

(1903) 07 MAD CK 0002
In the Madras High Court

Sesha Aiyar and Another

APPELLANT

Vs

Nagarathna Lala, minor by his next, Bhavani Bai Ammal

RESPONDENT

Date of Decision : 15-07-1903

Acts Referred:

Citation : (1904) ILR (Mad) 121 : (1903) 13 MLJ 362

Judgement

1. In my opinion the respondent in a Letters Patent Appeal preferred against the decision of a single judge of this Court in a mofussil case cannot

apply for security being demanded from the appellant for costs. Section 540 of the CPC applies only to appeals preferred to the High Court from

Subordinate Courts subject to its appellate jurisdiction *Sabapathi Chetti v. Narayanasami Chetti* ILR 25 M. 555 and not to appeals preferred to

the High Court u/s 15 of the Letters Patent from the judgment of one of its judges. Assuming that it would be competent to the High Court to pass

such a rule, no rule has been made u/s 652 of the CPC authorizing the making of such an application. It is also conceded that no such rule was in

force in the old Sudder Court, and that being so, Section 9 of the Charter Act cannot be relied upon in support of this application. I am unable to

accede to the argument that Section 467 of the CPC applies to Letters Patent Appeals and that, therefore, the provisions of Section 549 are

extended to Letters Patent Appeals. The petition is therefore rejected but without costs Nor can stay of execution be had pending a Letters Patent

Appeal. See order on C.M.P. 882 of 1903 in L.P.A. 39 of 1933--Ed