



महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

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असाधारण क्रमांक १३

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधी व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Bombay City Civil Court (Amendment) Bill, 2012 (L.A. Bill No. VIII of 2012), introduced in the Maharashtra Legislative Assembly on the 28th March 2012, is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

L. A. BILL No. VIII OF 2012.

A BILL

further to amend the Bombay City Civil Court Act, 1948.

Bom. XL of 1948. WHEREAS it is expedient further to amend the Bombay City Civil Court Act, 1948, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-third Year of the Republic of India as follows :—

1. (1) This Act may be called the Bombay City Civil Court (Amendment) Act, 2012.

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 and different dates may be appointed for different provisions of the Act.

Amendment of section 2 of Bom. XL of 1948. **2.** In section 2 of the Bombay City Civil Court Act, 1948 (hereinafter referred to as "the principal Act"), after clause (3), the following clause shall be inserted, namely :—

Bom. XL of 1948.

"(3A) "intellectual property matters" means the suits and civil proceedings relating to trade marks, copyright, patents, designs and geographical indications, plant varieties and the rights of farmers and plant breeders and Lay-out design (Topographies) of Integrated Circuits ;".

Amendment of section 3 of Bom. XL of 1948.

3. In section 3 of the principal Act,—

(a) after the words "proceedings of a civil nature" the words ", not exceeding rupees one crore in value," shall be inserted ;

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

"(c-1) by the High Court under the Parsi Marriage and Divorce Act, 1936 ; or

3 of 1936.

(c-2) by the High Court in respect of intellectual property matters ; or "

(c) for the existing proviso, the following proviso shall be substituted, namely :—

" Provided that, the State Government may, from time to time, after consultation with the High Court, by notification in the *Official Gazette*, enhance the pecuniary jurisdiction of the City Court and correspondingly alter the pecuniary jurisdiction of the High Court. "

Amendment of section 4A of Bom. XL of 1948.

4. In section 4A of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely :—

"(1) Notwithstanding anything contained in section 9 of the Bombay City Civil Court and the Bombay Court of Small Causes (Enhancement of Pecuniary Jurisdiction and Amendment) Act, 1986, all suits and proceedings cognizable by the City Court under section 3, and pending in the High Court on the date of coming into force of section 4 of the

Mah. XV of 1987.

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2012.

Bombay City Civil Court (Amendment) Act, 2012, not being suits or proceedings falling under clauses (a) to (d) of section 3, shall stand transferred to the City Court.”;

(b) for the marginal note, the following marginal note shall be substituted, namely :—

“Transfer of suits and proceedings cognizable under section 3, to City Court.”.

5. After section 4A of the principal Act, the following section shall be inserted, namely :—

Insertion of section 4B in Bom. XL of 1948.

“4B. The High Court may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.”.

Power to make rules.

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6. After the date of coming into force of section 4 of the Bombay City Civil Court (Amendment) Act, 2012, in all the suits and proceedings which are liable to be transferred to the City Court under sub-section (1) of section 4A, in order to obviate the need for service of fresh notice upon the parties, the High Court shall list the matters on its Board and notify the date on which the concerned matter shall be listed before the City Court.

Transitory provisions.

7. (1) If any difficulty arises in giving effect to the provisions of the principal Act, as amended by this Act, the State Government may, by an order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of the principal Act, as amended by this Act, as may appear to it to be necessary for removing the difficulty :

Power to remove difficulties.

Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT OF OBJECTS AND REASONS

The Bombay City Civil Court Act, 1948 (Bom. XL of 1948), was enacted to establish a City Civil Court for the then Greater Bombay having jurisdiction to receive, try and dispose of all suits and proceedings of a civil nature arising within such area except the suits and proceedings cognizable by the High Court and the Small Cause Court as mentioned in section 3 of the said Act. The said law was enacted with a view to reduce the burden of the Bombay High Court so that the jurisdiction of the High Court in respect of certain civil matters would be conferred on the City Civil Court.

2. Initially, the pecuniary jurisdiction of the City Civil Court was rupees ten thousand which was enhanced to rupees fifty thousand in the year 1977; and by the Bombay City Civil Court and the Bombay Court of Small Causes (Enhancement of Pecuniary Jurisdiction and Amendment) Act, 1986 (Mah. XV of 1987), an unlimited jurisdiction was conferred on the City Civil Court. Validity of the said Amendment Act was challenged in the Bombay High Court. The High Court has upheld the validity of the said Amendment Act. The Supreme Court has also upheld the validity of the said Amendment Act, however, the implementation of the notification to bring the said Act into force was deferred with liberty for the State Government to apply to the Supreme Court for implementation of the said notification placing on record necessary material to show adequacy of infrastructure to its satisfaction. Accordingly, the State Government filed an affidavit placing on record the adequacy of infrastructure and requested the Supreme Court to grant permission for implementation of the said notification. While the request was pending for consideration, in view of the pecuniary jurisdiction of rupees ten lakh and twenty-five lakh, respectively, of the Calcutta and Madras City Civil Courts and in the light of the provisions of then proposed Commercial Division of High Court Bill, 2009 in the Parliament, a joint request, at the behest of the Bombay High Court, was made by both the High Court and State Government to

the Supreme Court that as a workable arrangement, the suits and proceedings having value upto rupees one crore be transferred to the City Civil Court. The Supreme Court expressed a view that such jurisdiction can not be conferred on the City Civil Court unless the Bombay City Civil Court Act, 1948 is suitably amended for the said purpose.

3. In view of this, it is considered expedient to amend the Bombay City Civil Court Act, 1948, suitably. As a result of the proposed amendment, out of about 40,000 civil suits pending before the High Court, more than 35,000 civil suits will be transferred from the High Court to the City Civil Court which will help in speedy disposal of such cases and reducing the burden of the High Court.

4. The Bill seeks to achieve the above objectives.

Mumbai,

PRITHVIRAJ CHAVAN,

Dated the 26th March 2012.

Chief Minister.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely:—

Clause 1(2).—Under this clause, power is taken to the State Government to bring the Act into force on such date as it may, by notification in the *Official Gazette*, appoint and different dates may be appointed for different provisions of the Act.

Clause 3(c).—Under this clause, which seeks to substitute existing proviso to section 3 of the Bombay City Civil Court Act, 1948, power is taken to the State Government to enhance, by notification in the *Official Gazette*, the pecuniary jurisdiction of the City Civil Court and correspondingly alter the pecuniary jurisdiction of the High Court, from time to time, after consultation with the High Court.

Clause 5.—Under this clause, which seeks to insert new section 4B in the said Act, power is taken to the High Court to make the rules, by notification in the *Official Gazette*, for carrying out the purposes of the Act.

Clause 7(1).—Under this clause, power is taken to the State Government to remove, by an order published in the *Official Gazette*, any difficulty which may arise, within a period of two years from the date of commencement of this Act, in giving effect to the provisions of the said Act, as amended by this Act.

2. The above-mentioned proposals for delegation of legislative power are of the normal character.

FINANCIAL MEMORANDUM

The Bombay City Civil Court Act, 1948 (Bom. XL of 1948), is being amended to provide that the pecuniary jurisdiction of the City Civil Court to try the cases of civil nature shall be upto rupees one crore and the cases pending in the High Court upto the value of rupees one crore shall be transferred to the City Civil Court. It is also proposed to confer power on the State Government to enhance, by notification in the *Official Gazette*, the pecuniary jurisdiction of the City Civil Court, and correspondingly alter the pecuniary jurisdiction of the High Court, from time to time, after consultation with the High Court. As such, there is no provision in the Bill which would involve recurring expenditure or non-recurring expenditure from the Consolidated Fund of the State on its enactment as an Act of the State Legislature.