



## The Bombay City Civil Court Act, 1948

Act 40 of 1948

Keyword(s):

City Court, High Court, Institution Fee, Small Cause Court, Special Law

Amendment appended: 25 of 2012

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THE BOMBAY CITY CIVIL COURT ACT, 1948.

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BOMBAY ACT No. XL OF 1948<sup>1</sup>

[THE BOMBAY CITY CIVIL COURT ACT, 1948]

[10th May 1948]

(Assented to by the Governor General)

Amended by Bom. 26 of 1950.

Adapted and modified by the Adaptation of Laws Order, 1950.

Amended by Bom. 9 of 1951.

" " " 32 of 1954.

" " Mah. 15 of 1968.

" " " 29 of 1968.

" " " 46 of 1977. (1-1-1978)\*†

" " " 15 of 1979. (1-7-1979)\*

## An Act to establish an additional Civil Court for Greater Bombay

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay; It is hereby enacted as follows:—

1. (1) This Act may be called the Bombay City Civil Court Act, 1948.

Short title  
and commen-  
cement.

(2) It shall come into force on such date<sup>2</sup> as the <sup>3</sup>[State] Government may, by notification in the *Official Gazette*, appoint in this behalf.

2. In this Act unless there is anything repugnant in the subject or context,— Definitions.

(1) "City Court" means the Court established under section 3;

(2) "High Court" means the High Court of Judicature at Bombay;

(3) "Institution fee" means the court-fee payable in respect of the plaint or application by which a suit or proceeding is instituted;

(4) "Small Cause Court" means the Court of Small Causes of Bombay;

(5) "Special law" means a law applicable to a particular subject.

3. The <sup>3</sup>[State] Government may by notification in the *Official Gazette*, establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding <sup>4</sup>[fifty thousand rupees] in value, and arising within the Greater Bombay, except suits or proceedings which are cognizable—

Constitution  
of City  
Court.

(a) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial Jurisdiction, or

<sup>1</sup> For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1948, Part V, page 7.

<sup>2</sup> 16th August 1948 [vide G.N., H.D., No. 2346/5-(7), dated 14th August 1948].

<sup>3</sup> The word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

<sup>4</sup> These words were substituted for the words "ten thousand rupees" by Mah. 46 of 1977, s. 2.

\* This indicates the date of commencement of the Act.

† Section 19 of Mah. 46 of 1977 reads as follows:—

"19. The amendments made by this Act in any of the Acts aforesaid shall not have any effect Savings. in respect of and apply to any suits, appeals or other proceedings of a civil nature filed and pending before any Court on the date of commencement of this Act, and such proceedings shall be continued and disposed of by that Court, as if this Act had not been passed; and any appeal, revision application or other proceedings of a civil nature in respect of any decree or order passed by any Court before the date of commencement of this Act shall be filed before and heard and disposed of by the Court competent to entertain such proceedings before such commencement, as if this Act had not been passed."

- (b) by the High Court for the relief of insolvent debtors, or
- (c) by the High Court under any special law other than the Letters Patent; or
- (d) by the Small Cause Court.

Provided that the [State] Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings [which are cognizable by the High Court as a court having testamentary or intestate jurisdiction or for the relief of insolvent debtors.]

4. [Power of [State] Government to enhance jurisdiction of City Court.] Deleted by Mah. 46 of 1977, s. 3.

Power of High Court to transfer matrimonial cases to City Court.

3[4A. (1) Notwithstanding anything contained in any law for the time being in force, the High Court may at any stage transfer to the City Court any suit or proceeding which is cognizable by it as a Court having matrimonial jurisdiction and instituted in such court.

(2) Any suit or proceeding so transferred shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in that Court.

(3) In any such suit or proceeding institution fees shall be paid, credit being given to any court fee levied in the High Court and cost incurred in the High Court till the date of transfer shall be assessed by the City Court in such manner as the [State] Government may, after consultation with the High Court, determine by rules.]

Subordination to and the superintendence of the High Court and of the Code of Civil Procedure, 1908.

5. The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908.

V of 1908.

Appointment of Judges.

6. The [State] Government may, by notification in the Official Gazette, appoint as many persons as it thinks fit to be Judges of the City Court.

Powers of Judges when City Court consists of more than one Judge.

7. When the City Court consists of more than one Judge—  
(a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(b) the [State] Government may appoint any one of the Judges to be the principal Judge and any two other Judges to be called the additional principal Judge;

(c) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof;

(d) any additional principal Judge may exercise all or any of the powers conferred on the principal Judge by this Act or any other law for the time being in force, as the High Court may, from time to time, direct.]

<sup>1</sup> This word "State" was substituted for the word "Provincial" by the Adaptation of Laws Order 1950.  
<sup>2</sup> This portion was substituted for the original by Bom. 26 of 1950, s. 2.  
<sup>3</sup> This section was inserted, *ibid.*, s. 3.  
<sup>4</sup> The word "State" was substituted for the word "Provincial" by Bom. 2 of 1951, s. 3, Second Schedule.

<sup>5</sup> These words were substituted for the words "and any other Judge to be the additional principal Judge" by Mah. 15 of 1979, s. 2(a).  
<sup>6</sup> Clause (d) was added by Mah. 29 of 1968, s. 2 (b).  
<sup>7</sup> These words were substituted for the words "the additional principal Judge" by Mah. 15 of 1979, s. 2(b).

8. (1) The <sup>1</sup>[State] Government may appoint an officer to be called the Registrar <sup>7</sup>[Registrars.] of the City Court. He shall be the chief ministerial officer of the Court; and shall exercise such powers and discharge such duties of a ministerial nature as the Judge of the City Court, or when the court consists of more than one Judge, the principal Judge may, from time to time, by rules, direct. <sup>2</sup>[The State Government may also appoint <sup>3</sup>two officers to be called the additional Registrars] of the City Court. <sup>4</sup>[Any additional Registrar] shall exercise all or any of the powers and discharge all or any of the duties of the Registrar as the principal Judge may, from time to time, by rules, direct.]

(2) The <sup>1</sup>[State] Government may, with the previous approval of the High Court, invest the Registrar and <sup>5</sup>[any additional Registrar] <sup>6</sup>[with all or any of the following powers of the Judge of the City Court, namely:—

(a) the power to hear and dispose of all applications for permission to sue or defend as paupers or for dispaupering plaintiffs or defendants permitted to sue or defend as paupers;

<sup>1</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

<sup>2</sup> This portion was added by Mah. 29 of 1968, s. 3(a).

<sup>3</sup> These words were substituted for the words "an officer to be called the additional Registrar" by Mah. 15 of 1979, s. 3(a) (i).

<sup>4</sup> The words "Any additional Registrar" were substituted for the words "The additional Registrar", *ibid.*, s. 3 (a) (ii).

<sup>5</sup> The words "any additional Registrar" were substituted for the words "the additional Registrar", *ibid.*, s. 3(b).

<sup>6</sup> This portion was substituted for the words "with any powers of the Judge of the City Court other than powers of trying suits and proceedings" by Mah. 14 of 1968, s. 2.

<sup>7</sup> This word was substituted for the word "Registrar" by Mah. 29 of 1968, s. 3(c).

V of  
1908.

(b) the power to hear and dispose of all interlocutory applications or matters necessary for the progress of any suit or other proceedings;

(c) the power to hear and dispose of all applications for execution of decrees (but in the case of any application referred to in rule 22 of Order XXI in the First Schedule to the Code of Civil Procedure, 1908, only when the person to whom the notice thereunder is served does not appear or offer any objection to the execution);

(d) the other powers of the said Judge, not being powers of trying suits and proceedings.]

9. Save as otherwise provided in this Act all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Questions arising in suits, etc., under Act to be dealt with according to law administered by High Court.

10. (1) The High Court shall, from time to time, with the sanction of the [State] Government prescribe and regulate the fees to be taken for any process issued by the City Court or by any officer of such court.

Fees for process.

(2) Table of the fees so prescribed shall be published in the *Official Gazette*.

11. [*Repayment of institution fee under certain circumstances*] Deleted by Mah. 15 of 1968, s. 3.

12. Notwithstanding anything contained in any law, the High Court shall not have jurisdiction to try suits and proceedings cognizable by the City Court:

High Court jurisdiction barred except in certain cases.

Provided that the High Court may, for any special reason, and at any stage remove for trial by itself any suit or proceeding from the City Court.

13. If in any suit instituted in the High Court the Judge who tries it is of the opinion that it ought to have been instituted in the City Court and in such suit—

Costs to be disallowed when plaintiff sues in High Court instead of in City Court.

(a) if the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client; or

(b) if the plaintiff obtains a decree for any matter of an amount or value less than the maximum amount of the pecuniary jurisdiction of the City Court, no costs shall be allowed to the plaintiff.

14. When any suit or proceeding is removed for trial to the High Court from the City Court under section 12—

Allowance for fees paid in City Court in cases removed to High Court.

(a) it shall be heard and disposed of by the High Court in the exercise of its original civil jurisdiction and the said Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in such Court;

(b) court fee on the scale for the time being in force in the High Court as a court of original civil jurisdiction shall be payable in that court in respect of the suit or proceeding therein :

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the [State] Government, credit shall be given for the institution fee already paid in the City Court.

<sup>1</sup> This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Appeals and  
limitation.

15. (1) An appeal shall lie to the High Court from—

(a) every decree passed by the Judge of the City Court, and

(b) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908.

(2) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order:

[Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period.]

Seal of City  
Court.

16. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the [State] Government.

Holidays and  
vacations.

17. (1) The Judge of the City Court, or when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(2) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

Transfer of  
suits pending  
in High  
Court.

18. (1) All suits and proceedings cognizable by the City Court and pending in the High Court, in which issues have not been settled or evidence has not been recorded on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in that Court.

(2) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the [State] Government may, after consultation with the High Court, determine by rules.

<sup>1</sup> This proviso was inserted by Bom. 32 of 1954, s. 3.

<sup>2</sup> This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.



# महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ४, अंक ३३]

गुरुवार, ऑगस्ट २३, २०१२/भाद्र १, शके १९३४

[पृष्ठे ३, किंमत : रुपये १८.००

असाधारण क्रमांक ५५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Bombay City Civil Court (Amendment) Act, 2012 (Mah. Act No. XXV of 2012), 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.

## MAHARASHTRA ACT No. XXV OF 2012.

*(First published, after having received the assent of the President, in the "Maharashtra Government Gazette", on the 23rd August 2012).*

An Act further to amend the Bombay City Civil Court Act, 1948.

Bom. XL of 1948. WHEREAS it is expedient further to amend the Bombay City Civil Court Act, 1948, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay City Civil Court (Amendment) Act, 2012.

Short title and commencement.

(१)



(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of the Act.

Amendment of section 2 of Bom. XL of 1948. 2. In section 2 of the Bombay City Civil Court Act, 1948 (hereinafter referred to as "the principal Act"), after clause (3), the following clause shall be inserted, namely :—

Bom.  
XL of  
1948.

"(3A) "intellectual property matters" means the suits and civil proceedings relating to trade marks, copyright, patents, designs and geographical indications, plant varieties and the rights of farmers and plant breeders and Lay-out design (Topographies) of Integrated Circuits ;".

Amendment of section 3 of Bom. XL of 1948.

3. In section 3 of the principal Act,—

(a) after the words "proceedings of a civil nature" the words ", not exceeding rupees one crore in value," shall be inserted ;

(b) after clause (c), the following clauses shall be inserted, namely :—

(c-1) by the High Court under the Parsi Marriage and Divorce Act, 1936 ; or

3 of  
1936.

(c-2) by the High Court in respect of intellectual property matters ; or ;

(c) for the existing proviso, the following proviso shall be substituted, namely :—

" Provided that, the State Government may, from time to time, after consultation with the High Court, by notification in the *Official Gazette*, enhance the pecuniary jurisdiction of the City Court and correspondingly alter the pecuniary jurisdiction of the High Court. "

Amendment of section 4A of Bom. XL of 1948.

4. In section 4A of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Notwithstanding anything contained in section 9 of the Bombay City Civil Court and the Bombay Court of Small Causes (Enhancement of Pecuniary Jurisdiction and Amendment) Act, 1986, all suits and proceedings cognizable by the City Court under section 3; and pending in the High Court on the date of coming into force of section 4 of the

Mah.  
XV of  
1987.

Mah.  
XXV of  
2012.

Bombay City Civil Court (Amendment) Act, 2012, not being suits or proceedings falling under clauses (a) to (d) of section 3, shall stand transferred to the City Court.”;

(b) for the marginal note, the following marginal note shall be substituted, namely :—

“Transfer of suits and proceedings cognizable under section 3, to City Court.”.

5. After section 4A of the principal Act, the following section shall be inserted, namely :—

Insertion of section 4B in Bom. XL of 1948.

“4B. The High Court may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.”.

Power to make rules.

Mah.  
XXV of  
2012.

6. After the date of coming into force of section 4 of the Bombay City Civil Court (Amendment) Act, 2012, in all the suits and proceedings which are liable to be transferred to the City Court under sub-section (1) of section 4A, in order to obviate the need for service of fresh notice upon the parties, the High Court shall list the matters on its Board and notify the date on which the concerned matter shall be listed before the City Court.

Transitory provisions.

7. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, by an order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of the principal Act, as amended by this Act, as may appear to it to be necessary for removing the difficulty :

Power to remove difficulties.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.