

Kothandarama Mudaly Vs. Dharmalinga Mudaly and ors.

Kothandarama Mudaly Vs. Dharmalinga Mudaly and ors.

SooperKanoon Citation : sooperkanoon.com/774960

Court : Chennai

Decided On : Jan-22-1945

Reported in : AIR1945Mad264; (1945)1MLJ186

Appellant : Kothandarama Mudaly

Respondent : Dharmalinga Mudaly and ors.

Judgement :

Byers, J.

1. The Court had no jurisdiction to order a stay under Section 6(2) of the Indian Soldiers' Litigation Act. It is clear from the wording of this section that the powers of the Court are limited to suspending the proceedings, after which it must give notice in the prescribed manner to the prescribed authority and then proceed under Section 7 of the Act, under which it is necessary before ordering a stay to find that the soldier is serving under special conditions, and that a postponement is necessary in the interests of justice. Stay of proceedings does not automatically follow merely on receipt of a notice from the Collector under Section 6(1) of the Act.

2. In the result, the revision is accepted the order of the lower Court is set aside, and the matter is remanded for fresh disposal in accordance with the provisions of the Act, the costs being costs in the cause.

