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GOVERNMENT OF BALOCHISTAN
LAW AND PARLIAMENTARY AFFAIRS
DEPARTMENT

NOTIFICATION

Dated Quetta, the 18th December, 2020

No. Legis: 1-205/Law/2020/305-10. The following Ordinance made by
the Governor of Balochistan on 18-12-2020, is hereby published for general
information.

Balochistan Ordinance No. II Of 2020

The Code of Civil Procedure (Balochistan Amendment)
Ordinance, 2020

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An
Ordinance

to further amend the Code of Civil Procedure, 1908.

WHEREAS. it is expedient to further amend the Code of Civil Procedure. 1908 (Act V of 1908) for the purposes of updating certain provisions of the Code:

AND WHEREAS. the Provincial Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary to take immediate action:

NOW THEREFORE, in exercise of the powers conferred under clause (1) of Article 128 of the Constitution of Islamic Republic of Pakistan, the Governor Balochistan is pleased to make and promulgate the following Ordinance:-

1. Short title and commencement. -(1) | This Ordinance may be called the code of civil procedure (Balochistan Amendment)Ordinance, 2020.

(2) It shall come into force at once.

2s Substitution section, 35 and 35-A of Act V of 1908.- In the Code of Civil Procedure. 1908 (Act V of 1908). hereinafter referred to as the said Act. for section 35 and 35-A, the following shall be substituted, namely:

“35, Costs. -(1) Subject to such conditions and limitations. as may be prescribed. and to the provisions of law for the time being in force: -

(a) a party to any proceedings shall, before the announcement of final order, judgment or decree. file in the prescribed form. details of actual costs of litigation, including but not limited to court fee. stamp fee. fee paid to counsel and all other ancillary or incidental expenses thereto:

(b) the Court shall award the actual costs of litigation under clause (a) to the successful party with markup not exceeding the prescribed limit per annum, as notified by the State Bank of Pakistan, at the time of passing the order. judgment or decree:

(c) the costs other than those mentioned in clause (a) shall be in the discretion of the Court: and

(d) the Court shall have full power to determine out of what property such costs are to be paid and recovered and to give all necessary directions for the purposes aforesaid.

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(2) The fact that the Court has no jurisdiction in respect of the proceedings shall be no bar to the exercise of such powers under this section.”;

35-A. Adjournment costs.-If, on the date fixed for hearing in any proceedings, a party to the proceedings or any other person, despite service of notice, fails to appear or comply with any order of the Court or mandatory provision of the Code or any other law for the time being in force, seeks an adjournment for such purpose, the Court shall, for sufficient cause and reasons to be recorded, grant such adjournment on the condition that such party or person shall pay to the other party, costs of adjournment which shall not be less than five thousand Rupees per adjournment or such higher amount as may be prescribed from time to time:

Provided further if the Court is satisfied that the adjournment being sought is on account of unavoidable reasons beyond the control of the party concerned, which reasons shall be recorded by the Court, the Court may grant adjournment without imposing adjournment costs:

Provided further that if the Court finds that there is a tendency of seeking repeated adjournments by any party on such grounds, the Court may not grant adjournment without imposing adjournment costs as the Court may deem fit.”.

Insertion of section 35-B and 35-C, Act V of 1908.-After section 35-A. substituted as aforesaid, the following new sections shall be inserted, namely: -

~35-B. Special costs. -(1) If in any proceedings, the Court finds that any averment made by any party is false or vexatious to the knowledge of such party, the Court shall award special costs to the opposite party against whom such averment has been made.

(2) The amount of any special costs awarded under sub-section (1) shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.

35-C. General provisions as to costs. - The Government shall be liable to costs under sections 35, 35-A and 35-B.

Explanation. - In sections 35, 35-A and 35-C, the expression "proceedings" includes suit, appeal, review, revision, execution or any other proceedings and any matter incidental thereto.”.

Substitutions of section 44-A, Act V of 1908. -In the said Act for section 44-A. the following shall be substituted, namely: -

"44-A, Execution of decrees passed by Courts in the reciprocating territory. -

(1) Where a certified copy of a decree, judgement or order of any of the Superior Courts of the reciprocating territory has been filed in a District Court, the decree, judgement or order may be executed in Pakistan as if it had been passed by the District Court.

Q2) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the District Court shall refuse execution of any such decree, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13.

Explanation 1. "Reciprocating territory" means such country or territory as the Federal Government may, from time to time, by notification in the official Gazette, declare to be reciprocating territory for the purposes of this section; and "superior Courts", with reference to any such territory, means such Courts as may be specified in the said notification.

Explanation 2. "Decree", with reference to a superior Court, means any decree judgment or order of such Court under which a sum of money is payable including an order for costs, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty.".

Dated: 18/12/2020 (JUSTICE (RJAMANULLAH KHAN YASINZAI)

Governor Balochistan

DR. MUHAMMAD AKBAR HARIFAL
SECRETARY LAW