

*Privy Council Appeal No. 136 of 1924.*

*Patna Appeals Nos. 24 and 25 of 1922.*

Sourendra Mohan Sinha and others - - - - - *Appellants*

*v.*

Hari Prasad Sinha and others - - - - - *Respondents*

Hari Prasad Sinha and others - - - - - *Appellants*

*v.*

Sourendra Mohan Sinha and others - - - - - *Respondents*

*(Consolidated Appeals)*

FROM

THE HIGH COURT OF JUDICATURE AT PATNA.

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REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL  
COMMITTEE OF THE PRIVY COUNCIL UPON PETITION  
FOR VARIATION OF ORDER IN COUNCIL, DELIVERED THE  
16TH FEBRUARY, 1926.

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*Present at the Hearing :*

VISCOUNT DUNEDIN.

LORD BLANESBURGH.

SIR JOHN EDGE.

*[Delivered by VISCOUNT DUNEDIN.]*

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This is an application to vary the Order in Council. The order has been already passed, and it could only be under exceptional circumstances that their Lordships could humbly advise that another order should be passed.

In the suit judgment was given for the plaintiffs against the defendants for a certain sum.

On appeal to the King in Council their Lordships humbly advised His Majesty to reduce substantially the sum for which judgment had been given, and to make the sum still decreed payable eight months after the date of the receipt of the order by the High Court.

The defendants having been substantially successful in the appeal, the Order in Council in accordance with the ordinary practice was issued to them: and in ordinary course ought to have been lodged by them in the High Court. They have not however done so, and the plaintiffs cannot therefore so far get execution. Hence this application. The plaintiffs and petitioners

have not sufficiently adverted to Order 45, Rule 15 (1) of the First Schedule to the Code of Civil Procedure. When they found that the defendants were delaying or refusing to lodge the order they could have applied to the High Court with a certified copy of the order and asked for a summary order on the defendants to lodge the order which had been entrusted to them so that execution might follow in terms of the judgment of this Board. This they can still do. Their Lordships therefore cannot advise His Majesty to grant the prayer of the petitioners : but as they are clearly of opinion that it was the duty of the defendants in ordinary course to lodge the order there will be no costs allowed on the petition.



In the Privy Council.

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SURENDRA MOHAN SINHA AND OTHERS.

v.

HARI PRASAD SINHA AND OTHERS.

AND

CROSS APPEAL.

*(Consolidated.)*

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DELIVERED BY LORD DUNEDIN.

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