



Latest Laws.com

Helping Good People Do Good Things

Bare Acts & Rules

Free Downloadable Formats

Hello Good People !

SECRET

THE (TAMIL NADU) VILLAGE COURTS ACT,
1888.

TABLE OF CONTENTS.

Preamble.

CHAPTER I.

PRELIMINARY.

SECTIONS.

1. Short title and commencement. Local extent.
2. [Repealed.]
3. Application of Act to suits or decrees pending.
4. Procedure for suits and decrees pending in area withdrawn from Act.
5. Interpretation-clause.

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF VILLAGE
COURTS.

6. Establishment of village courts.
7. Appointment of village munsif.
8. Suspension or removal of village munsif.
- 8-A. Suspension or removal of a Judge of a Village Panchayat Court appointed under the Travancore Act.
9. Constitution of panchayat courts : term of members : election of president : quorum : State Government's power to disestablish panchayat courts.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

- 9-A. Transfer of suits and civil proceedings.
- 9-B. Transfer of criminal cases and proceedings.
- 10. Village karnam to assist munsif in keeping register of suits and record of proceedings.
- 11. Village servant to serve summonses, etc.
- 12. Collector may appoint any person in lieu of, or in addition to, village karnam and village servant.

CHAPTER III.

JURISDICTION, RES JUDICATA AND LIMITATION.

- 13. Cognizance of suits by village courts.
- 14. [Omitted.]
- 15. Court in which suit to be instituted.
- 16. Suit in which village munsif is personally interested : suit in which a member is personally interested.
- 17. Res judicata.
- 18. Suit to include whole claim : relinquishment of part of claim.
- 19. Incidental determination of matters not cognizable by village courts.
- 20. Limitation.
 - 20-A. Suit triable by a village court ; cost of suits tried by District Munsif.
- 21. Transfer of suits : stay of proceedings by District Munsif.

CHAPTER IV.

OF THE INSTITUTION AND FRAME OF SUITS, RECOGNIZED AGENTS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENTS AND CONSEQUENCES OF NON-APPEARANCE.

22. Suit to be commenced by plaintiff.
23. Particulars to be contained in plaint.
24. Appearance in person or by agent.
25. Summons to defendant how served.
26. Mode of service when defendant evades service.
27. Mode of service upon defendant beyond local jurisdiction of court.
28. Procedure if defendant does not appear : defendant can claim two days' notice of suit.
29. Process to be served at expense of party issuing.
30. Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.
31. Procedure where plaintiff does not appear and defendant admits claim.
32. Setting aside order under section 30 or 31 on cause shown.
33. Setting aside *ex parte* decree against defendant.
34. No decree to be set aside without notice to opposite party.

CHAPTER V.

OF THE HEARING, WITHDRAWAL OR COMPROMISE OF SUITS AND OF THE SUMMONING AND EXAMINATION OF WITNESSES.

35. Procedure on appearance of both parties.
36. Withdrawal of suit.
37. When suit may be settled by oath.
38. Set-off.
39. Witnesses, not present, to be summoned.
40. Summons to witnesses, how served; interrogatories, when to issue.
41. Summons to appear and give evidence or produce documents.
42. Exemption of certain women and other persons from personal appearance.
43. Examination of witnesses.
44. Adjournment in view to amicable settlement or for other cause.

CHAPTER VI.

OF THE DECREE AND ITS EXECUTION.

45. On conclusion of hearing, court to pass decree.
46. Contents of decree.
- 46-A. Amendment of decrees.
47. Decree may award interest or order payment by instalments.
48. Court by which decree may be executed.
49. Decree for specific movable, how executed.
50. Payments of money under a decree or other adjustment to be made or recorded in presence of munsif.

51. Judgment-debtor not to be arrested nor immovable property attached.

52. Attachment of movable property.

53. Attachment of movable property : how made if in possession of judgment-debtor.

53-A. Mode of dealing with crops or ungathered products after attachment.

54. Attachment of movable property : how made if not in possession of judgment-debtor.

55. Debts, how attached.

56. Private alienation of property after attachment, void.

57. Investigation of claims to attached property.

58. Property to be sold not less than 15 days after attachment and sale to be proclaimed.

59. Procedure in sale.

60. Power to adjourn sale.

61. Village munsif and other officers not to bid for or buy property sold.

62. Stoppage of sale on tender of debt and costs.

63. Division of proceeds of sale.

64. Property actually seized to be delivered to purchaser.

65. In other cases how property delivered to purchaser.

66. Transmission of decree and execution of transmitted decree.

67. District Munsif may withdraw execution of any decree.

67-A. Orders of the District Munsif relating to attachment or sale of movable property not appealable.

CHAPTER VII.

MISCELLANEOUS.

68. If, on death of party to suit, application is made, legal representative of deceased may be entered on record.

69. If no application is made, suit to be dismissed.

70. If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

71. If decree-holder dies, his legal representative may be substituted.

72. If judgment-debtor dies, decree may be executed against his legal representative.

73. Revision by District Munsif of village court's proceedings.

74. District Munsif may, and in certain cases shall, report to District Judge.

75. Power of High Court to prescribe forms and of District Judge and District Munsif to inspect records.

CHAPTER VIII.

CRIMINAL JURISDICTION.

76. State Government may empower panchayat courts to take cognizance of and try certain offences. Imposition and limit of fine. Payment of fine and punishment for default. Procedure in criminal trials. No legal practitioner to appear for complainant or accused. When case may be transferred from panchayat court. Appeal. Transfer of cases cognizable by panchayat courts.

77. Applicability of certain sections of the Code of Criminal Procedure to court.

CHAPTER IX.

POWER TO MAKE RULES.

78. Power to make rules.

¹(TAMIL NADU) ACT No. I OF 1889²[THE ¹(TAMIL NADU) VILLAGE COURTS ACT, 1888.]

(Received the assent of the Governor on the 1st December 1888, and of the Governor-General on the 30th January 1889).

An Act to consolidate and amend the law relating to the courts of village munsifs in the ³(State of Tamil Nadu).

WHEREAS it is expedient to consolidate and amend ^{Preamble.} the law relating to the courts of village munsifs in the ³[State of Tamil Nadu]; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called "The ¹(Tamil Nadu) Short title and commencement. Village Courts Act, 1888," and shall come into force at once. ⁴[. . .]

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

² For Statement of Objects and Reasons, see *Fort St. George Gazette Supplement*, dated the 20th December 1887, page 13; for Report of the Select Committee, see *ibid*, dated the 15th May 1888, page 1; for Proceedings in Council, see *ibid*, dated the 24th January 1888, page 1, and *ibid*, dated the 13th November 1888, page 14.

This Act was extended to the merged State of Pudukkottai by section 3 of, and the First Schedule to, the Tamil Nadu Merged States (Laws) Act, 1949 (Tamil Nadu Act XXXV of 1949).

This Act as in force immediately before the date of the commencement of the Tamil Nadu Village Courts (Amendment) Act, 1961 (Tamil Nadu Act 22 of 1961) and as amended by the latter Act was extended to the transferred territory by section 9 of the said Tamil Nadu Act 22 of 1961, which came into force on the 2nd October 1961 repealing the Travancore Village Panchayat Courts Act, 1090 (Travancore Act I of 1090) and any other law corresponding to the Madras Act in force in that territory before the commencement of the said Tamil Nadu Act 22 of 1961 and the Travancore-Cochin Village Courts Act, 1953 (Travancore-Cochin Act VII of 1954).

³ This expression was substituted for the expression "Presidency of Fort St. George" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

⁴ Certain words were omitted by the Tamil Nadu Village Courts Amendment) Act, 1919 (Tamil Nadu Act II of 1920), section 3.

Local extent.

(2) It extends to the ¹[whole of the State of Tamil Nadu except the town of Madras.]

Provided that the ²[State Government] may by notification in the ³[Official Gazette] from time to time withdraw any village or area from its operation and cancel such notification.

2. [Enactments repealed.] Repealed by sec on 3 (2) of the Repealing and Amending Act, 1901 Central Act XI of 1901).

Application of Act to suits or decrees pending.

3. All suits pending in the courts of village munsifs at the time of this Act coming into force shall be deemed to have been instituted under this Act, and all decrees passed by village munsifs before such date may be executed under the provisions hereinafter contained relating to execution of decrees passed under this Act.

Procedure for suits and decrees pending in area withdrawn from Act.

4. When any village or area is withdrawn from the operation of this Act, all suits pending in a village court therein shall be heard and determined, and all decrees passed by such court and remaining unexecuted shall be executed by the civil court which, if the suit were about to be instituted, would have jurisdiction to try it.

Such suits shall be tried and such decrees shall be executed as suits instituted in, and decrees passed by, such civil court.

Interpretation-clause.

5. In this Act, unless there be something repugnant in the subject or context—

¹ This expression was substituted for the expression "territories subject to the Governor in Council of the Presidency of Fort St. George except the town of Madras" by the Tamil Nadu Adaptation of Laws Order, 1970, which was deemed to have come into force on the 14th January 1969.

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ These words were substituted for the words "Fort St. George Gazette" by the Adaptation Order of 1937.

“ Village ” means in a permanently settled estate “ Village ” a local area for which at the passing of this Act there is a village munsif’s court constituted under Madras Regulation IV of 1816¹ or for which a village court has been established under this Act ; and elsewhere a local area recognized by ²[the State Government] from time to time as a village for purposes of collecting the land revenue.

³[“Village court” means the court of a village munsif appointed under section 7 or a panchayat court established under section 9. “Village court.”]

“ Village munsif ” means the judge of the court of a village munsif established under this Act “Village Munsif.” [and except in sub-section (1) of section 16 includes—

(a) the president of a panchayat court ; and

(b) the vice-president of a panchayat court, exercising the functions of its president under this Act or the rules made thereunder).

“ District Munsif ” means the District Munsif within the local limits of whose jurisdiction the village court is situated : “District Munsif.”

Provided that if the village is not situated within the local limits of the jurisdiction of any District Munsif, the Subordinate Judge, or if there be no Subordinate Judge, the District Judge within the

¹ Repealed by the Repealing and Amending Act, 1901 (Central Act XI of 1901), s.3.

² The words “ the Provincial Government ” were substituted for the word “ Government ” by the Adaptation Order of 1937 and the word “ State ” was substituted for “ Provincial ” by the Adaptation Order of 1950.

³ These definitions were substituted for the original definitions of “ Village Court,” “ Village Munsif,” “ District Judge ” and “ District Munsif ” by section 4 of the Tamil Nadu Village Courts (Amendment) Act, 1919 (Tamil Nadu Act II of 1920).

⁴ These words and figures were substituted for the words and figures “ and except in sections 7 and 16 includes the President of a Panchayat Court ” by section 2 (i) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

local limits of whose jurisdiction the village is situated, shall be deemed to be the District Munsif :

Provided further that if in any area the District Munsif does not exercise small cause jurisdiction and a separate Court of Small Causes has been established, the Judge of such Court shall be deemed to be the District Munsif.]

“ Movable property.”

¹[“ Movable property ” includes growing crops as well as ungathered products of land.]

“ Pre-scribed.”

²[“ Prescribed ” means prescribed by rule made by the ³(State Government) under this Act.]

“ Sign.”

²[“ Sign ” with its grammatical variations and cognate expressions shall, with reference to a person who is unable to write his name, include “ mark ” with its grammatical variations and cognate expressions.]

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF VILLAGE COURTS.

Establishment of village courts.

6. The ³[State Government] may from time to time by order to be notified in the District Gazette—

(1) group two or more villages and establish one village court for them in lieu of the several village courts previously existing therein ;

(2) constitute divisions in any village, and establish a separate village court for each of such divisions in lieu of the village court previously existing in such village ;

¹ This definition was inserted by section 2 (ii) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

² This definition was inserted by section 4 of the Tamil Nadu Village Courts (Amendment) Act, 1919 (Tamil Nadu Act II of 1920).

³ The words “ Provincial Government ” were substituted for the words “ Governor in Council ” by the Adaptation Order of 1937 and the word “ State ” was substituted for “ Provincial ” by the Adaptation Order of 1950.

(3) establish a new village court for any specified area, ¹[* * * *].

7. ²[In villages where there are no panchayat courts] village munsifs shall be appointed by the Collector ³[in the manner prescribed] provided that no person not residing within the village shall be eligible for that office. Appoint-
ment of
village
munsif.

8. The Collector of the district may suspend or remove a village munsif ⁴[or a member of a panchayat court] for incapacity, neglect of duty, misconduct or other just and sufficient cause, and shall do so, on a requisition passed by the District Judge for like cause appearing in the judicial proceedings of a ⁵[village court]. Suspension
or removal
of village
munsif.

From every order ⁶[of suspension or removal] an appeal may be made within three months to the Board of Revenue, if the order was passed by the Collector without orders from the District Judge, or to the High Court if passed upon such orders. The decision of the Board of Revenue or High Court, as the case may be, on all such appeals shall be final.

⁷[8-A. The State Government may suspend or remove the President or other Judge of a Village Panchayat Court appointed under the Travancore Village Panchayat Courts Act, 1090 (Travancore Suspension
or removal
of a Judge
of a Village
Panchayat
Court
appointed
under the
Travancore
Act.

¹ The last sentence of section 6 was omitted by section 6 of the Tamil Nadu Village Courts (Amendment) Act, 1919 (Tamil Nadu Act II of 1920).

² These words were inserted by section 7, *ibid.*

³ These words were substituted for the words "of the district subject to such rules as the Governor in Council may from time to time prescribe" by *ibid.*

⁴ These words were inserted by section 8 (1), *ibid.*

⁵ These words were substituted for the words "village munsif" by *ibid.*

⁶ These words were substituted for the words "suspending or removing a village munsif" by section 8 (2), *ibid.*

⁷ This section was inserted by section 2 of the Tamil Nadu Village Courts (Amendment) Act, 1961 (Tamil Nadu Act 22 of 1961), which came into force on the 2nd October 1961.

Act I of 1090), and continuing as President or member of the Panchayat Court after the date of the commencement of the ¹(Tamil Nadu) Village Courts (Amendment) Act, 1961, for incapacity, neglect of duty, misconduct or other just and sufficient cause, and shall do so, on a requisition made by the High Court, for like cause appearing in the judicial proceedings of the Panchayat Court concerned.]

Constitution
of panchayat
courts.

²[9. (1) The ³[State Government] may, by order notified in the District Gazette, constitute a panchayat court, as hereinafter provided, for any village, group of villages or part of a village; and thereupon no court of a village munsif appointed under section 7 shall exercise jurisdiction under this Act in any part of such area.

(2) For every court so established the Collector shall determine the number of members, provided that such number shall not be less than five nor more than twelve.

(3) Subject to such rules as may be made by the ³[State Government] the members of the panchayat court shall be appointed by election.

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

² This section was substituted for the original section 9 by section 9 of the Tamil Nadu Village Courts (Amendment) Act, 1919 (Tamil Nadu Act II of 1920). Under section 132 of the Tamil Nadu Village Panchayats Act, 1950 (Tamil Nadu Act X of 1950), which came into force on the 1st April 1951, every Panchayat constituted or deemed to be constituted under that Act for any area shall be deemed to be a panchayat court for that area. Sections 6 to 8 and 9 (2); (3), (3-A), (4), (5) (a) and (7) shall not apply to such area and the provisions of section 13 shall be construed as if for the words "sum of rupees fifty", the words "sum of rupees one hundred" were substituted. But the said Tamil Nadu Act X of 1950 shall stand repealed in the Panchayat Development Block concerned consequent on the coming into force of the Tamil Nadu Act XXXV of 1958. See, however, section 191 of Tamil Nadu Act XXXV of 1958.

³ The words "Provincial Government" were substituted for the words "Governor" in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

¹[(3-A) Notwithstanding anything contained in sub-sections (2) and (3), the Collector may in his discretion appoint not more than two members to the panchayat court by nomination from any one or more of the communities which are in a minority in the area for which the court is established (for example, Muslims, Indian Christians and ²[members of the Scheduled Castes or Scheduled Tribes or Backward Classes]) and which communities are not already represented on the court. Any member or members so appointed shall be in addition to the strength of the court as determined under sub-section (2).]

(4) Subject to such rules as may be made by the ^{Term of} ^{of} ^{members.} ^{State Government]} a member of a panchayat court shall hold office for a term of three years.

⁴[(5) (a) A panchayat court shall elect, according ^{Election of} to the rules prescribed in that behalf, one of its members ^{President.} to be its president and another member to be its vice-president.

(b) The president may, by order in writing, delegate any of his functions to the vice-president :

Provided that he shall not delegate any functions which the panchayat court expressly forbids him to delegate.

¹This sub-section was inserted by section 2 of the Madras Village Courts (Amendment) Act, 1935 (Madras Act XV of 1935).

² These words were substituted for the words "Depressed or backward classes" by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957); and in so far as the application of this Act to the added territories is concerned, the above amendment was made by section 4 of, and the Second Schedule to, the Tamil Nadu (Added Territories) Extension of Laws Act, 1962 (Tamil Nadu Act 14 of 1962).

³ The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

⁴ This sub-section was substituted for the original sub-section (5) by section 3 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act VI of 1936).

(c) If the president is absent from the jurisdiction of the court or is incapacitated, his functions shall devolve on the vice-president.

(d) When the office of president is vacant, the vice-president shall exercise the functions of the president until a new president assumes office.

(e) Every sitting of the court shall be presided over by the president, and in his absence, by the vice-president if there is one. If there is no vice-president, or in the absence of both the president and the vice-president, the members present and constituting the court shall elect from among themselves a president for the purposes of that sitting.]

Quorum.

(6) Three members of a panchayat court shall constitute a quorum, and the decision of the majority present shall be the decision of the court :

Provided that in the case of equality of votes the president shall have ¹[and exercise] a casting vote.

(7) The ²[State Government] may, by order notified in the District Gazette, disestablish any panchayat court.]

³[9-A. Where a village court is established under any of the provisions of section 6 or sub-section (1) of section 9 in any local area, in lieu of a village court or courts having jurisdiction over such area—

(a) all suits or civil proceedings pending in such court or courts shall be deemed to have been instituted or taken in the court newly established for such area ; and

(b) all decrees passed by such court or courts which have not been executed or are under execution shall be deemed to have been passed by the court so established.]

¹ These words were inserted by section 3 (i) of, and the Second Schedule to, the Tamil Nadu Repealing and Amending Act, 1951 (Tamil Nadu Act XIV of 1951).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ This section was inserted by section 4 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937)

State Government's power to disestablish panchayat courts.

Transfer of suits and civil proceedings.

[9-B. The provisions of section 9-A shall, so far as may be, apply to criminal cases or proceedings pending before a panchayat court or courts in lieu of which a panchayat court is newly established].

10. The village munsif shall keep a register of suits preferred to the village court and shall write the proceedings of the court and it shall be the duty of the village karnam, if so required, to assist in keeping such register and in writing the proceedings of the court.

Transfer of criminal cases and proceedings.
Village karnam to assist munsif in keeping register of suits and record of proceedings.

11. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Act and to act under the orders of the village munsif in seizing, selling and delivering movable properties attached under this Act.

Village servant to serve summonses, etc.

12. It shall be competent to the Collector of the district, subject to the control of the [State Government] to appoint any person in lieu of, or in addition to, the village karnam, or the village servant mentioned in section 11 to perform the duties prescribed by sections 10 and 11 respectively.

Collector may appoint any person in lieu of, or in addition to, village karnam and village servant.

CHAPTER III.

JURISDICTION, RES JUDICATA AND LIMITATION.

13. The following are the suits which shall be cognizable by village courts (namely)—claims for money due on contract, or for [movable property] or for the value of such property, [or for any tax,

Cognizance of suits by village courts.

¹ This section was inserted by section 4 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

² The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation Order of 1937 and the word "State" was substituted for "Provincial" by the Adaptation Order of 1950.

³ These words were substituted for the words "personal property" by section 5 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

⁴ These words were inserted by section 2 of the Madras Village Courts (Amendment) Act, 1940 (Madras Act XVIII of 1940). This Act was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting (No. II) Act, 1948 (Tamil Nadu Act VIII of 1948).

fee, or other sum due to a local authority], when the debt or demand does not exceed in amount or value the sum of ¹[rupees two hundred] whether on balance of account or otherwise :

Proviso.

Provided that no action shall be brought in any such court—

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents ;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will ;

(3) for rent for land unless such rent be due upon a written contract signed by the defendant ;

(4) by or against ²[the Government] or public officers in their official capacity ;

(5) by and against minors or persons of unsound mind.

³[14.

***]

Court in which
suit to be
instituted

15. Subject to the provisions contained in section 16, every suit brought under this Act shall be instituted in the ⁴[village court] within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside, or carry on business, or personally work for gain.

¹ These words were substituted for the words " rupees fifty " by section 3 of the Tamil Nadu Village Courts (Amendment) Act, 1961 (Tamil Nadu Act 22 of 1961), which came into force on the 2nd October 1961.

² The words " the Crown " were substituted for the word " Government " by the Adaptation Order of 1937 and the word " Government " was substituted for " Crown " by the Adaptation Order of 1950.

³ This section was omitted by section 4 of the Tamil Nadu Village Courts (Amendment) Act, 1961 (Tamil Nadu Act 22 of 1961), which came into force on the 2nd October 1961.

⁴ These words were substituted for the words " court of the village munsif " by section 11 of the Tamil Nadu Village Courts (Amendment) Act, 1919 (Tamil Nadu Act II of 1920).

¹[16. (1)] No village munsif shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit. Every such suit or proceeding may be instituted in the ²[village court] of any village immediately adjoining.

Suit in which village munsif in personally interested.

¹[(2) When any member of a panchayat court is a party to, or personally interested in, any suit or proceeding before such court, he shall withdraw from the court during the hearing of such suit or proceeding and shall take no part in its determination.]

Suit in which a member is personally interested.

17. No village court shall try any suit brought on a cause of action, which has been heard and determined by a court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Res Judicata.

18. Every suit instituted in a village court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such court.

Suit to include whole claim.

If a plaintiff omit to sue in respect of, or intentionally relinquish any portion of his claim, he shall be precluded from bringing a fresh suit for or in respect of the portion so omitted or relinquished.

Relinquishment of part of claim.

19. If in the decision of a suit cognizable by a village court ³[* *], it becomes necessary to decide incidentally any matter in dispute between the parties to the suit, concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which if it had been the immediate subject matter of the suit, would not be cognizable under this Act by a village court, it shall be competent to the village court to decide such question of title, legal character, contract or obligation as far as

Incidental determination of matters not cognizable by village courts.

Section 16 was renumbered as sub-section (1) of section 16 and new sub-section (2) was inserted by section 12 of the Tamil Nadu Village Courts (Amendment) Act, 1919 (Tamil Nadu Act II of 1920.)

² Those words were substituted for the words "court of the munsif" by *ibid.*

³ The words and figures "under sections 13 and 15" were omitted by s. 13, *ibid.*

may be necessary for the determination of such suit¹ but such decision shall not be evidence of such title, legal character, contract or obligation in any other action though between the same parties or their representatives.

Limitation.

20. The provisions of the Indian Limitation Act, 1877,¹ shall apply to suits and applications under this Act.

[* * * * *]

Suit triable by a village court.

³**[20-A. (1)** If a suit which is triable by a village court is instituted in the court of a District Munsif, he may, unless sufficient reasons exist to the contrary, transfer it to the village court.

Cost of suits tried by District Munsif.

(2) Where a District Munsif tries a suit which is triable by a village court and is of opinion that the suit ought to have been instituted in the village court, no costs shall be allowed to a successful plaintiff and a successful defendant shall be allowed his costs as between pleader and client.]

Transfer of suits.

⁴**[21. (1)]** The District Munsif may, on the application of any of the parties, withdraw any suit from a village court and try the suit himself, as if it had been instituted in his court, or transfer it for trial to any other village court within the local limits of his jurisdiction : Provided that any party applying to have a suit withdrawn from a village court and tried by the District Munsif shall, before any such order of transfer is made, pay the amount of the fees payable under the Court Fees Act, 1870*, in respect thereof.

Central Act VII of 1870.

Stay of proceedings by District Munsif.

⁴**[(2)** Pending disposal of any application under sub-section (1) the District Munsif may order a stay of proceedings in the village court.]

¹ See now the Limitation Act, 1963.

² The proviso was omitted by Tamil Nadu Act II of 1920, s. 14.

³ This section was inserted by *ibid*, s. 15.

⁴ Original section 21 was numbered as sub-section (1) of section 21 and new sub-section (2) was inserted by *ibid*, s. 16.

* See now the Tamil Nadu Court-fees and Suits Valuation Act, 1955 (Tamil Nadu Act XIV of 1955).

CHAPTER IV.

OF THE INSTITUTION AND FRAME OF SUITS, RECOGNIZED AGENTS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENTS AND CONSEQUENCES OF NON-APPEARANCE.

22. Every suit under this Act shall be instituted by presenting a plaint to the village munsif together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Suit to be commenced by plaint.

23. The plaint shall be written in the language of the village and signed by the plaintiff, or, in his absence, by an agent duly authorized by him, and it shall contain the following particulars :—

Particulars to be contained in plaint.

(a) The name, description and residence of the plaintiff and defendant.

(b) A concise statement of the cause of action and when it arose.

(c) The relief prayed for, and the total amount or value of the claim.

24. ¹[No legal practitioner, whether qualified or unqualified, shall be allowed to appear before a village court on behalf of any party to a suit or proceeding but any party may authorize a servant, gumasta, partner, relation or friend to appear and plead for him : Provided that] it shall be competent to the village munsif, whenever he thinks it necessary for the ends of justice, to order the personal attendance of any of the parties to the suit ; and if the party so ordered does not attend in person, he shall be subject to the same consequences as if he did not appear either in person or by an agent.

Appearance in person or by agent.

¹ These words were substituted for the words "Any party to any suit before a village court may appoint by vakalatnama any person to appear and plead for him, but" by Tamil Nadu Act II of 1920, s. 17.

Summons to defendant how served.

25. When the plaint has been duly presented, the village munsif shall cause the same to be registered, and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day. The summons shall be served on the defendant personally ¹[and his signature taken thereon] and a copy thereof delivered to him by the village servant usually employed in carrying messages, or by any other person appointed by the Collector under section 12.

Mode of service when defendant evades service.

26. If the village munsif is satisfied that the defendant is evading service of the summons, ²[or has refused to affix his signature to the summons], the village munsif may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides.

Mode of service upon defendant beyond local jurisdiction of court.

27. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the village court, it shall be forwarded to the District Munsif, who shall cause it to be served as if it had been a summons issued by himself, and shall then return it to the village court together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

28. If a defendant does not appear in person or by agent on the day fixed, and it be proved that the summons was duly served, the village court may proceed *ex parte*.

If it is not proved that the summons was duly served, the village munsif shall issue a fresh summons.

Defendant can claim two days' notice of suit.

Every defendant may claim two clear days' notice of suit, and if the summons was not served in sufficient time to enable him to answer on the day fixed, the hearing shall be adjourned to a future day, of which written notice shall be given to defendant.

¹ These words were inserted by Tamil Nadu Act II of 1920, s.18.

² These words were inserted by *ibid.* s. 19.

29. Every summons served under this Act otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued

Process to be served at expense of party issuing.

[* * * * *]

30. If on the day fixed for the defendant to appear—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear, the suit shall be dismissed unless the village court otherwise directs.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

31. If the plaintiff does not appear, but the defendant appears and admits the claim wholly or in part, the village court shall pass judgment against defendant in accordance with such admission, provided that when only a part of the claim is admitted, the court may adjourn the hearing to a future day.

Procedure where plaintiff does not appear and defendant admits claim.

32. Whenever a suit is dismissed under clause (1) or clause (3) of section 30, the plaintiff may ²[subject to the law of limitation] bring a fresh suit ; and if within thirty days from the date of an order under clause (2) of section 30 dismissing the suit, or of a decree passed for only a part of the claim under section 31, the plaintiff satisfies the village court that he was prevented by any sufficient cause from appearing, the court shall set aside the dismissal or the decree, and shall appoint a day for proceeding with the suit.

Setting aside order under section 30 or 31 on cause shown.

33. Any defendant against whom a decree has been passed *ex parte* may, within thirty days from the date of executing any process for its enforce-

Setting aside *ex parte* decree against defendant.

¹ Certain words were omitted by Tamil Nadu Act II of 1920 s. 20.

² These words were inserted by *ibid.*, s. 21.

ment, apply to the village court to set it aside ; and if satisfied that the summons or notice was not duly served, or that the defendant was prevented by any sufficient cause from appearing, the court shall set aside the decree and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party.

34. No decree shall be set aside on any application under section 32 or section 33 unless notice has been served on the opposite party.

CHAPTER V.

OF THE HEARING, WITHDRAWAL OR COMPROMISE OF SUITS AND OF THE SUMMONING AND EXAMINATION OF WITNESSES.

Procedure on appearance of both parties.

35. When the defendant appears, the court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim or if the suit be compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the court shall pass a decree in accordance therewith. If he does not admit the claim, he shall be required to state his objections either orally or in writing, and the court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal of suit.

36. If the plaintiff wishes to withdraw a suit, he shall signify the same in writing to the court, which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit may be settled by oath.

37. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the court shall give judgment according to such oath.

Set-off.

38. The defendant may set-off any amount legally due to him by the plaintiff for which he could bring a suit in a village court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

39. When the defendant's statement has been made, the court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Witnesses not present to be summoned.

40. Any witness residing within the jurisdiction of the village court may be summoned verbally or in writing. Any witness residing within ¹[eight kilometres] beyond the court's jurisdiction may be summoned in writing, and such summons shall be served through the village munsif within whose jurisdiction he resides. If any witness resides more than ¹[eight kilometres] beyond the jurisdiction, the court may call on the parties to frame written interrogatories and shall forward such interrogatories, with a letter, to the village munsif within whose jurisdiction the witness resides, and such munsif shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the court in which the suit is pending.

Summons to witnesses how served.

Interrogatories when to issue.

41. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Summons to appear and give evidence or produce document.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary the village court shall examine such person at his or her residence.

Exemption of certain women and other persons from personal appearance.

43. Witnesses shall be examined on oath or solemn affirmation, but it shall not be necessary for a village court to take down depositions of witnesses in writing.

Examination of witnesses.

¹ These words were substituted for the words " five miles " by section 5 of the Tamil Nadu Village Courts (Amendment) Act, 1961 (Tamil Nadu Act 22 of 1961), which came into force the 2nd October 1961.

Adjournment in view to amicable settlement or for other cause.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the village court may adjourn the hearing to a day to be fixed in the presence of the parties, or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the village court may proceed to dispose of the suit in one of the modes prescribed in that behalf by sections 30 and 31, or make such other order as it thinks fit.

CHAPTER VI.

OF THE DECREE AND ITS EXECUTION.

On conclusion of hearing, court to pass decree.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the village court shall pass such decree as may seem just, equitable, and according to good conscience.

Contents of decree.

46. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is passed, and signed by the village munsif. When the suit has been heard by a '[panchayat court], the decree shall be signed by the members of such ¹[panchayat court] concurring therewith. ²[A copy of the decree shall then be delivered : o each party in the prescribed manner.]

¹ These words were substituted for the word " bench " by Tamil Nadu Act II of 1920, s. 5.

² These words were substituted for the words "Each party shall be entitled to receive a copy of the decree upon application " by 1920, s. 22.

¹[46-A. The village court may, at any time, correct, Amendment of either of its own motion or on the application of decrees. any of the parties—

(1) any clerical or arithmetical mistake in any decree, or

(2) any error arising in any decree from any accidental slip or omission.]

47. In suits for money the village court may decree interest on the sum decreed not exceeding twelve per cent per annum from date of suit till date of payment. Decree may award interest or order payment by instalments.

When a village court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

48. The decree shall be executed by the village court which passed it or by a village court or District Munsif to whom it is sent for execution under the provisions hereinafter contained. Court by which decree may be executed.

49. If the decree be for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property be not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative. Decree for specific movable how executed.

50. All money payable under a decree passed by a village court shall be paid to the decree-holder, or his agent specially authorized in writing, in the presence of the village munsif whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such village munsif. Payment of money under a decree or other adjustment to be made or recorded in presence of munsif.

¹This section was inserted by section 6 of the Tamil Nadu Village Courts (Amendment) Act, 1961 (Tamil Nadu Act 22 of 1961), which came into force on the 2nd October 1961.

Such payment or adjustment shall be endorsed by the village munsif on the decree, and recorded in the register of suits mentioned in section 10.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognized unless it has been made or recorded in the manner prescribed by this section, or in the court of the District Munsif.

Judgment-debtor not to be arrested, nor immovable property attached.

51. Subject to the provisions of sections 66 and 67, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a village court.

Attachment of movable property.

52. On the application of the decree holder, ¹[the village court, or in the case of a panchayat court, its president or any other member of the court to whom the president may delegate his power in this behalf, shall attach any movable property within the jurisdiction of the court,] belonging to the judgment-debtor pointed out by the decree-holder, to the value of the sum payable under the decree, ²[provided that no property shall be liable to such attachment which is exempt from attachment under section 60 of the Code of Civil Procedure, 1908].

Central Act V of 1908.

How made if in possession of judgment-debtor.

53. If the property be in the possession of the judgment-debtor, it shall be attached by actual seizure, and the village munsif shall provide for its safe custody. It may be left in the custody of the judgment-debtor, upon sufficient security being given in writing for its production when required. On default the decree may be executed against the surety to the value of the property not produced.

¹ These words were substituted for the words, "the village court shall attach any movable property within his jurisdiction" by section 3 of the Madras Village Courts (Amendment) Act, 1940 (Madras Act XVIII of 1940). This Act was permanently re-enacted by section 2 of, and the First Schedule to, the Tamil Nadu Re-enacting (No. II) Act, 1948 (Tamil Nadu Act VIII of 1948).

² This proviso was substituted for the original proviso by Tamil Nadu Act II of 1920, s. 23.

1[53-A. Where the crops or ungathered products of any land are attached under section 53, the village court may cause them to be sold when fit for reaping or gathering, or at its option, may cause them to be reaped or gathered in due season and stored in proper places until sold. In the latter case, the expense of reaping or gathering and storing such crops or products shall be defrayed by the judgment-debtor when he redeems the property or from the proceeds of the sale in the event of its being sold.]

Mode of dealing with crops or ungathered products after attachment.

54. If the property be not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

How made if not in possession of judgment-debtor.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money, and the debtor from making payment thereof until the further order of the village court. Nothing in this section shall be held to authorize a village court to attach or sell a debt charged on immovable property.

Debts how attached.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached, whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Private alienation of property after attachment void.

57. If any claim be preferred to property attached in execution of a decree, the village court shall investigate the claim and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Investigation of claims to attached property.

¹ This section was inserted by section 6 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

Property to be sold not less than fifteen days after attachment, and sale to be proclaimed.

58. As soon as possible after attachment, the village court shall fix a day not less than fifteen days from the date of attachment, for the sale of the property attached, and shall cause written proclamation of the intended sale to be fixed ¹[outside the court,] and such sale shall be further proclaimed by beat of drum previous thereto :

Proviso.

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the court may, after giving due notice by beat of drum, sell the attached property at any time within fifteen days from the date of attachment. In such case the court shall hold the sale-proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees.

Procedure in sale.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the village munsif, and sold to the highest bidder. The price shall be paid without delay, and in default the property shall again be put up to sale.

On payment of the purchase money, the court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the judgment-creditor or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

Power to adjourn sale.

60. Any sale advertised under this Act may at the discretion of the court be adjourned to a specified day, public notice thereof being given in the manner prescribed by section 58.

¹ These words were substituted for the words " outside his Court " by section 3(1) of, and the Second Schedule to, the Tamil Nadu Repealing and Amending Act, 1951 (Tamil Nadu Act XIV of 1951).

61. No village munsif or other officer having any duty to perform in connection with any sale under this Act shall, either directly or indirectly, bid for or acquire any interest in any property sold at such sale.

Village munsif and other officers not to bid for or buy property sold.

62. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the costs attending the sale are tendered to the village munsif.

Stoppage of sale on tender of debt and costs.

63. Out of moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor.

Division of proceeds of sale.

64. When the property sold is one of which actual seizure has been made, the property shall be delivered to the purchaser.

Property actually seized to be delivered to purchaser.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is a debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

In other cases how property delivered to purchaser.

66. (1) Any decree passed by a village court may, on the application of the decree-holder, be transmitted for execution to the District Munsif, who may

Transmission of decree and execution of transmitted decree.

(a) execute the decree as if it were a decree passed by himself ; or

¹ This section was substituted for the original section 66 by section 2 of the Madras Village Courts (Amendment) Act, 1929 (Madras Act XV of 1929).

(b) transmit it for execution to the court of any other village within his jurisdiction in which the defendant is represented to have movable property ;
or

(c) transmit it to the court of any other District Munsif within whose jurisdiction the defendant is represented to reside or to have property.

(2) The District Munsif to whom a decree has been transmitted under clause (c) of sub-section (1) may execute the decree as if it were a decree passed by himself or transmit it for execution to the court of any village within his jurisdiction in which the defendant is represented to have movable property.

(3) The village court to which the decree is transmitted under clause (b) of sub-section (1) or sub-section (2) shall proceed as if the decree was passed by itself.]

District Munsif may withdraw execution of any decree.

Orders of the District Munsif relating to attachment or sale of movable property not appealable.

67. It shall be competent to the District Munsif to withdraw the execution of any decree from any village court, and to execute it himself, as if it were a decree passed by himself.

¹[67-A. Notwithstanding anything contained in the Code of Civil Procedure, 1908, no appeal shall lie from any order made by a District Munsif relating to the attachment or sale of movable property in execution of any decree passed by a village court.] Central Act V of 1908.

CHAPTER VII.

MISCELLANEOUS.

If on death of party to suit application is made, legal representative of deceased may be entered on record.

68. ²[If a plaintiff or a defendant dies] before decree is passed in the suit, the name of his legal representative may be entered in his place on the record, on the application of the opposite party or

¹ Section 67-A was inserted by section 3 of the Madras Village Courts (Amendment) Act, 1929 (Madras Act XV of 1929).

² These words were substituted for the words " If a plaintiff or a defendant die" by section 3 of, and the Second Schedule to, the Tamil Nadu Repealing and Amending Act, 1955 (Tamil Nadu Act XXXVI of 1955) ; and in so far as the application of this Act to the added territories is concerned, the above amendment was made by section 4 of, and the Second Schedule to, the Tamil Nadu (Added Territories) Extension of Laws Act, 1962 (Tamil Nadu Act 14 of 1962).

of such legal representative, but no decree shall be passed against the legal representative of a deceased defendant beyond the value of the assets derived from him and not duly accounted for.

69. If no such application be made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed, and no fresh suit shall be allowed to be brought on the same cause of action. If no application is made, suit to be dismissed.

70. If there be more plaintiffs or defendants than one, and any of them die, and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants. If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

71. ¹[If a decree-holder dies] before the decree has been fully executed, his legal representative may apply to the village court to substitute his name as the decree-holder ²[in the place of the deceased,] and if the court be satisfied, after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder. If decree-holder dies, his legal representative may be substituted.

72. ³[If a judgment-debtor dies] before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor, to the extent of assets derived from him and not duly accounted for. If judgment-debtor die, decree may be executed against his legal representative.

73. The District Munsif may, on a petition being presented within sixty days from the date of any decree or order of a village court by any party deeming Revision by District Munsif of village courts' proceedings.

¹ These words were substituted for the words "If a decree-holder die" by section 3 of, and the Second Schedule to, the Tamil Nadu Repealing and Amending Act, 1955 (Tamil Nadu Act XXXVI of 1955); and in so far as the application of this Act to the added territories is concerned, the above amendment was made by section 4 of, and the Second Schedule to, the Tamil Nadu (Added Territories) Extension of Laws Act, 1962 (Tamil Nadu Act 14 of 1962).

² These words were substituted for the words "in the room of the deceased" by *ibid.*

³ These words were substituted for the words "If the judgment-debtor die" by *ibid.*

himself aggrieved by such decree or order, set aside such decree or order on the ground—

of corruption, gross partiality or misconduct of the village court ; or

of its having exercised a jurisdiction not vested in it by law, or otherwise acted illegally or with material irregularity ; or

that the decree or order is clearly unjust [* * *] and may pass such other decree or order as he thinks fit ; provided that no decree or order of a village court shall be set aside without notice to the opposite party. Pending disposal of any such petition, the District Munsif may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the District Munsif if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a village court shall be final.

District Munsif may, and in certain cases shall, report to District Judge. 74. Whenever under section 73 the District Munsif sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality, or misconduct.

Power of High Court to prescribe forms and of District Judge and District Munsif to inspect records. 75. The High Court, may, from time to time, prescribe forms for use in village courts and the returns which they shall be bound to submit. The District Judge or the District Munsif may at any time call for and inspect the registers and records of village courts.

¹ The words " or contrary to law " were omitted by Tamil Nadu Act II of 1920, section 24.

1 CHAPTER VIII.

CRIMINAL JURISDICTION.

76. (1) The ² [State Government] may, by order notified in the District Gazette, empower a panchayat court to take cognizance of and try all or any of the following offences when committed within the local limits of its jurisdiction :—

State Government may, empower panchayat courts to take cognizance of and try certain offences.

(a) Offences punishable under sections 160, 277, 283, 290, 323, 334, 352, 358, 504 and 510 of the Indian Penal Code.

Central Act XLV of 1860.

(b) Offences punishable under section 379 of the Indian Penal Code in respect of property not exceeding ten rupees in value, when the offender has not been previously convicted of theft.

Central Act XLV of 1860.

(c) Offences punishable under section 426 of the Indian Penal Code when the loss or damage caused thereby does not exceed ten rupees.

Central Act XLV of 1860.

(d) Offences punishable under section 3, clauses (9), (11) and (12) of the ³ [Tamil Nadu] Towns Nuisances Act, 1889.

³[Tamil Nadu] Act III of 1889.

(e) Any other specified offence under the Indian Penal Code or any special or local law which is punishable with fine only or with imprisonment for a term not exceeding six months only or with both :

Central Act XLV of 1860.

¹ Chapter VIII was inserted by Tamil Nadu Act II of 1920 s. 26.

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

³ These words were substituted by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, for the word " Madras ", which was inserted by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957) ; and in so far as the application of this Act to the added territories is concerned, the latter insertion was made by section 4 of, and the Second Schedule to, the Tamil Nadu (Added Territories) Extension of Laws Act, 1962 (Tamil Nadu Act 14 of 1962).

Provided that in respect of offences mentioned in clauses (b) and (c) the ¹ [State Government] may extend the jurisdiction of a panchayat court to cases where the value of the property stolen or the loss or damage caused does not exceed twenty rupees.

Explanation.—The offences mentioned in this section include abetments of such offences.

Imposition
and limit
of fine

² [(2) If a panchayat court finds an accused person guilty of any of the above offences, it may impose on him—

(a) a fine not exceeding ten rupees in respect of an offence under section 510 of the Indian Penal Code, and ^{Central Act XLV of 1860.}

(b) a fine not exceeding fifteen rupees in respect of any of the other offences :]

Provided that in case of conviction of an offence under clauses (b) and (c) of sub-section (1) the fine may extend to twice the value of the property stolen or the amount of the damage caused.

Payment of
fine and punish-
ment for default

(3) The panchayat court may allow a reasonable time for the payment of the fine, or may order that the fine shall be paid by instalments ; but if the fine is not paid as directed, the court shall recover it in the same manner as if it were due under a decree under this Act. If in any case it appears to the court that the fine imposed cannot be recovered as aforesaid, it shall submit the case to the Subdivisional Magistrate, who may award such term of imprisonment as is authorized by law in case of such default ; provided that the term so awarded shall in no case exceed one week.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

² This paragraph was substituted for the first paragraph of sub-section (2) of section 78 by section 7 (i) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

(4) Subject to such rules as the ¹ [State Government] may make in this behalf, the procedure to be adopted by panchayat courts in criminal trials shall be as follows :—

Procedure in criminal trials.

The court need not record the evidence of the witnesses or frame a formal charge but it shall enter in the prescribed form the following particulars:—

- (a) The serial number ;
- (b) The date of the commission of the offence ;
- (c) The date of the report or complaint ;
- (d) The names, parentage and residences of the complainant, the accused and the witnesses examined ;
- (e) The offence complained of and the offence (if any) proved, and in cases coming under clauses (b) and (c) of sub-section (1) the value of the property stolen or the amount of the loss or damage caused ;
- (f) The plea of the accused and his statement, if any ;
- (g) The finding and, in the case of a conviction, a brief statement of the reasons therefor ;
- (h) The amount of fine imposed ; and
- (i) The date on which the proceedings terminated.

(5) Except in accordance with rules framed by the ¹ [State Government] no legal practitioner, whether qualified, or unqualified, shall be allowed to appear either for the complainant or for the accused.

No legal practitioner to appear for complainant or accused.

(6) If at any stage of the proceedings it appears to the court that the case is one which ought to be tried by a Magistrate or if at the close of the trial the court is of opinion that the accused is guilty and that he ought to receive a punishment different in kind from, or more severe than, that which it is empowered to inflict, it shall submit the case to the Subdivisional Magistrate, who may transfer the case to his own court or to the court of a magistrate subordinate to him.

When case may be transferred from panchayat courts.

¹ The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

¹[(7) (a)]The District or Subdivisional Magistrate may, whenever he considers it necessary in the interests of justice, transfer any case pending before a panchayat court to his own court or to the court of any Magistrate subordinate to himself or to another panchayat court within his jurisdiction.]

¹ [(b) Where however a panchayat court is dis-established and no new panchayat court is constituted in lieu thereof, the District or Subdivisional Magistrate shall transfer all criminal cases and proceedings before such court to his own court or to the court of any Magistrate subordinate to himself or to any panchayat court within his jurisdiction.]

Appeal.

(8) No appeal shall lie against any sentence or order passed by a panchayat court under this section, but the District Magistrate or Subdivisional Magistrate may set aside any conviction on the ground of corruption, gross partiality or misconduct on the part of the court, or on the ground that there has been a gross miscarriage of justice.

Transfer of cases cognizable by panchayat courts.

(9) Notwithstanding anything contained in the Code of Criminal Procedure 1898*, a Magistrate taking cognizance upon a complaint or police report of an offence cognizable by a panchayat court may, unless sufficient reasons exist to the contrary, transfer the case to the panchayat court having jurisdiction.

Central Act V of 1888.

Applicability of certain [sections] of the Code of Criminal Procedure court.

77. (1) The provisions of ²[sections 403, 476, 476-A and 476-B] of the Code of Criminal Procedure, 1898*, shall apply to a village court.

Central Act V 1898.

(2) Save as provided in sub-section (1) nothing contained in the said Code shall apply to a village court.

¹ Original sub-section (7) of section 76 was lettered as clause (a) of sub-section (7) and new clause (b) was added by section 7 (ii) of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

² The word " sections " was substituted for the word " section " by section 4 of, and the Third Schedule to, the Tamil Nadu Repealing and Amending Act, 1957 (Tamil Nadu Act XXV of 1957) ; and in so far as the application of this Act to the added territories is concerned, the above amendment was made by section 4 of, and the Second Schedule to, the Tamil Nadu (Added Territories) Extension of Laws Act, 1962 (Tamil Nadu Act 14 of 1962.)

³ These words, figures and letters were substituted for the word and figures " section 403 " by section 8 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

* See now the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

¹ CHAPTER IX.

POWER TO MAKE RULES.

78. (1) The ²[State Government] may make rules ^{Power to make rules.} to carry out all or any of the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) regulate the appointments of village munsifs under section 7,

(b) regulate the appointments or elections of presidents, ³[vice-presidents] and other members of the panchayat courts and prescribe their qualifications and disqualifications,

(c) regulate the meetings and proceedings of panchayat courts and the attendance of members thereof,

(d) prescribe the manner in which panchayat courts may take cognizance of offences and the procedure to be followed by them in the trial of offences,

(e) provide for the presentation, withdrawal and dismissal of complaints and the compounding of offences and prescribe the persons who may conduct a prosecution or represent the accused.

¹ Chapter IX was inserted by Tamil Nadu Act II of 1920, s. 26.

² The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation Order of 1937 and the word " State " was substituted for " Provincial " by the Adaptation Order of 1950.

³ This word was inserted by section 9 of the Madras Village Courts (Amendment) Act, 1936 (Madras Act II of 1937).

(f) provide for the summoning and attendance of the accused and for the summoning and examination of witnesses in criminal cases,

(g) prescribe as to criminal cases the forms of all registers, returns and processes, the manner in which such registers shall be maintained, the dates on which such returns shall be made and the officers to whom they shall be sent,

(h) provide for the service of process, the execution of decrees and the recovery of fines,

(i) provide for the receipt and custody of all documents and records by or on behalf of panchayat courts and for the grant of copies of decrees and other records, and

(j) provide for the levy of fees for the service of process, the execution of decrees and the grant of copies.

¹ [(3) All rules made under this Act shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(4) Every rule made under this Act shall, as soon as possible, after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

² [* * * *]

¹ These sub-sections were substituted for the original sub-section (3) by section 7 of the Tamil Nadu Village Courts (Amendment) Act, 1961 (Tamil Nadu Act 22 of 1961), which came into force on the 2nd October 1961.

² The Schedule was repealed by section 3(2) of the Repealing and Amending Act, 1901 (Central Act XI of 1901).

1920: T.N. Act II] Village Courts (Amendment) 495

¹[TAMIL NADU] ACT No. II OF 1920².

[THE ¹(TAMIL NADU) VILLAGE COURTS (AMENDMENT) ACT, 1919.]

(Received the assent of the Governor on the 1st December 1919 and that of the Governor-General on the 24th December 1919 ; the assent of the Governor-General was first published in the Fort St. George Gazette of the 30th March 1920.)

An Act to amend the ¹[Tamil Nadu] Village Courts Act, 1888.

¹WHEREAS it is expedient to amend the ¹[Tamil Nadu] Village Courts Act, 1888 ; It is hereby enacted as follows :— Preamble.

Tamil Nadu] Act I of 1889.

1. This Act shall be called the ¹[Tamil Nadu] Village Courts (Amendment) Act, 1919. Short title.

Tamil Nadu] Act I of 1889.

2. Unless otherwise expressly stated, the words "section", and "sub-section" in this Act, shall mean section and sub-section, respectively, of the ¹[Tamil Nadu] Village Courts Act, 1888. Interpretation clause.

³[3 to 24, * * * * *]

25. Nothing herein contained shall apply to suits pending at the commencement of this Act in the Courts of Village Munsifs appointed under section 7. Suits pending at commencement of this Act.

³[26 and 27. * * * * *]

³[* * * * *]

¹ These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969, which came into force on the 14th January 1969.

² For Statement of Objects and Reasons, see *Fort St. George Gazette* Part IV, dated the 17th July 1917, pp. 1135-1136. For Report of Select Committee, see *ibid*, dated the 25th March 1919, pp. 305-308. For Proceedings in Council, see *ibid*, dated the 29th December 1919, pp. 1220-1227, and *ibid*, dated the 23rd December 1919.

³ Sections 3 to 24, 26 and 27 and the Schedule were repealed by the First Schedule to the Madras Repealing and Amending Act, 1938 (Madras Act XIII of the 1938.).

662 *Village Courts (Amendment)* [1961 : T.N. Act 2

¹[TAMIL NADU] ACT No. 22 OF 1961².

THE ¹[TAMIL NADU] VILLAGE COURTS
(AMENDMENT) ACT, 1961.

[Received the assent of the Governor on the 14th May 1961,
first published in the Fort St. George Gazette on the
24th May 1961 (Jyaishta 3,1883).]

An Act further to amend the ¹[Tamil Nadu] Village
Courts Act, 1888, and to extend that Act to the
Kanyakumari district and the Shencottah taluk of the
Tirunelveli district.

WHEREAS it is expedient further to amend the ¹[Tamil
Nadu] Village Courts Act, 1888 (¹[Tamil Nadu] Act I of
1889), for the purposes hereinafter appearing and to
extend that Act to the Kanyakumari district and the
Shencottah taluk of the Tirunelveli district;

BE it enacted in the Twelfth Year of the Republic of India
as follows :—

Short title and commencement. 1. (1) This Act may be called the ¹[Tamil Nadu]
Village Courts (Amendment) Act, 1961.

(2) It shall come into force on such date as the State
Government may, by notification, appoint.

2-7. [The amendments made by these sections have
already been incorporated in the principal Act, viz., the
Tamil Nadu Village Courts Act, 1888 (Tamil Nadu Act I
of 1889)].

¹ These words were substituted for the word "Madras" by
the Tamil Nadu Adaptation of Laws Order, 1969, as amended
by the Tamil Nadu Adaptation of Laws (Second Amendment)
Order, 1969.

² For Statement of Objects and Reasons see Fort St. George
Gazette Extraordinary, dated the 8th March 1961, Part IV-
Section 3, Page 53.

1961: T.N. Act 22] *Village Courts (Amendment)* 663

8. Section 3 of the ²[Tamil Nadu] Civil and Village Courts (Amendment) Act, 1951 (²[Tamil Nadu] Act XVI of 1951), shall be omitted.

Omission of section 3 in ¹[Tamil Nadu Act] XVI of 1951.

9. (1) The ²[Tamil Nadu] Village Courts Act, 1888 (²[Tamil Nadu] Act I of 1889), as in force immediately before the date of the commencement of this Act and as amended by this Act (hereinafter in this section referred to as the ¹[Tamil Nadu Act]), is hereby extended to, and shall be in force in, the transferred territory.

Extension of ¹[Tamil Nadu Act] I of 1889 to the transferred territory, repeals and savings.

(2) The Travancore Village Panchayat Courts Act, 1090 (Travancore Act I of 1090), and any other law corresponding to the ¹[Tamil Nadu Act], in force in the transferred territory immediately before the date of the commencement of this Act and the Travancore-Cochin Village Courts Act, 1953 (Travancore-Cochin Act VII of 1954), shall stand repealed on the date of such commencement.

(3) The repeal by sub-section (2) of the Travancore Village Panchayat Courts Act, 1090 (Travancore Act I of 1090), and any other law corresponding to the ¹[Tamil Nadu Act], in force in the transferred territory immediately before the date of the commencement of this Act and of the Travancore-Cochin Village Courts Act, 1953 (Travancore-Cochin Act VII of 1954), shall not affect—

(a) the previous operation of any such Act or law or anything done or duly suffered thereunder ; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any such Act or law ; or

¹ The expression was substituted for the expression "Madras Act" by paragraph (2) of the Tamil Nadu Adaptation of Laws Order, 1970.

² These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any such Act or law ; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(4) Subject to the provisions of sub-section (3), anything done or any action taken, including any appointment made, Village Panchayat Court established, notification, order, instruction or direction issued, or any rule or form framed under any such Act, or law shall be deemed to have been done or taken under the ¹[Tamil Nadu Act] and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under the ¹[Tamil Nadu Act].

(5) Unless the context otherwise requires, the ²[Tamil Nadu] General Clauses Act, 1391 (²[Tamil Nadu] Act I of 1891), shall apply for the interpretation of the ¹[Tamil Nadu Act] as extended to, and in force in, the transferred territory.

(6) For the purpose of facilitating the application of the ¹[Tamil Nadu Act] in the transferred territory, any Court or other authority may construe such Act with such alterations not affecting the substance as may be necessary or proper to adapt it to the matter before the court or other authority.

(7) Any reference in the ¹[Tamil Nadu Act] to a law which is not in force in the transferred territory shall, in relation to that territory, be construed as a reference to the corresponding law, if any, in force in that territory.

¹ This expression was substituted for the expression "Madras Act" by paragraph 3 (2) of the Tamil Nadu Adaptation of Laws Order, 1970.

² These words were substituted for the word "Madras" by the Tamil Nadu Adaptation of Laws Order, 1969, as amended by the Tamil Nadu Adaptation of Laws (Second Amendment) Order, 1969.

639

(8) Any reference in any law which continues to be in force in the transferred territory after the date of the commencement of this Act, to any Act or law, repealed by sub-section (2) shall, in relation to that territory, be construed as a reference to the ¹[Tamil Nadu Act].

(9) (a) If any difficulty arises in giving effect to the provisions of this Act or of the ¹[Tamil Nadu Act] as extended to the transferred territory, by this Act, the State Government, as occasion may require, may, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(b) All orders made under clause (a) shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(c) Every order made under clause (a) shall, as soon as possible, after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such order, or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Explanation.—For the purpose of this section, the expression “transferred territory” shall mean the Kanyakumari district and the Shencottah taluk of the Tirunelveli district.

¹ This expression was substituted for the expression “Madras Act” by paragraph 3 (2) of the Tamil Nadu Adaptation of Laws Order, 1970 .