

MANDAMUS.

7 OF 1890.

TO PROVIDE FOR THE ISSUE OF ORDERS OF MANDAMUS TO PUBLIC BODIES AND PERSONS HAVING PUBLIC DUTIES TO PERFORM.

HENRY BULWER.]

[May 12, 1890.]

1. In this Law:—

Definition

“ An Order of Mandamus ” means an order issuing act of a District Court or out of the Supreme Court requiring some person or body of persons, having a duty imposed on him or them by law, to perform some act which he or they are legally bound to perform in the discharge of such duty.

“ District Court ” includes the President of a District Court sitting alone in a foreign action. 117

2. The plaintiff in an action in any District Court may by his writ of summons claim that an order of mandamus may issue to the defendant ordering him to perform any public duty which has been omitted or neglected to be done by him.

Order of mandamus may be claimed in action.

3. The District Court in which the action is brought may issue such order of mandamus as is claimed in the writ of summons, if on the hearing of the action it appears:—

When order may be issued as claimed.

- (1) That the plaintiff has a legal right to the performance by the defendant of the public duty sought to be enforced.
- (2) That there is no other effectual method provided by law for enforcing the right except an order of mandamus.
- (3) That before action brought the plaintiff has demanded from the defendant the performance by him of the duty.
- (4) That the defendant, since such demand, has without lawful cause neglected or refused to perform it.

Defence.

4. Upon the settlement of the statement of the matters in dispute between the parties, in an action claiming an order of mandamus, the defendant may state by way of defence either—

- (1) That the thing required to be commanded is done; or
- (2) That an order of mandamus ought not to issue, either because certain material facts alleged in the plaintiff's claim are denied, or because of certain additional facts not alleged in the plaintiff's claim or because the plaintiff's claim shows no legal right to have the alleged duty performed.

Judgment
and order.

5. If upon the hearing of the action the Court shall be of opinion that an order of mandamus ought to issue commanding the defendant to perform the duty sought to be enforced, the Court shall give judgment that such order of mandamus do issue, and shall issue such order accordingly.

Appeal.

6. Every judgment and order of a District Court made under the provisions of this Law shall be subject to appeal to the Supreme Court; and the Supreme Court on appeal may quash any order of mandamus made by a District Court, or may give judgment that an order of mandamus do issue and may issue the same accordingly, or may make such other order as the nature of the case may require.

Rules of
Procedure.

7. The High Commissioner with the advice and assistance of the Chief Justice may from time to time by writing under the hand and official seal of the High Commissioner and the hand of the Chief Justice make Rules of Court for regulating the practice and procedure of the Courts and Judges under this Law, and such Rules shall have the same force and effect as if they formed part of this Law.

Subject to any such Rules, the proceedings in an action claiming an order of mandamus shall be the same as are prescribed by Law for the hearing and determining of other civil actions.

Exception of
Evkaf and
Sheri Courts.

8. Nothing in this Law contained shall be deemed to authorize or permit the issue out of a District Court or out of the Supreme Court of any order of mandamus directed to the Delegates of Evkaf or to the Mahkemeh-i-Sheri.

Short title;

9. This Law may be cited as the Mandamus Law, 1890.