

C.L.L. 62.

14, 1950

14.

In the Privy Council.

30991

LONDON

No. 76 of 1947AR1951

UNIVERSITY OF LONDON
W.C.1.
14 JUL 1953
INSTITUTE OF ADVANCED
LEGAL STUDIES

ON APPEAL FROM THE SUPREME COURT OF THE ISLAND OF CEYLON OF ADVANCED STUDIES

BETWEEN

STANISLAUS ALLES of Colombo (*First Defendant*) APPELLANT

AND

1. MERLE ALLES nee DE COSTA of Kandana (*Plaintiff*) RESPONDENT

AND

2. DR. T. S. M. SAMAHIN of Dambulla (*Added Defendant*) RESPONDENT.

CASE FOR THE PLAINTIFF-RESPONDENT

MERLE ALLES.

- 1.—This is an Appeal by the above-named Appellant Stanislaus Alles (hereinafter called "the first Defendant") from the Judgment and Decree of the Supreme Court of the Island of Ceylon given and made on the 11th day of May, 1945, whereby the Decree of the District Court of Colombo, dated the 27th day of February, 1943 (in the Action hereinafter mentioned), dissolving the marriage between the above-named Merle Alles (hereinafter called "the Plaintiff") and the first Defendant and granting to the first Defendant certain ancillary relief including (i) a declaration that a child Joseph Richard born to the Plaintiff during the continuance of the said marriage was not begotten by the first Defendant, and (ii) an award of damages against the above-named Respondent Dr. T. S. M. Samahin (hereinafter called "the Defendant") was modified by declaring:—
- (a) That the first Defendant had failed to disprove the legitimacy of the child Joseph Richard, born to the Plaintiff during the continuance of the marriage between her and the first Defendant. RECORD
pp. 742-744
pp. 706-707
p. 742
- (b) That the amount of damages awarded to the first Defendant against the second Defendant be reduced to Rs. 10,000. p. 742

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25. PORTLAND SQUARE

(c) That the District Judge do consider the question of custody and alimony in respect of the said child Joseph Richard.

2.—The substantive question for decision in this Appeal affecting the Plaintiff is whether on the evidence, and more particularly the medical evidence, given on the trial of this action before the District Court of Colombo, the first Defendant has discharged the burden of proof cast upon him by virtue of the provisions of Section 112 of the Evidence Ordinance to establish that he was not the father of the said child Joseph Richard.

3.—This Action was commenced by Plaintiff filed in the District Court of Colombo on the 2nd April, 1942, in which the Plaintiff claimed against the first Defendant judicial separation on the ground of malicious desertion and alimony for herself and each of her two children, namely, a girl named Pauline Frances Hortense born on the 30th day of June, 1938, and the said Joseph Richard born on the 26th day of March, 1942, and the custody of the said children and costs. 10

4.—By his Answer, dated 21st day of July, 1942, the first Defendant (a) denied the desertion alleged and pleaded that the Plaintiff had committed adultery with the second Defendant, and (b) while admitting that the said child Joseph Richard was born to the Plaintiff during the continuance of her marriage with him, specifically denied that the said child was his son on the ground of non-access to the Plaintiff at any material time. 20

By way of cross-prayer the first Defendant prayed

- (a) that the action of the Plaintiff be dismissed ;
- (b) that he should be granted a divorce *a vinculo matrimonii* ;
- (c) that he should have the custody of the said child Pauline Frances Hortense ; and
- (d) an award of Rs. 25,000 as damages against the second Defendant and costs.

5.—By his Answer, dated the 28th day of August, 1942, the second Defendant denied that he had committed adultery with the Plaintiff, and that he was liable in damages to the first Defendant and prayed that the claim against him might be dismissed with costs. 30

6.—By Replication, dated the 3rd September, 1942, the Plaintiff denied that she had committed adultery with the second Defendant and specifically averred that the said child Joseph Richard was the child of the first Defendant.

7.—The trial of the action came on for hearing before the District Judge R. J. Dias on the 11th December, 1942, when the issues between the

parties were framed. Of such issues the only one affecting the Plaintiff calling for determination on this Appeal is :—

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Was the said child Joseph Richard not the son of the first Defendant ? p. 41, l. 38

8.—The facts relevant to this issue as found by the Trial Judge were :—

- (i) the Plaintiff and the first Defendant were married on 21st June, 1933, being then 20 and 28 years of age respectively ; p. 626 p. 2
- 10 (ii) two children were born during the continuance of the said marriage, namely, Pauline Frances Hortense in 1938 and the said Joseph Richard (whose paternity is in dispute) on 26th March, 1942 ; p. 691, ll. 10-11
- (iii) that the Plaintiff and the second Defendant had committed adultery on a number of occasions between 15th February, 1941, and 20th March, 1941, on the 12th and 18th April, 1941, and between 20th April, 1941, and 20th August, 1941 ; p. 625
- (iv) that between 1st February, 1941, and 21st August, 1941, the first Defendant had sexual intercourse with the Plaintiff on two occasions only, namely on 17th April, 1941, and 9th August, 1941, there being no other cohabitation between those dates by reason of the first Defendant's absence from Colombo. p. 635, ll. 26-38
- 20

9.—Section 112 of the Evidence Ordinance enacts :—

“ The fact that any person was born during the continuance
 “ of a valid marriage between his mother and any man, or within
 “ 280 days after dissolution, the mother remaining unmarried,
 “ shall be conclusive proof that such person is the legitimate son
 “ of that man, unless it can be shown that that man had no access
 “ to the mother at any time when such person could have been
 “ begotten or that he was impotent.”

Section 4 (3) of the Evidence Ordinance further enacts :—

30 “ When one fact is declared by this Ordinance to be conclusive
 “ proof of another, the Court shall on proof of the one fact regard
 “ the other as proved and shall not allow evidence to be given
 “ for the purpose of disproving it.”

10.—It is respectfully submitted that this Statutory enactment casts an even heavier burden of proof upon a husband than the Common Law presumption *pater est quem nuptiæ demonstrant*. Under the Ordinance, once the *factum* of birth during the continuance of a valid marriage is established, a child so born can only be bastardised (i) by positive evidence of non access by the husband at the material time, or (ii) evidence of
 40 impotency. In the present case no suggestion of impotency of the first Defendant arises.

RECORD

11.—In these circumstances it is respectfully submitted that the Trial Judge having found that the first Defendant had sexual intercourse with the Plaintiff on 9th August, 1941, unless the first Defendant can establish by affirmative evidence of the most positive kind that the child Joseph Richard could not possibly have been begotten as a result of that intercourse he has failed to discharge the onus placed upon him by the Ordinance. The evidence necessary so to do must by its nature largely be medical in character. Not only does the medical evidence in this case fall short of establishing positively the proposition just postulated but on the contrary, as will be shown later in this Case, affirmatively establishes the possibility that the child Joseph Richard was in fact begotten as a result of the act of intercourse between the Plaintiff and the first Defendant on 9th August, 1941. 10

The fact that there is a finding of adultery against the Plaintiff on occasions before and after 9th August, 1941, it is respectfully submitted cannot affect the conclusiveness of the test enacted by the Ordinance any more than it would affect the like presumption at Common Law. This, it is respectfully submitted, is manifest from the authorities from which two propositions appear clearly to emerge :—

Head v. Head
1823 Sim & St.
150 (on appeal)
5 Cl. & F. 265

(a) That the presumption of legitimacy is not to be lightly repelled nor is it to be broken in upon or shaken by the mere balance of probability. The evidence for the purpose of repelling the presumption of legitimacy must be strong, distinct, satisfactory and conclusive. 20

Gaskill v. Gaskill
1921 P. 425

Cope v. Cope
1833 1 Moo. &
Rob. 269 at p. 276
Gordon v. Gordon
1903 P. 141
Warren v. Warren
1925 P. 107

(b) That when once it is established that the husband has had sexual intercourse with his wife the presumption of legitimacy is not to be rebutted by its being shown that other men also had sexual intercourse with the woman, for in such circumstances the law will not allow the balance of the evidence as to who is most likely to have been the father. 30

12.—According to the evidence of the Plaintiff :—

p. 382, ll. 23-24
p. 382, ll. 34-39

(i) her menstrual periods had always been very irregular and at varying intervals of 21, 24, 28, 30, and 40 to 45 days on occasion between the end of one menstrual period and the beginning of another. She could never be certain.

p. 405, ll. 25-27

(ii) On 9th July, 1941, she was suffering severe pain which Dr. Gunasekera, who attended her on that and the two succeeding days, diagnosed as renal colic.

p. 410, ll. 17-20

(iii) On 10th July, 1941, in the evening she passed a stone which gave her great relief. 40

p. 410, ll. 37-38

(iv) On 11th July, 1941, she showed the stone to Dr. Gunasekera who took it away and changed her medicine.

- (v) On 11th or 12th July she began a menstrual period which lasted for five or six days. p. 410, ll. 31-39
- (vi) She had sexual intercourse with the first Defendant on 9th August, 1941, and again on 10th August, 1941. p. 412, l. 6
p. 412, l. 12
- (vii) On 11th August, 1941, she suffered from vaginal bleeding. Apart from this bleeding she had no menstrual period during August. p. 412, ll. 41-42
- (viii) She had no menstrual period during September, 1941, and informed the first Defendant of the fact who told her to wait and see what happened in October. p. 413, ll. 9-13
- 10 (ix) No menstrual period having come by 23rd October, 1941, the first Defendant told her to consult Dr. Wickremasooriya which she did on that date. She was then in a poor state of health and emaciated and taking the medicine ordered by Dr. Gunasekera in July, 1941. p. 413, ll. 14-24
- (x) Upon examination of the Plaintiff Dr. Wickremasooriya diagnosed pregnancy at about the fourth month. This was the first knowledge the Plaintiff had of the fact that she was pregnant. On returning home she reported to the first Defendant what Dr. Wickremasooriya had told her. p. 413, ll. 25-30
- 20 (xi) She was examined again by Dr. Wickremasooriya in November and on 17th December, 1941. On the latter date she told him that her last menstrual period had occurred between 11th and 14th July, 1941. p. 413, ll. 35-40
p. 451, ll. 1-9

13.—The Trial Judge did not accept the evidence of the Plaintiff concerning the irregularity of her menstrual periods or the dates thereof at the material time. He appears to have adopted this view by reason of (i) some conflict between the Plaintiff and Dr. Wickremasooriya as to the date of last menstruation given to him by the Plaintiff at the first consultation on 23rd October, 1941, (ii) the fact that Dr. Gunasekera saw no sign of menstruation when he examined the Plaintiff on 11th July, 1941, and (iii) his belief that the Plaintiff was already pregnant in June, 1941, as she, as also the second Defendant well knew. pp. 698-699
30 p. 693, ll. 7-9

As to (i) the evidence of Dr. Wickremasooriya confirms that on the occasion of the consultation on 23rd October, 1941, the Plaintiff was in a poor state of health was suffering from urine trouble and was confused as to the date of her last menses. Even, as appears to be suggested, if the Plaintiff on that occasion said that the date was 11th August, 1941, this could reasonably be attributed to the fact that on that date she had suffered from some vaginal bleeding, which, in her then state of health she might reasonably confuse with menstruation. p. 202, ll. 15-17
40 p. 199, l. 27

As to (ii) the evidence of Dr. Gunasekera was that he could not remember whether or not signs of menstruation were present when he examined the Plaintiff on 11th July, 1941. In any event there is no p. 268, ll. 1-2

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satisfactory evidence conclusively establishing that the Plaintiff's menses began on the 11th and not the 12th or if on the 11th at what hour or at what hour on that day the doctor made his examination.

p. 692, ll. 45 *et seq*
p. 777, P. 24 &
P. 25

As to (iii) the Trial Judge appears to have formed this view upon a finding by inference that certain letters written by the first Defendant to the Plaintiff on 11th and 15th July, 1941, were written, as a result of a letter written to him by the second Defendant, with the object of inducing the first Defendant to return from Jaffna to Colombo to have intercourse with the Plaintiff and thus prevent him challenging the legitimacy of the child of which the Plaintiff was then pregnant. It is respectfully submitted 10 that there is no evidence to support such an inference. On the contrary the evidence is that from 10th July, 1941, onwards the Plaintiff was in fact suffering from renal colic and in great pain and even after passing a stone or stones remained confined for at least 10 days to her bed. Sexual intercourse in such circumstances, as evidence by Dr. Gunasekera, would have been an act of physical cruelty on the part of a husband.

p. 281, ll. 13-16

p. 410, l. 23
p. 281, ll. 17-19

14.—Five medical witnesses gave evidence in the course of the trial on the issue affecting the Plaintiff arising on this Appeal. Four of them, namely, Dr. Wickremasooriya, Dr. Attygalle, Dr. Navaratnam and the said Dr. Gunasekera were called by the first Defendant and one 20 of them, namely, Dr. Thiagarajah, was called by the Plaintiff. In addition, the opinion of medical text book writers were cited and relied upon in relation to the medical questions dealt with by the doctors in evidence.

p. 695, ll. 19-21

15.—According to the evidence of Dr. Wickremasooriya, whose qualifications as an obstetrician and gynæcologist were of the highest :

p. 195, ll. 10-11

(i) he delivered the child Joseph Richard on the 26th March, 1942

p. 196, ll. 30-31

(ii) the child showed no signs of prematurity and for all practical purposes was a fully developed child of complete uterine development and looked an average full-time child

p. 195, ll. 12-13

p. 196, ll. 26-28

(iii) he could not say exactly what was the weight of the child but 30 he thought it was somewhere between 6 and 7 pounds—nearer 7 pounds

p. 195, ll. 13-16

(iv) the menstruation delivery interval, i.e., the period which elapsed from the beginning of the last menstrual period to the time of delivery, was normally 280 days

p. 195, ll. 17-19

(v) the insemination delivery period was slightly shorter, varying from 265 to 270 days with variations within this period

p. 209, ll. 41-42

p. 207, ll. 19-20

(vi) it is possible that ovulation may occur on any day of the menstruation cycle and conception can scientifically occur at any time during the inter-menstrual period, although there are other 40 periods which are more likely

- (vii) he had known of cases where conception had occurred just after or just before the menstrual period was due and he cited the case of a woman becoming pregnant on the 27th day before her period was due p. 207, ll. 31-32
p. 209, ll. 31-32
- (viii) it followed that the insemination delivery period could be as little as 252 days and it was only on the assumption that ovulation occurred about the fifteenth day of the menstrual cycle that the insemination delivery period was normally calculated at 265 to 270 days from coitus p. 212, ll. 4-10
- 10 (ix) the theory advanced by the text writers Ogino and Knaus that in the case of a woman with a normal cycle of menstruation, ovulation took place during the mid period, was not a universally accepted one p. 208, ll. 21-24
- (x) about 40 per cent. of women menstruate irregularly i.e., their cycle changing from 19 to 28 days or 35 to 40 days p. 208, ll. 17-20
- (xi) on the 17th December, 1941, on examining the Plaintiff he heard the foetal heart which is normally heard about the twentieth week but occasionally it may be heard a little earlier. p. 198, l. 31 & ll. 35-38
- 20 (xii) he had no reason to suppose that the Plaintiff in giving him the date 11th to 14th July, 1941, had given him an incorrect date of her last menstruation as it agreed with the inference of his own examination of her p. 215, ll. 1-9
p. 203, ll. 37-38
- (xiii) On the basis of that date, he calculated that the birth of the child would take place on or about the 18th April, 1942, but that the actual delivery might take place two or three weeks earlier p. 203, ll. 20-34
p. 204, ll. 1-7
- (xiv) the Plaintiff had suddenly as Dr. Fernando had reported to him ruptured a membrane which might account for the earlier delivery of the child by about ten days p. 206, l. 4 & p. 521, ll. 27 *et seq*
p. 206, ll. 14-15
- 30 (xv) the date of the birth of the child was consistent with the fact that the Plaintiff had had her last menstruation period between the 11th and the 14th July, 1941 p. 204, ll. 1-5
- (xvi) it was possible for conception to have taken place between the 14th July and the 11th August, 1941. p. 215, ll. 14-31

16.—In answer to questions put by the Trial Judge as to whether or not the child Joseph Richard could have been begotten as the result of intercourse between the Plaintiff and the first Defendant on the 9th August, 1941, Dr. Wickremasooriya gave the following evidence :—

Question : Could this child have been conceived on the 17th April ? p. 215, ll. 33 *et seq*

Answer : No.

- 40 *Question* : The question then arises as a medical expert could you accept the possibility of her conceiving owing to an intercourse on the 9th August ?

Answer : The 9th August is the 30th day of her menstrual cycle. The probabilities are that even if she had a fertile coitus on that day, it may not have resulted in pregnancy because if the period was just due most likely the fertilised ovum would be cast away with the menstrual discharge.

Question : Could you as an expert say that that is excluded ? If you cannot do it the medical evidence fails and the child must be presumed to be legitimate.

Answer : I cannot make an absolutely certain statement. I say that the chances are against conception, that is, that conception is 10 rather remote.

Question : But you cannot definitely say it was not ?

Answer : I cannot exclude the possibility.

In answer to further questions on cross-examination on this point, Dr. Wickremasooriya gave evidence as follows :—

Question : One fact you took into account in expressing that opinion was the menstrual cycle was about to terminate ?

Answer : Yes.

Question : The menstrual cycle extends as much as to 40 days ?

Answer : It might. 20

Question : And particularly in the case of a woman whose menstruation is irregular it may extend to 40 days ?

Answer : Yes.

Question : If it could extend the position is that it may possibly be the result of a coitus on the 9th may be strengthened ?

Answer : Better prospects.

17.—It is respectfully submitted that having regard to the answers by the first Defendant's own medical witness the first Defendant has failed *in limine* to discharge the onus of proof cast upon him by the Evidence Ordinance. 30

18.—Dr. Attygalle gave evidence to the effect that having regard to the fact that the child Joseph Richard was a fully matured child he thought that the limits of the conception period of that child would be between the 4th June and the 14th July, 1941, and that the conception could not have taken place on the 9th August, 1941. Dr. Navaratnam gave evidence to the same effect. Dr. Frank Gunasekera gave evidence that he was called to attend the Plaintiff on the 9th July, 1941, when she was in severe pain and was suffering from renal colic. He was then satisfied that the symptoms of the Plaintiff were pathognomic of renal colic and he excluded the possibility that the Plaintiff was then pregnant. She was in acute agony and the pain was very severe. It would have been cruel for any husband to have intercourse with his wife when she was suffering from renal colic. He gave her a prescription on that date and on the next day when he examined her she showed him the stones which she had passed 40

pp. 220 *et seq*
p. 221, ll. 26-29

pp. 256 *et seq*
p. 266, l. 38

p. 281, ll. 1-4
p. 281, ll. 11-12
p. 281, ll. 16-19

p. 281, ll. 32-35

and he altered the prescription for her. Dr. Gunasekera, although not an expert, was allowed to give evidence on the question as to whether the child Joseph Richard could have been begotten as the result of coitus on the 9th August, 1941, and he stated that he could not swear to any date of conception because he thought nobody could. RECORD
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p. 279, ll. 12-15

19.—Dr. Thiagarajah gave evidence on behalf of the Plaintiff. He was very closely cross-examined upon his qualifications and he seemed to be attacked on the basis that he was not an impartial witness, which he strongly denied. He gave evidence to the effect that in his opinion the child born to the Plaintiff on the 26th March, 1942, could have been begotten as the result of the intercourse between her and her husband on the 9th August, 1941. pp. 523 *et seq*
pp. 526 *et seq*
p. 543, ll. 26-30
p. 545, ll. 1-16

20.—On this evidence the Trial Judge held that the said child Joseph Richard was not begotten by the first Defendant. p. 691, l. 24 to
p. 702, l. 26

21.—On Appeal to the Supreme Court of Appeal which was heard by Mr. Justice Wijeyewardene and Mr. Justice Cannon, the finding of the Trial Judge with regard to the legitimacy of the child Joseph Richard was reversed. Mr. Justice Wijeyewardene approached the matter on the basis of the medical evidence and dealt with the following questions :— p. 726 *et seq*
p. 730, l. 30 *et seq*

- 20 (a) What was the last menstrual period of the Plaintiff ? p. 731, ll. 19-23
- (b) Could a coitus on August 9th, 1941, have resulted in conception ?
- (c) Could not Joseph Richard have been begotten as the result of a coitus on August 9th, 1941 ?

With regard to the first question the Learned Judge found that there was evidence that the last menstrual period of the Plaintiff was about July 11th to July 14th, 1941. He was not prepared to accept the suggestion that in December, 1941, Plaintiff gave Dr. Wickremasooriya a late date in order to be in a position to say that the baby was conceived after August 9th when the first Defendant had access to her. He pointed out that Dr. Wickremasooriya had stated that he had examined the Plaintiff on several occasions during her pregnancy and that he had no reason to think as the result of such examination that she had given him an incorrect date. pp. 731-732

With regard to the second question, the Learned Judge held that the Plaintiff could have had a fruitful coitus on the 9th August, 1941. He pointed out that Dr. Wickremasooriya had stated that fertilisation was possible in the case of a normal woman at any time during the intermenstrual period and that this possibility was still greater in the case of women with irregular periods, and that the Plaintiff's evidence showed that her periods were irregular. He thought that it was at times difficult pp. 732-733

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to reconcile the different answers given by Dr. Attygalle in the course of his examination although this doctor had answered each question put to him with greater confidence than Dr. Wickremasooriya and without the caution and restraint of the latter. He referred to Dr. Navaratnam's evidence to the effect that in the case of a woman with a regular menstrual cycle fertilisation was impossible outside of the 9th to the 17th day of the period : but even this doctor was prepared to agree that if the Plaintiff had irregular periods she could have conceived even 28 days after the last menstrual period. He cited Dr. Thiagarajah's opinion that it was possible for any woman whether her cycle was regular or irregular to have a fruitful intercourse at any time of the inter-menstrual period and that the " safe period " of Ogino and Knaus had been proved to be a failure. 10

pp. 733-738

With regard to the third question, the Learned Judge held that the first Defendant had failed to prove that the child Joseph Richard was not his child. In order for him to have done so the medical opinion must have been clear and decisive. In this case the Trial Judge said that the opinions of the doctors were at times conflicting where they were not hesitating and doubtful and there were, moreover, the opinions of the text-book writers which threw a great deal of doubt on the case of the first Defendant.

pp. 738, ll. 41-48

p. 739, ll. 1-14

p. 702, ll. 19-20

Mr. Justice Wijeyewardene further dealt with the criticism which had been made of Dr. Thiagarajah, as to whom the Trial Judge had found that he had shown partisanship, that he was entirely biased in favour of the side which retained him and that he had tried to twist scientific facts in order to concur with his theories which he thought would help the Plaintiff's case. As to this, Mr. Justice Wijeyewardene said that some confusion had been created by the failure sometimes to formulate with precision the questions put to medical witnesses and that having examined the evidence of Dr. Thiagarajah he thought he should say in fairness to him that he had no doubt that he gave his opinion in good faith, a view which he expressed with regard to the other medical evidence also. 20 30

p. 740-742

22.—Mr. Justice Cannon agreed with the conclusions which were reached by Mr. Justice Wijeyewardene. As to the criticism which had been made by the Trial Judge of Dr. Thiagarajah Mr. Justice Cannon said that on going through the record of the evidence of Dr. Thiagarajah, and indeed of all the expert medical witnesses, he was struck by how frequently Counsel and witnesses were at cross-purposes owing to the way in which medical terms were ambiguously used, not only in the questions and answers but also by the writers of the scientific text books which were being frequently cited. Taking the record of the evidence of Dr. Thiagarajah as a whole and reading it in the light of the phraseological inexactitudes which the Trial Judge mentioned, Mr. Justice Cannon said he was left with the impression that Dr. Thiagarajah was giving a bona fide though sometimes obscure expression of his views on the scientific data. 40

23.—The Plaintiff humbly submits that the Judgment and decree of the Supreme Court of Appeal of Ceylon are right for the following among other

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—

REASONS.

- (1) THAT upon the evidence given at the trial of the proceedings the first Defendant did not discharge the burden of proof placed upon him by Statute necessary for him to establish that the said child Joseph Richard could not have been begotten by him.
- 10 (2) THAT there was not sufficient or satisfactory or conclusive evidence upon which the Trial Judge could find that the child Joseph Richard was not the son of the first Defendant.
- (3) THAT the finding of the Trial Judge that the first Defendant was not the father of the child Joseph Richard was contrary to and against the weight of the evidence.
- (4) THAT the Judgment of the Trial Judge on the question relating to the legitimacy of the child Joseph Richard was wrong.
- 20 (5) THAT the Judgments of Mr. Justice Wijeyewardene and Mr. Justice Cannon on the question relating to the legitimacy of the child Joseph Richard was right.

A. AIKEN WATSON.

I. H. JACOB.

In the Privy Council.

No. 76 of 1947.

ON APPEAL FROM THE SUPREME COURT OF
CEYLON.

BETWEEN

STANISLAUS ALLES of Colombo
(*First Defendant*) APPELLANT

AND

1. MERLE ALLES nee DE COSTA
of Kandana (*Plaintiff*) RESPONDENT

AND

2. DR. T. S. M. SAMAHIN of
Dambulla
(*Added Defendant*) RESPONDENT.

CASE

FOR THE PLAINTIFF-RESPONDENT,
MERLE ALLES.

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