

Uttar Pradesh Civil Laws (Amendment) Act, 1991

17 of 1991

[29 March 1991]

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An Act further to amend the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887 and the Code of Civil Procedure, 1908 in their application to Uttar Pradesh In is hereby enacted in the Forty-second Year of the Republic of India as follows:-- Statement of Objects and Reasons.-- (1) After

considering the suggestions of the High Court of Judicature at Allahabad it was decided to amend the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887 and the Code of Civil Procedure, 1908 in their application to Uttar Pradesh with a view to enhancing the pecuniary jurisdictions of the District Judges for hearing appeals and applications for revision arising from the judgment, decree or orders of Civil Judges and that of the Small Cause Courts and Munsifs. It was also decided to omit clause (d) of the proviso to sub-rule (2) of Rule 2 of Order 39 of the Code of Civil Procedure, 1908 so as to enable the Civil Courts to issue temporary injunctions, in cases relating to the management or internal affairs of educational institutions including the Universities and the societies. 2. Since the State Legislature was not in session and immediate legislative action in the matter was necessary, the Uttar Pradesh Civil Laws (Amendment) Ordinance, 1990 (Uttar Pradesh Ordinance No. 31 of 1990), was promulgated by the Governor on December 21, 1990, after obtaining the instructions of the President. 3. This Bill is introduced to replace the aforesaid Ordinance. 1. Received the assent of the President on March 29, 1991. Published in U.P. Gazette, (Extra), Part 1, Section (ka), dated 4th April, 1991.

CHAPTER 1

PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Uttar Pradesh Civil Laws (Amendment) Act, 1991. (2) It shall extend to the whole of Uttar Pradesh. (3) It shall be deemed to have come into force on January 15, 1991.

CHAPTER 2

AMENDMENT OF BENGAL, AGRA AND ASSAM CIVIL COURTS ACT, 1887

2. Amendment Of Section 6 Of Act No. Xii Of 1887 :-

In Section 6 of the Bengal, Agra and Assam Civil Courts Act, 1887, hereinafter in this chapter referred to as the principal Act, in sub-section (2), for the words "State Government" the words "High Court" shall be substituted.

3. Amendment Of Section 19 :-

In Section 19 of the principal Act,-- (a) in sub-section (1), for the words "five thousand rupees" the words "ten thousand rupees" shall be substituted ; (b) for sub-section (2), the following sub-section shall be substituted, namely:-- "(2) The High Court may

direct by notification in the Official Gazette, with respect to any munsif named therein, that his jurisdiction shall extend to all like suits of such value not exceeding twenty five thousand rupees as may be specified in the notification."

4. Amendment Of Section 21 :-

In Section 21 of the principal Act,-- (a) for sub-sections (1), (1-A) and (1-B), the following sub-sections shall be substituted, namely:-
- "(1) Save as aforesaid an appeal from a decree or order of a Civil Judge shall lie,-- (a) to the High Court in any case other than a case referred to in clause (b); (b) 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 before or after the relevant date) did not exceed one lakh rupees or such higher amount not exceeding five lakh rupees as the High Court may fix from time to time by notification in the official Gazette. Explanation.-- For the purposes of this sub-section and sub-sections (1-A) and (1-B) relevant date means the date of commencement of the Uttar Pradesh Civil Laws (Amendment) Act, 1991 or as the case may be, the date of commencement of notification made under clause (b) of sub-section (1). (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 was not more than the amount fixed by or under clause (b) of sub-section (1) instituted in the High Court and pending in the High Court immediately before the relevant date, shall stand transferred to the District Judge having jurisdiction who may either decide it himself or assign it to any Judge subordinate to him : Provided that any judgment, decree or order passed in such an appeal by the High Court after the relevant date shall be valid if the High Court had withdrawn the appeal under Section 24 the Code of Civil Procedure, 1908. (1-B) The period of limitation prescribed for filing an appeal from a decree or order of a Civil Judge made before the relevant date, which lay to the High Court immediately before such date but lies to the District Judge under sub-section (1) shall, notwithstanding anything to the contrary contained 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. (b) in sub-section (4), the words "with the previous sanction of the State Government ", shall be omitted.

5. Amendment Of Section 25 :-

In Section 25 of the principal Act,-- (a) for sub-section (1), the

following sub-section shall be substituted, namely:-- "(1) The High Court may by notification in the Official 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 Cause Courts Act, 1883 or the trial of suits cognizable by such Courts, up to such value not exceeding five thousand rupees as it thinks fit, and may withdraw any jurisdiction so conferred : Provided that in relation to suits of the nature referred to in the proviso to sub-section (2) of Section 15 of the said Act, the reference in this subsection to five thousand rupees shall be construed as reference to twenty five thousand rupees." (b) in sub-section (2), for the words "State Government " the word "High Court" shall be substituted ; (c) Sub-section (3) shall be omitted.

CHAPTER 3

AMENDMENT OF PROVINCIAL SMALL CAUSE COURTS ACT, 1887

6. Amendment Of Section 15 :-

In Section 15 of the Provincial Small Cause Courts Act, 1887, for sub-sections (2) and (3), the following sub-section 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 five thousand rupees shall be cognizable a Court of Small Causes : Provided that in relation to suits by the lessor for the eviction of a lessee from a building after the determination of his lease or for recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease, or of compensation for use and occupation thereof after the determination of the lease, the reference in this sub-section to five thousand rupees shall be construed as a reference to twenty five thousand rupees. Explanation.-- For the purposes of this sub-section, the expression "building" has the same meaning as in Article (4) in the Second Schedule."

CHAPTER 4

AMENDMENT OF THE CODE OF CIVIL PROCEDURE, 1908

7. Amendment Of Section 115 :-

In Section 115 of the Code of Civil Procedure, 1908, hereinafter in this chapter referred to as the said Code,-- (a) for the words "of the value of the twenty thousand rupees and above, including such suits or other proceedings instituted before August 1, 1978" the

following words shall be substituted, namely-- "of the value exceeding one lakh rupees or such higher amount not exceeding five lakh rupees as the High Court may from time to time fix, by notification published in the Official Gazette including such suits or other proceedings instituted before the date of commencement of the Uttar Pradesh Civil Laws(Amendment) Act, 1991, or as the case may be, the date of commencement of such notification"; (b) after the second proviso, the following proviso shall be inserted, namely : "Provided also that where a proceeding of the nature in which the District Court may call for the record and pass orders under this section was pending immediately before the relevant date of commencement referred to above, in the High Court, such court shall proceed to dispose of the same."

8. Amendment Of Order Xxxix Of First Schedule :-

In the First Schedule to the said Code, in Order XXXIX, in Rule 2, in sub-rule (2), in the proviso, clause (d) shall be omitted.

CHAPTER 5

MISCELLANEOUS

9. Repeal And Saving :-

(1) The Uttar Pradesh Civil Laws (Amendment) Ordinance, 1990 (U. P. Ordinance No. 31 of 1990), is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under any of the Acts referred to in Chapters II, III or IV as amended by the Ordinance referred to in subsection (1), shall be deemed to have been done or taken under corresponding provisions of the aforesaid Acts, as amended by this Act, as if the provisions of this Act were in force at all material times.