

## <sup>1</sup>THE SECOND SCHEDULE

### SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES

(See section 15)

<sup>2</sup>[(1) A suit concerning any act done or purporting to be done by or by order of the Central Government, the Crown Representative or the State Government;]

(2) a suit concerning an act purporting to be done by any person in pursuance of a 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;

(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 for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the State Government with authority to exercise jurisdiction with respect thereto;

(9) a suit concerning the liability of land to be assessed to land-revenue;

(10) a suit to restrain waste;

(11) a suit for the determination or enforcement of any other right to or interest in immovable property;

(12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions

of an office;

(13) a suit to enforce payment of the allowance or fees respectively called *malikana* and *hakk*, 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 an hereditary office or in a shrine or other religious institution;

(14) a suit to recover from a person to whom compensation has been paid under the <sup>3</sup>Land Acquisition Act, 1870 (1 of 1870), the whole or any part of the compensation;

(15) a suit for the specific performance or rescission of a contract;

(16) a suit for the rectification or cancellation of an instrument;

---

1. This Schedule has been amended in its application to the Bombay Presidency by s. 2 of the Provincial Small Cause Courts (Bombay Amendment) Act, 1930 (Bom. 6 of 1930): and by s. 2 of the Provincial Small Cause Courts (Bombay Amendment) Act, 1932 (Bom. 9 of 1932).

2. Subs. by the A.O. 1937, for the original paragraph.

3. See now the Land Acquisition Act, 1894 (1 of 1894).

- (17) a suit to obtain an injunction;
- (18) a suit relating to 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;
- (19) a suit for a declaratory decree, not being a suit instituted under <sup>1</sup>section 283 or section 332 of the <sup>1</sup>Code of Civil Procedure (14 of 1882);
- (20) a suit instituted under section 283 or section 332 of the <sup>1</sup>Code of Civil Procedure (14 of 1882);
- (21) ) a suit to set aside an attachment by a Court or a revenue -authority, or a sale, mortgage, lease or other transfer by a Court or a revenue -authority or by a guardian;
- (22) a suit for property which the plaintiff has conveyed while insane;
- (23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;
- (24) ) a suit to contest an award;
- (25) a suit upon a foreign judgment as defined in the <sup>1</sup>Codc of Civil Procedure (14 of 1882) or upon a judgment obtained in <sup>2</sup>[India];
- (26) a suit to compel a refund of assets improperly distributed under section <sup>3</sup>295 of the Code of Civil Procedure (14 of 1882);
- (27) a suit under the <sup>4</sup>Indian Succession Act, 1865 (10 of 1865), section 320 or section 321, or under the <sup>4</sup>Probate and Administration Act, 1881 (5 of 1881), section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets;
- (28) 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;
- (29) a suit—
- (a) for a dissolution of partnership or for the winding up of the business of a partnership after its dissolution;
  - (b) for an account of partnership-transactions; or
  - (c) for a balance of partnership-account, unless the balance has been struck by the parties or their agents;
- (30) ) a suit for an account of property and for its due administration under decree;
- (31) 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, and a suit for the profits on immovable property belonging to the plaintiff which have been wrongfully received by the defendant;
- (32) a suit for a general average loss or for salvage;
- (33) a suit for compensation in respect of collision between ships;
- (34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;
- (35) a suit for compensation—
- (a) for loss occasioned by the death of a person caused by actionable wrong;

---

1. See now the Code of Civil Procedure, 1908 (Act 5 of 1908) Sch. 1, Order XXI, rules 63 and 100, respectively.  
 2. . Subs. by the Adaptation of Laws (No. 2) Order, 1956 , for “a Part A State or a Part C State”. 3 . See now the Code of Civil Procedure, 1908 ( Act 5 of 1908), s. 73 .  
 4. See now the Indian Succession Act, 1925 (39 of 1925), ss. 360 and 361.

- (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 the plaintiff;
- (i) for obstruction of an easement or diversion of a water -course;

<sup>1</sup>[(ii)for an act which is, or, save for the provisions of Chapter IV of the Indian Penal Code (45 of 1860), would be, an offence punishable under Chapter XVII of the said Code;]

<sup>2</sup>[(j) 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;]

(k) for improper arrest under Chapter XXXIV of the <sup>3</sup>Code of Civil Procedure (14 of 1882) or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that <sup>3</sup>Code; or

(l) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;

(36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'waijal*) dower;

(37) a suit for the restitution of conjugal rights, <sup>4</sup>\*\*\* for the custody of a minor, or for a divorce;

(38) a suit relating to maintenance;

(39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title;

(40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;

(41) 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 joint property, or a member of an undivided family in respect of a payment made by him on account of the property or family;

(42) a suit by one of several joint mortgagors of immovable property for contribution in respect of money paid by him for the redemption of the mortgaged property;

(43) a suit against the 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;

<sup>5</sup>[(43A) a suit to recover property obtained by an act which is, or, save for the provisions of Chapter IV of the Indian Penal Code (45 of 1860), would be, an offence punishable under Chapter XVII of the said Code;]

(44) a suit, the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

---

1. Ins. by Act 6 of 1914, s. 2 (I).

2. Subs. by s. 2, *ibid.*, for item (j).

3. See now the Code of Civil Procedure, 1908 (Act 5 of 1908), Sch. I. Orders XXXVIII and XXXIX respectively and s. 95.

4. The words "for the recovery of a wife" were rep. by Act 10 of 1914, s. 3 and the Second Schedule.

5. Ins. by Act 6 of 1914, s. 3.