
**Code Of Civil Procedure (Madhya Pradesh Amendment) Act,
1984**

29 of 1984

[14 August 1984]

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**Code Of Civil Procedure (Madhya Pradesh Amendment) Act,
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An Act further to amend the Code of Civil Procedure, 1908, in its application to the State of Madhya Pradesh. Be it enacted by the Madhya Pradesh Legislature in the Thirty-fifth year of the Republic of India as follows :- 1. Received the assent of the President on the 31st July, 1984; assent first published in the "Madhya Pradesh Gazette" (Extraordinary) dated the 14th August, 1984.

1. Short Title :-

This Act may be called The Code of Civil Procedure (Madhya Pradesh Amendment) Act, 1984.

2. Amendment Of Central Act V Of 1908 In Its Application To The State Of Madhya Pradesh :-

The Code of Civil Procedure, 1908 (V of 1908) (hereinafter referred to as the principal Act) in its application to the State of Madhya

Pradesh be amended in the manner hereinafter provided.

3. Amendment Of Section 80 :-

In Section 80 of the Principal Act,-

(i) in sub-section (1) for the words, brackets and figures "sub-section (2)", the words, brackets and figures "sub-section (2) or sub-section (4)" shall be substituted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:-

"(4) Where in a suit or proceeding referred to in Rule 3-B of Order I, the State is joined as a defendant or non-applicant or where the Court orders joinder of the State as defendant or non-applicant in exercise of powers under sub-rule (2) of Rule 10 of Order I such suit or proceeding shall not be dismissed by reason of omission of the plaintiff or application to issue notice under sub-section (1)".

4. Substitution Of Section 115 :-

For Section 115 of the Principal Act, the following section shall be substituted namely :-

"115. Revision.-The High Court, in cases arising out of original suits or other proceedings of the value of twenty thousand rupees and above, and the District Judge in any other case may call for the record of any case which has been decided by any Court subordinate to such High Court or District Judge, as the case may be, and in which no appeal lies thereto, and if such subordinate Court appears-

(a) to have exercised a jurisdiction not vested in it by law; or

(b) to have failed to exercise a jurisdiction so vested; or

(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity;

the High Court or the District Judge, as the case may be, make such order in the case as it thinks fit:

Provided that in respect of cases arising out of original suits or other proceedings of any valuation, decided by the District Judge, the High Court alone shall be competent to make an order under this section :

Provided further that the High Court or the District Judge shall not, under this section, vary or reverse any order including an order deciding an issue, made in the course of a suit or other proceedings, except where,-

(i) the order, if so varied or reversed, would finally dispose of the

suit or other proceeding; or

(ii) the order, if allowed to stand, would occasion a failure of justice or cause irreparable injury to the party against whom it was made.

Explanation.-In this section, the expression "any case which has been decided" includes any order deciding an issue in the course of a suit or other proceeding."

5. Amendment Of Order I Of First Schedule :-

In Order I of First Schedule to the Principal Act after Rule 3-A, the following Rule shall be inserted, namely :-

"3-B. Conditions for entertainment of suits.-

(1) No suit or proceeding for,-

(a) declaration of title or any right over any agricultural land, with or without any other relief, or

(b) specific performance of any contract for transfer of any agricultural land, with or without any other relief, shall be entertained by any Court, unless the plaintiff or applicant, as the case may be, knowing or having reason to believe that return under Section 9 of the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960) in relation to land aforesaid has been or is required to be filed by him or by any other person before competent authority appointed under that Act, has imp leaded the State of Madhya Pradesh as one of the defendants or non-applicants, as the case may be, to such suit or proceeding.

(2) No Court shall proceed with pending suit or proceeding referred to in sub-rule (1) unless, as soon as may be, the State Government is so imp leaded as a defendant or non-applicant.

Explanation.-The expression "suit or proceeding" used in this sub-rule shall include appeal, reference or revision, but shall not include any proceeding for or connected with execution of any decree or final order passed in such suit or proceeding".

6. Amendment Of Order Vi Of The First Schedule :-

In Order VI of the First Schedule to the Principal Act, after Rule 4, the following rule shall be inserted, namely :-

"4-A. Particulars of pleadings for agricultural land.-

In any suit or proceeding contemplated under Rule 3-B of Order I, the parties, other than the State Government shall plead the particulars of total agricultural land which is owned, claimed or held by them in any right and shall further declare whether the subject-matter of suit or proceeding is or is not covered by Madhya Pradesh

Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960) and whether any proceedings in relation to such subject matter are to the knowledge of the party pending before the competent authority."

7. Amendment Of Order Xix Of The First Schedule :-

In Order XIX of the First Schedule to the Principal Act, after Rule 1, the following rule shall be inserted, namely :-

"1-A. Proof of fact by affidavit in certain cases.-

Notwithstanding anything to the contrary in Rule 1, the Court shall, in a suit or proceeding referred to in Rule 3-B of Order I and whether or not any proceeding under the Madhya Pradesh Ceiling on Agricultural Holdings Act, 1960 (No. 20 of 1960) are pending before the competent authority appointed under that Act, call upon the parties to prove any particular fact or facts as it may direct, by affidavit, unless the Court looking to the nature and complexity of the suit or proceeding and for reasons to be recorded in writing deems it just and expedient to dispense with the proof of a fact or facts by affidavits."

8. Amendment Of Order Xxxix Of The First Schedule :-

In Order XXXIX of the First Schedule to the Principal Act,-

(a) in Rule 2, in sub-rule (2), the following proviso shall be inserted, namely :-

"Provided that no such injunction shall be granted-

(a) where no perpetual injunction could be granted in view of the provisions of Section 38 and Section 41 of the Specific Relief Act, 1963 (No. 47 of 1963); or

(b) to stay the operation of an order for transfer, suspension, reduction in rank, compulsory retirement, dismissal, removal or otherwise termination of service of, or taking charge from, any person appointed to public service and post in connection with the affairs of the State including any employee of any company or corporation owned or controlled by the State Government; or

(c) to stay, any disciplinary proceeding pending or intended or, the effect of any adverse entry against any person appointed to public service and post in connection with the affairs of the State including any employee of the company owned or controlled by the State Government; or

(d) to restrain any election; or

(e) to restrain any auction intended to be made or, to restrain the

effect of any auction made by the Government; or to stay the proceedings for the recovery of any dues recoverable as land revenue unless adequate security is furnished; and any order for injunction granted in contravention of these provisions shall be void."

(b) In Rule 4-

(i) after the words "by the Court", the words "for reasons to be recorded, either on its own motion or" shall be inserted;

(ii) at the end, the following proviso shall be inserted, namely:-

"Provided also that if at any stage of the suit it appears to the Court that the party in whose favour the order of injunction exists is delaying the proceedings or is otherwise abusing the process of Court, it shall set aside the order for injunction."