

The Karnataka Small Cause Courts Act, 1964

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Act 11 of 1964

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The Karnataka Small Cause Courts Act, 1964 Act No. 11 of 1964 An Act to provide for a uniform law relating to Courts of Small Causes in the State of Karnataka. WHEREAS it is expedient to provide for a uniform law relating to Courts of Small Causes in the State of Karnataka; BE it enacted by the Karnataka State Legislature in the Fourteenth Year of the Republic of India as follows:—

Chapter I Preliminary

1. Short title, extent and commencement.—

(1) This Act may be called the Karnataka Small Cause Courts Act, 1964. (2) It extends to the whole of the State of Karnataka. (3) It shall come into force on such date¹ as the State Government may, by notification, appoint.

2. Definitions.—

In this Act, unless the context otherwise requires—(a) “City of Bangalore” shall have the meaning assigned to it in the Bangalore City Civil Court Act, 1979; (aa) “Code” means the Code of Civil Procedure, 1908, (Central Act 5 of 1908); (b) “Court of Small Causes” means a Court of Small Causes constituted or deemed to have been constituted under this Act and includes any person exercising jurisdiction under this Act in any such Court; (c) “High Court” means the High Court of the State of Karnataka; (d) “Judge” means a Judge of the Court of Small Causes and in the City of Bangalore the Chief Judge of the Court of Small Causes; (e) “judicial service” shall have the same meaning as in clause (b) of Article 236 of the Constitution of India; (f) “notification” means a notification published in the official Gazette.

Chapter II

Constitution of courts of small causes

3. Establishment of Courts of Small Causes.—

The State Government may, in consultation with the High Court, establish by notification a Court of Small Causes at any place and define the local limits of its jurisdiction.

4. Judge.—

When a Court of Small Causes has been established under section 3, the High Court shall by notification appoint a Civil Judge as a Judge of the Court: Provided that, in the City of Bangalore, the High Court may appoint a District Judge who shall be called the Chief Judge of the Court of Small Causes.

5. Additional Judges.—

(1) The High Court may, by notification, appoint one or more Civil Judges as additional Judges of a Court of Small Causes. (2) The Additional Judge, so appointed, shall discharge such of the functions of the Judge as the Judge may, subject to the general or special orders of the High Court, assign to him and in the discharge of those functions he shall exercise the same powers as the Judge. (3) When the Judge is absent, the Additional Judge or if there are two or more Additional Judges, the Senior Additional Judge may discharge all or any of the functions of the Judge.

6. Registrar.—

(1) The High Court may appoint to a Court of Small Causes an officer to be called the Registrar of the Court. (2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court. (3) The High Court may, by notification, confer upon a Registrar, if he is a person in the judicial service of the State, the jurisdiction of a Judge for the trial of suits of which the value does not exceed fifty rupees. (4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

7. Duties of ministerial officers.—

(1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other law for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs. (2) The High Court may make rules consistent with this Act, and with any other law for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

Chapter III

Jurisdiction of courts of small causes

8. Cognizance of suits by Courts of Small Causes.—

(1)A Court of Small Causes shall not take cognizance of the suits specified in the Schedule as suits excepted from the cognizance of a Court of Small Causes.(2)Subject to the exception specified in the schedule and to the provisions of any law for the time being in force, all suits of civil nature of which the value does not exceed “two lakh rupees” in Bangalore City, “one lakh rupees” in other places, shall be cognizable by a court of small causes.

9. Exclusive jurisdiction of Courts of Small Causes.—

Save as expressly provided by this Act or by any other law for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction, within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Chapter IV

Practice and procedure

10. Application of the Code.—

(1)The procedure prescribed in the Code shall, save in so far as is otherwise provided by the Code or by this Act, be the procedure followed in the Court of Small Causes in all suits cognizable by it, and in all proceedings arising out of such suits:Provided that an applicant,—(a)for an order to set aside a decree passed ex parte on grounds other than that summons in the suit was not duly served, or(b)for a review of judgment on grounds other than a mistake or error apparent on the face of the record,shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give such security for the performance of the decree or compliance with the judgment as the Court may, on a previous application made by him in this behalf, have directed.(2)Where a person has become liable as surety under the proviso to sub-section (1), the security may be realised in the manner provided by section 145 of the Code.

11. Trial of suits by Registrar.—

(1)Suits cognizable by the Registrar under sub-sections (3) and (4) of section 6 shall be tried by him and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.(2)The Judge may transfer to his own file or to that of the Additional Judge, if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

12. Admission, return and rejection of plaints by Registrar.—

(1)When the Judge is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar, may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.(2)The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge, after the day on which the Registrar admitted, or returned or rejected the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

13. Passing of decrees by Registrar on admission.—

(1)If, before the date appointed for the hearing of the suit the defendant or his agent duly authorised in that behalf, appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.(2)Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and rehear the suit, on the same conditions, on the same grounds, and in the same manner as if the decree had been passed by himself.

14. Execution of decrees by Registrar.—

(1)If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to the decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees or orders made by the Court of which he is the Registrar, or sent to that Court for execution, which the Judge might make under this Act.(2)The Judge, in the case of any decree or order with respect to execution of which the Registrar has made the order under sub-section (1), or the Additional Judge, in the case of any such decree or order, which has been made by himself, and with respect to which proceedings have not been taken by the Judge under this sub-section, may, on his own motion, or on application made by the party within fifteen days from the date of the order of the Registrar, or of the execution of any process issued in pursuance of that order, reverse or modify the order.(3)The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Limitation Act, 1963 (Central Act 36 of 1963), as though the application of the party were an application for review of judgment.

15. Adjournment of cases by chief ministerial officer.—

When the Judge is absent and an Additional Judge has not been appointed or having been

appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for further hearing thereof.

16. Return of plaint in suits involving question of title.—

(1)Notwithstanding anything in the foregoing provisions of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes, depend upon the proof or disproof of a title to immovable property or other title which such a Court cannot finally determine, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.(2)When a Court returns the plaint under sub-section (1), it shall comply with the provisions of sub-rule (2) of rule 10 of Order VII of the Code, and make such order with respect to costs as it deems just and the Court shall, for the purposes of the Limitation Act, 1963, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

17. Appeals from certain orders of Court of Small Causes.—

An appeal shall lie from every order under section 35A and section 95 of the Code as specified in and to the extent provided by section 104 of the Code,—(a)to the High Court where the order is of the Court of Small Causes in the City of Bangalore;(b)to the District Court in other cases;1

18. Revision of decrees and orders of Courts of Small Causes.—

The High Court, for the purpose of satisfying itself, that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such orders with respect thereto, as it thinks fit.

19. Finality of decrees or orders.—

Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

Chapter V

Supplementary provisions

20. Subordination of Courts of Small Causes.—

(1)A Court of Small Causes shall be subject to the administrative control of the District Court, and to the superintendence of the High Court, and shall,—(a)keep such registers, books and accounts as the High Court from time to time prescribes, and(b)comply with such requisitions as may be made by the District Court or the High Court, for records, returns and statements in such form and manner

as the authority making the requisition directs.(2)The relation of the District Court to a Court of Small Causes, with respect to administrative control shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of ten thousand rupees in that portion of the State of Karnataka in which the Court of Small Causes is established.(3)Notwithstanding anything contained in sub-sections (1) and (2) the Court of Small Causes in the City of Bangalore shall be subordinate to and subject to the administrative control and superintendence of the High Court.

21. Vacation.—

(1)The Courts of Small Causes in the State or in any area of the State, shall be closed on such days as may be notified by the State Government as public holidays, for the whole State or for any area in the State.(2)The Courts of Small Causes shall have three vacations in each year, summer, dasara and winter and the total number of days of the said three vacations together shall not exceed sixty days and the High Court shall fix the period of each vacation.(3)Notwithstanding anything contained in this Act,—(a)the High Court may, where there are more than one Judge in any Court of Small Causes, designate by notification, any one or more of those Judges as Vacation Judge or Judges for the duration of the adjournment of such Court of Small Causes during any vacation, or part thereof;(b)Where there is only one Judge in any Court of Small Causes, the High Court may, designate by notification such Judge or appoint any Civil Judge in the district as the Vacation Judge for the duration of the adjournment of such Court of Small Causes during any vacation or part thereof. The High Court may regulate by special or general order work to be discharged by the Vacation Judge, or Judges, Court of Small Causes.(4)(a)The local limits of the jurisdiction of the Vacation Judge, Court of Small Causes shall be the same as those of the Court of Small Causes concerned.(b)The jurisdiction of the Vacation Judge, Court of Small Causes shall extend to all suits or proceedings cognizable by the Court of Small Causes concerned.(5)The place at which the Court of the Vacation Judge, Court of Small Causes, shall be held, shall be the same at which the Court of Small Causes concerned may be held. The Senior Vacation Judge or the Vacation Judge as the case may be, shall have such administrative control over the staff of the Court of the Small Causes concerned, as the High Court may, by general or special order, determine.(6)Notwithstanding the designation of the Vacation Judge or Judges, the Courts of Small Causes concerned shall during the period it is adjourned for any vacation, be deemed to be closed for the purposes of section 4 of the Limitation Act, 1963 (Central Act 36 of 1963).

22. Seal.—

The Court of Small Causes shall use a seal which shall bear thereon the Karnataka State Emblem and shall be in such form, of such dimensions and with the name of the Court in such language, as the State Government may, by order, determine:Provided that the seal in use by a Court of Small Causes immediately prior to the commencement of this Act may continue to be used until an order is made by the State Government under this section.

23. Abolition of Courts of Small Causes.—

The State Government may, in consultation with the High Court, abolish by notification a Court of Small Causes.

24. Saving of power to appoint Judge of Court of Small Causes to other office.—

(1) Nothing in this Act shall be construed to prevent the appointment of a person who is a Judge or Additional Judge of a Court of Small Causes, to be also a Judge in any other Civil Court or to be a Magistrate of any class. (2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall subject to any rules which the High Court may with the approval of the State Government, make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of his duties of the other office.

25. Application of Act to Courts invested with jurisdiction of Court of Small causes.—

(1) So much of Chapters III and IV as relates to,—(a) the nature of the suits cognizable by Courts of Small Causes, (b) the exclusion of the jurisdiction of other Courts in those suits, (c) the practice and procedure of Courts of Small Causes, (d) appeal from certain orders of those Courts and revision of cases decided by them, and (e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act, applies to Courts invested by or under any law for the time being in force, with the jurisdiction of a Court of Small causes, so far as regards the exercise of that jurisdiction by those Courts. (2) Nothing in sub-section (1) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

26. Application of Act and Code to Courts so invested as to two Courts.—

A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act, and the Code, be deemed to be different Courts.

27. Modification of Code as so applied.—

Notwithstanding anything in section 25 or section 26,—(a) when in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature, which are not cognizable by a Court of Small Causes, or (b) when a Court in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes, the documents mentioned in rule 6 of Order XXI of the

Code shall not be sent with the decree, unless in any case the Court, by order in writing, requires them to be sent.

28. Continuance of proceedings of abolished Courts.—

(1)Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.(2)Nothing in this section applies to cases for which special provision is made in the Code as extended to Courts of Small Causes or in any other law for the time being in force.

29. Repeal and savings.—

On and from the date this Act comes into force,—(a)the Mysore Small Cause Courts Act, 1911 (Mysore Act 8 of 1911), as in force in the Mysore Area,(b)the Hyderabad Small Causes Courts Act, 1330-F (Hyderabad Act 6 of 1330-Fasli), as in force in the Gulbarga Area,(c)the Provincial Small Cause Courts Act, 1887 (Central Act 9 of 1887), as in force in the Belgaum Area, the Mangalore and Kollegal Area and the Coorg District, of the State of Karnataka,—shall stand repealed:Provided that such repeal shall not affect the previous operation of the Acts so repealed and anything done or any action taken (including the limits defined, the courts established or constituted, appointments, rules or orders made, functions assigned, powers granted, seals or forms prescribed, jurisdiction defined or vested, notifications or notices issued and proceedings instituted) by or under the provisions thereof, shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act, and shall continue in force unless and until superseded by anything done or any action taken under this Act.

(See section 8)SUITS EXCEPTED FROM THE COGNIZANCE OF COURT OF SMALL CAUSES(1)A suit concerning any act done or purporting to be done by or by order of the Central Government or the State Government;(2)a suit concerning an act purporting to be done by any person in pursuance of the judgment or order of a Court or of a Judicial Officer acting in the execution of his office;(3)a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an Officer of a Court of Wards in the execution of his office;(4)a suit for the possession of immovable property or for the recovery of an interest in such property but not including a suit for ejectment where,—(a)the property has been let under a lease or permitted to be occupied, by a written instrument or orally, 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 the 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 the law for the time being in force in respect of such lease, or the permission to occupy has been withdrawn;(5)a suit for the partition of immovable property;(6)a suit by a mortgagee of immovable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immovable property for the redemption of the mortgage;(7)a suit for the assessment, enhancement, abatement, or

apportionment of the rent of immovable property;(8)a suit concerning the liability of land to be assessed to land revenue;(9)a suit to restrain waste;(10)a suit for the determination or enforcement of any other right to or interest in immovable property;(11)a suit for the possession of a hereditary office or of an interest in such office including a suit to establish an exclusive periodically recurring right to discharge the functions of an office;(12)a suit to enforce payment of the allowance or fees respectively called “malikana” and “huq” or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immovable property or in a hereditary office or in a shrine or other religious institution, but not including a suit to enforce such payment when the right is based on a contract in writing;(13)a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1894 (Central Act 1 of 1894), the whole or any part of the compensation;(14)a suit for the specific performance or rescission of a contract;(15)a suit for the rectification or cancellation of an instrument;(16)a suit to obtain an injunction;(17)a suit to enforce a trust including a suit to make good out of the general estate of a deceased trustee, the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;(18)a suit for a declaratory decree not being a suit instituted under rule 63 or rule 103 of Order XXI of the Code;(19)a suit instituted under rule 63 or rule 103 of Order XXI of the Code;(20)a suit to set aside an attachment of any property by a Court or a revenue authority, or a sale, mortgage, lease or other transfer of such property by a Court or a revenue authority or by a guardian;(21)a suit for property which the plaintiff has conveyed while insane;(22)a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;(23)a suit to contest an award;(24)a suit under section 360 or section 361 of the Indian Succession Act, 1925, (Central Act 39 of 1925), to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets;(25)a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;(26)a suit,—(a)for a dissolution of partnership or for the winding up of a business of a partnership after its dissolution;(b)for an account of partnership transaction, or(c)for a balance of partnership account unless the balance has been struck by the parties or other agents;(27)a suit for an account of property and for its due administration under decree;(28)any other suit for an account, including a suit by a mortgagor after the mortgage has been satisfied, to recover surplus collections received by the mortgagee but not including a suit for mesne profits;(29)a suit for a general average loss or for salvage;(30)a suit for compensation in respect of collision between ships;(31)a suit on a policy of insurance or for the recovery of any premium paid under any such policy;(32)a suit for compensation,—(a)for loss occasioned by the death of a person, caused by actionable wrong;(b)for wrongful arrest, restraint or confinement:(c)for malicious prosecution;(d)for libel;(e)for slander;(f)for adultery or seduction;(g)for breach of contract of betrothal or promise of marriage;(h)for inducing a person to break a contract made with plaintiff;(i)for obstruction of an easement or diversion of a water-course;(j)for an act, which is or, save for the provisions of Chapter IV of the Indian Penal Code, would be an offence punishable under Chapter XVII of the said Code;(k)for illegal, improper or excessive distress, attachment or search or for trespass committed in or damage caused by the illegal or improper execution of any distress, search or legal process;(l)for improper arrest under Order XXXVIII of the First Schedule to the Code or in respect of the issue of an injunction wrongfully obtained under order XXXIX of the First Schedule to the Code; or(m)for injury to the person in any case not specified in the foregoing sub-clauses of this clause;(33)a suit by a Mohammedan for exigible (mujjal) or deferred (muwajjal)

dower;(34)a suit for restitution of conjugal rights, for the custody of a minor or for divorce;(35)a suit relating to maintenance, but not one based on a contract in writing;(36)a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of a joint property or a member of an undivided family in respect of the payment made by him on account of the property or family;(37)a suit by one of several joint mortgagors of immovable property or contribution in respect of money paid by him for the redemption of the mortgaged property;(38)a suit against Government to recover money paid under protest in satisfaction of a claim made by a revenue authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land revenue;(39)a suit to recover property obtained by an act which is or, save for the provisions of Chapter IV of the Indian Penal Code, would be an offence punishable under Chapter XVII of the said Code; and(40)a suit the cognizance whereof by a Court of Small Causes is barred by any law for the time being in force.