

ACT No. XXXIV OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th December 1855.)

AN ACT to explain and amend Act No. XXXIII of 1852.

WHEREAS doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852 has power to inquire into the validity of the judgment; and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

I. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronounce the same.

Proviso.

II. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time, to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating

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relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment-debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

III. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor, under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Court may, in such cases, take security, &c. from judgment-debtor.

IV. Any order of the Court in which the judgment was given or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Order of Court pronouncing judgment to be binding upon Court enforcing the same.

V. No discharge of a defendant under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Defendant discharged under this Act liable to be re-taken in execution of the judgment.

VI. This Act shall be read with, and taken as part of, Act No. XXXIII of 1852.

Act to be taken as part of Act XXXIII of 1852.

