

Ravanna Mana Kana Runa Narayanan Chettiar - - *Appellant*

*v.*

Ravanna Mana Kana Runa Karuppen Chettiar - - - *Respondent*

FROM

THE SUPREME COURT OF THE ISLAND OF CEYLON

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF  
THE PRIVY COUNCIL, DELIVERED THE 18TH MARCH, 1937.

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*Present at the Hearing :*

LORD ATKIN.

LORD THANKERTON.

LORD ROCHE.

[*Delivered by* LORD ATKIN.]

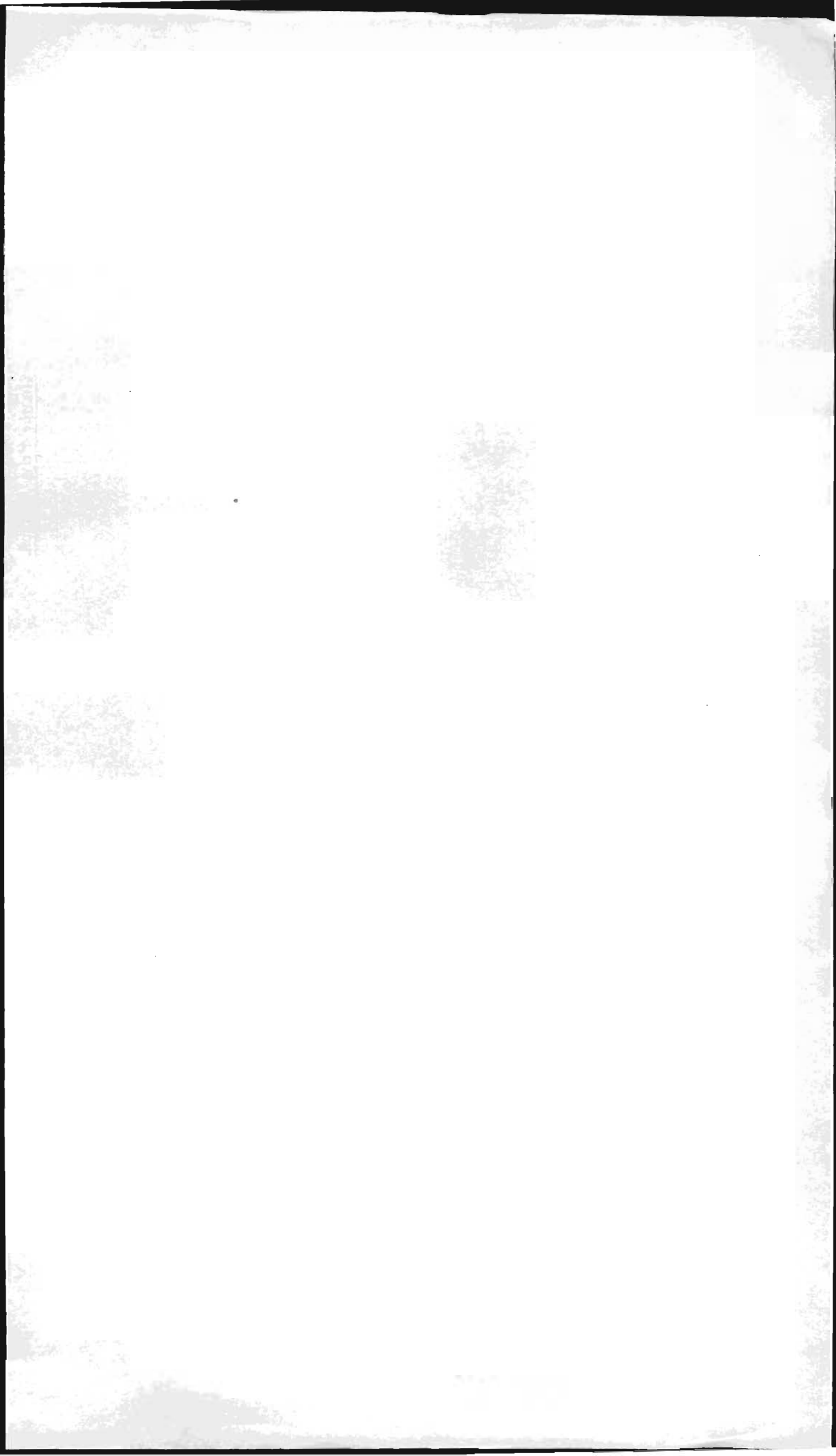
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This is an appeal from the Supreme Court of Ceylon in a suit which was brought between two brothers, both members of a Hindu joint undivided family. They had entered into an agreement of partnership in the year 1896 for the purpose of carrying on a moneylending business, which was in fact conducted by the elder brother, the defendant, in Ceylon. In 1920 the younger brother brought his suit to have the partnership accounts taken, and it appears that he claimed that the partnership had continued right up to the date of the suit. Eventually, after interlocutory proceedings had been taken, the Judge proceeded to determine the issues and he had to decide whether there was a partnership, whether it did continue up to the date of the suit or whether it only continued, as the defendant alleged in the alternative, for three years; he had also to decide a further issue as to limitation, because it was said that, if the partnership ended in 1899, the suit was defeated by the limitation statute. The answer to the limitation defence was that the plaintiff was beyond the seas during the whole period until the date of suit, in fact, from the commencement of the partnership, and therefore the time of limitation did not run against him, because he was beyond the seas.

The District Judge who tried the case decided, in the first instance, to try merely the issue as to whether there was a partnership and when it ended, and, secondly, the question of prescription. He decided that there was a partnership, that it ended at the end of three years and that the plaintiff was defeated by the limitation. On appeal, the Supreme Court decided that it was desirable that all the issues should be determined before coming to a final decision about the question of limitation. The decision

upon the three years duration of the partnership was accepted; there was no further dispute about that. The learned District Judge then proceeded to try the issues again and he again came to the conclusion that the period of limitation applied, because he was not satisfied that the plaintiff had been beyond the seas during the whole period. On appeal, the Supreme Court decided that, the evidence being, as they said, all one way and there being no evidence that the plaintiff had been in Ceylon at all during any of the period of the partnership or afterwards, the Statute of Limitations did not apply and, in those circumstances, they came to the conclusion that the plaintiff would be entitled to a partnership account, and then they suggested that the parties should arrive at some agreement as to the basis on which the account should be taken. The parties eventually agreed that the amount due to the plaintiff on the termination of the partnership should be ascertained and that the defendant should pay simple interest on that amount at 9 per cent. until the date of the decree. The parties also made an arrangement which covered the whole of the question of the costs of the action, namely, that there should be no costs, each party bearing his own costs. These results are duly recorded in the decree of the 10th December, 1924, which provided that the original decree should be set aside and the case sent back in order that the amount due on the termination of the partnership should be ascertained, and then it proceeded to say that it should be ascertained on the footing to which the parties had agreed and it also proceeded to deal with the costs. The learned Judge then had a very simple matter to determine, as to what was the right amount to be arrived at on that footing and on 1st August, 1932, he arrived at a sum. It is in the form of a decree and it says that the defendant shall pay to the plaintiff the sum of Rs.35,696 with further interest of Rs.9,200 at 9 per cent. from 7th March, 1931, and so forth. That order was affirmed by the Supreme Court in a judgment which was delivered on 15th November, 1933, the Acting Chief Justice saying that the only questions raised were questions of fact, and they therefore dismissed the appeal.

The only leave to appeal to His Majesty in Council which has been obtained is leave to appeal from the last mentioned order and, not only is it the only leave to appeal that was obtained, but it is the only leave to appeal that was asked for. In those circumstances, the sole matter before their Lordships is the order of the Supreme Court confirming the order of the District Judge dealing solely with the question of amount on a basis agreed between the parties. It is obvious that this Board would not entertain such an appeal as that, from two concurrent findings on a question of amount which was a pure question of fact. Mr. Dunne has very frankly put the facts before their Lordships and these facts make it plain that this is an appeal which cannot be supported, and in those circumstances their Lordships will humbly advise His Majesty that the appeal be dismissed with costs.



In the Privy Council.

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RAVANNA MANA KANA RUNA  
NARAYANAN CHETTIAR

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RAVANNA MANA KANA RUNA  
KARUPPEN CHETTIAR

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DELIVERED BY LORD ATKIN

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