

*Judgment of the Lords of the Judicial Committee of the Privy Council on the Petition of Vasudeva Modeliar and others for stay of execution in the matter of the Appeal of Vasudeva Modeliar and others v. Shadagopa Modeliar, from the High Court of Judicature at Madras ; delivered the 17th May 1906.*

Present :

THE EARL OF HALSBURY.

LORD MACNAGHTEN.

SIR ARTHUR WILSON.

SIR ALFRED WILLS.

[*Delivered by Lord Macnaghten.*]

THEIR Lordships desire to repeat what has been often stated by this Board before, namely, that applications of this sort ought always to be made, in the first instance at any rate, to the Court in India, which has ample power to deal with the matter according to the circumstances of the particular case, and has knowledge of details which this Board cannot possess on an interlocutory application. In the present case their Lordships know no more than what is brought before them by Affidavits not altogether satisfactory. There is, however, an indication in the Judgment of the High Court showing that in their opinion an extension of the stay of proceedings ought to be granted. Acting upon that suggestion their Lordships will humbly advise His Majesty to grant a stay of proceedings on the Appellants giving an undertaking by their Counsel to lodge the Petition of Appeal and their Case within a fortnight from the time the Record arrives in

England, and also at the same time to give the Respondent leave to apply to the High Court at Madras either for the appointment of a Receiver, or for payment of a reasonable amount into Court, or any other relief which he may be advised to apply for. The Appellants must pay the costs of this Application in any event.

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