



The Provincial Small Cause Courts (Bombay Amendment) Act, 1930

Act 6 of 1930

Keyword(s):

Central Act Amendment, The Provincial Small Cause Courts Act, 1887

Amendments appended: 9 of 1932, 57 of 1950, 87 of 1958

DISCLAIMER: This document is being furnished to you for your information by PRS Legislative Research (PRS). The contents of this document have been obtained from sources PRS believes to be reliable. These contents have not been independently verified, and PRS makes no representation or warranty as to the accuracy, completeness or correctness. In some cases the Principal Act and/or Amendment Act may not be available. Principal Acts may or may not include subsequent amendments. For authoritative text, please contact the relevant state department concerned or refer to the latest government publication or the gazette notification. Any person using this material should take their own professional and legal advice before acting on any information contained in this document. PRS or any persons connected with it do not accept any liability arising from the use of this document. PRS or any persons connected with it shall not be in any way responsible for any loss, damage, or distress to any person on account of any action taken or not taken on the basis of this document.

**THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT)
ACT, 1930.**

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 12 of Act IX of 1887.
3. Amendment of the Second Schedule to Act IX of 1887.

BOMBAY ACT No. VI OF 1930.¹

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1930.]

[9th May 1930]

An Act further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay.

IX of 1887. WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Provincial Small Cause Courts (Bombay Amendment) Act, 1930. Short title.

IX of 1887. 2. In sub-section (3) of section 12 of the Provincial Small Cause Courts Act, 1887, hereinafter called "the said Act" for the word "twenty" the word "fifty" shall be substituted. Amendment of section 12 of Act IX of 1887.

3. In the Second Schedule to the said Act the following amendments shall be made, namely:— Amendment of the Second Schedule to Act IX of 1887.

(1) to clause (4) after the words "such property" the following shall be added, namely:—

"but not including a suit for ejectment where—

(a) The property has been let under a lease made by a written instrument, and

(b) The Court of Small Causes would be competent to take cognizance of a suit for the rent of the property, and

(c) The only substantial issue arising for decision is as to whether the lease has been determined by efflux of the time limited thereby or has been determined by a notice in accordance with clause (h) of section 111 of the Transfer of Property Act, 1882";

IV of 1882.

(2) in clause (18) for the words "relating to a trust" the words "to enforce a trust" shall be substituted;

(3) to clause (20) after the words "Code of Civil Procedure" the words "in respect of any immovable property" shall be added;

(4) to clause (21) after the word "attachment" the words "of any immovable property" and after the word "transfer" the words "of any such property" shall, respectively, be added; and

(5) in clause (31) for the words "and a suit for the profits on immovable property belonging to the Plaintiff which have been wrongfully received by the Defendant" the words "but not including a suit for mesne profits" shall be substituted.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1930, Part V, pp. 35-38; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1930, Vol. XXVIII.

² Central Acts.

BOMBAY ACT No. IX OF 1932.¹

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT)
ACT, 1932.]

[10th November 1932]

An Act further to amend the Provincial Small Cause Courts Act, 1887,
in its application to the Presidency of Bombay.

IX of 1887. WHEREAS it is expedient further to amend the ²Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay; It is hereby enacted as follows:—

1. This Act may be called the Provincial Small Cause Courts (Bombay Amend- Short title.
ment) Act, 1932.

2. In sub-clause (a) of clause 4 in the Second Schedule to the said Act, between the words "a written instrument" and "and" the following words shall be inserted ^{Amendment of the Second Schedule to Act IX of 1887.} namely:—

"or orally".

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1931, Pt. V., pp.243-244; and for Proceedings in Council, see *Bombay Legislative Council Debates*, 1931, Vol. XXXII, 1932, Vol. XXXV.

² See Central Acts.

BOMBAY ACT No. LVII OF 1950.¹

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1950.]

[27th December 1950]

An Act to amend the Provincial Small Cause Courts Act, 1887, in its application to the State of Bombay.

IX of 1887. WHEREAS it is expedient to amend the Provincial Small Cause Courts Act, 1887, in its application to the State of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. (1) This Act may be called the Provincial Small Cause Courts (Bombay Amendment) Act, 1950. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

IX of 1887. 2. In section 15 of the Provincial Small Cause Courts Act, 1887, hereinafter referred to as the said Act, in sub-section (3), for the words "one thousand rupees" the words "two thousand rupees" shall be substituted. Amendment of section 15 of Act IX of 1887.

3. In section 28 of the said Act, in sub-section (2), for the words "five thousand rupees" the words "ten thousand rupees" shall be substituted. Amendment of section 28 of Act IX of 1887.

¹ For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1950, Pt. V, p. 390.

104

1945

1946

1947

1948

1949

1950

1951

1952

1953

1954

1955

1956

**THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY UNIFICATION
AND AMENDMENT) ACT, 1958.**

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extension of certain Acts amending Act IX of 1887 to whole State.
3. Definition.
4. Amendment of section 1 of Act IX of 1887.
5. Amendment of section 12 of Act IX of 1887.
6. Amendment of section 14 of Act IX of 1887.
7. Insertion of new chapter IV A of in Act IX of 1887.
8. Insertion of new Schedule in Act IX of 1887.
9. Repeal and Savings.

SCHEDULE.

BOMBAY ACT No. LXXXVII OF 1958¹.

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY UNIFICATION AND
AMENDMENT) ACT, 1958.]

[15th October 1958]

An Act to provide for uniformity in the provisions of the Provincial Small Cause Courts Act, 1887, in its application to the State of Bombay, and further to amend the said Act.

IX of 1887. WHEREAS it is expedient to provide for uniformity in the provisions of the Provincial Small Cause Courts Act, 1887, in its application to the State of Bombay, and for that purpose to extend to the rest of the State of Bombay that Act as in force in the area of the pre-Reorganisation State of Bombay, excluding the transferred territories and to repeal the Hyderabad Small Causes Courts Act, and the Provincial Small Cause Courts Act, 1887, as modified and applied by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948 ;

Hyd.
VI of
1930
Fasli.
IX of
1887.
Sau.
Ord.
XXV
of
1948.

IX of 1887. AND WHEREAS it is also expedient further to amend the Provincial Small Cause Courts Act, 1887, in its application to the State of Bombay, for the purposes hereinafter appearing ;

It is hereby enacted in the Ninth Year of the Republic of India as follows :—

1. This Act may be called the Provincial Small Cause Courts (Bombay Unification and Amendment) Act, 1958. Short title.

IX of 1887. 2. (1) The Provincial Small Cause Courts Act, 1887, as amended by the Acts mentioned in the Schedule is hereby also extended to, and shall be in force in, the Hyderabad and Saurashtra areas of the State of Bombay. Extension of certain Acts amending Act IX of 1887 to whole State.

IX of 1887. (2) The Acts mentioned in the Schedule which amend the Provincial Small Cause Courts Act, 1887, in its application to the area of the pre-Reorganisation State of Bombay excluding the transferred territories, are hereby extended to, and shall be in force in, the Vidarbha region and the Kutch area of the State of Bombay to which they did not extend immediately before the commencement of this Act ; and the Provincial Small Cause Courts Act, 1887, shall, from the commencement of this Act, be deemed to be amended accordingly also in that part of the State.

IX of 1887. 3 In the provisions appearing hereinafter in this Act, the expression " principal Act " means the Provincial Small Cause Courts Act, 1887, in its application to the entire State of Bombay. Definition.

¹ For Statement of Objects and Reasons see *Bombay Government Gazette*, 1958, Part V, pp. 612 and 613.

Amendment
of section 1
of Act IX of
1887.

4. In section 1 of the principal Act,—

(a) to sub-section (2), the following proviso shall be added, namely :—

“ Provided that on the commencement of the Provincial Small Cause Courts (Bombay Unification and Amendment) Act, 1958, it shall also extend to the Saurashtra and Hyderabad areas of the State of Bombay.”;

(b) to sub-section (3), the following proviso shall be added, namely :—

“ Provided that, in the Saurashtra and Hyderabad areas of the State of Bombay, it shall come into force on the commencement of the Provincial Small Cause Courts (Bombay Unification and Amendment) Act, 1958. ”

Bom.
LXX-
XVII
of
1958.

Bom.
LXX-
XVII
of
1958.

Amendment
of section 12
of Act IX of
1887.

5. In sub-section (3) of section 12 of the principal Act, for the word “ fifty ” the words “ one hundred ” shall be substituted.

Amendment
of section 14
of Act IX of
1887.

6. In sub-section (1) of section 14 of the principal Act, for the words “ The ministerial officers ” the words “ The clerks, bailiffs, appraisers and other ministerial officers ” shall be substituted.

Insertion of
new Chapter
IV-A in Act
IX of 1887.

7. In the principal Act, after Chapter IV, the following new Chapter shall be inserted, namely :—

“ CHAPTER IV-A.

DISTRESSES.

Extent of
Chapter IV-A
and its
application.

27A. The provisions of this Chapter extend to the areas within the local limits of the jurisdiction of a Court of Small Causes :

Provided that nothing in this Chapter shall apply—

(1) to a judge or court, other than a Small Cause Court, invested with the jurisdiction of a Court of Small Causes ;

(2) to any rent due to Government ;

(3) to any rent which has been due for more than twelve months before the date of the application made under section 27B ;

(4) to any rent which is in arrears for a period less than three months.

Application
for distress
warrant

27B. (1) Any person claiming to be entitled to arrears of rent of any house or premises to which this Chapter extends situate in the local limits of the jurisdiction of a Court of Small Causes or his duly constituted attorney, may apply to such Court for issuing a warrant under section 27C :

Provided that before making an application such person shall give 15 days' notice to the tenant making a demand of the said arrears.

(2) The application made under sub-section (1) shall be supported by an affidavit or affirmation in Form A in the Third Schedule.

Issue of
distress
warrant.

27C. The Court of Small Causes may thereupon direct the issue of a warrant in Form B in the Third Schedule returnable within six days, addressed to any one of the bailiffs appointed for the purpose :

Provided that the Court may, on personal examination of the person applying for such warrant, decline to issue the same.

Time for
distress.

27D. Every distress under this Chapter shall be made after sunrise and before sunset, and not at any other time.

27E. (1) The bailiff directed to make the distress may force open any stable, outhouse or other building and may also enter any dwelling-house the outer door of which may be open and may break open the door of any room in such dwelling-house for the purpose of seizing property liable to be seized under this Chapter. What places
bailiff may
force open.

(2) Where a room in a dwelling house is in the actual occupancy of a woman, who according to custom, does not appear in public, the bailiff shall give notice to such woman that she is at liberty to withdraw ; and, after allowing reasonable time for her to withdraw and giving her reasonable facility for withdrawing, he may enter such room for the purpose of seizing the property, using at the same time every precaution consistent with these provisions, to prevent its clandestine removal.

27F. In pursuance of a warrant issued under section 27C, the bailiff shall seize the moveable property found in or upon the house or premises mentioned in the warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor) or such part thereof as may, in the bailiff's judgment, be sufficient to cover the amount of the said rent, together with the costs of the said distress : Property
which may be
seized.

Provided that the bailiff shall not seize—

- (a) things in actual use ; or
- (b) the necessary wearing apparel, cooking vessels, beds and bedding of the debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman ; or
- (c) tools of artisans, and, where the debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such, and such portion of agricultural produce or of any class of agricultural produce as may have been declared to be free from liability under the provisions of the next following section ; or
- (d) books of account ; or
- (e) goods in the custody of the law.

27G. The State Government may, by general or special order published in the *Official Gazette*, declare that such portion of agricultural produce or of any class of agricultural produce, as may appear to the State Government to be necessary for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the debtor and his family, shall, in the case of all agriculturists or any class of agriculturists, be exempted from liability to seizure in pursuance of a warrant issued under section 27C. Partial
exemption of
agricultural
produce.

27H. The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent. Impounding
distress.

27I. (1) On seizing any property under section 27F, the bailiff shall make an inventory of such property and shall give a notice in writing in Form C in the Third Schedule to the debtor, or to any other person upon his behalf in or upon the said house or premises. Inventory.
Notice of
intended
appraisement
and sale.

(2) The bailiff shall, as soon as may be, file in the Court of Small Causes copies of the said inventory made, and notice given, under sub-section (1).

Application
to discharge
or suspend
warrant.

27J. (1) The debtor or any other person alleging himself to be the owner of any property seized under this Chapter, or the duly constituted attorney of such debtor or other person, may, at any time within fifteen days from such seizure, apply to the Court of Small Causes to discharge or suspend the warrant, or to release a distrained article, and the Court may discharge or suspend such warrant or release such article accordingly upon such terms as it thinks just and may give reasonable time to the debtor to pay the rent due from him :

Provided that where the Court is satisfied that there is sufficient cause for extending the period within which an application may be made under this sub-section, it may extend the period to such extent as it may consider necessary.

(2) Upon an application made under sub-section (1), the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Court, and shall be paid as it directs.

Claim to
goods
distrained
made by a
stranger.

27K. (1) If any claim is made to, or in respect of, any property seized under this Chapter, or in respect of the proceeds or value thereof, by any person not being the debtor, the Court of Small Causes upon the application of the bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

(2) On issuing a summons under sub-section (1), any suit which may have been brought in any other Civil Court in respect of such claim shall be stayed, and such other Court on proof of the issue of such summons and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

(3) The Court of Small Causes shall adjudicate upon such claim as is referred to in sub-section (2) and make such order between the parties in respect thereof and of the costs of the proceedings as it thinks fit ; and such order shall be enforced as if it were an order made in a suit brought in such Court.

(4) The procedure in a Court of Small Causes in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Court.

Power to
award
compensation
to debtor or
claimant.

27L. (1) In any case under section 27J or section 27K, the Court of Small Causes may award such compensation by way of damages to the applicant or claimant, as the case may be, as the Court thinks fit and may for that purpose make any inquiry it thinks necessary.

(2) The order of the Court awarding or refusing compensation under sub-section (1) shall bar any suit for the recovery of compensation for any damage caused by the distress.

Power to
transfer to
District
Court cases
where subject
matter in
dispute
exceeds the
pecuniary
jurisdiction
of Court
of Small
Causes.

27M. (1) In any case under section 27J or section 27K, if the value of the subject-matter in dispute exceeds the limits of the pecuniary jurisdiction of the Court of Small Causes, the applicant or claimant may apply to the District Court to transfer the case to itself, and the District Court, on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order passed in the case by the Court of Small Causes and may make such order therein as the District Court thinks fit.

(2) Every application under sub-section (1) shall be made within seven days from the date of the seizure of the subject-matter in dispute.

(3) In granting applications under sub-section (1), the District Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit.

(4) The procedure in cases transferred under this section shall conform, as far as may be, to the procedure in suits before the District Court in the exercise of its original Civil jurisdiction ; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction. Every such order awarding or refusing compensation shall bar any suit for the recovery of compensation for any damage caused by the distress which gave rise to the case wherein such order was made.

27N. (1) In default of any order to the contrary by the Court of Small Causes or by the District Court, the Nazir of the Court appointed for the purpose may, at the expiration of fifteen days from a seizure of property under this Chapter, or, as the case may be, of the extended period under the proviso to sub-section (1) of section 27J, appraise the property so seized, and give the debtor notice in writing in Form D of the Third Schedule. Appraisal and notice of sale.

(2) The Nazir shall file in the Court of Small Causes a copy of every notice given under sub-section (1).

27O. In default of any such order to the contrary, the distrained property shall be sold by an officer of the Court on the day mentioned in the notice given under section 27N and the officer aforesaid shall, on realising the proceeds, pay over the amount thereof to the Court ; and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt ; and the surplus, if any, shall be returned to the debtor : Application of proceeds.

Provided that when the property seized is subject to speedy and natural decay, it may, under special order of the Court, be sold at any time after it is seized :

Provided further that the debtor may direct that the sale shall take place in other manner, first giving security for any extra costs thereby occasioned.

27P. No costs of any distress under this Chapter shall be taken or demanded except those mentioned in Form E of the Third Schedule. Costs of distresses.

27Q. The Court of Small Causes shall cause to be kept a book in which all sums received as costs upon distresses made under this Chapter, and all sums paid as remuneration to the bailiffs, and all contingent charges incurred in respect of such distresses, shall be duly entered. It shall also cause to be entered in the book all sums realised by sale of the property distrained and paid over to landlords under the provisions of this Chapter. Account of costs and proceeds.

27R. No distress shall be levied for arrears of rent except under the provisions of this Chapter ; and any person, except a bailiff, a Nazir or an officer of the Court, levying or attempting to levy any such distress shall, on conviction, be punished with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to three months, in addition to any other liability he may have incurred by his proceedings." Bar of distresses except under this Chapter, and penalty for making illegal distresses.

Insertion of
new Schedule
in Act IX
of 1887.

8. After the Second Schedule to the principal Act, the following Schedule shall
be inserted, namely :—

“THE THIRD SCHEDULE.

FORM A.

(See section 27B.)

In the Court of Small Causes of

A. B. (Plaintiff);

versus

C. D. (Defendant).

A. B., of, in the
town of maketh oath (or affirms)
and saith that C. D. of
is justly indebted to in the sum
of Rs. for arrears of rent of the house
and premises No. situated
at in the
town of/village
due for months, to wit from.....
to, at the rate of Rs. per mensem.

Sworn (or affirmed) before me the
day of 195

Judge of the Court of Small Cause

of

FORM B.

(See section 27-C.)

In the Court of Small Causes of

FORM OF WARRANT.

I hereby direct you to distrain the moveable property of C. D., on the house and premises situated at No., in the town/village of for the sum of Rupees, and the costs of the distress, according to the provisions of Chapter IV-A of the Provincial Small Cause Courts Act, 1887.

Dated day of 195 .

(Signed and sealed.)

To

E. F., Bailiff.

FORM C.

(See section 27-I.)

In the Court of Small Causes of

FORM OF INVENTORY AND NOTICE.

(State particulars of property seized.)

Take notice that I have this day seized the moveable property contained in the above inventory for the sum of Rupees, being the amount of months' rent due to A. B., at last, and that unless you pay the amount thereof, together with the costs of this distress, within fifteen days from the date hereof, or obtain an order from the Court of Small Causes to the contrary, the same will be appraised and sold pursuant to the provisions of Chapter IV-A of the Provincial Small Cause Courts Act, 1887.

Dated the day of 195 ,

(Signed) E. F.,
Bailiff.

To

C. D.

FORM D.

(See section 27-N.)

In the Court of Small Causes of

Take notice that I have appraised the moveable property seized on the day of, under the provisions of Chapter IV-A of the Provincial Small Cause Courts Act, 1887, of which seizure and property a notice and inventory were duly served upon you (or upon on your behalf, as the case may be) under date the, and that the said property will be sold on the (two clear days at least after the date of the notice) at pursuant to the provisions of the said Act. Dated the day of 195

(Signed) E. F.,
Nazir and Appraiser.

To
C. D.

FORM E.

(See section 27P.)

In the Court of Small Causes of

SCALE OF FEES TO BE LEVIED IN DISTRAINTS FOR HOUSE RENT.

Sums sued for.		Affidavit and warrant to distrain.	Order to sell.	Commission.	Total.
Ra.	Ra.	Ra. nP.	Ra. nP.	Ra. nP.	Ra. nP.
1 and under	5	0.25	0.50	0.50	1.25
5 "	10	0.50	0.50	1.00	2.00
10 "	15	0.50	0.50	1.50	2.50
15 "	20	0.50	1.00	2.00	3.50
20 "	25	0.75	1.00	2.50	4.25
25 "	30	1.00	1.00	3.00	5.00
30 "	35	1.00	1.00	3.50	5.50
35 "	40	1.00	1.50	4.00	6.50
40 "	45	1.25	2.00	4.50	7.75
45 "	50	1.50	2.00	5.00	8.50
50 "	60	2.00	2.00	6.00	10.00
60 "	80	2.50	2.50	6.50	11.50
80 to	100	3.00	3.00	7.00	13.00
Upwards of	100	3.00	3.00	7 per centum.

The above scale includes all expenses, except in suits where the tenant disputes the landlord's claim, and witnesses have to be summoned, in which case each summons must be paid for at twenty-five naye paise each for sums under rupees 40 and seventy-five naye paise each for sums above that amount; and also where

peons are kept in charge of property distrained such fee not exceeding seventy-five naye paise per day as may be fixed by the Registrar of the Small Cause Court must be paid per man."

Hyd. VI of 1330 Fasli. IX of 1887. Sau. Ord. XXV of 1948.

9. The Hyderabad Small Causes Courts Act, and the Provincial Small Cause Courts Act, 1887, as modified and applied to the Saurashtra area by the State of Saurashtra (Application of Central and Bombay Acts) Ordinance, 1948, are hereby repealed : Repeal and Savings.

Provided that such repeal shall not affect the previous operation of the Acts so repealed and anything done or any action taken (including the courts established or constituted, limits defined, appointments, rules or orders made, functions assigned, powers granted, amounts deposited, securities given, seals or forms prescribed, jurisdiction defined or vested, notifications or notices issued, restrictions imposed and proceedings instituted before any court or authority) by or under the provisions of any of the Acts so repealed shall, in so far as it is not inconsistent with the provisions of the principal Act, be deemed to have been done or taken under the corresponding provisions of the principal Act and shall continue in force unless and until superseded by anything done or any action taken under the principal Act and accordingly all such proceedings pending before any court or authority shall stand transferred, where necessary, to the corresponding court or authority under this Act, and if no court or authority exists or if there be a doubt as to the corresponding court or authority to such court or authority as the State Government may designate, and shall be continued and disposed of before such court or authority in accordance with the provisions of the principal Act.

SCHEDULE.

(See section 2.)

Serial No.	Acts.
1.	The Provincial Small Cause Courts (Bombay Amendment) Act, 1930 (Bom. VI of 1930).
2.	The Provincial Small Cause Courts (Bombay Amendment) Act, 1932 (Bom. IX of 1932).
3.	The Provincial Small Cause Courts (Bombay Amendment) Act, 1950 (Bom. LVII of 1950).