

Uttar Pradesh Civil Laws (Amendment) Act, 1970

14 of 1970

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An Act further to amend the Code of Civil Procedure, 1908, the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887 and the Transfer of Property Act, 1882, in their application to Uttar Pradesh. It is hereby enacted in the Twenty first Year of the Republic of India as follows : 1. Published in U.P. Gazette, Extra, dated 8th April, 1970.

1. Short Title And Extent :-

(1) This Act may be called the Uttar Pradesh Civil Laws (Amendment) Act, 1970. (2) It extends to the whole of Uttar Pradesh.

2. Substitution Of New Section For Section 42 Of Act V Of 1908 :-

For Section 42 of the Code of Civil Procedure, 1908, as amended in its application to Uttar Pradesh (hereinafter referred to as the said Code) the following section shall be substituted, and be deemed to have been substituted with effect from December 2, 1968, namely-
- "42. Power of court in executing transferred decree.-- (1) The Court executing a decree sent to it shall have the same powers in executing such decree as if it had been passed by itself. All persons disobeying or obstruction the execution of the decree shall be punishable by such Court in the same manner as if it had passed

the decree, and its order in executing such decree shall be subject to the same rules in respect of appeal as if the decree had been passed by itself. (2) Without prejudice to the generality of the provisions of sub-section (1), the powers of the Court under that sub-section shall include the following powers of the Court which passed the decree, namely-- (a) power to send the decree for execution to another Court under Section 39 ; (b) power to execute the decree against the legal representative of the deceased judgment-debtor under Section 50 ; (c) power to order attachment of a decree; (d) power to decide any question relating to the bar of limitation to the executability of the decree; (e) power to record payment or adjustment under rule 2 of Order XXI; (f) power to order stay of execution under rule 29 of Order XXI; (g) in the case of a decree passed against a firm, power to grant leave to execute such decree against any person other than a person as is referred to in clause (b) or clause (c) of sub-rule (1) of rule 50 of Order XXI; (3) A Court passing an order in exercise of the powers specified in sub-section (2) shall send a copy thereof to the Court which passed the decree. (4) Nothing in this section, shall be deemed to confer on the court to which a decree is sent for execution, the power to the order execution at the instance of the transferee of a decree."

3. Amendment Of Section 115 Of Act V Of 1908 :-

In Section 115 of the said Code-- (i) for the words "High Court", wherever occurring, the words "High Court or District Court" shall be substituted; and (ii) the following proviso thereto shall be inserted at the end, namely : "Provided that nothing in this section shall be construed to empower the District Court to call for the record of any case arising out of an original suit of the value of twenty thousand rupees or above".

4. Amendment Of Section 21 Of Act Xxi Of 1887 :-

In Section 21 of the Bengal, Agra and Assam Civil Courts Act, 1887, as amended in its application to Uttar Pradesh (hereinafter referred to as the Bengal, Agra and Assam Civil Courts Act), for sub-section (1), the following sub-section shall be substitute, namely :-- "(1) Save as aforesaid, an appeal from a decree or order of a Civil Judge shall lie-- (a) to the District Judge where the value of the original suit in which or in any proceeding arising out of which, the decree or order was made, whether instituted or commenced or decided before or after the commencement of the Uttar Pradesh Civil Laws (Amendment) Act, 1968 (Presidents Act XXXV of 1968), was less than twenty thousand rupees ; and (b) to

the High Court, in any other case. (1-A) An appeal from a decree or order of a Civil Judge where the value of the original suit in which, or in any proceeding arising out of which, the decree or order was made exceeded ten thousand rupees but was less than twenty thousand rupees instituted in the High Court before the date of commencement of the Uttar Pradesh Civil Laws (Amendment) Act, 1970 and pending in the High Court immediately before the said date, not being an appeal in which arguments have been concluded before the said date and only judgment disposing of the appeal remains to be pronounced, shall stand transferred to the District judge having jurisdiction who may either decide it himself or assign it to any Additional Judge subordinate to him. (1-B) The period of limitation prescribed for filing an appeal from a decree or order of a Civil Judge where the value in the original suit in which, or in any proceeding out of which, the decree or order was made exceeded ten thousand rupees but was less than twenty thousand rupees and the decree or order was made before December 2, 1968, shall, notwithstanding anything in the Limitation Act, 1963, be deemed to be and always to have been the same as if the appeal continued to lie to the High Court."

5. Amendment Of Section 25 :-

For Section 25 of the Bengal, Agra and Assam Civil Courts Act, the following Section shall be substituted, namely-- "25. The State Government may, by notification in the Gazette, confer, within such local limits as it thinks fit, upon any Civil Judge or Munsif the Jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Causes Courts Act, 1887, for the trial of suits cognizable by such Courts, up to such value not exceeding one thousand rupees in the case of a Civil Judge or five hundred rupees in the case of a Munsif as it thinks fit, and may withdraw any jurisdiction so conferred: Provided that the State Government may, by notification in the Gazette delegate to the High Court its powers under this section."

6. Amendment Of Section 15 Of Act IX Of 1887 :-

In Section 15 of the Provincial Small Causes Courts Act, 1887, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely-- "(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a court of Small Causes. (3) Subject as aforesaid, the State Government may, by

order in writing, direct that all suits of a civil nature of which the value does not exceed two thousand rupees shall be cognizable by a court of Small Causes mentioned in the order."

7. Insertion Of New Section 69-B Act Iv Of 1882 :-

After Section 69-A of the Transfer of Property Act, 1882, the following section shall be inserted, namely-- "69-B Delivery of possession.-- (1) Where in exercise of a power of sale under Section 69 the mortgaged property or any part thereof has been sold, the Collector shall on an application being made to him in that behalf put the purchaser into possession of the property, and may for the purpose of removing any person who refuses to vacate the same, use or causes to be used such force as he may deem necessary. (2) The provisions of rules 95 to 103 of Order XXI contained in the First Schedule to the Code of Civil Procedure, 1908, as amended from time to time in its application to Uttar Pradesh , shall mutatis mutandis apply to proceedings under this section with the substitution of references to the Court and the judgment-debtor by references respectively to the Collector and the defaulting mortgagor. (3) In this section Collector means the Collector of the district in which the property is situate, and includes any Assistant Collector empowered in that behalf by any general or special order by the Collector."

8. Repeal :-

The Uttar Pradesh Civil Laws (Amendment) Act, 1968 (Presidents Act XXXV of 1968 and U.P. Ordinance No. 5 of 1970) and the Presidents Acts for Uttar Pradesh (Re-enactment) Ordinance, 1970 are hereby repealed.