

The Chennai City Civil Court Act, 1892

TAMILNADU

India

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Act 7 of 1892

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The Chennai City Civil Court Act, 1892 Central Act No. 7 of 1892 Statement of Objects and Reasons - Madras City Civil Court Act, 1894 (Central Act VII of 1892). - The object of this Act is to constitute what may be called a regular side of the Madras Court of Small Causes, for the trial: (1) of suits of the nature of Small Causes but of a value exceeding the limit of Rs. 2,000 fixed by section 18 of the Presidency Small Cause Courts Act, 1882; and (2) of suits not of the nature of Small Causes. Till the passing of this Act, all such suits had to be instituted in the High Court, and the result had been found to be not merely a great waste of judicial power, but also a practical denial of justice to suitors who were unable to bear the expense of a trial in the High Court. It was, therefore, proposed to confer by this Act on the Small Cause Court jurisdiction in all such suits with the exception of a few defined classes of value not exceeding Rs. 5,000; and it was further proposed to give power to the Governor in Council with the previous sanction of the Governor-General in Council to raise this limit of value, from time to time, to any sum not exceeding 10,000 rupees. The provisions of the Civil Procedure Code, were to apply to all these cases and appeals from the decrees and orders passed on the Regular side of the Small Cause Court, where appeals are ordinarily allowed by law, would lie to the High Court. Originally when the Bill was introduced into the Council, it was not proposed to abrogate the jurisdiction vested in the High Court with regard to such cases, that if a suit cognizable by a Small Cause Court was unnecessarily instituted in the High Court, the plaintiff would be debarred from recovering the costs from the defendant; while, if his suit failed, he would have to pay costs to the defendant on the most liberal scale. The Bill was subsequently modified constituting a separate Court as City Civil Court instead of the regular side of the Court of Small Causes. For Statement of Objects and Reasons and Report of the Select Committee, See page 9 of Part V of Gazette of India, 1892, Pt. V, page 9; for further report see *ibid.*, page 49; and for the final Report, See *ibid.*, page 59 for Proceedings in Council, see *ibid.*, 1891, Pt. VI, page 119; *ibid.*, 1892, Pt. VI; pages 6,13,20,23,37,57 and 61. Statement of Objects and Reasons - Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1945 (Madras Act I of 1945). - Clause (1) of the proviso to section 16 of the Madras City Civil Court Act, 1892, provides that if any suit or other proceeding is instituted in the High Court which in the opinion of the Judge who tries the same ought to have been instituted in the City Civil Court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed his costs "as between attorney and client". A

somewhat similar provision occurs in section 22 of the Presidency Small Cause Court Act, 1882. As a result of the amendments made in 1941 to the High Court Fees Rules, the system of taxation of costs as between attorney and client was abolished. The High Court, therefore, recommended that proviso (1) to section 16 of the Madras City Civil Court Act and section 22 of the Presidency Small Cause Courts Act should be amended so as to provide that in the cases referred to, the successful defendant should be allowed costs at the maximum admissible under the Madras High Court Fees Rules for suits set down for final disposal. The Government accepted the recommendation of the High Court and a Bill to give effect to it was published for criticism. No objection or suggestion was received. His Excellency the Governor has therefore enacted the Madras City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1945. Statement of Objects and Reasons - Madras City Civil Court (Amendment) Act, 1971 (Tamil Nadu Act 18 of 1971). - The original jurisdiction of the City Civil Court, Madras, has been raised from time to time from rupees five thousand in 1948 to fifty thousand in 1967. No such revision has been made in respect of the appellate jurisdiction of the Principal Judge of the City Civil Court, Madras. Though the appellate jurisdiction of the District Court extends up to rupees ten thousand, the appellate jurisdiction of the City Civil Court, Madras remains at rupees five thousand. It is, therefore, considered necessary to amend the Madras City Civil Court Act, 1992 to enhance the monetary limit of the appellate jurisdiction of the City Civil Court (Principal Judge) from rupees five thousand to rupees ten thousand as in the case of District Courts with a view to reduce the volume of the work in the High Court.² The Bill seeks to achieve the above objects. Statement of Objects and Reasons - Tamil Nadu Civil Courts and the Madras City Civil Court (Amendment) Act, 1995 (Tamil Nadu Act 28 of 1995). - The Committee constituted by the Government of India under the Chairmanship of justice Thiru Malimath, has given its recommendations to tackle the problem of increase in cases in courts and the consequential delay in the disposal of cases.² The said recommendations were discussed at the Law Minister's Conference held in 1992 and also in the Chief Ministers' and Chief Justices' Conference held in December 1993. Various measures including the upward revision of the Pecuniary Jurisdiction of the hierarchy of courts has been proposed as one of the measures to tackle the mounting problem of accumulation of arrears in the Courts of Law.³ Accordingly, the Government have examined the question of revision of pecuniary jurisdiction of courts in Tamil Nadu in consultation with the High Court, Madras. Based on the proposal of the High Court, Madras, the Government have decided to enhance the pecuniary jurisdiction of various Civil Courts subordinate to the High Court in the State by amending the Tamil Nadu Civil Courts Act, 1873 (Central Act III of 1873) and the Madras City Civil Court Act, 1892 (Central Act VII of 1892), suitably.⁴ The Bill seeks to give effect to the above decision. Statement of Objects and Reasons - Tamil Nadu Civil Courts and the Chennai City Civil Court (Amendment) Act, 2003 (Tamil Nadu Act I of 2004). - The Registrar General, High Court, Madras has brought to the notice of the Government that there is an uneven distribution of works among the subordinate courts in the State and in order to avoid this situation and ensure early disposal of cases, he has recommended for the enhancement of the monetary limit of the Original Jurisdiction and Appellate Jurisdiction of the Courts subordinate to High Court. The Government have accepted the recommendation of the Registrar General, High Court, Madras and decided to amend the Tamil Nadu Civil Courts Act, 1873 (Central Act III of 1873) and the Chennai City Civil Court Act, 1892 (Central Act VII of 1892) suitably for the purposes.² The Bill seeks to give effect to the above decision. An Act to establish an additional Civil Court for the City of [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.]. Whereas it is expedient to

establish an additional Civil Court for the City of [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.]. It is hereby enacted as follows:-

1. Title.

(1) This Act may be called the [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.] City Civil Court Act, 1892. (2) [* * *] [The word 'and' and sub-section (2) were repealed by the Central Act XVII of 1914.]

2. Definitions.

- In this Act, unless there is something repugnant in the subject or context,-(1) "City Courts" means the Court established under the next following section; (2) "City of [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.]" means the area within the local limits for the time being of the ordinary original civil jurisdiction of the High Court; (3) "High Court" means the High Court of Judicature at [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.]; and (4) "Small Causes Court" means the Court of Small Causes of [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.].

3. Constitution of the City Court.

- The [State Government] [The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.] may, by notification in the Official Gazette, establish a Court, to be called the [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.] City Civil Court, with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding two thousand five hundred rupees in value and arising within the City of [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.], except suits or proceedings which are cognizable-(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 (b) by the Court for the relief of insolvent debtors, or (c) by the Small Cause Court.

3A. [Power of State Government to enhance the jurisdiction of the City Court. [Section 3-A was inserted by section 2 of the (Tamil Nadu Act I of 1935).]

- Subject to the exceptions specified in section 3, the [State Government] may, by notification in the Official Gazette, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the City of [Chennai] [Substituted for the word 'Madras' by Tamil Nadu Act 28 of 1996.] and of such value not exceeding [ten lakhs of rupees] [Substituted for 'one lakh' by Tamil Nadu Act 28 of 1995 w.e.f. 1st December, 1995.] as may be specified in the notification.]

4. [Powers of Judges of City Court. [This section was substituted for the original section by Tamil Nadu Act X of 1955 with effect from 1st July, 1955.]

(1)The City Court shall consist of a Principal Judge and such number of Additional or Assistant Judges as the State Government may from time to time appoint.(2)[The jurisdiction of an Assistant Judge extends to all suits and proceedings of a civil nature not otherwise exempted from his cognizance, of which the amount or value of the subject matter does not exceed [ten lakh rupees]. The jurisdiction of the Principal Judge and Additional Judge extends to all like suits and proceedings, of which the amount or value of the subject matter exceeds [ten lakh rupees] [Substituted 'five lakh rupees' by Act No. 19 of 2010, dated 26.5.2010.] but does not exceed [twenty-five lakh rupees] [Substituted 'ten lakh rupees' by Act No. 19 of 2010, dated 26.5.2010.](3)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.]

5. Judge of Civil Court to be Judge of Small Cause Court.

(1)Every person appointed a Judge of the City Court shall be, by virtue of his office, a Judge of the Small Cause Court with respect to cases cognizable by that Court.(2)Every such Judge shall be liable to perform any duties of a Judge of the Small Cause Court which the Chief Justice of the High Court may require him to perform.

6.

[x x x] [This section was omitted by Chennai City Civil Court (Amendment) Act, 1955 (Tamil Nadu Act X of 1955).]

7. [Ministerial Officers. [This section was substituted for the original section 7 by the Adaptation Order of 1937]

(1)There shall be appointed to the City Court as many clerks, bailiffs and other Ministerial Officers as the [State] Government may, from time to time, consider necessary.(2)The clerks, bailiffs and other Ministerial officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as [x x x] [The words 'the Judge or, when the Court consist of more than one Judge', were omitted by section 5 of the Chennai City Civil Court (Amendment) Act, 1955 (Tamil Nadu Act X of 1955).] the Principal Judge, may, from time to time, direct.]

8. Questions arising in suits, etc., under this Act to be determined according to the law administered by the High Court.

- 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.

9.

[Omitted by section 86 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955), which came into force on the 19th May 1955.]

10. Process-fees.

- Fees chargeable for serving of executing processes issued by the City Court, or served or executed under its direction or control, shall be such as the High Court may prescribe with the approval of the [State Government] [This expression was substituted for the expression 'State Government of Madras' by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January, 1969.]. [x x x] [The words 'and the sanction of the Governor-General in Council' were omitted by the Decentralization Act, 1914 (Central Act IV of 1914).]

11. Appointment of Receivers.

- The powers conferred by Chapter XXXVI of the Code of Civil Procedure [Central Act XIV of 1882] [See now the Code of Civil Procedure, 1908 (Central Act V of 1908).] on High Courts and District Courts as to the appointment of Receivers, may be exercised by the City Court or any Judge thereof.

12.

[Repealed by the Repealing Act, 1938 (Central Act I of 1938)].

13.

[Omitted by section 86 of the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955); which came into force on the 19th May, 1955.]

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

- When, under section 13 of the Letters Patent for the High Court, dated the twenty-eighth day of December 1865, or under section 25 of the Code of Civil Procedure [Central Act XIV of 1882] [See now the Code of Civil Procedure, 1908 (Central Act V of 1908).], the High Court has removed for trial by itself any suit from the City Court, fees on the scale for the time being in force in the High Court as a Court of ordinary original civil jurisdiction shall be payable in that Court in respect of the suit and proceedings therein: Provided that, in the levy of any such fees which, according to the practice of the Court, are credited to the Government, credit shall be given to the plaintiff in the suit for any fee which in the City Court he has already paid under the [Court-fees Act, 1870] [Repealed in its application to the State of Tamil Nadu by Tamil Nadu Act XIV of 1955.] (Central Act VII of 1870), on the plaint.

15. [Appeals. [This section was substituted for the original section by section 6 of the Chennai City Civil Court (Amendment) Act, 1955 (Tamil Nadu Act X of 1955).]

(1)An appeal shall lie to the High Court from any decree or order appealable under the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), in any suit or proceeding [x x x] where the decree or order appealed from was passed by the Principal Judge or an Additional Judge.(2)[An appeal shall lie to the Principal Judge from any decree or order appealable under the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) passed in any suit or proceeding-(a)where the amount or value of the subject matter does not exceed five thousand rupees-(i)by a Judge other than the Principal Judge before the 1st July 1955; or(ii)by an Assistant Judge on or after the 1st July 1955; or(b)where such amount or value does not exceed ten thousand rupees, by an Assistant Judge, on or after the date of the commencement of the [Chennai] City Civil Court (Amendment) Act, 1971.][(2-A) An appeal shall lie to the Principal Judge from any decree of order appealable under the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), passed in any suit or proceeding by a Judge other than the Principal Judge or an Additional Judge -(a)before the 1st day of December 1995, where the amount or value of the subject matter does not exceed one lakh of rupees;(b)on or after the 1st day of December 1995, where the amount or value of the subject matter does not exceed three lakhs of rupees; and(c)on or after the 1st day of December 1995, except when the amount or value of the subject matter of the suit exceeds rupees three lakhs in which case appeal shall lie to the High Court.(2-B) All appeals pending in the High Court on the date of publication of the Chennai City Civil Court (Amendment) Act, 1997 in the Tamil Nadu Government Gazette which the amount or value of the subject matter of such appeal exceeds one lakh of rupees but does not exceed three lakhs of rupees and which would be within the cognizance of the Chennai Civil Court under the provisions of the principal Act, as amended by this Act, shall stand transferred to the Chennai City Civil Court.] [Sections (2-A) and (2-B) were substituted for sub-section (2-A) by the Chennai Civil Court (Amendment) Act, 1997 (Tamil Nadu Act 21 of 1997).][(2-C) All Appeals pending in the High Court of which the amount or value of the subject matter of such Appeals exceeds three lakh of rupees but does not exceed five lakh of rupees shall stand transferred to the Chennai City Civil Court.] [Inserted by Act No. 19 of 2010, dated 26.5.2010.][(2-D)] [Inserted by the Tamil Nadu Act 1 of 2004.] An appeal shall lie to the Principal Judge from any decree or order, appealable under the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908), if passed in any suit or proceeding by an Assistant Judge on or after the date of the commencement of the Tamil Nadu Civil Courts and Chennai City Civil Court (Amendment) Act, 2003.] [This sub-section was substituted for the original- sub-section by the Chennai City Civil Court (Amendment) Act, 1971 (Tamil Nadu Act 18 of 1971).](3)A second appeal shall lie to the High Court from any decree passed by the Principal or an Additional Judge in the exercise of his appellate jurisdiction on all or any of the grounds mentioned in section 100 of the Code of Civil Procedure, 1908 (Central Act V of 1908).(4)Subject in other respects to the provisions of the [Indian Limitation Act, 1908] [See now the Limitation Act, 1963 (Central Act 36 of 1963).] (Central Act IX of 1908), the period of limitation for an appeal from a decree or order in any of the cases specified in sub-sections (1) and (3) shall be ninety days and in any of the cases specified in sub-section (2) shall be thirty days.(5)The Principal Judge may, from time to time, transfer for disposal appeals preferred under sub-section (2) to any Additional Judge and may at any time withdraw such transferred appeals and

dispose of them himself.

16. Saving of original civil jurisdiction of High Court.

- Nothing in this Act contained shall affect the original civil jurisdiction of the High Court: Provided that -(1) if any suit or other proceeding is instituted in the High Court which, in the opinion of the Judge who tries the same (whose opinion shall be final), ought to have been instituted in the City Court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed the costs [at the maximum admissible under the Madras High Court Fees Rules for suits set down for final disposal] [Substituted for the words 'as between attorney and client', by section 2 of the Chennai City Civil Court and Presidency Small Cause Courts (Amendment) Act, 1945 (Tamil Nadu Act 1 of 1945). This was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting and Repealing (Nod). Act, 1948 (Tamil Nadu Act VII 1948).]; (2) in any suit or other proceeding pending at any time in the High Court, any Judge of such Court may, at any stage thereof, make an order transferring the same to the City Court if in his opinion such suit or proceeding is within the jurisdiction of that Court and should be tried therein; (3) in any suit or other proceeding so transferred, the Court-fees Act, 1870, [Central Act VII of 1870] [Repealed in its application to the State of Tamil Nadu by section 87 of the Tamil Nadu Court-fees and Suits Vacation Act, 1955 (Tamil Nadu Act XIV of 1955).] shall apply, credit being given for any fees levied in the High Court.

17. Seal to be used.

- The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the [State Government] [The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.].

18. Holidays and vacations.

(1) The [x x x] [The words 'Judge of the City Court, or, when the Court consists of more than one Judge, the' were omitted by section 7 of the Chennai City Civil Court (Amendment) Act, 1955 (Tamil Nadu Act X of 1955).] 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 [State Government] [The words 'Provincial Government' were substituted for the words 'Local Government' by the Adaptation Order of 1937 and the word 'State' was substituted for 'Provincial' by the Adaptation Order of 1950.]. (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.