

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE



“THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 2016”

Report No. 26

PRESENTED BY

SENATOR MUHAMMAD JAVED ABBASI
CHAIRMAN

SENATE SECRETARIAT

REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CODE OF CIVIL PROCEDURE (AMENDMENT) BILL, 2016"

I, Chairman of the Standing Committee on Law and Justice, have the honour to present report on "The Code of Civil Procedure (Amendment) Bill, 2016" as passed by the National Assembly and introduced in the Senate on 7th October, 2016. The Bill, upon introduction, was referred to the Standing Committee for consideration and report.

2. The composition of the Standing Committee on Law and Justice is as under:-

1.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Aitzaz Ahsan	Member
3.	Senator Saleem Zia	Member
4.	Senator Dr. Muhammad Ali Khan Saif	Member
5.	Senator Syed Muzafar Hussain Shah	Member
6.	Senator Nehal Hashmi	Member
7.	Senator Ms. Ayesha Raza Farooq	Member
8.	Senator Nawabzada Saifullah Magsi	Member
9.	Senator Saeed Ghani	Member
10.	Senator Zaheer ud Din Babar Awan	Member
11.	Senator Mrs. Zahida Khan	Member
12.	Senator Farooq Hamid Naek	Member
13.	Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its meeting held on 31st October, 2016, which was attended by the following hon'ble Members:-

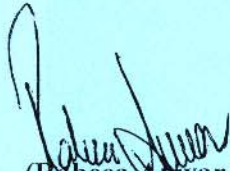
- i. Senator Saleem Zia
- ii. Senator Dr. Muhammad Ali Khan Saif
- iii. Senator Nawabzada Saifullah Magsi


4. The Minister for Law and Justice briefed the Committee and stated that under section 91 and 92 of the Code of Civil Procedure, 1908 (Act V of 1908), in case of public nuisances and public charities, the Advocate General or two or more persons with the leave of the Court, may institute a suit for declaration and injunction or for such other relief as may be appropriate to the circumstances of the case. The Law and

Justice Commission of Pakistan has recommended amendment in the said sections for institution of suit relating to public nuisances and public charities direct with the leave of court without permission of the Advocate General. The proposed amendment will result in expeditious disposal of cases.

5. The Committee held extensive discussions and unanimously supported the proposed amendment envisaged in the instant Bill. The Committee was of the opinion that all efforts should be made to provide inexpensive and speedy justice to the people of Pakistan.

6. In terms of paragraph 5, the Committee recommends that "The Code of Civil Procedure (Amendment) Bill, 2016", as passed by the National Assembly and introduced in the Senate, may be passed by the Senate of Pakistan. (Copy of Bill as passed by the National Assembly and introduced in the Senate is annexed)


(Rabeea Anwar)
J.S / Secretary Committee


(Senator Muhammad Javed Abbasi)
Chairman

[AS PASSED BY THE NATIONAL ASSEMBLY]

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BILL

*further to amend the Code of Civil Procedure, 1908 in its application to
Islamabad Capital Territory*

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908), in its application to Islamabad Capital Territory, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title, extent and commencement.- (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 2016.

(2) It shall apply to Islamabad Capital Territory.

(3) It shall come into force at once.

2. Amendment of section 91, Act V of 1908.— In the Code of Civil Procedure, 1908 (Act V of 1908), hereinafter referred to as the said Code, in section 91, in sub-section (1), for the words "having obtained the consent in writing of the Advocate General" the words "with the leave of the Court" shall be substituted.

3. Amendment of section 92, Act V of 1908.— In the said Code, in section 92,—

(a) in sub-section (1), for the words "consent in writing of the Advocate General" the words "leave of the Court" shall be substituted; and

(b) in sub-section (2), the words, commas, figures and brackets "Save as provided by the Religious Endowment Act, 1863 (XX

of 1863)," shall be omitted and for the word "no" the word "No" shall be substituted.

4. **Amendment of section 104, Act V of 1908.**— In the said Code in section 104, after clause (ff), the following new clause shall be inserted, namely:-

"(fff) an order under section 91 or section 92 refusing leave to institute a suit;".

STATEMENT OF OBJECTS AND REASONS

Under sections 91 and 92 of the Code of Civil Procedure, 1908 (Act V of 1908), in case of public nuisances and public charities, the Advocate General or two or more persons with the leave of the Court, may institute a suit for declaration and injunction or for such other relief as may be appropriate to the circumstances of the case. The Law and Justice Commission of Pakistan has recommended amendment in the said sections for institution of suit relating to public nuisances and public charities direct with the leave of court without permission of the Advocate General. The proposed amendment will result in expeditious disposal of cases.

The Bill is designed to achieve the aforesaid object.

MINISTER-IN-CHARGE