

ACT No. II OF 1863.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 15th January 1863).

An Act to regulate the admission of Appeals to Her Majesty in Council from certain Judgments and Orders in Provinces not subject to the General Regulations.

WHEREAS it is expedient to regulate the admission of appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations; It is enacted as follows :—

Preamble.

I. If a party in a suit is desirous of preferring an appeal to Her Majesty in Council from any final judgment, decree, or order made on appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations, or from any such final judgment, decree or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly, any claim, demand, or question to or respecting property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such appeal subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council in respect of such appeals from Her Majesty's High Courts of Judicature in British India.

Admission of appeal.

II.

PRICE TWO ANNAS.

ACT No. II OF 1863.

II. It shall further be lawful for such Court, at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, or order of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitations, as shall be in force, or as shall from time to time be declared by Her Majesty respecting appeals from final judgments, decrees, and orders, of Her Majesty's said High Courts of Judicature.

III. On the admission or permission of the appeal by the Court as hereinbefore provided, the Court shall forthwith cause notice to be given to the other party, that the Appellant has preferred an appeal to Her Majesty in Council.

IV. The Court, if applied to, may either order the judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may make on the appeal; or it may direct, on similar security being found, that no order for enforcing the judgment or determination shall be issued pending the appeal, and that, if any such order has been issued, it shall, so far as it has not been executed, be suspended.

V. In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the appeal.

VI. If a party who is desirous of preferring an appeal to Her Majesty in Council in any of the cases mentioned in Section I or Section II] of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, or order, that has been passed, or for any other purpose, he shall present his petition to the said Court within six calendar months from the date of the judgment, decree, or order appealed against.

VII

ACT. No. II OF 1863.

VII. If at any time pending an appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the appeal is pending may, on the application of the other party, require further security.

If security be found inadequate, Court may require it to be increased.

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if no such original security had been given; and if the original security was furnished by the Respondent, the Court, so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal, which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case.

If additional security be not furnished,

IX. In every case of appeal under this Act the Court shall certify and transmit to Her Majesty in Council under the seal of the Court, two true and correct copies of all evidence, proceedings, judgments, decrees, and orders had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

Proceedings in the suit appealed to be forwarded to Her Majesty in Council.

Expense of copying and translating papers in appeals to be paid by Appellants.

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the appeal.

XI. The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security for costs of appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, shall declare the appeal admitted, and give notice thereof to the Appellant and Respondent respectively.

Court to require a deposit for such expense as a preliminary to admission of appeal.

Either party, on paying for the same, may obtain copy of any paper. preparing them.

XII. Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit on paying the reasonable expenses incurred in preparing them.

XIII.

ACT No. II OF 1863.

XIII. Either party, in like manner, may obtain an authenticated copy of any local regulation or law which he may require in the appeal.

And of any local regulation or law.

XIV. The orders or decrees of Her Majesty in Council, when duly certified, shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the suit was originally tried, in the manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

Decrees of Her Majesty in Council how to be executed.

XV. Any party desirous of enforcing or obtaining execution of any such decree or order made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Execution how to be obtained.

XVI. An appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal as aforesaid in the same manner and subject to the same laws, rules, and regulations as an appeal from an order or decree made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

Appeal from order of enforcement.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

Court of highest Civil jurisdiction may execute decrees by order of Her Majesty in Council.

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all appeals to Her, either in rejecting any she may consider inadmissible, or in receiving any she may judge admissible.

Saving of Her Majesty's power as to receiving or rejecting appeals.

XIX.

ACT. No. II. OF 1863.

IXX. The words "British India" denote the Territories which are or
Interpretation of may become vested in Her Majesty by the Statute 21
"British India." and 22 Vic. c. 106, entitled "An Act for the better
Government of India."