

CODE OF CIVIL PROCEDURE (UTTAR PRADESH AMENDMENT) ACT, 1978

31 of 1978

[29th September, 1978]

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An Act further to amend the Code of Civil Procedure, 1908 in its application to Uttar Pradesh. It is hereby enacted in the Twenty-ninth Year of the Republic of India, as follows : 1. Received the assent of the President on September 29, 1978 and published in U.P. Gazette, Extra, dated 6th October, 1978, pp. 3-4.

1. Short title, extent and commencement :-

(1) This Act may be called the Code of Civil Procedure (Uttar Pradesh Amendment) Act, 1978. (2) It shall extend to the whole of Uttar Pradesh. (3) It shall be deemed to have come into force on August 1, 1978.

2. Amendment of Section 39 of Act No. 5 of 1908 :-

In Section 39 of the Code of Civil Procedure, 1908, hereinafter referred to as the said Code for sub-section (3), the following sub-section shall be substituted, namely :-- "(3) For the purposes of this section, a Court shall be deemed to be a Court of competent jurisdiction if the amount or value of the subject-matter or the suit wherein the decree was passed does not exceed the pecuniary limits, if any, of ordinary jurisdiction at the time of making the

application for the transfer of decree to it, notwithstanding that it had otherwise no jurisdiction to try the suit."

3. Substitution of Section 115 :-

For Section 115 of the said Code, 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, including such suits or other proceedings instituted before August 1, 1978, and the district Court in any other case, including a case arising out of an original suit or other proceedings instituted before such date, may call for the record of any case which has been decided by any court subordinate to such High Court or District Court, 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 Court, as the case may be, may 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 Court, the High Court alone shall be competent to make an order under this section : Provided further that the High Court or the District Court 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 proceeding, 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 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.

4. Amendment of Order VI of the First Schedule :-

In the First Schedule to the said Code, in Order VI, in Rule 15, in sub-rule (1) for the words, "on oath administered by an officer empowered under Section 139 of the Code, the oath administered by an officer empowered under Section 139 of the Code" the words, "at the foot" shall be substituted.

5. Transitory provision :-

Where a proceeding of the nature in which the District Court may call for the record and pass orders under Section 115 of the said

Code as substituted by this Act was pending immediately before August 1, 1978-- (a) in the District Court, such Court shall proceed to dispose of the same as if the provisions of this Act were in force at all material times; (b) in the High Court, such Court shall proceed to dispose of the same as if this Act had not come into force.

6. Repeal and savings :-

(1) The Code of Civil Procedure (Uttar Pradesh Amendment) Ordinance, 1978 (U. P. Ordinance No. 15 of 1978), is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under the said Code as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the said Code as amended by this Act, as if the provisions of this Act were in force at all material times.