



## The Code of Civil Procedure (Maharashtra Amendment) Act, 1977

Act 65 of 1977

### Keyword(s):

Central Act Amendment, The Code of Civil Procedure Act, 1908, Civil procedure

Amendments appended: 61 of 2018, 72 of 2018

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**THE CODE OF CIVIL PROCEDURE (MAHARASHTRA  
AMENDMENT) ACT, 1977**

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MAHARASHTRA ACT No. LXV OF 1977.<sup>1</sup>

[THE CODE OF CIVIL PROCEDURE (MAHARASHTRA AMENDMENT) ACT, 1977.]

[19th December 1977]

An Act further to amend the Code of Civil Procedure, 1908, in its application to the State of Maharashtra.

WHEREAS extensive amendments have been made in the Code of Civil Procedure, 1908, by the Code of Civil Procedure (Amendment) Act, 1976, enacted by Parliament;

AND WHEREAS section 97 of this Amendment Act of 1976 provides *inter alia* that any amendments made in the said Code by a State Legislature before the commencement of that Act shall, except in so far as they are consistent with the said Code as amended by that Act, stand repealed;

AND WHEREAS certain amendments have been made in the said Code in its application to the State of Maharashtra, or a part thereof, by the State Legislature;

AND WHEREAS it is expedient to delete from the said Code in its application to this State the amendments made by the State Legislature which have become inoperative or redundant and to leave no room for any doubt, to re-enact such of them which may be inconsistent with the said Code as amended by the Amendment Act of 1976 but which are considered necessary in this State;

AND WHEREAS it is therefore expedient further to amend the said Code in its application to this State for the purposes hereinafter appearing; It is hereby enacted in the Twenty-eighth Year of the Republic of India as follows:—

1. This Act may be called the Code of Civil Procedure (Maharashtra Amendment) Act, 1977.

2. The Code of Civil Procedure (Maharashtra Amendment) Act, 1970 is hereby repealed; and section 9A inserted by that Act in the Code of Civil Procedure, 1908, in its application to the State of Maharashtra (hereinafter referred to as "the principal Act") shall also stand repealed, without prejudice to the validity of anything previously done or omitted to be done under that section.

3. After section 9 of the principal Act, the following section shall be inserted, namely:—

"9A. (1) Notwithstanding anything contained in this Code or any other law for the time being in force, if, at the hearing of any application for granting or setting aside an order granting any interim relief, whether by way of stay, injunction, appointment of a receiver or otherwise, made in any suit, an objection to the jurisdiction of the Court to entertain such suit is taken by any of the parties to the suit, the Court shall proceed to determine at the hearing of such application the issue as to the jurisdiction as a preliminary issue before granting or setting aside the order granting the interim relief. Any such application shall be heard and disposed of by the Court as expeditiously as possible and shall not in any case be adjourned to the hearing of the suit.

(2) Notwithstanding anything contained in sub-section (1), at the hearing of any such application, the Court may grant such interim relief as it may consider necessary, pending determination by it of the preliminary issue as to the jurisdiction."

<sup>1</sup> For Statement of Objects and Reasons, see Maharashtra Government Gazette, 1977, Part V Extraordinary, pp. 350-51.

Repeal of 4. The Code of Civil Procedure (Bombay Amendment) Act, 1948, is hereby Bom. LX  
of 1948. repealed; and the amendments made by the said Act in the principal Act shall also LX  
stand repealed, without prejudice to the validity of anything previously done or 1948.  
omitted to be done under the said amendments.

Repeal of 5. The Code of Civil Procedure (Hyderabad Amendment) Act, 1953 and the Hyd. XI  
Hyd. XI Code of Civil Procedure (Extension of Hyderabad Amendment) Act, 1964, and the XI of  
of 1953 and Code of Civil Procedure (Hyderabad Second Amendment) Act, 1953 are hereby 1953.  
Mah. VI of 1965 and repealed; and the amendments made by the two Hyderabad Acts in the principal VI of  
Hyd. XVIII Act shall also stand repealed, without prejudice to the validity of anything previously 1965.  
of 1953. done or omitted to be done under the said amendments. Hyd. XVIII  
of  
1953.

Amendment  
of section  
60 of Act  
V of 1908.

6. In section 60 of the principal Act, in sub-section (1), in the proviso—

(a) after clause (g), the following clause shall be inserted, namely:—

“(gg) in the Hyderabad area of the State of Maharashtra, any pension granted or continued by the Central Government or the Government of the former State of Hyderabad or any other State Government, on account of past services or present infirmities or as a compassionate allowance, which is not covered by clause (g);”

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

“(kbb) the amounts payable under the policies issued in pursuance of the Rules for the Hyderabad State Life Insurance and Provident Fund, which are not covered under clause (ka) or (kb).

*Explanation.*—Where any sum payable to a Government servant is exempt from attachment under this clause or clause (gg), such sum shall remain exempt from attachment, notwithstanding the fact that owing to the death of the Government servant the sum is payable to some other person;



# महाराष्ट्र शासन राजपत्र

## असाधारण भाग आठ

वर्ष ४, अंक ७२]

सोमवार, ऑक्टोबर २९, २०१८/कार्तिक ७, शके १९४०

[पृष्ठे ३, किंमत : रुपये २७.००

असाधारण क्रमांक १४१

प्राधिकृत प्रकाशन

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

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Code of Civil Procedure (Maharashtra Amendment) Act, 2018 (Mah. Act No. LXI of 2018), is hereby published under the authority of the Governor.

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

RAJENDRA G. BHAGWAT,  
Secretary (Legislation) to Government,  
Law and Judiciary Department.

### MAHARASHTRA ACT No. LXI OF 2018.

(First published, after having received the assent of the President in the "Maharashtra Government Gazette", on the 29th October 2018).

An Act further to amend the Code of Civil Procedure, 1908,  
in its application to the State of Maharashtra.

WHEREAS both Houses of the State Legislature were not in session;

AND WHEREAS the Governor of Maharashtra was satisfied that  
V of 1908. circumstances existed which rendered it necessary for him to take immediate action further to amend the Code of Civil Procedure, 1908, in its application to the State of Maharashtra, for the purposes hereinafter appearing ; and, therefore, promulgated the Code of Civil Procedure (Maharashtra Amendment) Ordinance, 2018, on the 27th June 2018.

(१)

AND WHEREAS, it is expedient to replace the said Ordinance by an Act of the State Legislature ; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :—

Short title  
and  
commencement.

1. (1) This Act may be called the Code of Civil Procedure (Maharashtra Amendment) Act, 2018.

(2) It shall be deemed to have come into force on the 27th June 2018.

Deletion of  
section 9A of  
V of 1908, in  
its application  
to the State of  
Maharashtra.

2. Section 9A of the Code of Civil Procedure, 1908, in its application to the State of Maharashtra (hereinafter referred to as “the principal Act”), shall be deleted.

V of  
1908.

Savings.

3. Notwithstanding the deletion of section 9A of the principal Act,—

(1) where consideration of a preliminary issue framed under section 9A is pending on the date of commencement of the Code of Civil Procedure (Maharashtra Amendment) Act, 2018 (hereinafter, in this section, referred to as “the Amendment Act”), the said issue shall be deemed to be an issue framed under Order XIV of the principal Act and shall be decided by the Court, as it deems fit, along with all other issues, at the time of final disposal of the suit itself :

Mah. LXI  
of 2018.

Provided that, the evidence, if any, led by any party or parties to the suit, on the preliminary issue so framed under section 9A, shall be considered by the Court along with evidence, if any, led on other issues in the suit, at the time of final disposal of the suit itself ;

(2) in all the cases, where a preliminary issue framed under section 9A has been decided, holding that the Court has jurisdiction to entertain the suit, and a challenge to such decision is pending before a revisional Court, on the date of commencement of the Amendment Act, such revisional proceedings shall stand abated :

Provided that, where a decree in such suit is appealed from any error, defect or irregularity in the order upholding jurisdiction shall be treated as one of the ground of objection in the memorandum of appeal as if it had been included in such memorandum ;

(3) in all cases, where a preliminary issue framed under section 9A has been decided, holding that the Court has no jurisdiction to entertain the suit, and a challenge to such decision is pending before an appellate or revisional Court, on the date of commencement of the Amendment Act, such appellate or revisional proceedings shall continue as if the Amendment Act has not been enacted and section 9A has not been deleted :

Provided that, in case the appellate or revisional Court, while partly allowing such appeal or revision, remands the matter to the trial Court for reconsideration of the preliminary issue so framed under section 9A, upon receipt of these proceedings by the trial Court, all the provisions of the principal Act shall apply ;

(4) in all cases, where an order granting an *ad-interim* relief has been passed under sub-section (2) of section 9A prior to its deletion, such order shall be deemed to be an *ad-interim* order made under Order XXXIX of the principal Act and the Court shall, at the time of deciding the application in which such an order is made, either confirm or vacate or modify such order.

Mah.  
Ord.  
XVIII of  
2018.

**4. (1) The Code of Civil Procedure (Maharashtra Amendment) Ordinance, 2018, is hereby repealed.**

Repeal of  
Mah. Ord.  
XVIII of 2018  
and saving.

(2) Notwithstanding such repeal, anything done or any action taken (including any notification or order issued) under the corresponding provisions of the principal Act, as amended by the said Ordinance, shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of the principal Act, as amended by this Act.



# महाराष्ट्र शासन राजपत्र असाधारण भाग आठ

वर्ष ४, अंक ८६(३)] शनिवार, डिसेंबर १५, २०१८/अग्रहायण २४, शके १९४० [पृष्ठे २, किंमत : रुपये २७.००

असाधारण क्रमांक १७३

प्राधिकृत प्रकाशन

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

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Code of Civil Procedure (Maharashtra Amendment) (Amendment) Act, 2018 (Maharashtra Act No. LXXII of 2018), is hereby published under the authority of the Governor.

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

RAJENDRA G. BHAGWAT,  
Secretary (Legislation) to Government,  
Law and Judiciary Department.

## MAHARASHTRA ACT No. LXXII OF 2018.

(First published, after having received the assent of the Governor in the "Maharashtra Government Gazette", on the 15th December 2018).

An Act to amend the Code of Civil Procedure (Maharashtra Amendment) Act, 2018.

Mah.  
LXI of  
2018.

WHEREAS it is expedient to amend Code of Civil Procedure (Maharashtra Amendment) Act, 2018, for the purposes hereinafter appearing; it is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :—

1. This Act may be called the Code of Civil Procedure (Maharashtra Short title. Amendment) (Amendment) Act, 2018.



- Amendment of section 3 of Mah. LXI of 2018. **2.** In section 3 of the Code of Civil Procedure (Maharashtra Amendment) Act, 2018, for clause (1), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 27th June 2018, being the date of commencement of the said Act, namely :—
- “(1) where consideration of a preliminary issue framed under section 9A is pending on the date of commencement of the Code of Civil Procedure (Maharashtra Amendment) Act, 2018 (hereinafter, in this section, referred to as “the Amendment Act”), the said issue shall be decided and disposed of by the Court under section 9A, as if the said section 9A has not been deleted;”.
- Savings. **3.** Nothing in this Act shall affect the decrees passed by a Civil Court during the period commencing from the 27th June 2018 being the date of commencement of the Code of Civil Procedure (Maharashtra Amendment) Act, 2018 and ending on the date of publication of this Act in the *Maharashtra Government Gazette*.