

**Uttar Pradesh Civil Laws (Reforms And Amendment) Act,
1976**

57 of 1976

[30 December 1976]

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An Act further to amend the Code of Civil Procedure, 1908, the Arbitration Act, 1940, the Indian Contract Act, 1972, the Bengal, Agra and Assam Civil Courts Act, 1887, the Provincial Small Cause Courts Act, 1887, the Transfer of Property Act, 1882, the Registration Act, 1908, and the Hindu Adoption and Maintenance Act, 1956, in their application to the State of Uttar Pradesh. It is hereby enacted in the Twenty-seventh Year of Republic of India as

follows : Statement of Objects and Reasons for introducing Amendment of Transfer of Property the Bill.-- (1) Undue delay in disposal of civil cases and the growing tendency to abuse the process of court by frivolous litigation are detrimental to the interest of the society in general and the poorer sections in particular. It is proposed to amend various provisions of the Code of Civil Procedure, 1908 to achieve speedy disposal of civil cases and prevention of dilatory tactics. 2. Certain provisions of the Arbitration Act, 1940 are being amended with a view to making the remedy of arbitration more efficacious and popular. 3. It is considered desirable that when a proposal is made in response to an invitation which reserves a period for deliberation, the proposal so made shall not be revocable during that period. Again, where performance of a contract is accepted by a party beyond the stipulated time, it is desirable that the right of such acceptor to claim compensation for the loss occasioned due to such delay should not be forfeited unless waived specifically. Amendments in the Indian Contract Act, 1872 are proposed accordingly. 4. It is proposed to raise the pecuniary jurisdiction of Munsifs and Judges of the Small Cause Courts by suitable amendments in the Bengal, Agra and Assam Civil Courts Act, 1887 and the Provincial Small Cause Courts Act, 1887. 5. A deed of adoption of a child, a sale-deed of immovable property of the value below Rs. 100 and an agreement to sell immovable property, are not required compulsorily to be registered at present. Playing upon the element of chance involved in oral evidence, fictitious ante-dated deeds of such nature are set up with a view to usurp the property of a rightful transferee or legatee, and on the other hand genuine transactions of these categories are challenged. Suitable amendments are proposed in the Transfer of Property Act, 1882, the Registration Act, 1908 and the Hindu Adoption and Maintenance Act, 1956 to make compulsory the registration of the adoption deeds, all agreements to sell immovable property and all transfers of immovable property irrespective of the value or consideration. The Bill is accordingly introduced. (Sec U.P. Gazette, Extra., dated 5 the November, 1976). 1 Received the assent of the President of India on December 30, 1976 and published in U.P. Gazette, Extra., dated December 31, 1976.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Act may be called the Uttar Pradesh Civil Laws (Reforms and Amendment) Act, 1976. (2) It extends to the whole of Uttar Pradesh. (3) It shall come into force on such date as the State Government may by notification appoint in this behalf.

CHAPTER 2

AMENDMENT OF THE CODE OF CIVIL PROCEDURE, 1908

2. Amendment Of Section 35-A Of Act V Of 1908 :-

In the Code of Civil Procedure, 1908 (hereinafter in this Chapter referred to as the principal Act) in section 35-A, after sub-section (1), the following sub-section shall be inserted, namely : "(1-A) The provisions of sub-section (1) shall mutatis mutandis apply to an appeal where the appellate court confirms the decision of the trial court and the trial court has not awarded, or has awarded insufficient compensatory cost under that sub-section."

3. Amendment Of Section 47 :-

In Section 47 of the principal Act Explanation II inserted by the U.P. Civil Laws (Reforms and Amendment Act), 1954 (U.P. Act 24 of 1954), shall be omitted.

4. Amendment Of The First Schedule, Order II :-

In the First Schedule to the principal Act (hereinafter in this Chapter referred to as the First Schedule), in Order II, in Rule 2-- (a) the existing explanation shall be numbered as Explanation I, and after Explanation I, as so numbered the following Explanation II, shall be inserted, namely : "Explanation II.-- For the purposes of this rule a claim for ejectment of the defendant from immovable property let out to him and a claim for money due from him on account of rent or compensation for use and occupation of that property, shall be deemed to be claims in respect of distinct causes of action" ; (b) for the illustration, the following illustration shall be substituted, namely : "Illustration.-- A lets immovable property to B at a yearly rent. The rent for the whole of the years 1905, 1906 and 1907 is due and unpaid, and the tenancy is determined before A sues B in 1908, only for the rent due for 1906. A may afterwards sue B for ejectment but not for the rent due for 1905 or 1907."

5. Insertion Of Order Iv-A :-

In the First Schedule, after Order IV, the following Order shall be inserted, namely :-- "ORDER IV-A CONSOLIDATION OF CASES 1. Consolidation of suits and proceedings.-- When two or more suits or proceedings are pending in the same court, and the court is of opinion that it is expedient in the interest of justice, it may by

order direct their joint trial, whereupon all such suits and proceedings may be decided upon the evidence in all or any such suits or proceedings."

6. Amendment Of Order Vi :-

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

7. Amendment Of Order Xv :-

In the First Schedule, in Order XV, for the existing Rule 5, the following rule shall be substituted, namely : "5. Striking off defence on failure to deposit admitted rent etc.-- (1) In any suit by a lessor for the eviction of a lessee after the determination of his lease and for the recovery from him of rent or compensation for use and occupation, the defendant shall, at or before the first hearing of the suit, deposit the entire amount admitted by him to be due together with interest thereon at the rate of nine per centum per annum and whether or not he admits any amount to be due, he shall throughout the continuation of the suit regularly deposit the monthly amount due within a week from the date of its accrual, and in the event of any default in making the deposit of the entire amount admitted by him to be due or the monthly amount due as aforesaid, the court may subject to the provisions of sub-rule (2), strike off his defence. Explanation 1.-- The expression first hearing means the date for filing written statement or for hearing mentioned in the summons or where more than one of such dates are mentioned, the last of the dates mentioned. Explanation 2.-- The expression entire amount admitted by him to be due means the entire gross amount, whether as rent or compensation for use and occupation, calculated at the admitted rate of rent for the admitted period of arrears after making no other deduction except the taxes, if any paid to a local authority in respect of the building on lessors account and the amount, if any, deposited in any court under section 30 of the U. P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act. 1972. Explanation 3.-- The expression monthly amount due means the amount due every month, whether as rent or compensation for use and occupation at the admitted rate of rent, after making no other deductions except the taxes, if any, paid to a local authority in respect of the building on lessors account. (2) Before making an order for striking off defence, the court may consider any representation made by the

defendant in that behalf provided such representation is made within 10 days, of the first hearing or, of the expiry of the week referred to in sub-section (1), as the case may be. (3) The amount deposited under this rule may at any time be withdrawn by the plaintiff: Provided that such withdrawal shall not have the effect of prejudicing any claim by the plaintiff disputing the correctness of the amount deposited : Provided further that if the amount deposited includes any sums claimed by the depositor to be deductible on any account, the court may require the plaintiff to furnish security for such sum before he is allowed to withdraw the same."

8. Amendment Of Order XVI :-

In the First Schedule, in Order XVI-- (a) in Rule 2 -- (i) In sub-rule (1) at the end, the following proviso shall be inserted, namely : "Provided, where Government is the party applying for a summons to Government servant, it shall not be necessary for it to make any such payment into court" ; (ii) sub- rule (4) as inserted by the Allahabad High Court shall be omitted and after sub-rule (4) as inserted by the Code of Civil Procedure (Amendment) Act, 1976, the following sub-rule shall be inserted by, namely : "4-A. Allowances, etc. of Government servant witnesses to be taxed as costs.-- Any travelling and daily allowances and the salary, payable to a Government servant who attends the Court to give evidence or to produce a document shall, on the amount being certified by such witness be taxable as costs. Explanation 1.-- The travelling and daily allowances shall be in accordance with the rules governing such allowances, applicable to the Government servant in question. Explanation 2.-- The daily allowance and salary of the Government Servant shall be proportionate to the number of days of his attendance required by the Court. (b) in Rule 4, the following proviso shall be inserted, namely : "Provided that nothing in this rule shall apply to a case where the witness is a Government servant summoned at the instance of Government as a party."

9. Amendment Of Order XIX :-

In the First Schedule, in Order XIX, in Rule 1, for the existing proviso, the following proviso shall be substituted, namely: "Provided that if it appears to the Court, whether at the instance of either a party or otherwise and whether before or after the filing of such affidavit, that the production of such witness for cross-examination is necessary and his attendance can be procured, the Court shall order the attendance of such witness, whereupon the

witness may be examined, cross-examined and re-examined."

10. Amendment Of Order Xxi :-

In the First Schedule, in Order XXI, Rules 104, 105 and Rule 106 as inserted by Allahabad High Court shall be re-numbered as Rule 106-A, Rule 106-B and Rule 106-C respectively.

11. Amendment Of Order Xxvii :-

In the First Schedule, in Order XXVII-- (a) in the marginal heading after the words "official capacity" the words "or Statutory Authorities, etc." shall be inserted ; (b) after Rule 9, as inserted by the Allahabad High Court, the following rule shall be inserted, namely : "10. Suits by or against statutory authorities.-- (1) Any authority or Corporation, constituted by or under any law, may, from time to time appoint a Standing Counsel, to be called Corporation pleader of that authority in any district and give information of such appointment to the District Judge. (2) The Corporation pleader so appointed shall be the agent in that district of the appointing authority or Corporation for purposes of receiving processes against it, but shall not act or plead without filing a Vakalatnama or memorandum of appearance."

12. Amendment Of Order Xxix :-

In the First Schedule, in Order XXIX, in Rule 2, after clause (a), the following clause shall be inserted, namely : "(aa) on its corporation pleader in the district where the Court issuing summons is located, if one has been appointed and the appointment has been notified to the District Judge under Rule 10 of Order XXVII, or "

13. Amendment Of Order Xxxix :-

In the First Schedule, in Order XXXIX-- (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 (Act 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 employee including any employee of the Government, or (c) to stay any disciplinary proceeding pending or intended or, the effect of any adverse entry, against any employee of the Government, or (d) to affect the internal management or affairs of any educational institution including a University, or a society, or (e) to restrain any election, or (f) to restrain, any auction intended to be made or, the

effect of any auction made, by the Government, or (g) to stay the proceedings for the recovery of any dues recoverable as land revenue unless adequate security is furnished, or (h) in any matter where a reference can be made to the Chancellor of a University under any enactment for the time being in force; 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 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 dilating the proceeding or is otherwise abusing the process of Court, it shall set aside the order for injunction."

14. Amendment Of Order Xlv :-

In the First Schedule, in Order XLV, in Rule 2, after sub-rule (2) the following sub-rule shall be inserted, namely :-- "(3) Notwithstanding anything contained in sub-rule (1), whoever desires to appeal to the Supreme Court, may apply orally to the Court whose decree is to be complained of, immediately before or after the pronouncement of the judgment by the Court, and for a certificate contemplated in sub-rule (1) of Rule 3, and the Court may either grant or refuse the certificate, or direct the applicant to file a petition as required by sub- rule (1): Provided that if an oral application is entertained and rejected, no written petition under sub-rule (1) shall lie."

CHAPTER 3

AMENDMENT OF THE ARBITRATION ACT, 1946

15. Amendment Of Section 4 :-

Section 4 of the Arbitration Act, 1940, hereinafter in this Chapter referred to as the principal Act, shall be renumbered as subsection (1) thereof, and after sub-section (1), as so renumbered, the following subsections shall be inserted, namely :-- "(2) In every such case where any appointed arbitrator neglects or refuses to act, or becomes incapable of acting, or dies, the vacancy shall be supplied by the person designated as aforesaid. (3) In case the person designated as aforesaid fails to make the appointment under sub-section (1) or to supply the vacancy under sub-section (2), within one month after the service of notice on him by either party to the arbitration agreement, the parties may jointly appoint an arbitrator or supply the vacancy, as the case may be."

16. Amendment Of Section 8 :-

In Section 8 of the principal Act, in subsection (1) in clause (b), for the words "and the parties or the arbitrators, as the case may be, do not supply the vacancy" the words "and as the case may be, the parties or the arbitrators do not supply, or the person designated does not under sub-section (3) of Section 4 supply, the vacancy" shall be substituted.

17. Amendment Of Section 9 :-

In section 9 of the principal Act-- (a) "in clause (b), for the words "fifteen clear days" the words "one month or where that party is Government, for three months" shall be substituted ; (b) in the Explanation, for the words "within the meaning of Section 8 and this section the words "within the meaning of sub-section (2) of Section 4, Section 8 and this section" shall be substituted.

18. Amendment Of Section 20 :-

In Section 20 of the principal Act-- (a) for the existing marginal heading the following shall be substituted, namely : "Application to court for making reference" ; (b) in sub-section (1), for the words "agreement be filed in court" the words "a reference be made according to the agreement" shall be substituted; (c) in sub-section (3), for the words "why the agreement should not be filed" the words "why a reference in accordance with the agreement should not be made" shall be substituted; (d) in sub-section (4)-- (i) the words "shall order the agreement to be filed and" shall be omitted ; (ii) at the end, the following explanation shall be inserted, namely : - - "Explanation--Where the arbitration agreement provides for reference to a person by name or designation, the fact that the arbitrator or the umpire so named or designated in an employee of, or is otherwise connected with, one of the parties, shall not by itself, be deemed to be a reason for not referring the matter to the arbitrator or the umpire so named or designated."

19. Amendment Of Section 34 :-

In Section 34 of the principal Act, at the end the following explanation shall be inserted, namely : "Explanation 1.-- Where the arbitration agreement provides for reference to a person by name or designation, the fact that the arbitrator or the umpire so named or designated is an employee of, or is otherwise connected with, one of the parties, shall not, by itself, be deemed to be a sufficient reason for not referring the matter in accordance with the arbitration agreement. Explanation 2.-- A mere application for time

to file a written statement or a mere contest to an interlocutory application for injunction, appointment Receiver or the like, shall not amount to taking any steps in the proceedings."

20. Amendment Of Section 37 :-

In Section 37 of the principal Act, for the words and figures "the Indian Limitation Act, 1908 (Act 9 of 1908)" wherever occurring, the words and figures" the Limitation Act, 1963 (Act 36 of 1963)" shall be substituted.

21. Amendment Of Section 38 :-

In Section 38 of the principal Act, for the words "fees demanded" where they occur for the second time, the following words shall be substituted, namely :-- "fees determined in accordance with any rules framed by the High Court, and in the absence of any such rule, or where such rules are not applicable, the-fees demanded."

22. Amendment Of Section 39 :-

In Section 39 of the principal Act, in sub-section (1), for the existing clause (iv), the following clause shall be substituted, namely : "(iv) under Section 20, making or refusing to make a reference",

23. Amendment Of Section 44 :-

In Section 44 of the principal Act, in subsection (1), the following clause shall be inserted, namely : "(aa) the fees and other charges payable to an arbitrator or an Umpire."

24. Amendment Of The First Schedule :-

In the First Schedule to the principal Act-- (a) in paragraph 2, for the words "not later than one month from the latest date of their respective appointments" the words "within one month from the latest date of their respective appointments or within such extended time as the parties to the reference agree to, and in the absence of such agreement as the court may allow" shall be substituted ; (b) in paragraph 3, for the words "or within such extended time as the court may allow", the words "or within such extended time as the parties to the reference agree to, and in the absence of such agreement, as the court may allow" shall be substituted ; (c) in paragraph 5, for the words "or within such extended time as the court may allow", the words "or within such extended time as the parties to the reference agree to, and in the absence of such agreement, as the court may allow shall be substituted ; (d) after paragraph 7, the following paragraph shall

be inserted, namely :-- "7-A. Where and in so far as an award is for the payment of money, the arbitrators or the umpire may, in the award, order interest at such rate as the arbitrators or umpire may deem reasonable to be paid on the principal sum awarded, from the date of the commencement of the arbitration, as defined in sub-section (3) of section 37, to the date of award, in addition to any interest awarded on such principal sum for any period prior to such commencement, with further interest at such rate not exceeding six per cent per annum as the arbitrators or umpire any deem reasonable on such principal sum from the date of the award to the date of payment or to such earlier date as the arbitrators or umpire may think fit, but in no case beyond the date of the decree to be passed on the award."

CHAPTER 4

AMENDMENT OF THE INDIAN CONTRACT ACT, 1872

25. Amendment Of Section 5 :-

In Section 5 of the Indian Contract Act, 1872, hereinafter in this Chapter referred to as the principal Act, at the end of the first paragraph, the following explanation shall be inserted, namely :-- "Explanation.-- Where an invitation to a proposal contains a condition that any proposal made in response to such invitation shall be kept open for a specified time and a proposal is thereupon made accepting such condition, such proposal may not be revoked within such time."

26. Amendment Of Section 55 :-

In Section 55 of the principal Act, in the third paragraph, for the words "unless at the time of such acceptance he gives notice to the promisor of his intention to do so", the words "where at the time of such acceptance he has waived his right to do so" shall be substituted ;

CHAPTER 5

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

27. Amendment Of Section 19 :-

For Section 19 of the Bengal, Agra and Assam Civil Courts Act, 1887, hereinafter in this Chapter referred to as the principal Act, the following section shall be substituted, namely :-- "19. (1) Save as aforesaid, and subject to the provisions of sub-section (2), the jurisdiction of a Munsif extends to all like suits of which the value does not exceed five thousand rupees. (2) The State Government may, on the recommendation of the High Court, 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 ten thousand rupees as may be specified in the notification : Provided that the State Government may, by notification in the official Gazette, delegate to the High Court its powers under this section."

28. Amendment Of Section 25 :-

In Section 25 of the principal Act, in subsection (1) as amended from time to time in its application to Uttar Pradesh,-- (a) for the words "one thousand rupees" and "five hundred rupees" the words "two thousand rupees" and "one thousand rupees" shall respectively be substituted ; (b) for the proviso, as substituted by the Uttar Pradesh Civil Laws Amendment Act, 1972 (U.P. Act 37 of 1972), the following proviso shall be substituted, namely :-- "Provided that in relation to suits of the nature referred to in the proviso to sub-section (3) of section 15 of the said Act the reference in this sub-section to two thousand rupees and one thousand rupees shall be construed respectively as references to five thousand rupees and two thousand rupees."

CHAPTER 6

AMENDMENT OF THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887

29. Amendment Of Section 15 :-

In Section 15 of the Provincial Small Cause Courts Act, 1887,-- (a) in sub-section (2), for the words "one thousand rupees", the words "two thousand rupees" shall be substituted : (b) in sub-section (3) and in the proviso thereto, for the words, "two thousand rupees" wherever they occur, the words "thousand rupees" shall be substituted.

CHAPTER 7

AMENDMENT OF THE TRANSFER OF PROPERTY ACT, 1882

30. Amendment Of Section 54 :-

In Section 54 of the Transfer of Property Act, 1882 hereinafter in this Chapter referred to as the principal Act,-- (a) in the second paragraph the words "of the value of one hundred rupees and upwards" shall be substituted ; (b) the third and fourth paragraphs shall be omitted ; (c) after the last paragraph, the following paragraph, shall be inserted, namely : "Such contract can be made only by a registered instrument."

31. Amendment Of Section 107 :-

In Section 107 of the principal Act-- (a) for the section paragraph, the following paragraph shall be substituted ; namely:-- "All other leases of immovable property may be made either by a registered instrument, or, by an agreement oral or written, accompanied by delivery of possession." (b) the third paragraph and the proviso shall be omitted.

CHAPTER 8

AMENDMENT OF THE REGISTRATION ACT, 1908

32. Amendment Of Section 17 :-

In Section 17 of the Registration Act, 1908, hereinafter in this Chapter referred to as the principal Act,-- (a) in sub- section (1)-- (i) in clause (b) the words "of the value of one hundred rupees and upwards" shall be omitted (ii) in clause (e), the words "of the value of one hundred rupees and upwards" shall be omitted ; (iii) after clause (e), the following clause shall be inserted, namely:-- (I) any other instrument required by any law for the time being in force, to be registered." (iv) the proviso shall be omitted ; (b) in sub-section (2)-- (i) in clause (v), after the words "any document" occurring in the beginning, the words "other than contract for sale" shall be inserted, and the words of the value of one hundred rupees and upwards" shall be omitted ; (ii) the Explanation shall be omitted ; (c) in sub-section (3), after the words "by a will" the words "and instrument recording adoption of a child executed after the first day of January, 1977" shall be inserted.

33. Amendment Of Section 18 :-

In Section 18 of the principal Act, clauses (a), (b) and (cc) shall be omitted ;

34. Amendment Of Section 49 :-

In Section 49 of the principal Act,-- (a) in the first paragraph after the words "or by any provision of the Transfer of Property Act, 1882, (Act 44 of 1882)" the words "or of any other law for the time being in force" shall be inserted ; (b) for clause (b), the following clause shall be substituted, namely :-- "(b) confer any power or create any right or relationship, or" ; (c) in clause (c), after the words "such power" the words " or creating such right or relationship" shall be inserted; (d) in the proviso, the words "as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877, or" shall be omitted.

CHAPTER 9

AMENDMENT OF THE HINDU ADOPTION AND MAINTENANCE ACT, 1956

35. Amendment Of Section 16 :-

In the Hindu Adoption and Maintenance Act, 1956, Section 16 shall be re-numbered as sub-section (1) thereof, and after subsection (1) as so re-numbered, the following sub-section shall be inserted, namely :-- "(2) In case of an adoption made on or after the first day of January, 1977 no Court in Uttar Pradesh shall accept any evidence in proof of the giving and taking of the child in adoption, except a document recording an : adoption, made and signed by the person giving and the person taking the child in adoption, and registered under any law for the time being in force : Provided that secondary evidence of such document shall be admissible in the circumstances and the manner laid down in the Indian Evidence Act, 1872 (Act 1 of 1872)."

CHAPTER 10

TRANSITORY PROVISIONS

36. Disposal Of Pending Civil Cases :-

A civil suit, or proceeding to which the Code of Civil Procedure, 1908 applies, pending on the date of commencement of this Act shall be disposed of in accordance with the provisions of the said Code as amended by this Act.

37. Disposal Of Pending Application Under Section 20 Of Arbitration Act, 10 Of 1940 :-

An application under Section 20 of the Arbitration Act, 1940 pending on the date of the commencement of this Act shall be disposed of in accordance with the provisions of that section as amended by this Act.

38. Effect Of Extension Of Time In Act 10 Of 1940 :-

Where a period prescribed in the Arbitration Act, 1940 has been extended by virtue of any amendment made in its provisions by this Act and the said period had not expired before the date of commencement of this Act, then the thing required to be done within such period may be done within the period so extended.