twenty-five naye paise or, as the case may be, multiples thereof and valid accordingly.

(b) If any person is possessed of a stamp or stamps in any denominations, other than denominations of annas four or multiples thereof, and such stamp or stamps has or have not been spoiled, the Collector shall repay to such person the value of such stamp or stamps in money calculated in accordance with the provisions of sub-section (2) of section 14 of the Indian Coinage Act, 1906 (III of 1906), upon such person delivering up, within six months from the commencement of this Act, such stamp or stamps to the Collector.

**50. Amendment of Suits Valuation Acts :-**

On the commencement of this Act, the laws specified In column 3 of Schedule V hereto annexed shall be amended in the manner and to the extent specified in column 4 thereof.

**51. No stamp duty payable where court-fee paid in suit for partition :-**

Notwithstanding anything contained in the Bombay Stamp Act, 1958 (Bom. LX of 1958) where court fee is paid in a suit for partition in accordance with the provisions of clause (vii) of section 6 of this Act, no stamp duty shall be payable on a final order for effecting a partition passed by any Revenue Authority or any Civil Court under article 46 in Schedule I to the Bombay Stamp Act, 1958 (Bom. LX of 1958).

**52. Rules made by Government to be laid before State Legislature :-**

All rules made by the State Government under this Act shall be laid before each House of the State Legislature as soon as may be after they are made and shall be subject to such modifications as the State Legislature may make during the session in which they are so laid or the session Immediately following.

**SCHEDULE 1**

Ad valorem fees

**1. . :-**

Plaint or memorandum of appeal (not otherwise provided for in this Act) or of cross objection presented to any Civil or Revenue Court. When the amount or value of the subject matter in dispute does not exceed five rupees. Fifty naye paise When such amount or

value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees. Fifty naye paise When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees. One rupee When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees. Six rupees and twenty-five naye paise When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees. Twenty rupees When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees. Thirty-five rupees When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof. In excess of twenty thousand rupees, up to thirty thousand rupees. Forty-five rupees When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees. Sixty rupees When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees, up to one lakh of rupees. Eighty rupees When such amount or value exceeds one lakh rupees, for every ten thousand rupees, or part thereof, in excess of one lakh of rupees. One hundred rupees <sup>1</sup> [Provided that the maximum fee leviable on a plaint or memorandum of appeal or of cross-objection shall be fifteen thousand rupees.] Art. 1 substituted by Gujarat 12 of 1995 is as under:- "1. Plaint or memorandum of appeal (not otherwise provided for in this Act) or of cross objection presented to any Civil or Revenue Court. As per rate specified in the Table annexed at the end of this Schedule."

1. As substituted by Gujarat 12 of 1995.

**2. . :-**

Plaint in a suit for possession under the Specific Relief Act, 1877, (I of 1877), section 9. A fee of one-half the amount prescribed in the scale under Article 1

**3. . :-**

Plaint, application or petition (Including memorandum of appeal), to set aside or modify any award otherwise than under the Arbitration Act, 1940 (X of 1940). A fee on the amount or value of

the award sought to be set aside or modified, according to the scale prescribed under Article 1

**4. . :-**

Plaint, application or petition (including memorandum of appeal), which is capable of being treated as a suit, to set aside a decree or order having the force of a decree. The same fee as is leviable on a plaint in a suit to obtain the relief granted in the decree or order, as the case may be

**5. . :-**

Plaint in a suit, application or petition (including memorandum of appeal), to set aside alienation to which the plaintiff, applicant or appellant, as the case may be, was a party, either directly or through a legal guardian other than de facto or ad hoc guardian, manager or partner or court. A fee on the extent of the value of alienation to be set aside, according to the scale prescribed under Article 1

**6. . :-**

Plaint In a suit (Including memorandum of appeal), for possession between the guardian and ward, trustee and beneficiary, principal and agent, wife and husband, executor or administrator and beneficiary, receiver and owner of property and between persons having fiduciary relationship. A fee of one-half of the amount prescribed in the scale under Article 1

**7. . :-**

Any other plaint, application or petition (including memorandum of appeal), to obtain substantive relief capable of being valued in terms of monetary gain or prevention of monetary loss, including cases wherein application or petition is either treated as a plaint or is described as the mode of obtaining the relief as aforesaid. A fee on the amount of the monetary gain, or loss to be prevented, according to the scale prescribed under Article 1

**8. . :-**

Application for review of judgment if presented on or after the ninetieth day from the date of the decree. The fee leviable on the plaint or memorandum of appeal

**9. . :-**

Application for review of judgment if presented before the ninetieth day from the date of the decree. One-half of the fee leviable on the plaint or memorandum of appeal

**10. . :-**

Probate of a will or letters of administration with or without will annexed. When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, on the part of the amount or value In excess of one thousand rupees, up to ten thousand rupees. Two and a half per centum When the amount or value of the property in respect of which the grant of probate or letters is made exceeds ten thousand rupees, on the part of the amount or value in excess of ten thousand rupees, up to fifty thousand rupees. Three and three quarters per centum When the amount or value of the property in respect of which the grant of probate or letters is made exceeds fifty thousand rupees, on the part of the amount or value in excess of fifty thousand rupees, up to one lakh of rupees. Five per centum When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one lakh rupees, on the part of the amount or value in excess of one lakh rupees, up to two lakhs of rupees. Five and five-eighths per centum When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs of rupees, on the part of the amount or value in excess of two lakhs rupees, up to two lakhs and fifty thousand rupees. Six and a quarter per centum When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs and fifty thousand rupees, on the part of the amount or value in excess of two lakhs and fifty thousand rupees, up to three lakhs of rupees. Six and seven-eighths per centum When the amount or value of the property in respect of which the grant of probate or letters is made exceeds three lakhs of rupees, on the part of the amount or value in excess of three lakhs of rupees, up to four lakhs of rupees. Seven and a half per centum When the amount or value of the property in respect of which the grant of probate or letters Is made exceeds four lakhs of rupees, on the part of the amount or value in excess of four lakhs of rupees, up to five lakhs of rupees. Eight and one eighth per centum When the amount or value of the property in respect of which the grant of probate or letters Is made exceeds five lakhs of rupees, on the part of the amount or value in excess of five lakhs of rupees: Eight and three quarters per centum Provided that when, after the grant of a certificate under Part X of the Indian Succession Act, 1925. (XXXIX of 1925) or under Bombay Regulation VIII of 1827 or any corresponding law for the time



being in force, in respect of any property included in an estate, a grant of probate of letters of administration Is made in respect of the same estate, the fee payable In respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.

**11. . :-**

Certificate under Part X of the Indian Succession Act, 1925 (XXXIX of 1925). The fee leviable in the case of a probate (Article 10) on the amount or value of any debt or security specified in the certificate under section 374 of the Act, and one and a half times this fee on the amount or value of any debt or security to which the certificate is extended under section 376 of the Act.

Note. -(1) The amount of a debt is its amount including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.

(2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act: and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is Its market value on the day on which the inclusion of the security in the certificate Is applied for, so far as such value can be ascertained.

**12. . :-**

Certificate under Bombay Regulation VIII of 1827 or under any corresponding law in force. The fee leviable in the case of a probate (Article 10) on the amount or value of the property in respect of which the certificate is granted

**13. . :-**

Plaint presented with an originating summons under the Rules of the High Court of Bombay (Original Side), 1957. The fee leviable on a plaint in a suit for the same relief, subject to a minimum fee of thirty rupees

**14. . :-**

Application to the Court under section 543 of the Companies Act, 1956 (1 of 1956) The fee leviable on a plaint in a suit for the same relief

**15. . :-**

Application to the Collector for a reference to the Court under section 18 of the Land Acquisition Act, 1894, in its application to the pre-Reorganisation State of Bombay (excluding the transferred territories) or the Vidarbha region or Kutch area of the State of Bombay, or section 18 of the said Act as adapted and applied to the Saurashtra area of that State by the Land Acquisition Act, 1894 (Adaptation and Application) Ordinance, 1948 (Sau. Ord. XXI of 1948), or section 14 of the Land Acquisition Act in its application to the Hyderabad area (Hyderabad IX of 1309 Fasli of that State, as the case may be. One half of ad-valorem fee on the difference, if any, between the amount awarded by the Collector and the amount claimed by the applicant, according to the scale prescribed under Article I of Schedule I, subject to a minimum fee of fifteen rupees/<sup>1</sup> [fifty rupees]

1. As substituted by Gujarat 12 of 1995.

**16. . :-**

Application or petition made by any assessee to the High Court under section 66 of the Indian Income Tax Act, 1922 (XI of 1922). One half of ad-valorem fee leviable on the amount in dispute (namely, the difference between the amount actually assessed and the amount admitted by the assessee as assessable) subject to the minimum fee of fifty rupees /<sup>1</sup> [two hundred rupees]

1. As substituted by Gujarat 12 of 1995.

**17. . :-**

Application or petition made by any person (other than the Collector or the Commissioner) to the High Court under any provision of the sales tax law for the time being in force in any part of the State of Bombay. One half of ad valorem fee leviable on the amount in dispute (namely, the difference between the amount actually assessed and the amount admitted by the assessee as assessable), subject to the minimum fee of fifty rupees /<sup>1</sup>[two hundred rupees) and the fee increases at the rate of Rs. 80 for every Rs. 5,000 or part thereof, up to Rs. 1,00,000 <sup>2</sup>[and, over Rs. 1,00,000 at the rate of Rs. 100 for every Rs. 10,000 or part thereof, up to a maximum of Rs. 15,000 for example]:- SCHEDULE I - contd. <sup>2</sup> [TABLE (See Article I of Schedule1) and therefore the court fees shall be increased at the rate of rupees two thousand for every additional one lakh rupees or part thereof.]

1. As substituted by Gujarat 12 of 1995.

## 2. Substituted by Gujarat 37 of 1961.

### SCHEDULE 2

Fixed fees.

#### **1. . :-**

Application or petition. (a) When presented to any officer of the Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings: Twenty naye paise [One rupee] or when presented to any Civil Court other than a principal Civil Court of original jurisdiction; or to any Court of Small Causes constituted under the Provincial Small Cause Courts Act, 1887 (IX of 1887), or to a Collector or other officer of revenue or to a public officer in relation to any suit or case in which the amount of value of the subject-matter is less than fifty rupees, not being an application for assistance under section 86 of the Bombay Land Revenue Code, 1879 (V of 1879) or under any corresponding law for the time being in force; or when presented to any Civil, Criminal or Revenue Court, or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or Officer, or of any other document on record in such Court or office. (b) When presented to a Collector or other officer of revenue for assistance under section 86 of the Bombay Land Revenue Code, 1879 (V of 1879) or under any corresponding law for the time being in force. Thirty-five naye paise [One rupee] (c) When containing a complaint or charge of any offence and presented to any Criminal Court: Sixty-five naye paise [Two rupees] or when presented to a Civil, Criminal or Revenue Court, or to a Collector or any Revenue Officer or to a public officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity and not otherwise provided for by this Act; or to deposit in Court revenue or rent: or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant. (d) When presented to any competent authority for the purpose of obtaining a certificate of domicile. One rupee [Five rupees] (e) When presented to a Chief Controlling Revenue or Executive Authority, or to a Commissioner of Revenue or to any chief officer charged with the executive administration of a division and not otherwise provided for by this Act. Two rupees fifty naye paise [Five rupees] (f) When presented to the High Court- (i) under section 45 of the Specific Relief Act, 1877 or for directions, orders or writs under

article 226 of the Constitution for any purpose other than the enforcement of the fundamental rights conferred by Part III thereof; Fifty rupees [Five hundred rupees] (ii) for directions, orders or writs under article 226 for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for the exercise of its jurisdiction under article 227 thereof: Twenty rupees [Two hundred rupees] (iii) in any other case not otherwise provided for by this Act. Five rupees [Fifty rupees]

**2. . :-**

Revision application when presented to the High Court under section 25 of the Provincial Small Cause Courts Act, 1887 (IX of 1887) or section 115 of the Code of Civil Procedure, 1908 (V of 1908) Ten rupees [Fifty rupees]

**3. . :-**

Application to any Civil Court that records may be called for from another Court. When the Court grants the application and is of opinion that the transmission of such records involves the use of the post. Two rupees /[Five rupees] in addition to any fee levied on the application under clause (a), clause (c) or clause (f) of Article 1 of this schedule.

**4. . :-**

First Application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit made for the immediate purpose of being produced in Court. Fifty naye paise/[One rupee]

**5. . :-**

Application for leave to sue as a pauper. One rupee

**6. . :-**

Application for leave to appeal as a pauper. (a) When presented to a District Court. Two rupees (b) When presented to a Commissioner or the High Court. Five rupees

**7. . :-**

Plaint or memorandum of appeal in a suit to obtain possession under the Mamlatdar Courts Act, 1906 (Bom. II of 1906). One rupee [Five rupees]

**8. . :-**

Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy. One rupee

**9. . :-**

Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1973, other than section 109 or 110 thereof or under the Code of Civil Procedure, 1908 (V of 1908), and not otherwise provided for by this Act. One rupee twenty-five naye paise [Two rupees]

**10. . :-**

Ball-bonds in criminal cases, recognizance to prosecute and recognizance's for personal appearance or otherwise. Twenty-five naye paise [One rupee]

**11. . :-**

Undertaking under section 49 of the Indian Divorce Act, 1869 (IV of 1869). One rupee twenty-five naye paise [Three rupees]

**12. . :-**

<sup>1</sup> Mukhtamama or Wakalatnama. When presented for the conduct of any one case,- (a) to any Civil or Criminal Court other than a District Court or Court of Session or the High Court or to any Revenue Court or to, any Collector or Magistrate or other executive officer; One rupee [Two rupees] (b) to a District Court or Court of Session; Two rupees [Three rupees] (c) to the High Court. Four rupees [Five rupees]

1. Added by Gujarat 12 of 1995, but not yet enforced.

**13. . :-**

Memorandum of appeal when the appeal is not from a decree or an order having the force of a decree, and is presented- (a) to any Civil Court other than the High Court, or to any Revenue Court or Executive Officer other than the High Court or Chief Controlling Revenue or Executive Authority; One rupee [Two rupees] (b) to the Chief Controlling Executive or Revenue Authority; Two rupees and fifty naye paise [Ten rupees] (c) to the High Court. Five rupees [Fifteen rupees]

**14. . :-**

Caveat When the amount or value of the property involved does not exceed two thousand rupees. Ten rupees [Twenty rupees]  
When the amount or value of the property involved exceeds two

thousand rupees. Twelve rupees fifty naye paise [Fifty rupees]

**15. 15 :-**

Application for permission to cut timber in Government forests, or otherwise relating to such forests. Fifty naye paise [One rupee]

**16. . :-**

Memorandum of appeal presented to- (a) the State Government. Five rupees [Ten rupees] (b) any Forest Officer, where such appeal is provided for, by or under the Indian Forest Act, 1927 (XVI of 1927) or any corresponding law in force. One rupee

**17. . :-**

Petition in a suit under the Native Converts' Marriage Dissolution Act, 1866 (XXI of 1866). Thirty-seven rupees fifty nayepaise [Fifty rupees]

**18. . :-**

Application- (a) under section 20 of the Arbitration Act, 1940 (X of 1940): Fifteen rupees [Fifty rupees] (b) for probate or letters of administration or for revocation thereof under the Indian Succession Act, 1925 (XXXIX of 1925); (c) for a certificate under Part X of the Indian Succession Act, 1925 (XXXIX of 1925) or Bombay Regulation VIII of 1827 or any corresponding law for the time being in force; When the amount or value of the estate does not exceed two thousand rupees. Two rupees fifty naye paise [Five rupees] When it exceeds two thousand rupees but does not exceed five thousand rupees. Six rupees twenty five naye paise [Ten rupees] When it exceeds five thousand rupees. Twelve rupees fifty naye paise [Twenty rupees] (d) for opinion or advice or for discharge from a Trust, or for appointment of new Trustees under section 34, 72, 73 or 74 of the Indian Trusts Act, 1882 (II of 1882): Twelve rupees fifty naye paise [Twenty rupees] (e) under rule 58 of Order XXI of the Code of Civil Procedure Code, 1908 (V of 1908), regarding a claim to attached property. When the amount or value of the property exceeds five hundred rupees. Twelve rupees fifty naye paise [Twenty rupees]

**19. . :-**

Agreement in writing stating a question for the opinion of the Court under the Code of Civil Procedure, 1908 (V of 1908). Twenty-five rupees

**20. . :-**

Every petition under the Indian Divorce Act, 1869 (IV of 1869),

except petitions under section 44 of that Act and every memorandum of appeal under section 55 of that Act. Thirty-seven rupees fifty naye paise [Forty rupees]

**21. . :-**

Plaint, application, petition, or memorandum of appeal under the Parsi Marriage and Divorce Act, 1936 (III of 1936), the Special Marriage Act, 1954 (XLIII of 1954) or the Hindu Marriage Act, 1955 (XXV of 1955). Thirty-seven rupees fifty naye paise [Forty rupees] Provided that where in addition to divorce damages are claimed. A fee as above plus a fee on the amount of damages claimed according to the scale prescribed under Article 1 of Schedule I.

**22. . :-**

Petitions under the Indian Christian Marriage Act. 1872, (XV of 1872) sections 45 and 48. Two rupees/[Five rupees]

**23. . :-**

Plaint, petition or application (including memorandum of appeal) which is capable of being treated as a suit- (a) for annulment of marriage; Thirty-seven rupees fifty naye paise [Forty rupees] (b) for dissolution of marriage: ..... Thirty-seven rupees fifty naye paise [Forty rupees] (c) in suit for custody of minor: Eighteen rupees seventy-five naye paise [Twenty rupees] (d) for restitution of conjugal rights: Thirty-seven rupees fifty naye paise [Forty rupees] (e) for judicial separation: Thirty-seven rupees fifty naye paise [Forty rupees] (f) in or to any Civil Court not otherwise provided for and the subject matter of which is not capable of being estimated in money value. Thirty rupees [Two hundred rupees]

**24. . :-**

Copy or translation of a judgment or order not being, or having the force of, a decree. When such judgment or order is given or made by any Civil Court other than the High Court, or by any Revenue Court. One rupee [Two rupees] When such judgment or order is given or made by the High Court. Two rupees [Five rupees]

**25. . :-**

Copy of a decree or order having the force of a decree. When such decree or order is made by any Civil Court other than the District Court or High Court, or by any Revenue Court; Two rupees [Five rupees] When such decree or order is made by the District Court; Three rupees [Five rupees] When such decree or order is made by

the High court. Six rupees [Ten rupees]

**26. 26 :-**

Copy of any document (including power of attorney) liable to stamp-duty under the Bombay Stamp Act, 1958 (Bom. LX of 1958) or the Indian Stamp Act, 1899 (II of 1899) or any corresponding law in force, as the case may be, when left by any party to a suit or proceeding in place of the original withdrawn. (a) When the stamp duty chargeable on the original does not exceed one rupee. The amount of the duty chargeable on the original (b) In any other case. One rupee twenty five naye paise [Two rupees]

**27. . :-**

Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any account, statement, report or the like, taken out of any Civil or Criminal or Revenue Court or office, or from the Office of any Chief Officer charged with the executive administration of a division. For every three hundred and sixty words or fraction of three hundred and sixty words. Sixty-five naye paise [One rupee]

**28. . :-**

Application made under the Bombay Money-lenders Act, 1946 (Bom. XXXI of 1947) or under any corresponding law in force. Two rupees [Five rupees]

**29. . :-**

Application presented to any Registration Officer for search of registration records. One rupee [Two rupees]

**30. . :-**

Appeal or application to the Registrar under section 72 or 73, as the case may be, of the Indian Registration Act, 1908. One rupee [Two rupees]

**31. . :-**

Application for a licence under sub-clause (1) of clause (w) of sub-section (1) of section 33 of the Bombay Police Act, 1951 (Bom. XXII of 1951) or any corresponding law in force. One rupee [Two rupees]

**32. . :-**

Application or appeal to the Regional or State Transport Authority or the State Government under Chapter V of the Motor Vehicles Act, 1988. Five rupees [Ten rupees]



**33. . :-**

Election petition questioning the election of a person in respect of the office. (a) of Sarpanch or Upa-Sarpanch or member of a Panchayat; Ten rupees [Fifty rupees] (b) of councillor or member of a Municipality, District Local Board or such other Local Authority: Fifty rupees [One hundred rupees] (c) of Mayor or Deputy Mayor or councillor of a municipal Corporation [x x x] or President, Vice President, Chairman or Vice-Chairman of any local authority referred to in clause (b). One hundred rupees [Five hundred rupees]

**34. . :-**

Application or petition to the Court under section 391, 439 or 522 of the Companies Act, 1956 (1 of 1956). Fifty rupees [One hundred rupees] Any other application or petition to the Court for judicial action or relief under the said Act, not otherwise provided for under this Act. Ten rupees [Twenty rupees]

**35. . :-**

Application- (a) for order of arrest or attachment before judgment or for temporary injunction; Two rupees fifty naye paise [Ten rupees] (b) for compensation for arrest or attachment before judgment or in respect of temporary injunction obtained on insufficient grounds: Two rupees fifty naye paise [Ten rupees] (c) for the appointment of a receiver in a case in which the applicant has no present right of possession of the property in dispute: Five rupees [Ten rupees] (d) for setting aside decree passed ex parte or for review of order dismissing suit for default. One rupee [Ten rupees]

**36. . :-**

Appeal or application to the Co-operative Tribunal. Five rupees [Twenty rupees]

**37. . :-**

Application made by a party to the Magistrate under section 145 of the Code of Criminal Procedure, 1973 (2 of 1974). One rupee [Ten rupees]

**38. . :-**

Application- (a) for enrollment as a pleader under the Bombay Pleaders Act, 1920 (Bom. XVII of 1920): Ten rupees (b) for enrollment as an Advocate or Attorney on the roll of the High Court. Twenty-five rupees

**1** Application for adjournment presented to the Court in any proceedings. Five rupees]

SCHEDULE 3  
SCHEDULE

## SCHEDULE 4

### Laws repealed

Year	Number	Law	Extent of repeal
1	2	3	4
1870	VII	The Court-fees Act,	The whole, in so
		1870, in its application	far as it relates to
		to the pre- Reorganisation	entries 3 and 66 of
		State of Bombay,	List II and entry 47
		excluding the	of List III in the
		transferred territories and to	Seventh Schedule
		the Vidarbha region	to the Constitution
		and the Kutch area of	of India.
		the State of Bombay.	
1870	VII	The Court-fees Act,	The whole. In so
		1870, as modified and	far as it relates to
		applied to the	entries 3 and 66 of
		Saurashtra area of the	List II and entry 47
		State of Bombay by the	of List III in the
		State of Saurashtra	Seventh Schedule
		(Application of Central	to the Constitution
		and Bombay Acts)	of India.
		Ordinance, 1948.	
1324	VI	The Hyderabad Court	The whole, in so
Fash.		Fees Act, in its application	far as it relates to
		to the Hyderabad	entries 3 and 66 of

		area of the State of Bombay.	List II and entry 47 of List III in the
			Seventh Schedule
			to the Constitution
			of India.
1932	II	The Bombay Finance	Section 2A and
		Act. 1932.	Part III containing
			sections 12, 13
			and 14.

#### SCHEDULE 5

#### Laws amended

Year	Number	Law	Extent of
1	2	3	amendment.
			4
1887	VII	The Suits Valuation	In section 9, the
		Act, 1887, in its	words and figures " of
		application to the pre-	the Court-fees Act,
		Reorganisation State	1870,"shall be
		of Bombay, excluding	deleted.
		the transferred	
		territories and to the	
		Vidarbha Region and	
		the Kutch area of the	
		State of Bombay.	
1887	VII	The Suits Valuation	In section 9, the
		Act, 1887, as	words and figures "of
		modified and applied	the Court-fees Act,
		to the Saurashtra	1870, " shall be
		area of the State of	deleted.
		Bombay by the State	
		of Saurashtra	
		(Application of Central	
		and Bombay Acts)	
		Ordinance, 1948.	