













# SMALL CAUSE COURT REGULATION

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Jammu & Kashmir State

SANCTIONED

BY HIS HIGHNESS THE MAHARAJA

SAHIB BAHADUR

O F

JAMMU & KASHMIR



श्री प्रतापसिंह

IN  
SAMVAT 1968.

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# SMALL CAUSE COURT REGULATION

## OF JAMMU & KASHMIR STATE

### SANCTIONED

UNDER HIS HIGHNESS THE MAHARAJA SAHIB BAHADUR'S  
Order No. 288 dated 2nd. June 1911.

#### CHAPTER I

##### Preliminary.

1. This Regulation relates to the Court of small Causes established in the town of Srinagar and its suburbs, and shall apply to any other Small Cause Court that may hereafter be established in any other town or towns within the territories of His Highness the Maharaja Sahib Bahadur, and shall be called the Small Cause Court Regulation for the Jammu and Kashmir State.

2. Commencement It shall come into force on the 1st. day of Baisakh, 1968.

3. The jurisdiction of the Small Cause Court established at Srinagar in the Province of Kashmir, shall extend to the whole of the town of Srinagar, and its suburbs as specified in the schedule annexed herewith. The limits of the said jurisdiction may be extended from time to time by special orders of His Highness.

4. Nothing in this Regulation shall be construed to affect any proceeding, before or after decree, in any suit, instituted before the commencement of this Regulation; or any local law or any special law, other than the Code of Civil Procedure.



5. In this Regulation, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of small causes constituted under this Regulation, and includes any person exercising jurisdiction under this Regulation in any such Court.

## CHAPTER 11.

### Constitution of Courts of small Causes.

6. His Highness the Maharaja Sahib Bahadur shall appoint a judge judge for the said Court to be styled Judge of the Small Cause Court.

7. (1) His Highness the Maharaja Sahib Bahadur may, by order in writing, appoint an Additional Judge of the Small Cause Court.

(2) The Additional Judge, when appointed, shall discharge such of the functions of the Judge of that Court, as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw, from the Additional Judge, any business pending before him.

(4) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

8. A Judge or additional Judge of a Court of Small Causes may be suspended or removed from office by His Highness the Maharaja Sahib Bahadur.

9. In case there are more than one Judges appointed, His Highness the Maharaja Sahib Bahadur may, by order in writing, direct that two Judges or a Judge and an Additional Judge of the Small Cause Court, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of small Causes as may be described in the order.

10. (1) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section, differ as to a question of law or usage having the force of law, or in



construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2) a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

11. (1) His Highness the Maharaja Sahib Bahadur may appoint to Registrar 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) His Highness the Maharaja Sahib Bahadur may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(5) A Registrar may be suspended or removed from office by His Highness the Maharaja Sahib Bahadur.

12 The appointment of ministerial officers of the Small Cause Court shall in the first instance be made by the Judge High Court, the subsequent appointment, punishment and transfer shall be made by the Judge of the Small Cause Court with the previous sanction of the Judge High Court.



13. (1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Regulation, or in any other enactment 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 Regulation, and with any other enactment 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.

14. (1) A Court of small Causes shall not take cognizance of the suits specified in the 2nd schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, His Highness the Maharaja Sahib Bahadur may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

15. Save as expressly provided by this Regulation or by any other enactment 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

16. (1.) The procedure prescribed in the chapters & sections of the Code of Civil Procedure specified in the second schedule to that Code shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it, and in all proceedings arising out of such suits:

Application of the Code of Civil Procedure

Provided that an applicant for an order to set aside a decree passed ex parte or for a review of Judgment 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 security to the satisfaction of the Court for the performance of the decree or compliance with the Judgment, as the Court may direct.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realized in manner provided by section 253 of the Code of Civil procedure.

17. (1) Suits cognizable by the Registrar under section 11, sub— sections (3) and (4), 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.

Trial of suits by Registrar

(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.

18. (1) When the Judge of a Court of small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a complaint, or return or reject a complaint for any

Admission, return and rejection of complaints by Registrar



reason for which the Judge might return or reject it

Proviso:— Until a Registrar is appointed the Reader of the

Court may admit a plaint, but shall not return or reject the same.

(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 the Reader, or admit a plaint which has been returned or rejected by the Registrar:

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 or Reader admitted, or the Registrar 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.

19. (1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorized 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 re-hear the suit, on the same conditions, on the same grounds and in the same manner, as if the decree had been passed by himself.

20. 1. If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is absent, the Registrar may, subject to any instructions which

Passing of decrees by Registrar  
on confession

Execution of decrees by  
Registrar



he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Regulation.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an 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, of his own motion, or on application made by a party within 15 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 State law of Limitation, as though the application of the party were an application for review of Judgment.

21. When the Judge of a Court of small Causes 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 the further hearing thereof.

22. (1) Notwithstanding anything in the foregoing portion of this Regulation, when the right of a plaintiff and the relief claimed by him in a Court of small

Adjournment of cases by chief ministerial officer

Return of plaints in suits involving questions of title



Causes depend upon the proof or disproof of a title to immovable property or other title which such a Court can not 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 a plaint under sub-section (1), it shall comply with the provisions of the second paragraph of section 57 of the Code of Civil Procedure, and make such order with respect to costs as it deems just; and the Court shall, for the purposes of the State law of Limitation, 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.

23. Where an order specified in section 588, clause (29), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the Chief Judge of the Province.

Appeals from certain orders of  
Courts of Small Causes

24. 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 order with respect thereto as it thinks fit.

Revision of decrees and orders  
of Courts of small Causes

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

Finality of decrees and orders

## CHAPTER V.

### Supplemental Provisions.

26. (1) A Court of small Causes shall be subject to the administrative control of the Provincial Sadar Court and to the superintendence of the High Court, and

Subordination of Courts of  
Small Causes



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 Provincial Sadar Court, the High Court, or the Durbar for records, returns and statements in such form and manner as the authority making the requisition directs.

(2) The relation of the Sadar Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the Sadar Court to the Court of Sub-Judge 1st Grade.

27. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Durbar.

Abolition of Courts of Small Causes 28. His Highness the Maharaja Sahib Bahadur may, by order in writing, abolish a Court of Small Causes.

29. (1) Nothing in this Regulation shall be construed to prevent the Durbar from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

2) When a Judge or additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Durbar may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

Application of Regulation to Courts invested with Jurisdiction of Courts of Small Causes 30. (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 & 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 & revision as are provided by this Regulation,

applies to Courts invested by or under any enactment 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.

31. 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 Regulation and the Code of Civil Procedure, be deemed to be different Courts.

32. Notwithstanding any thing in the last foregoing sections,—

- (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 section 224 of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

33. (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 of Civil Procedure as extended to Courts of Small Causes or in any other enactment for the time being in force.

34. All orders required by this Regulation to be made in writing by the Durbar shall be published in the State Gazette.







## Schedule I.

## LIST OF SUBURBS OF THE TOWN OF SRINAGAR.

*MIRBEHRI VILLAGES Viz*

1. *Naupura*
2. *Karapura*
3. *Nandpura*
4. *Buchhwara*
5. *Gupkar*
6. *Zithiyar*
7. *Nishat*
8. *Shalamar*
9. *Hazratbal*
10. *Nasim Bagh*
11. *Telbal*
12. *Gupt Ganga*
13. *Bren*
14. *Thid*
15. *Vicharnag*
16. *Bàgàt Barzala*
17. *Karalpura*
18. *Pánd Chak*
19. *Pandrethan*
20. *Rambagh*







## SCHEDULE II.

*Suits excepted from the cognizance of a Court of small Causes.*

1. A suit concerning an act or order purporting to be done or made by the Durbar, or by a Minister of the Durbar or by a Governor, in their official capacity, or concerning an act purporting to be done by any person by order of the Durbar, or a Minister, a Governor or a Head of the Department;

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 State 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 Durbar 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 State Land Acquisition Regulation, 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;
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 section 283 or section 332 of the Code of Civil Procedure;
20. a suit instituted under section 283 or section 332 of the Code of Civil Procedure.
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 Code of Civil Procedure, or upon a Judgment obtained in the Courts of the State;

26. a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure;

27. a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 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;

*Note:—*

To be adopted as far as applicable.

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 a mortgage has been satisfied, to recover surplus collections



received by the mortgagee, and a suit for the profits of 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 boats;

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;

(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;

(j) for illegal, improper or excessive distress or attachment;

(k) for improper arrest under Chapter XXXIV. of the Code of Civil Procedure or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV. of that 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'wajjal) dower;



37. a suit for the restitution of conjugal rights, for the recovery of a wife, 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 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 State 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;
44. a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.



















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