

Decrees and Orders Validating Act, 1936

UNION OF INDIA

India

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Act 5 of 1936

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1495.

Object and Reason.-The Court of the Judicial Commissioner of the Central Provinces has recently in two judgments passed on the 26th August and the 11th September, 1935 held that certain decrees passed or orders made by the Bombay High Court in the exercise of the jurisdiction which that Court conceived it possessed under clause 12 of its Letters Patent were made without jurisdiction. Clause 12 of the Letter Patent of the Bombay High Court, which is identical in terms with clause 12 of the Letter Patent of the Madras and Calcutta High Courts and corresponds to clause 10 of the Letters Patent of the Rangoon High Court, has been variously interpreted by the several High Courts, and the question of amending the clause is under consideration. This Bill is designed to obviate in the meantime the inconvenience which would result if the decrees or orders of a High Court acting in the exercise of its ordinary civil jurisdiction, as the Court itself interprets that jurisdiction, proved infructuous in another Court which favoured a different interpretation. [26th April, 1936.] An Act to remove certain doubts and to establish the validity of certain proceedings in High Courts of Judicature [* * *] [The words "in the Provinces" omitted by the A.O. 1950.] WHEREAS doubts have arisen as to the validity of certain proceedings in High Courts of Judicature [* * *] [The words "in the Provinces" omitted by the A.O. 1950.] under the Letters Patent erecting and establishing those Courts; AND WHEREAS it is expedient to terminate those doubts and to establish the validity of those proceedings; It is hereby enacted as follows:-

1. Short title and extent.-

(1) This Act may be called the Decrees and Orders Validating Act, 1936. (2) [It extends to the whole of India, except [the territories which, immediately before the 1st November, 1956, were comprised in Part B States] [Substituted for sub-section (2). by A.L.O., 1950].]

2. Certain decrees and orders not be called in question.-

No decree passed or order made by the High Court of Judicature at Fort William in Bengal, the High Court of Judicature at Madras or the High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction under clause 12 of its Letters Patent, or by the High Court of Judicature at Rangoon, in the exercise of its original civil jurisdiction under clause 10 of its Letters Patent, shall be called in question in any proceedings before any other Court on the ground that the High Court passing the decree or making the order had no jurisdiction to pass or make the decree or order.

3. Restoration of proceedings.-

Where in any proceedings concluded on or after the 26th day of August, 1935, any such decree or order has been found to be invalid on such ground by any Court, such finding shall be void and of no effect; and the Court shall, notwithstanding anything to the contrary in the Indian Limitation Act, 1908, 9 of 1908, or any other law for the time being in force, on application made within six months from the Commencement of this Act by any person prejudicially affected by such finding, restore the proceedings at and continue the proceedings from the state reached immediately before the order embodying or based on such finding was made.