



The Code of Civil Procedure (Maharashtra Amendment) Act, 1977

Act 65 of 1977

Keyword(s):

Central Act Amendment, The Code of Civil Procedure Act, 1908, Civil procedure

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**THE CODE OF CIVIL PROCEDURE (MAHARASHTRA
AMENDMENT) ACT, 1977**

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MAHARASHTRA ACT No. LXV OF 1977.¹

[THE CODE OF CIVIL PROCEDURE (MAHARASHTRA AMENDMENT) ACT, 1977.]

[19th December 1977]

An Act further to amend the Code of Civil Procedure, 1908, in its application to the State of Maharashtra.

WHEREAS extensive amendments have been made in the Code of Civil Procedure, 1908, by the Code of Civil Procedure (Amendment) Act, 1976, enacted by Parliament;

AND WHEREAS section 97 of this Amendment Act of 1976 provides *inter alia* that any amendments made in the said Code by a State Legislature before the commencement of that Act shall, except in so far as they are consistent with the said Code as amended by that Act, stand repealed;

AND WHEREAS certain amendments have been made in the said Code in its application to the State of Maharashtra, or a part thereof, by the State Legislature;

AND WHEREAS it is expedient to delete from the said Code in its application to this State the amendments made by the State Legislature which have become inoperative or redundant and to leave no room for any doubt, to re-enact such of them which may be inconsistent with the said Code as amended by the Amendment Act of 1976 but which are considered necessary in this State;

AND WHEREAS it is therefore expedient further to amend the said Code in its application to this State for the purposes hereinafter appearing; It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Code of Civil Procedure (Maharashtra Amendment) Act, 1977.

2. The Code of Civil Procedure (Maharashtra Amendment) Act, 1970 is hereby repealed; and section 9A inserted by that Act in the Code of Civil Procedure, 1908, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act") shall also stand repealed, without prejudice to the validity of anything previously done or omitted to be done under that section.

3. After section 9 of the principal Act, the following section shall be inserted, namely:—

"9A. (1) Notwithstanding anything contained in this Code or any other law for the time being in force, if, at the hearing of any application for granting or setting aside an order granting any interim relief, whether by way of stay, injunction, appointment of a receiver or otherwise, made in any suit, an objection to the jurisdiction of the Court to entertain such suit is taken by any of the parties to the suit, the Court shall proceed to determine at the hearing of such application the issue as to the jurisdiction as a preliminary issue before granting or setting aside the order granting the interim relief. Any such application shall be heard and disposed of by the Court as expeditiously as possible and shall not in any case be adjourned to the hearing of the suit.

(2) Notwithstanding anything contained in sub-section (1), at the hearing of any such application, the Court may grant such interim relief as it may consider necessary, pending determination by it of the preliminary issue as to the jurisdiction."

¹ For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1977, Part V Extraordinary, pp. 350-51.

Repeal of Bom. LX of 1948. 4. The Code of Civil Procedure (Bombay Amendment) Act, 1948, is hereby repealed; and the amendments made by the said Act in the principal Act shall also stand repealed, without prejudice to the validity of anything previously done or omitted to be done under the said amendments. Bom. LX of 1948.

Repeal of Hyd. XI of 1953 and Mah. VI of 1965 and Hyd. XVIII of 1953. 5. The Code of Civil Procedure (Hyderabad Amendment) Act, 1953 and the Code of Civil Procedure (Extension of Hyderabad Amendment) Act, 1964, and the Code of Civil Procedure (Hyderabad Second Amendment) Act, 1953 are hereby repealed; and the amendments made by the two Hyderabad Acts in the principal Act shall also stand repealed, without prejudice to the validity of anything previously done or omitted to be done under the said amendments. Hyd. XI of 1953. Mah. VI of 1965. Hyd. XVIII of 1953.

Amendment of section 60 of Act V of 1908.

6. In section 60 of the principal Act, in sub-section (1), in the proviso—

(a) after clause (g), the following clause shall be inserted, namely:—

“(gg) in the Hyderabad area of the State of Maharashtra, any pension granted or continued by the Central Government or the Government of the former State of Hyderabad or any other State Government, on account of past services or present infirmities or as a compassionate allowance, which is not covered by clause (g);”

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

“(kbb) the amounts payable under the policies issued in pursuance of the Rules for the Hyderabad State Life Insurance and Provident Fund, which are not covered under clause (ka) or (kb).

Explanation.—Where any sum payable to a Government servant is exempt from attachment under this clause or clause (gg), such sum shall remain exempt from attachment, notwithstanding the fact that owing to the death of the Government servant the sum is payable to some other person;