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**Bombay Court Fee (Amendment And Continuance)  
Ordinance, 2010**

**[22 February 2010]**

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**[22 February 2010]**

In pursuance of clause (3) of Article 348 of the Constitution of India, the following translation in English of the Bombay Court Fees (Amendment and Continuance) Ordinance, 2010 (Mah. Ord. III of 2010), is hereby published under the authority of the Governor. By order and in the name of the Governor of Maharashtra, H.B. Patel, Secretary to Government, Law and Judiciary Department. AN ORDINANCE further to amend the Bombay Court Fees Act, 1959. WHEREAS, the Governor of Maharashtra had promulgated the Bombay Court Fees (Amendment) Ordinance, 2009, on the 11th August 2009, which had come into force on the 1st September 2009; AND WHEREAS upon the re-assembly of the State Legislature on the 8th December 2009, the Bombay Court Fees (Amendment) Bill 2009 (L.A Bill No. XIX of 2009) for replacing the said Ordinance by an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly on the 8th December 2009, however, the said Bill could not be passed by the Maharashtra Legislative Assembly as the session of the State Legislature was prorogued on the 23rd December 2009; AND WHEREAS the said Ordinance was promulgated by the Governor of Maharashtra on the 11th August 2009 and thereafter, in the meanwhile, the Maharashtra Legislative Assembly was summoned to reassemble on the 9th November 2009 and the Maharashtra Legislative Council was summoned to reassemble on the 11th November 2009, as provided by the Explanation to clause (2) of Article 213 of the

Constitution of India, the said Ordinance has ceased to operate at the expiration of six weeks from the 11th November 2009, that is, after the 22nd December 2009; AND WHEREAS it is considered expedient to continue the operation of the provisions of the said Ordinance; AND WHEREAS both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the operation of the provisions of the said Ordinance, for the purposes hereinafter appearing; NOW THEREFORE, in exercise of the powers by clause (1) of Article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely:-

### **1. Short Title And Commencement :-**

- (1) This Ordinance may be called the Bombay Court Fee (Amendment and Continuance) Ordinance, 2010.
- (2) It shall be deemed to have come into force on the 1st September, 2009.

### **2. Amendment Of Schedule I :-**

In Schedule I to the Bombay Court Fees Act, 1959 (hereinafter referred to as "the principal Act"):

- (a) In Article 3, the words and figures "otherwise than under the Arbitration Act, 1940" shall be deleted;
- (b) After Article 3, the following Article shall be inserted, namely:  
"3A. Application or petition (including Memorandum of Appeal) to set aside or modify arbitral award under the Arbitration and Conciliation Act, 1996 --- A fee of one half of the ad valorem fee on the amount or value of the award sought to be set aside or modified, according to the scale prescribed under Article 1".

### **3. Repeal Of Mah. Ordinance Xii Of 2009 And Saving :-**

- (1) The Bombay Court Fees (Amendment) Ordinance, 2009 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken as the case may be, under the corresponding provisions of the principal Act, as amended by this Ordinance.

Statement:

1. Under the Bombay Court Fees Act, 1959 (Bom. XXXVI of 1959),

the Court Fees are charged, to meet to some extent, the expenditure being incurred by the State Government on the Administration of Justice. In the last fifty years, the expenditure on the Administration of Justice has increased enormously. To meet part of this huge expenditure, the rates of Court Fees, were increased in the year 2002. However, it was found that having regard to the overall inflationary trends in the economy and remarkable fall in the value of money, it is imperative to increase the Court Fees to partially meet the huge expenditure on the Administration of Justice.

2. It is observed that after the commencement of the Arbitration and Conciliation Act, 1996, the number of applications or petitions (including appeals) to set aside or modify arbitral awards are tremendously increased. As there was no specific article in the Bombay Court Fees Act, 1959 to levy Court Fees on such applications or petitions and appeals, it had become imperative for the Government to incorporate specific article providing for levy of Court Fees at the rate of one half of the ad valorem fee on the amount or value of the award sought to be set aside or modified according to the scale prescribed under Article 1, and thereby to some extent meet the expenditure on the Administration of Justice.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action further to amend the Bombay Court Fees Act, 1959, for the purposes aforesaid, the Bombay Court Fees (Amendment) Ordinance, 2009 (Mah. Ord. XII of 2009), was promulgated by the Governor of Maharashtra, on the 11th August, 2009.

4. Thereafter, the regular session of the State Legislature was convened by the Honble Governor on the 8th December 2009, and a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L.A Bill No. XIX of 2009 on the 8th December 2009. However, the said Bill could not be passed by the Maharashtra Legislative Assembly, as the session of the State Legislature Assembly, as the session of the State Legislature was prorogued on the 23rd December 2009. In the meanwhile, as the Maharashtra Legislative Assembly was summoned to reassemble on the 11th November 2009 as provided by the Explanation to clause (2) of Article 213 of the Constitution of India, the said Ordinance has ceased to operate at the expiration of six weeks from the 11th November 2009, that is after the 22nd December 2009, and it is considered expedient

that the provisions of the said Ordinance should be continued by re-promulgation of the Ordinance.

5. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to continue the provisions of the Bombay Court Fees (Amendment) Ordinance, 2009 (Mah, Ord. XII of 2009), this Ordinance is promulgated.

K. Sankaranarayanan,  
Governor of Maharashtra.

Mumbai,

18th February, 2010.

By order and in the name of the Governor of Maharashtra,

M.N. Gilani,

Principal Secretary and Remembrancer of Legal Affairs to  
Government.