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Supreme Court of Ceylon  
No. 140 (Final) of 1951.

District Court, Matale  
No. L. 203.

IN HER MAJESTY'S PRIVY COUNCIL  
ON AN APPEAL FROM  
THE SUPREME COURT OF CEYLON.

BETWEEN

C. L. JAINUDEEN of No. 68, King Street, Matale.

*Plaintiff-Respondent.*

VERSUS

P. MURUGIAH of Kirigalpotha, Matale.

*Defendant.-Appellant.*

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RECORD  
OF PROCEEDINGS

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**PART II.**  
**EXHIBITS.**

**Plaintiff's Documents.**

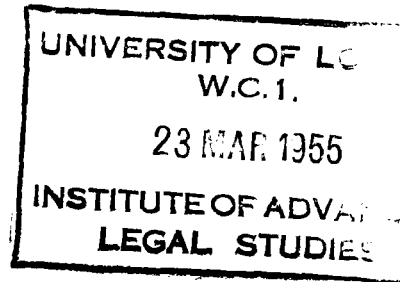


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P 3	Fiscal's Conveyance No. 942 ...	21st February, 1950 ...	50
P 4	Extracts of Encumbrances ...	1901—1950 ...	54

**Defendant's Documents.**

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D 3	Petition of P. Sellasamy in D. C. Kandy Case No. 5437 ...	7th December, 1936 ...	28
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No. 1.  
Journal  
Entries.  
9-8-50 to  
9-10-52.  
—continued.

(8) 2.11.50. Answer 16/11. by Mr. Silva.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

(9) 16.11.50. Answer filed by Mr. Silva.  
Trial 7/12.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

(10) 24.11.50. Mr. Silva for defendant moves that the trial of this case be postponed for some other date viz., 15.12.50, as the defendant has to obtain a number of documents including the decision of Privy Council and there is no time to get ready for 7.12.50.

10

Call 7/12.

Sgd N. A. DE WIJESEKERA.  
D. J.

(11) 7.12.50. Case called.  
Trial 11/1.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

20

(12) 18.12.50. Mr. Silva files defendant's list of witnesses and takes out 7 ss.

(13) 20.12.50. Mr. Edirimanasingham files Plaintiff's list of witnesses and takes out 6 ss.

(14) 20.12.50. Mr. Edirimanasingham files plaintiff's list of documents.

(15) 3.1.51. Mr. Edirimanasingham for plaintiff moves to amend the Plaint as per motion.

Allowed. File fresh copy of amended plaint.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

30

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**PART II.**  
**EXHIBITS.**

**Plaintiff's Documents.**

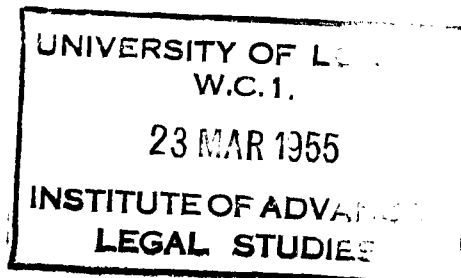


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Supreme Court of Ceylon  
No. 140 (Final) of 1951.

District Court, Matale  
No. L. 203.

IN HER MAJESTY'S PRIVY COUNCIL  
ON AN APPEAL FROM  
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BETWEEN

C. L. JAINUDEEN of No. 68, King Street, Matale.

*Plaintiff-Respondent.*

VERSUS

P. MURUGIAH of Kirigalpotha, Matale.

*Defendant.-Appellant.*

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RECORD OF PROCEEDINGS

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PART I.

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**No. 1.****Journal Entries.**

No. 1.  
Journal  
Entries,  
9-8-50 to  
9-10-52.

IN THE DISTRICT COURT OF MATALE.

No. L—203. C. L. JAINUDEEN of Matale.  
Amount Rs. 9,750/-. *Plaintiff.*  
Nature: Land. *vs.*  
Procedure: Regular. P. MURUGIAH of Kirigalpotta.  
*Defendant.*

10

## JOURNAL.

The 9th day of August, 1950.

Mr. R. Edirimanasingham files (1a) appointment (1b) and  
Plaint together with Documents, Pedigree (1c) and Abs-  
tract of Title.

(2) Complaint accepted and Summons ordered for 14.9.50.

Sgd. N. A. DE S. WIJESEKERA,  
*District Judge.*

(3) 5.9.50. Summons issued with Precept returnable the 13th  
day of September, 1950.

20

(4) 14.9.50. Defendant P. Murugiah. Summons served.  
Proxy filed by Mr. Edward de Silva.  
Documents for 21/9.

Sgd. N. A. DE S. WIJESEKERA,  
*D. J.*

(5) 21.9.50. Documents for 5/10 to Mr. Silva.

Sgd. N. A. DE S. WIJESEKERA,  
*D. J.*

(6) 5.10.50. Documents for 19/10. to Mr. Silva.

Intld. M. Y. S.

30

(7) 19.10.50. Documents handed to Mr. Silva.  
Answer 2/11.

Sgd. N. A. DE S. WIJESEKERA,  
*D. J.*

No. 1.  
Journal  
Entries.  
9-8-50 to  
9-10-52.  
—continued.

(8) 2.11.50. Answer 16/11. by Mr. Silva.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

(9) 16.11.50. Answer filed by Mr. Silva.  
Trial 7/12.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

(10) 24.11.50. Mr. Silva for defendant moves that the trial of this case be postponed for some other date viz., 15.12.50, as the defendant has to obtain a number of documents including the decision of Privy Council and there is no time to get ready for 7.12.50.

10

Call 7/12.

Sgd N. A. DE WIJESEKERA.  
D. J.

(11) 7.12.50. Case called.  
Trial 11/1.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

20

(12) 18.12.50. Mr. Silva files defendant's list of witnesses and takes out 7 ss.

(13) 20.12.50. Mr. Edirimanasingham files Plaintiff's list of witnesses and takes out 6 ss.

(14) 20.12.50. Mr. Edirimanasingham files plaintiff's list of documents.

(15) 3.1.51. Mr. Edirimanasingham for plaintiff moves to amend the Plaintiff as per motion.

Allowed. File fresh copy of amended plaintiff.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.

30



- (16) 11.1.51. Mr. Edirimanasingham for plaintiff.  
Mr. Silva for defendant.  
Fair copy of amended plaint due.  
Mr. Silva moves to amend answer as per motion.  
Trial *vide* proceedings. Judgment 25.1.51.

No 1.  
Journal  
Entries.  
9 8-50 to  
9-10 52.  
—*continued*

Sgd. N. A. DE S. WIJESEKERA.  
*D. J.*

- (17) 25.1.51. Judgment delivered.

- 10 (18) 7.2.51. Mr. Edirimanasingham for plaintiff files petition of appeal from plaintiff and supplies stamps to the value of Rs. 24/- for S. C. Order and Rs. 12/- for secretary's Certificate.

- (2) He further tenders K. R. for Rs. 30/- for two sets of typewritten copies and moves that notice of appeal, notice of security for costs of appeal and security for costs of appeal be dispensed with.

(1) Accept and forward record to S. C. in due course.

(2) By consent allowed.

20 Sgd. N. A. DE S. WIJESEKERA.  
*D. J.*

- (19) 24.2.51. Mr. Edirimanasingham proctor for appellant written to deposit Rs. 30/- being balance fees for typewritten copies.

Intld. ....

*D. J.*

- (20) 1.10.52. S. C. Returns record.

Judgment appealed from is set aside. Plaintiff declared entitled to property and defendant to be ejected therefrom with costs.

30

Proctor to Note.

Intld. ....

*D. J.*

- (21) 3.10.52. Proctor R. Edirimanasingham for plaintiff files application for execution of decree and moves to issue writ of possession against defendant. Copy of D. C. & S. C. decrees filed.

Allowed.

Intld. ....

40

*D. J.*

No. 1.  
Journal  
Entries.  
9-8-50 to  
9-10 52.  
—continued

(22) 6.10.52. Mr. E. L. de Silva for petitioner files petition and affidavit and for reasons therein moves  
(1) that the respondent's application to issue writ of possession be refused.  
(2) If application has already been allowed then writ of possession be not granted pending decision of this case by the Privy Council.  
(3) If granted execution be stayed pending decision of Privy Council.  
(4) For costs and Proctor for respondent receives notice and copy.

Call case on bench 7/10.

Intld. ....  
D. J.

10

(23) 7.10.52. Case called.  
It is informed that issue of writ be stayed till 9/10.  
Call 9/10.

Intld. ....  
D. J.

(24) 9.10.52. Case called.  
Vide S.C's letter A.P.N. of 8.10.52.  
Stay execution.....a telegram sent to this Court.  
Forward record.

Intld. ....  
D. J.

20

No. 2.  
Plaint of  
the Plaintiff.  
9-8-50.

## No. 2.

### Plaint of the Plaintiff.

IN THE DISTRICT COURT OF MATALE.

No. L. 203  
Class III  
Nature of Action : Land  
Value : Rs. 9750  
Procedure : Regular.

C. L. JAINUDEEN of King Street,  
Matale. *Plaintiff.*

vs.

P. MURUGIAH of Kirigalpotta in  
Matale South. *Defendant.*

30

This 9th day of August, 1950.

The plaint of the plaintiff abovenamed appearing by Ramalingham Edirimanasingham his Proctor states as follows:—

1. The parties to this action reside and the subject matter of this action is situate within the jurisdiction of this Court.

2. One Kuna Marimuttu Thevar's son Ponniah was the owner of the land called Kirigalpottewatta more fully described in the schedule hereto reasonably worth Rs. 9000/-.

40

3. The said Kuna Marimuttu Thevar's son Ponniah upon Deed of Gift No. 7881 dated the 1st November, 1927, gifted the said land and premises to Kuna Mawanna Ponniah Thevar's son Sellasamy.

No- 2.  
Plaint of the  
Plaintiff.  
9-8-50.  
—continued

4. The said Kuna Mawanna Ponniah Thevar's son Sellasamy on Mortgage Bond No. 10834 dated the 24th February, 1944 mortgaged the said land and premises for a sum of Rs. 4000/- to one Don Abraham Weerakoon Appuhamy of Golahenwatta in Matale.

10 5. The said Don Abraham Weerakoon Appuhamy filed action No. M.B. 36 of this Court for the recovery of money due on the said Mortgage Bond from the said Kuna Mawanna Ponniah Thevar's son Sellasamy and judgment was entered in favour of the said Don Abraham Weerakoon Appuhamy for a sum of Rs. 6010/- on the 25th of February, 1949, together with legal interests from the said date on the said amount.

6. In execution of the said decree, order to sell was issued and the said land and premises was sold on the 23rd day of September, 1949 and purchased by the plaintiff on Fiscal's Transfer No. 942 dated the 21st February, 1950.

20 7. The defendant without any manner of right or title to the said land and premises about three months ago, entered into wrongful and forcible possession of the said land and premises to the plaintiff's loss and damage of Rs. 750/-.

8. In the premises a cause of action has accrued to plaintiff against defendant for declaration of title to the said land and premises, for recovery of damages Rs. 750/- and continuing damages at Rs. 250/- from date hereof till plaintiff is restored to possession.

WHEREFORE the plaintiff prays that he be declared entitled to the said premises.

30 2. For judgment against the defendant for the sum of Rs. 750/- and continuing damages at Rs. 250/- per mensem from date hereof till defendant is ejected and plaintiff put and placed in possession.

3. That defendant be ejected therefrom and plaintiff put placed and quieted in possession.

4. For costs and for such other and further relief as to this Court shall seem meet.

Sgd. R. EDIRIMANASINGHAM,

*Proctor for Plaintiff.*

No. 2.  
Plaint of the  
Plaintiff.  
9-8-50.  
—continued

**The Schedule referred to :**

All that southern portion in extent 10 acres out of the land called and known as Kirigalpottewatte in extent 27 acres 1 rood and 22 perches situated at Kirigalpotta in Udugama in Gampahasiya pattu Matale South, in the District of Matale Central Province of the Island of Ceylon which said southern portion is according to Plan No. 2911 dated 25th September, 1937 made by Mr. J. R. Holloway Licensed Surveyor Matale bounded on the East by Wavinna Estate, South by Nikakotuwa Estate West by Matale Trincomalie Road, and remaining portion of the said land and on the North by the fence of the remaining portion of the said land together with the buildings plantations and everything else thereon.

10

Sgd. R. EDIRIMANASINGHAM,  
*Proctor for Plaintiff.*

PEDIGREE.

Original Owner :— K. M. T. Ponniah.

(P 1).

Gift No. 7881  
1-11-1927.

20

K. W. P. T. Seelasamy.

Mort. No. 10824 (P 2).  
24-2-1944.

D. A. Weerakoon Appuhamy.

M.B. Case No. 36 Order to Sell issued,  
sold by Fiscal bought by C. L.  
Jainudeen (Plaintiff) Fiscal Conveyance  
No. 942  
21-2-1950. (P 3).

Sgd. R. EDIRIMANASINGHAM,  
*Proctor for Plaintiff.*

30

**Abstract of Title.**

No. 2,  
Plaintiff of the  
Plaintiff.  
9-8-50,  
—*continued*

No. of Deed : 7881.  
Date of Deed : 1st November, 1927.  
Nature of Deed : Deed of Gift.  
From whom to Whom: Kuna Marimuttu Thevar's son Ponniah of Kirigalpotta  
to  
Kuna Mawanna Ponniah Thevar's son Sellasamy of Matale.

10 Name of land : Kirigalpottewatta in extent 10 acres.  
Area or portion dealt with : Entirety.  
Boundaries : East by Wavinna Estate.  
South by Nikakotuwa Estate.  
West by Matale Trincomalee Street and remaining portion of this land.  
North by the remaining portion of this land.

20 Deed No. 942 of 21st February, 1950.  
Nature of Deed : Fiscal Transfer.  
Area dealt with : Entirety.  
From whom to Whom: Deputy Fiscal Matale  
to  
C. L. Jainudeen of Matale.

Boundaries and name of land : As above.  
Original or Copy : Original.

Sgd. R. EDIRIMANASINGHAM,  
*Proctor for Plaintiff.*  
9-8-50.

No. 3.  
Answer  
of the  
Defendant.  
16-11-50.

**No. 3.**

**Answer of the Defendant.**

IN THE DISTRICT COURT OF MATALE.

C. L. JAINUDEEN of King Street in  
Matale. *Plaintiff.*

No. L. 203

vs.

P. MURUGIAH of Kirigalpotta in  
Matale South. *Defendant.*

This 16th day of November, 1950.

The answer of the defendant abovenamed appearing by his  
Proctor Edward de Silva states as follows :— 10

1. The defendant admits the averments in paragraphs 1 & 2  
of the plaint save and except that the land described in the Schedule  
to the plaint is reasonably worth Rs. 7500/-.

2. Answering the averments in paragraph 3 of the plaint the  
defendant while admitting the execution of Deed No. 7881 of  
1-11-1927, states that the said deed was a gift made on the occasion  
of a contemplated marriage by the said Sellasamy the son of the  
donee the said Ponniah.

3. The defendant is unaware of the averments in paragraphs 4  
and 5 of the plaint and puts the plaintiff to the proof thereof. 20

4. Answering the averments in paragraph 6 of the plaint the  
defendant states that the defendant on becoming aware that the said  
land was to be put up for sale by the Fiscal informed the Fiscal that  
the said land formed part of the Estate of the said Ponniah and  
requested the Fiscal to inform purchasers that no right title or  
interest would pass to a Purchaser at such sale. Further answering  
the averments in paragraphs 4, 5 & 6 of the plaint the defendant  
states that no right title or interest passed to the plaintiff upon the  
averments pleaded therein, in the event of the said averments  
being proved, for the reasons stated hereinafter. 30

5. The defendant denies all and singular the averments pleaded  
in paragraphs 7 & 8 of the plaint and states in answer thereto that  
the defendant as Administrator of the Estate of the said Ponniah is  
in rightful possession of the said land.

6. Further answering the defendant states that the Estate of  
the said Ponniah was administered in Testamentary Proceedings  
No. T. 5437 of the District Court of Kandy, in which case on the

3rd February, 1941, order was made that the said property be brought into collation and forms part of the said Estate. The defendant states that the said order is Res Judicata between the parties hereto. The defendant states that by virtue of the said order the said Sellasamy lost all rights to the said land upon the said Deed No. 7881.

No. 3.  
Answer  
of the  
Defendant.  
16-11-50  
—continued

10 7. The defendant pleads as a matter of law that the said order has been duly registered and claims the benefit of such registration. The defendant further states that the several Deeds referred to in the Plaintiff have not been duly registered, and in law the said Deeds are null and void and of no avail by reason of the prior registration of the said order.

Wherefore the defendant prays:—

- (a) that the plaintiff's action be dismissed with costs.  
(b) for such further and other relief as to this Court shall seem meet.

Sgd. EDWARD DE SILVA,  
*Proctor for Defendant.*

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**No. 4.**

**Motion to Amend Plaintiff.**

No. 4.  
Motion to  
Amend  
Plaint.  
21-12-50.

20

IN THE DISTRICT COURT OF MATALE.

C. L. JAINUDEEN of King Street  
Matale. *Plaintiff.*

No. L—203.

*vs.*

P. MURUGIAH of Kirigalpotta in  
Matale South. *Defendant.*

This 21st day of December, 1950.

I move to amend the plaintiff filed in this case by the addition of the following paragraph:

30

“7A. The plaintiff and his predecessors in title have been in the undisturbed and uninterrupted possession of the said land and premises by a title adverse to and independent of the defendant and all others and plead the benefit of section 3 of the Prescriptive Ordinance No. 22 of 1871”.

Sgd. R. EDIRIMANASINGHAM,  
*Proctor for Plaintiff.*

No. 4.  
Motion to  
Amend  
Plaint. "  
21-12-50.  
—continued

Received Notice and Copy.

Sgd. EDWARD DE SILVA,  
*Proctor for Defendant,*

3.1.51.

*Vide Journal.*

Sgd. N. A. DE S. WIJESEKERA,  
*D. J.*

No. 5  
Admissions  
by Parties.

**No. 5.**

**Admissions by Parties.**

D. C. L 203.

11.1.51.

10

MR. ADVOCATE MISSO instructed by MR. EDIRIMANA-SINGHAM for Plaintiff.

MR. ADVOCATE JONKLAAS instructed by MR. EDWARD DE SILVA for Defendant.

Mr. Misso opens his case:

Admissions by parties:

It is agreed that K. M. T. Ponniah was the original owner of the land in question; Ponniah gifted this property on deed No. 7881 of 1.11.1927 (P1) to his son K. M. P. T. Sellasamy; Sellasamy on Mortgage bond No. 10834 of 24.2.44—P2, mortgaged the property with D. A. Weerakoon Appuhamy; Weerakoon Appuhamy put the bond in suit in D. C. Matale 36; judgment was entered on 25.2.49, and the property was sold on Fiscal's Conveyance No. 942 of 21.2.50—P3, to C. L. Jainudeen, the Plaintiff.

20

Mr. Advocate Jonklaas:

The Defendant is the Administrator De Bonis Non of the estate of the said K. M. T. Ponniah; letter of administration marked D1 in Testamentary Proceedings D. C. Kandy D 5437 is produced. Also produced are: certified copy of the order made by the D. C. Kandy in the said testamentary proceedings dated 3.2.41.—D2; petition of Sellasamy filed in the said testamentary proceedings—D3; order made in the said testamentary proceedings dated 28.6.37, marked—D4; answer filed by Sellasamy in the mortgage bond action 36—D5.

30

It is admitted that the order of the D. C. Kandy which was affirmed by the Supreme Court and subsequently by the Privy Council was that this property be brought into collation. Extract



of encumbrances in respect of this property D6—N133/280 carried over to 188/67, carried over to B138/233 with the cross reference to B180/33. Encumbrances registered in D141/37 marked D7; Bond No. 1080 of 26.2.42, marked D8; letter dated 9.9.49, sent by Mr. Balasingham on behalf of the defendant to the Fiscal—D9; and letter dated 13.3.50, sent by Mr. Edward de Silva to the plaintiff marked D10. It is admitted that the plaintiff will be, in any event, entitled to the interests of Sellasamy in this property. Mr. Jonklaas says that this will be subject to the claims of the estate on Sellasamy.

No. 5.  
Admissions  
by Parties.  
—continued

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**No. 6.**

**Issues Framed.**

No. 6.  
Issues  
Framed.

Mr. Advocate Misso raises :

Issue (1) Has the title of Sellasamy derived on P2, passed to the plaintiff on P3 ?

Mr. Advocate Jonklaas raises :

(2) Is the order made on 3.2.41—D2 in Testamentary proceedings 5437 of D. C. Kandy, Res Judicata between the parties ?

(3) If so, is defendant as administrator of the said estate in lawful possession of the said premises ?

20

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**No. 7.**

**Addresses to Court.**

No. 7.  
Addresses  
to Court.

Mr. Advocate Jonklaas addresses :

Sellasamy came in and objected to the property being brought into collation; Order made D2 is that the property be brought into collation; this was in 1941 before the mortgage and the Fiscal's sale; 25N.L.R. page 261.

Mr. Advocate Misso addresses :

The mortgage bond was in 1944; Extract of encumbrances—D6; at the time of execution of P2, there was no registration of any action pending in respect of the whole estate or part thereof. There is nothing in the registers to say that rights were being asserted. It was only on 19.5.50 after the fiscal's conveyance that the Decree of the court was for the first time registered.

30

The right of the estate is to the value of the property and not to the property itself; and had Sellasamy been in possession of the property today he would be at liberty to do with the property as he liked.

No 7.  
Addresses  
to Court.  
—continued

Mars Law volume 1 pages 172 and 176,  
Roman Dutch Law page 365.  
Mr. Advocate Jonklaas replies :  
7 S. C. C. page 26.  
20 N.L.R. 147 page 152.

Sellasamy did not repudiate but he claimed his inheritance; order for collation was in 1941; in 1941 the property became the property of the estate and Sellasamy became only an heir; P2 is not in the correct folio. Judgment 25.1.51.

No. 8.  
Judgment  
of the  
District  
Court.  
25-1-51.

**No. 8.**

10

**Judgment of the District Court.**

D. C. L. 203. ORDER.

The Plaintiff is asking that he be declared entitled to the land called Kirigalpottewatte described more fully in the schedule to the plaint.

The original owner of this land was one K. M. T. Ponniah. He on P1 of 1927, gifted this land to his son Sellasamy. Sellasamy by P2 of 24.2.44, mortgaged this with one Weerakoon Appuhamy who put this bond in suit and at the execution sale it was purchased on Fiscal Conveyance P3 of 21.2.50, by the Plaintiff.

20

In 1936 K. M. T. Ponniah died intestate. His widow Kali Amma filed petition together with an inventory asking that she be granted letters of Administration. Among others she made P. Sellasamy also a respondent. She further prayed that the subject matter of this action be brought into hotchpot and treated as part of the estate of K. M. T. Ponniah in terms of Section 39 of Ordinance 15 of 1876. (Vol. 2, Chapter 47 Section 35). This was in Testy. Proceedings No. 5437 D. C. Kandy. Sellasamy filed affidavit stating that the subject matter was exclusively his property and should not be included in the inventory. By order dated 3.2.41, it was held that the subject matter must be brought into collation. This order was later affirmed by the Supreme Court and also the Privy Council. It is necessary for the purpose of this case to state that order was made that this property was to be brought into the estate on 3.2.41. From this date therefore Sellasamy would have no right to this property as all the heirs of Ponniah would inherit this property according to their rights. Sellasamy and the other heirs of Ponniah would become entitled to an undivided share of the whole estate. The subject matter would have lost its identity and got submerged in the estate.

30

40

Mr. Misso for the plaintiff has made 2 submissions. The first is that the Decree in the Testamentary proceedings was registered only after the Fiscal Conveyance and so the conveyance would hold good. Secondly the right of the estate is to the value of the property and not to the property itself.

No. 8.  
Judgment  
of the  
District  
Court.  
25-1-51.  
—continued

10 The case reported in 25 N.L.R. 261 would meet the 1st argument. A purchaser in execution of a mortgage decree is a privy of the mortgagee and the two would be in the same position. Sellasamy is bound by the order of 1941, so is the plaintiff irrespective of registration.

The subject matter was inventorized in 1936. Sellasamy objected to this and moved to take this property out of the inventory. His application was refused and the property remained in the inventory according to which letters were issued. The question of the estate being entitled only to the value of the property did not arise. Journal entries of 28.6.37 would clearly show the true position. Order absolute was entered on this day.

I now answer the issues as follows:—

1. No.  
20 2. Yes.  
3. Yes.

I dismiss the plaintiff's action with costs.

Sgd. N. A. DE S. WIJESEKERA.  
D. J.  
25/1.

Delivered in open Court in the presence of the proctors for parties.

30 Sgd. N. A. DE S. WIJESEKERA.  
D. J.  
25/1.

No. 9.

Decree of the District Court.

DECREE.

IN THE DISTRICT COURT OF MATALE.

C. L. JAINUDEEN of King Street,  
Matale. *Plaintiff.*

D. C. Matale.  
No. L—203.

vs.

P. MURUGIAH of Kirigalpotta in  
Matale South. *Defendant.*

10

This action coming on for final disposal before N. A. de S. Wijesekera, Esquire, District Judge, Matale, on the 25th day of January, 1951, in the presence of Mr. Advocate Misso instructed by Mr. R. Edirimanasingam, Proctor, on the part of the plaintiff and of Mr. Advocate Jonklaas instructed by Mr. Edward de Silva, Proctor, on the part of the Defendant, it is ordered and decreed that the Plaintiff's action for declaration of title to all that southern portion in extent 10 acres out of the land called and known as Kirigalpotte-watte in extent 27 acres 1 rood and 22 perches situated at Kirigalpotte in Udugama in Gampahasiya Pattu Matale South in the District of Matale Central Province of the Island of Ceylon which said southern portion is according to Plan No. 2911 dated 25th September, 1937, made by Mr. J. R. Holloway Licensed Surveyor Matale bounded on the East by Wavinna Estate, South by Nikakotuwa Estate, West by Matale, Trincomalie Road and remaining portion of the said land and on the North by the fence of the remaining portion of the said land together with the buildings plantations and everything else be and the same is hereby dismissed.

20

And is further ordered that the said plaintiff do pay to the said defendant his costs of this action as taxed by the Officer of the Court.

30

Sgd. N. A. DE S. WIJESEKERA,  
*District Judge.*

This 25th day of January, 1951.

**Petition of Appeal to the Supreme Court. .**

IN THE HONOURABLE THE SUPREME COURT  
OF CEYLON.

No. 10.  
Petition of  
Appeal  
to the  
Supreme  
Court.  
7-2-51.

No. L 203.  
D. C. Matale.

C. L. JAINUDEEN of King Street,  
in Matale. *Plaintiff-Appellant.*

vs.

P. MURUGIAH of Kirigalpotha, in  
Matale. *Defendant-Respondent.*

10 This 7th day of February, 1951.

To their Lordships the Chief Justice and other Justices of the Honourable the Supreme Court of Ceylon,

The Petition of Appeal of the plaintiff-appellant above-named appearing by Ramalingam Edirimanasingam his Proctor states as follows:—

20 1. The Petitioner filed the above action against the Respondent for declaration of title to a portion in extent ten acres out of a land called Kirigalpottewatte of 27 acres in extent situated at Kirigalpottewatte in the District of Matale and the defendant-respondent filed answer that the Deed of Gift No. 7881 of 1-11-1927 in favour of Sellasamy, against whom the said land was sold in execution on decree in Case No. M.B. 36 of the District Court of Matale, was executed on the occasion of a marriage, that in Testamentary Proceedings No. T 5437 of the District Court of Kandy, "that order was made in the said proceedings that the said property be brought into collation and forms part of the Estate of the deceased Donor, and that the said order is Res Judicata".

2. The parties having admitted certain facts, the case proceeded to trial on the 11th of January, 1951, on the following issues,

30 1. Has the title of Sellasamy derived on P 2, passed to the plaintiff on P 3 ?

2. Is the order made on 3-2-41—D 2 in Testamentary proceedings 5437 of D. C. Kandy Res Judicata between the parties ?

No. 10.  
Petition of  
Appeal  
to the  
Supreme  
Court.  
7-2-51.  
—continued

3. If so, is defendant as administrator of the said estate in lawful possession of the said premises?

and after hearing arguments, the learned District Judge, delivered judgment, which he reserved for the 25th of January, 1951, dismissing the plaintiff's-appellant's action with costs.

3. Being dissatisfied with the said judgment the plaintiff-appellant appeals to your Lordships' Court for the following among other reasons which may be urged by counsel at the hearing of this appeal.

(a) the said judgment is contrary to law and against the weight of evidence. 10

(b) The plaintiff-appellant respectfully submits that, although the learned District Judge has answered issue No. 1 in the negative, the title of Sellasamy on P 2, that is the Deed of Gift No. 7881 of 1-11-1927, passed on P 3, that is on Fiscal's transfer No. 942 of 21-2-1950 to plaintiff. It is also submitted that if the title on P 2 passed to the plaintiff-appellant, the defendant-respondent's remedy is to claim the value of the said lands from Sellasamy and bring the value of the land into Court. 20

(c) On issue No. 2, the plaintiff-appellant respectfully submits that the order in the said Testamentary proceedings No. 5437 may be Res-Judicata between the administrator and Sellasamy but the said order is not Res-Judicata between the Administrator and the plaintiff-appellant, and therefore the said order does not bind the plaintiff-appellant.

(d) The plaintiff-appellant respectfully submits that if the title on P 2 passed to plaintiff on P 3, the answer to issue No. 3 should be in the negative as the defendant-respondent's possession cannot be said to be lawful. 30

Wherefore the plaintiff-appellant prays: that the said judgment be set aside,

that plaintiff-appellant be declared entitled to the said land,  
For costs of appeal and costs of the Court below, and

for such other and further relief as to Your Lordships' Court shall seem meet.

Sgd. R. EDIRIMANASINGHAM,  
*Proctor for Plaintiff-Appellant.*

## No. 11.

No. 11.  
Judgment  
of the  
Supreme  
Court  
18 9-52.

## Judgment of the Supreme Court.

D. C. (F) 140 L/1951.

D. C. Matale No. L. 203.

C. L. JAINUDEEN, *plaintiff-appellant*.P. MURUGIAH, *defendant-respondent*.*Present :* GUNASEKARA, J. & SWAN, J.*Counsel :* N. E. WEERASOORIYA, Q.C., with IVOR  
MISSO for appellant.

10 *E. B. WICKRAMANAYAKE, Q.C., with D. S.  
JAYAWICKREME for respondent.*

*Argued :* 15th & 16th September, 1952.*Decided :* 18th September, 1952.

GUNASEKARA, J.

20 This is an appeal against an order dismissing an action for  
declaration of title to land and ejection of the defendant and  
damages. The property was gifted by one Ponniah to his son  
Sellasamy in 1927 and the latter mortgaged it in 1944. It was sold  
in 1949 in satisfaction of a decree for the enforcement of the mort-  
gage and was purchased by the plaintiff, who obtained a fiscal's  
conveyance in 1950. Meanwhile, Ponniah died in 1936, and in the  
proceedings relating to the administration of his estate it was decided  
by the District Court of Kandy on the 3rd February, 1941 that this  
property had been gifted to Sellasamy on the occasion of his  
marriage "and that its value was Rs. 6000 and that it must be  
brought into collation". The decision was affirmed in appeal by this  
Court and by the Judicial Committee of the Privy Council. The  
defendant, who is the present administrator of Ponniah's estate,  
claims that by this order Sellasamy was divested of his title and the  
property became part of the estate, and that the defendant is in  
30 lawful possession of it as administrator. This view of the effect of  
the order was accepted by the learned District Judge and the plain-  
tiff's action was accordingly dismissed.

Collation is explained in Steyn's Law of Wills in South Africa<sup>1</sup>  
as follows :—

No. 11.  
Judgment  
of the  
Supreme  
Court.  
18-9-52.  
—continued

“Collation is the duty incumbent on all descendants who as heirs wish to share in the succession to an ancestor, either by will or *ab intestate*, of accounting to the estate of the ancestor for certain kinds of gifts and debts received from or owing to him by them during his lifetime.

Thus, if a child, grandchild or more remote descendant wishes to inherit from a parent, grand parent or remote ascendant from whom he has during his lifetime received any property or money as his portion of his inheritance, or as a marriage gift or otherwise for his advancement in trade or business or such like, he will, before the division of the estate, have to bring into or collate with the estate of such parent etc. either what he may have so received or enjoyed, or the true value of the same at his option, so that the whole estate, thus augmented, may be divided in terms of the will of the testator or according to the law of succession *ab intestate*.”

10

Relying on this and other citations from text-writers, Mr. Weerasooriya contends that under the Roman-Dutch Law a child of the deceased person is not liable to collation unless he claims a share in the inheritance and that the liability may be discharged by his surrendering the property or paying its true value at his option; and that, consequently, the effect of the order made on the 3rd February, 1941 in the testamentary case is only that Sellasamy cannot share in the inheritance unless he brings into account the gift or its value. Mr. Wickremanayake's reply is that the Roman-Dutch Law has been superseded by Section 35 of the Matrimonial Rights and Inheritance Ordinance (Cap. 47) and that the liability is not dependent upon the heir's claiming a share in the inheritance and is moreover a liability to surrender the property itself to the executor or administrator if it is within his power to do so at the time of the deceased's death, without any option merely to bring into account its value; and that therefore the order in question was in effect a declaration of title in favour of the estate and operated as a cancellation of Ponniah's gift to Sellasamy.

20

30

The section is in these terms :

“Children or grandchildren by representation becoming with their brothers and sisters heirs to the deceased parents are bound to bring into hotchpot or collation all that they have received from their deceased parents above the others either on the occasion of their marriage or to advance or establish them in life, unless it can be proved that the deceased parent, either expressly or impliedly, released any property so given from collation”.

40



This provision no doubt altered the law as regards liability to collation, but it did not give a new meaning to the expression "bring into hotchpot or collation", which was a term of art that was already known to the common law. Moreover, it may well happen that where some of the children are liable to collation, "all that they have received from their deceased parents above the others" is not represented by any specific parcel or parcels of land or any other specific thing, and that the excess can be brought into collation only by bringing its value into account. It seems to me that the context of the expression "bring into hotchpot or collation" in the section confirms rather than negatives the view that the legislature did not intend to take away the heir's option to discharge a liability to collation by bringing the value of the property into account.

No. 11.  
Judgment  
of the  
Supreme  
Court.  
18 9-52.  
—continued

10

In support of the view that the order of the 3rd February, 1941 in effect declared Ponniah's estate to be entitled to the property, Mr. Wickremanayake contended that what was in issue was whether the property was rightly included in the inventory. There was no issue, however, as to the title to the property. The issue as formulated by the District Judge in his order in that case was

20

"whether the 1st respondent (Sellasamy) who was given a Deed of Gift No. 7881 of 1927 (1 R 3) by his father Ponniah should bring the property gifted into collation if he wishes to inherit as an heir".

30

The decision that the property must be brought into collation did not have the effect either of declaring that Ponniah's estate was entitled to it or of divesting Sellasamy of his title under the deed of gift. The judgment that is appealed from must therefore be set aside and the plaintiff must be declared entitled to the property and to have the defendant rejected therefrom. There is no evidence in support of the plaintiff's claim for damages and he is therefore not entitled to a decree for damages. The defendant must pay the plaintiff's costs in this Court and the Court below.

Sgd. E. H. T. GUNASEKARA,  
*Puisne Justice.*

SWAN J.—I agree.

Sgd. V. L. ST. C. SWAN,  
*Puisne Justice.*

1. 1935 Edition p. 103.

No. 12.  
Decree of  
the Supreme  
Court.  
18-9-52.

## No. 12.

## Decree of the Supreme Court.

ELIZABETH THE SECOND, QUEEN OF CEYLON.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

C. L. JAINUDEEN of King Street, in  
Matale. *Plaintiff-Appellant.*

*against*

P. MURUGIAH of Kirigalpotha, in  
Matale. *Defendant-Respondent.*

Action No. L. 203.

District Court of Matale.

10

This cause coming on for hearing and determination on the 15th, 16th and 18th days of September 1952, and on this day, upon an appeal preferred by the Plaintiff-Appellant before the Hon. Mr. E. H. T. Gunasekera, Puisne Justice and the Hon. Mr. V. L. St. C. Swan, Puisne Justice of this Court, in the presence of Counsel for the Appellant and Respondent.

It is considered and adjudged that the judgment appealed from be and the same is hereby set aside and the plaintiff is declared entitled to the property and it is ordered that the defendant be ejected therefrom. The defendant must pay the plaintiff's costs in this court and the court below.

20

Witness the Hon. Sir Alan Edward Percival Rose, Kt. Q.C., Chief Justice, at Colombo, the 23rd day of September, in the year of our Lord One thousand Nine hundred and Fifty two, and of Our Reign the First.

Sgd. W. G. WOUTERSZ,  
*Deputy Registrar, S. C.*

**No. 13.****Application for Conditional Leave to Appeal to the Privy Council.**

No 13.  
Application  
for Con-  
ditional  
Leave to  
Appeal to  
the Privy  
Council.  
3-10-52.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

In the matter of an application for Conditional Leave to appeal to Her Majesty the Queen in Council

S. C. 140. L/1951      C. L. JAINUDEEN of No. 68, King  
D. C. Matale No. L. 203      Street, Matale.      *Plaintiff.*

10

vs

P. MURUGIAH of Kirigalpatha, Matale.      *Defendant.*

P. MURUGIAH of Kirigalpatha, Matale.      *Defendant-Petitioner.*

vs

C. L. JAINUDEEN of No. 68, King Street, Matale.      *Plaintiff-Respondent.*

*To,*

20

THE HONOURABLE THE CHIEF JUSTICE, AND THE OTHER JUDGES OF THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 3rd day of October 1952.

The petition of the Defendant-Petitioner abovenamed appearing by his Proctor Subramaniam Sivasubramaniam, states as follows:—

30

1. That being aggrieved by the Judgment and decree of this Honourable Court in the abovestyled action pronounced on the 18th of September 1952 the Petitioner is desirous of appealing therefrom to Her Majesty the Queen in Council.

2. That the said judgment in a final judgment and the matter in dispute in the appeal is of the value of Rupees Five thousand and upwards.

3. The Petitioner has given due notice to the Respondent of the intended application for leave to appeal to Her Majesty in Council.

No 13.  
Application  
for Con-  
ditional  
Leave to  
Appeal to  
the Privy  
Council.  
3-10-52.  
—continued

4. Notice of this intended application was served or caused to be served on the Respondent by sending same by ordinary post, Express Post and Registered Post at the Matale Post Office addressed to him at No. 68, King Street, Matale, on 27th September 1952 and by ordinary telegram sent to him on the 30th September 1952. Certificate of ordinary posting is attached herewith marked "X".

5. Notice of the intended application was also effected on the Respondent by the Fiscal's Marshal, Matale by affixing the said notice on the 27th of September 1952 to the outer door of No. 68, King Street, Matale, on an order of this Honourable Court made under Section 5A of the Appellate Procedure (Privy Council) Order 1921 Chapter 85 of Vol. I Subsidiary Legislative Enactments. The Order was made on 26th September 1952.

10

6. The notice sent by post and that directed by the Supreme Court is as follows :—

"Take notice that I, P. Murugiah, the Defendant-Respondent in S. C. 140 D. C. Matale No. L 203 being aggrieved by the Judgment of the Supreme Court pronounced on the 18th September 1952 intend to file an application for leave to appeal to the Privy Council from the said Judgment on the ground that I am entitled as a matter of right to appeal from the said Judgment as it is a final judgment and the matter in dispute is over Rs. 5,000/- in value."

20

Wherefore the Petitioner prays for conditional leave to appeal to Her Majesty the Queen in Council against the Judgment of this Honourable Court dated 18th September 1952 and for such other and further relief as to Your Lordships' Court shall seem meet.

Sgd. S. SIVASUBRAMANIAM,  
*Proctor for Defendant-Petitioner.*

30

## No. 14.

**Decree granting Conditional Leave to Appeal to the Privy Council.**

No. 14.  
Decree  
granting  
Conditional  
Leave to  
Appeal  
to the  
Privy  
Council.  
8-10-52.

ELIZABETH THE SECOND, QUEEN OF CEYLON.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

P. MURUGIAH of Kirigalpotha,  
Matale. *Defendant-Petitioner.*

*against*

C. L. JAINUDEEN of No. 68, King  
Street, Matale. *Plaintiff-Respondent.*

10

Action No. L. 203 (S. C. 140 Final) District Court of Matale

In the matter of an application dated 4th October, 1952, for Conditional Leave to Appeal to Her Majesty the Queen in Council by Defendant-Appellant abovenamed against the decree dated 18th September, 1952.

This matter coming on for hearing and determination on the 8th day of October, 1952, before the Hon. Mr. E. H. T. Gunasekera, Puisne Justice and the Hon. Mr. V. L. St. Swan, Puisne Justice of this Court, in the presence of Counsel for the Petitioner.

20

It is considered and adjudged that this application be and the same is hereby allowed upon the condition that the applicant do within one month from this date:—

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7(1) of the Appellate procedure (Privy Council) Order shall on application made after due notice to the other side approve.

30

2. Deposit in terms of provisions of Section 8(a) of the Appellate Procedure (Privy Council) Order with the Registrar a sum of Rs. 300.- in respect of fees mentioned in Section 4(b) and (c) of Ordinance No. 31 of 1909 (Chapter 85).

Provided that the applicant may apply in writing to the said Registrar stating whether he intends to print the record or any part thereof in Ceylon, for an estimate of such amounts and fees and thereafter deposit the estimated sum with the said Registrar.

Witness the Hon. Mr. E. H. T. Gunasekera, Puisne Justice at Colombo, the 13th day of October in the year of our Lord One thousand Nine hundred and Fifty Two and of Our Reign the First.

Sgd. W. G. WOUTERSZ,  
*Deputy Registrar, S. C.*

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**No. 15.**

No. 15.  
Application  
for Final  
Leave to  
Appeal  
to the  
Privy  
Council.  
21-10-52.

**Application for Final Leave to Appeal to the Privy Council,**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

In the matter of an application for  
Final Leave to Appeal to Her Majesty  
the Queen in Council.

S. C. No. 140—L/1951. P. MURUGIAH of Kirigalpotha,  
D. C. Matale No. L. 203. Matale. *Defendant-Appellant.*

vs.

C. L. JAINUDEEN of No. 68, King  
Street, Matale. *Plaintiff-Respondent.*

10

To

THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER  
JUSTICES OF THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 21st day of October, 1952.

The Petition of the Defendant-Appellant abovenamed appearing by his Proctor, Subramaniam Sivasubramaniam, states as follows :—

1. The Petitioner abovenamed obtained conditional leave on 8th day of October, 1952 to appeal to Her Majesty the Queen in Council from the Judgment and decree of this Court pronounced on the 18th day of September, 1952.

20

2. The Petitioner has in compliance with the conditions on which leave was granted deposited a sum of Rupees Three thousand (Rs. 3000/-) with the Registrar of this Court being security for costs of the Respondent on the 13th day of October, 1952 and mortgaged and hypothecated the said sum of Rs. 3000/- with the Registrar on the 21st day of October, 1952.

3. The Petitioner has further deposited with the Registrar of this Court a further sum of Rupees Three Hundred (Rs. 300/-) in respect of the amount and fees mentioned in Section 4 (b) and (c) of the Privy Council Ordinance Cap. 85 on the 13th day of October, 1952.

30

4. The Petitioner has given due notice of this application to the Respondent and produces herewith proof thereof :—

(a) Certificate of Posting (ordinary post) marked P 1.

(b) Receipt for Posting by Registered Post marked P 2.

(c) Copy of notice sent marked P 3.

Wherefore the Petitioner prays that he be allowed final leave to appeal to Her Majesty the Queen in Council from the judgment and decree of this Court dated the 18th day of September 1952, for costs, and for such other and further relief as to Your Lordships' Court shall seem meet.

Sgd. S. SIVASUBRAMANIAM,  
*Proctor for Defendant-Appellant.*

No 15.  
Application  
for Final  
Leave to  
Appeal  
to the  
Privy  
Council.  
21-10-52.  
—continued

**No. 16.**

**Decree granting Final Leave to Appeal to the Privy Council.**

10

ELIZABETH THE SECOND, QUEEN OF CEYLON.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

No- 16.  
Decree  
granting  
Final  
Leave to  
Appeal  
to the  
Privy  
Council.  
31-10-52.

P. MURUGIAH of Kirigalpatha,  
Matale. *Defendant-Petitioner.*

*against*

C. L. JAINUDEEN of No. 68, King  
Street, Matale. *Plaintiff-Respondent.*

Action No. L. 203 (S. C. 140—Final) District Court of Matale

20

In the matter of an application by the Defendant abovenamed dated 24th October, 1952, for Final Leave to Appeal to Her Majesty the Queen in Council against the decree of this Court dated 8th October, 1952.

This matter coming on for hearing and determination on the 31st day of October, 1952, before the Hon. Mr. E. F. N. Gratiaen, O.C., Puisne Justice and the Hon. Mr. M. F. S. Pulle, O.C., Puisne Justice of this Court, in the presence of Counsel for the Petitioner.

The applicant having complied with the conditions imposed on him by the Order of this Court dated 8th October, 1952, granting Conditional Leave to Appeal.

30

It is considered and adjudged that the applicant's application for Final Leave to Appeal to Her Majesty the Queen in Council be and the same is hereby allowed.

Witness the Hon. Mr. E. F. N. Gratiaen, O.C., Puisne Justice at Colombo, the 4th day of November, in the year of our Lord One thousand Nine hundred and Fifty two and of our Reign the First.

Sgd. W. G. WOUTERSZ,  
*Registrar, S. C.*

Exhibits.

No. P 1.  
Deed of Gift  
No. 7881.  
1-11-27.

**PART II.**  
**EXHIBITS.**

**No. P 1.**

**Deed of Gift No. 7881.**

TRANSLATION OF P 1.

Deed of Gift Rs. 6000/-.

No. 7881.

Lands 2.

1st November, 1927.

KNOW ALL MEN BY THESE PRESENTS that I, Kuna Marimuttu Thevar's son Ponniah of Makulgaharuppa in Udugama, in Gampahasiya Pattu of Matale South, Matale District, Central Province, am held and uninterruptedly possessed upon Deed of Transfer No. 2275 dated 5th July, 1919 attested by R. A. F. Jayasinghe, Notary Public, and upon Deed of Transfer No. 3227 dated 22nd, February, 1913 attested by H. D. Weerasekera, Notary Public, upon Deed of Transfer No. 3108, dated 23rd November, 1908 attested by D. A. D. S. Wickramasinghe, Notary Public and upon Deed No. 198 dated 8th February, 1916 attested by Arthur V. Perera Notary Public, the premises to wit :

10

All that Southern portion in extent ten acres from and out of the land called and known as Kirigalpothawatta in extent twenty seven acres, one rood, and twenty two perches (A 27. R 1. P 22) situated at (Kirigalpotta) Udugama aforesaid and bounded on the East by Crown land, and Penny's land, South by the fence of the land of Nalla Carupen Chettiar, West by the high road leading to Trincomalee and the fence of the lands belonging to Tepanis Appu and others and on the North by Crown Land and the fence of Kongiah's land and which said Southern portion is separated and divided and containing in extent ten acres (A 10. R 0. P 0) as per Plan No. 1835, dated 17th October, 1927, made by J. R. Holloway Licensed Surveyor, and annexed to these presents and bounded on the East by the limit of the land called Matale Estate, South by the fence of the land belonging to Nalla Karupen Chetty, West by the high road leading from Matale to Dambulla and the limit of the remaining portion of this land and on the North also by the limit of the remaining portion of this land and together with the two tiled roofed houses and everything standing thereon.

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2. X X X X X X X X

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Which are of the value of about Rupees Six thousand (Rs. 6000/-) of lawful money of Ceylon, in consideration of the love and affection which I have bear towards my son Kuna Mawanna

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Ponniah Thevar's son Sellasamy of Udugama, aforesaid, and to get aid and help until my death, but reserving life interest to me, do hereby give grant convey assure and make over as a donation absolute and irrevocable unto the said Kuna Mawanna Ponniah Thevar's son Sellasamy his heirs, executors, administrators, and assigns the premises above named. And I the said Donor for myself my heirs executors, administrators, do hereby covenant and declare with and to the said Donee and his aforesaid that the said premises are free from any encumbrances whatsoever, and that I have not done any act deed matter or thing by which or by means whereof the said premises may be encumbered in title charge estate or otherwise howsoever, and I the said Kuna Mawanna Sellasamy do hereby cheerfully accept this Gift and set my signature.

Exhibits.  
No. P 1.  
Deed of Gift  
No 7881.  
1-11-27.  
—continued

10

In witness whereof the said Donor Kuna Marimuttu Thevar's son Ponniah and the said Donee Kuna Mawanna Ponniah Thevar's son Sellasamy have set our hands unto this and to two others of the same tenor and date on this 1st day of November, 1929 at Matale.

WITNESSES :

20

Signed in the presence of us and we declare that we are well acquainted with the executants and know their proper names occupations and residences.

Sgd. PONNIAH.  
(Illegibly).

Sgd. SELLASAMY.  
(Illegibly).

This is the signature of Nallamuttu.

1. Sgd. K. NALLAMUTTU.

This is the signature of Sanmugan Pulle.

30

2. Sgd. In Tamil.

Sgd. H. D. GUNASEKERA,  
*Notary Public.*

40

I, Hemachandra Dharma Wijaya Gunasekera, of Matale, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within named Kuna Marimuttu Thevar's son Ponniah who has signed in English and Kuna Mawanna Ponniah Thevar's son Sellasamy who has signed in English in the presence of Carlimuttu Thevar's son Nallamuttu of Udugama, who has signed in English and Velupillai's son Arumugam Pulle of Trincomalee Street, in Matale, who has signed in Tamil, both of whom are

Exhibits. known to me, the same was signed by the said executant and by the said witnesses and also by me the said Notary, in the presence of one another all being present at the same time and place at Matale, on this 1st day of November, 1927.

No. P 1.  
Deed of Gift  
No. 7881.  
1-11-27  
—continued

And I further certify and attest that in the original on page 2 in line 33 “ ” was deleted “ ” were interpolated before the foregoing instrument was read over and explained by me and that the duplicate of this instrument bears four stamps of the value of Rs. 211/- and the original bears a stamp of the value of Rupee one, which stamps were supplied by me.

10

Date of Attestation :  
1st November, 1927.

Sgd. H. D. GUNASEKERA,  
” H. D. GUNASEKERA,  
*Notary Public.*

Translated by me,  
Sgd. Illegibly.  
S. T.

**No. D 3.**

**Petition of P. Sellasamy in D. C. Kandy Case No. 5437.**

20

No. D 3.  
Petition of  
P. Sella-  
samy in  
D. C. Kandy  
Case No.  
5437.  
7-12-36.

**D 3. IN THE DISTRICT COURT OF KANDY.**

In the matter of the estate and effects of  
KUNA MARIMUTTU THEVAR'S  
son PONNIAH of Palapatwala,  
Matale. *Deceased.*

KALIAPPA THEVAR'S daughter  
KALIAMMA of Palapatwala.  
*Petitioner.*

Testamentary  
Jurisdiction  
No. 5437.

vs.

1. P. SELLASAMY.
2. P. MURUGIAH.
3. P. MARIMUTTU.
4. P. RAMANATHAN.
5. P. COOMARASWAMY.
6. P. MANONMANI all of Palapatwela. *Respondents.*

30

I, Ponniah Sellasamy not being a Christian do hereby solemnly, sincerely and truly affirm and declare as follows :—

1. I am the 1st respondent abovenamed.

2. I am the only child of the deceased Ponniah by his first bed.

40

3. I deny that the 2nd, 3rd, and 4th respondents are the children, or at any rate the legitimate issues of the deceased Ponniah, and therefore I state that they are not entitled to any portion of the above estate.

Exhibits.  
No. D 3.  
Petition of  
P. Sella-  
samy in  
D.C. Kandy  
Case  
No. 5437.  
7-12-36  
—continued

4. I state that the petitioner was married to the deceased on 10th November, 1919, and the 2nd, 3rd and 4th respondents who are about 35 years, 31 years and 27 years are of age respectively cannot possibly be the children of the deceased.

10 5. I submit that the deceased was an Indian Tamil and as such the devolution of his estate is governed by the common law.

6. I state that the petitioner is not entitled to include in the schedule filed by her with the petition as part of the intestate estate of the deceased Ponniah the lands and premises gifted by him to me and mentioned as lands Nos. 12 and 31 in the said schedule in as much as the same was neither given to me on the occasion of my marriage or for my advancement or establishment in my life.

20 7. I submit that the said gift was given to me subject to the life interest of the deceased in return for about a sum of Rs. 3000/- spent by me on behalf of the said deceased and therefore the said lands must be excluded from the scope of this action.

8. I strongly object to the petitioner being appointed administratrix or at any rate sole administratrix of the estate of the deceased in as much as :—

(a) She is an illiterate person who under the influence of her children will not act in the best interests of the 1st respondent who is the son of the deceased by the 1st bed.

(b) She is to be preferred only when another claimant who would make a letter of administration cannot be found.

30 9. I state I am the eldest son of the deceased and as such I am entitled to apply for letter of administration.

10. In any event I state that the petitioner should not be appointed sole administratrix of the said estate.

Affirmed to at Kandy on the 7th day of December, 1936, the contents of this affidavit was duly read over explained by A. C. M. Jaliel to the affirmant who appeared to understand the same and acknowledged his signature thereto in my presence.

40 Explained by Sgd. Illegibly.

Sgd. P. SELLASAMY.

Before me,  
Sgd.

Commissioner for Oaths.  
7-12-36.

No. D 4.

Exhibits.  
 No. D 4.  
 Order in  
 D. C. Kandy  
 Case  
 No. 5437.  
 28-6-37.

**Order in D. C. Kandy Case No. 5437.**

IN THE DISTRICT COURT OF KANDY.

In the matter of the estate and effects of  
 KUNA MARIMUTTU THEVAR'S  
 son PONNIAH of Palapatwela,  
 Matale. *Deceased.*

Testamentary  
 Jurisdiction  
 No. 5437.

KALIAPPA THEVAR'S daughter  
 KALIAMMA of Palapatwela.  
*Petitioner.*

vs.

10

1. P. SELLASAMY.
2. P. MURUGIAH.
3. P. MARIMUTTU.
4. P. RAMANATHAN.
5. P. COOMARASWAMY.
6. P. MANONMANI all of Palapatwala.  
*Respondents.*

This 9th day of September, 1936.

The petition of the petitioner abovenamed appearing by her  
 Proctor, Ponnambalam Balasingham states that:— 20

1. The deceased abovenamed died intestate at Palapatwala aforesaid on the 26th May, 1936, leaving property the nature extent and value of which are given in the schedule to the affidavit hereto annexed and his heirs his children the 1st to 6th respondents and the petitioner his widow the 1st respondent being a child of the 1st bed.

2. As the widow of the deceased the petitioner claims letters of Administration in respect of the deceased's Estate.

3. The petitioner does not know of any person who is likely to entertain any objection to the Letters of Administration being granted to her in respect of the deceased's Estate. 30

4. In terms of Section 39 of Ordinance No. 15 of 1876 it is necessary that the lands Nos. 12 and 31 in the said schedule gifted to the 1st respondent and lands Nos. 24, 40, 41 and 42 transferred to the 2nd respondent be brought into hotchpot and treated as part of the Estate.

Exhibits.  
No. D 4.  
Order in  
D C. Kandy  
Case  
No. 5437.  
28-6-37.  
—continued

10 Wherefore the petitioner prays that the Letters of Administration in respect of the said deceased's Estate may be granted to her, that the lands Nos. 12, 24, 31, 40, 41 and 42 be treated as part of the Estate of the deceased in terms of Section 39 of Ordinance No. 15 of 1876, for her costs and for such other and further relief as to this Court shall seem meet.

Sgd. P. BALASINGAM,  
*Proctor for Petitioner.*

I, Kaliappa Thevar's daughter Kaliaamma of Palapatwala aforesaid being a Hindu do hereby solemnly, sincerely and truly, affirm and declare as follows :—

20 1. The deceased abovenamed died intestate at Palapatwala aforesaid on the 26th May, 1936, leaving property the nature extent and value of which are given in the schedule hereto and his heirs his children the 1st to 6th respondents and myself his widow the 1st respondent being a child of the 1st bed.

2. As the widow of the deceased I claim letters of Administration in respect of the deceased's Estate.

3. I do not know of any person who is likely to entertain any objection to the Letters of Administration being granted to me in respect of the deceased's Estate.

30 4. In terms of Section 39 of Ordinance No. 15 of 1876 it is necessary that the lands Nos. 12 and 31 in the schedule gifted to 1st respondent and lands Nos. 24, 40, 41 and 42 transferred to the 2nd respondent should be brought into hotchpot and treated as part of the Estate of the deceased.

<b>Immovable Property.</b>		Value
<b>Description of Land.</b>		Rs.    c.
1.	Waragollewatta of 2 acres situated at Totagamuwa ... ..	1000 00
2.	Rubber Estate Nos. 1 & 2 of 8 acres situated at Udugama ... ..	2400 00
3.	Moragolla and Tibbotugolla of 5½ acres jungle situated at Udugama ... ..	275 00

Exhibits.		Rs.	¢.	
No. D 4. Order in D C. Kandy Case No 5437 28 6 37. —continued	4.	Galauduravettichihena and Kolongahamula hena of 5 1/8 acres situated at Udugama (Jungle) ...	250	00
	5.	Weragamayahena of 7 3/4 acres situated at Udugama ...	2000	00
	6.	Wewettennewatta of 6 3/4 acres situated at Palapatwela ...	3375	00
	7.	Dombagollawatta of 3 1/16 acres situated at Matale with the house ...	4000	00
	8.	Boutique Nos. 591 situated at Trincomalie Street, Matale ..	1000	00
	9.	Udapitiyewatta of 24 3/4 perches situated at Tota- gamuwa with the building ...	750	00
	10.	Makulgaharuppewatta of 1 acre situated at Udugama ...	500	00
	11.	Balawattalagederawatta (3 blocks) of 1 acre situated at Udugama ...	50	00
	12.	Kirigalpottewatta of 26 acres and 12 perches situated at Kirigalpotta ...	13000	00
	13.	Dehipitiyewatta of 3 roods situated at Udugama ...	75	00
	14.	Kathiresentottam 1 acre and 3 perches situated at Kirigalpotta ...	500	00
	15.	Gorakagahamulahena of 1 1/2 acres situated at Udugama ..	600	00
	16.	Pattiyamulawatta of 1 rood situated at Udugama...	100	00
	17.	Tibbatuwatta of 5 acres situated at Ellepola ...	1500	00
	18.	Lindagederahena of 3 1/2 seers kurakkan situated at Ellepola ...	75	00
	19.	Ritigaha Ela of 2 seers kurakkan situated at Udugama ...	50	00
	20.	Watte Naindakotuwa of 4 seers kurakkan situated at Udugama ...	200	00
	21.	Gurunnehena and Godamadittahena of 16 seers kurakkan situated at Udugama ...	450	00
	22.	Galgodawatta of 2 1/2 seers kurakkan situated at Udugama ...	500	00

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		Rs.	c.	Exhibits.
	23. Gonatuwewatta of 5 acres situated at Kirigalpotta	8000	00	No. D. 4. Order in D.C. Kandy Case No. 5437. 28-6-37. —continued
	24. Pattiyamulawatta of 2 acres situated at Kirigalpotta	1000	00	
	25. Amuneliyadda of 1 rood and 36 perches situated at Udugama	100	00	
	26. Kohombiliwela (uncultivated) of 164 lahas situated at Wariyapola	820	00	
10	27. Naramkotuwa and Pillewa of 52 lahas situated at Palapatwela	2000	00	
	28. Mahakumbura of 5 lahas situated at Dorakumbura	1000	00	
	29. Dehipitiye of 24 lahas situated at Ellepola	250	00	
	30. Nugadeniya of 6 lahas situated at Imbulandanda	50	00	
	31. Nikawela of 34 lahas situated at Udugama	600	00	
	32. Parekumburemedapela of 10 lahas situated at Ellepola	150	00	
20	33. Eriyagahamulakumbura of 8 lahas situated at Golahenawatte	150	00	
	34. Undivided 1/5 of Parekumbura of 2 pelas situated at Ellepola	60	00	
	35. Undivided 1/5 of Eleliyadde of 2 pelas situated at Ellepola	60	00	
	36. Alakolamada of 2 lahas situated at Udugama	30	00	
	37. Jayayakumbura of about 24 lahas situated at Totagamuwa	200	00	
30	38. Darandawala and Manthirimulla of 15 lahas situated at Totagamuwa	250	00	
	39. Thelambugahamulakumbura of 10 lahas situated at Totagamuwa	100	00	
	40. Batagolla	400	00	} of 30 lahas situated at Udugama
	41. Vetagepotha			
	42. Edandeliyadde			
	43. Undivided 1/2 of Parekumbura of 3 pelas and 5 lahas situated at Ellepole	225	00	
	44. Undivided 1/2 or Udahena of 1 acre 3 roods and 25 28/100 perches situated at Ellepole	200	00	

Exhibits		Rs.	c.
No. D 4. Order in D. C. Kandy Case No. 5437 28-6-37. —continued	45. Undivided $\frac{1}{2}$ of Heratgederawatte of 1 seer kurakan situated at Ellepola ...	25	00
	46. Pinwatte of one acre situated at Ellepola ...	100	00
	TOTAL ...	48,420	00

### Movable Property.

#### AMOUNT DUE TO THE ESTATE.

	Rs.	c.	
Amount due on Decree D. C. Kandy Case No. 47120 ...	849	37 $\frac{1}{2}$	
Amount due on Decree D. C. Kandy Case No. 38978 ...	1,499	11	10
Amount lying in Bank to the credit of the deceased ...	439	69	
TOTAL ...	2,788	17 $\frac{1}{2}$	

### Household Goods etc.

	Rs.	c.	
1 Sofa ...	4	00	
1 Table and Almirah ...	12	00	
1 Table ...	5	00	
2 Easy Chairs ...	12	00	
4 Chairs ...	8	00	
2 Teapoyes ...	6	00	20
60 Bushels of paddy ...	90	00	
Timber ...	30	00	
1 Gold bangle ...	30	00	
1 Cauldron ...	25	00	
1 Brass Lamp ...	5	00	
2 Brass trays ...	4	00	
1 Spittoon ...	2	00	
1 Brass Pot ...	6	00	
TOTAL ...	239	00	

### Amounts due by the Estate.

	Rs.	c.	
K. M. Sellasamy ...	80	00	
K. N. Nadarajah ...	2,000	00	
K. N. N. Chetty ...	300	00	
P. Kalu Banda ...	400	00	
Hendrick Singho ...	100	00	30



P. Manomani (due on Policy No. CM 72420) ...	2,527 70
Funeral Expenses ...	200 58
Pambayan ...	15 00
Bala Appuhamy, Mason ...	5 00
Seyanna Sena Muna Firm, Matale ...	3 05
Sena Muna Kana, Aluvihare	35 00
Notary Gunasekera ...	15 00
<hr/>	
TOTAL ...	<u>5,681 33</u>

Exhibits  
 No. D4.  
 Order in  
 D. C. Kandy  
 Case  
 No. 5437  
 28-6-37.  
 —continued

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**SUMMARY**

Value of lands ...	48,420 00
Monies due to Estate ...	2,788 17½
Value of household goods etc. ...	239 00
	<hr/>
	<u>51,447 17½</u>
B. F. ...	51,447 17½
Liabilities ...	5,681 33
	<hr/>
Net value of the Estate ...	<u>45,765 83½</u>

20

Affirmed to at Vellakal this 28th day of August, 1936 the contents of the foregoing affidavit having been duly explained by me S. S. Kandasamy, J.P., U.P.M., Matale, to the declarant who appeared to understand the same and set her mark thereto.

Thumb mark of  
 K. T. KALIAMMA.

Before me,  
 Sgd. S. S. KANDASAMY,  
 J.P., U.P.M.

**ORDER**

30

On the material before me I don't think I can deprive the widow of her rights to the Letters for the intestate estate of her deceased husband Mr. Barber says further that 2 lands included in the list had been transferred inter vivos to 1st respondent. On 1-11-27 on 7881.

Mr. Silva says that this is indicated in para 4 of the petition.

Exhibits,  
No. D 4.  
Order in  
D.C. Kandy  
Case  
No 5437.  
28-6 37.  
—continued

Mr. Barber says that until a judicial settlement the properties donated should be in the possession of the donees. This is agreed to.

No costs. Enter order absolute. Oath and Bond 26-7-37.

Sgd. R. F. DIAS,  
D. J.  
28-6-37.

Mr. Silva says he will advise his client to give up possession of the lands donated to the donees.

Sgd. R. F. DIAS,  
D. J.  
28-6-37.

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**No. D 2,**

**Order in D. C. Kandy Case No. 5437.**

No. D 2.  
Order in  
D.C. Kandy  
Case  
No. 5437.  
3-2-41.

IN THE DISTRICT COURT OF KANDY.

**D 2.**

In the matter of the intestate Estate of  
KUNA MARIMUTTU THEVAR'S  
son PONNIAH of Palapatwala,  
Matale. *Deceased.*

KALIAPPA THEVAR'S daughter  
KALIAMMA of Palapatwala, Matale. *Petitioner.*

20

Testamentary  
Jurisdiction  
No. T. 5437.

*vs.*

1. PONNIAH SELLASAMY,
2.     "     MURUGIAH,
3.     "     MARIMUTTU,
4.     "     RAMANATHAN,
5.     "     CUMARASWAMY &
6.     "     MANONMANI, all of  
Palapatwala     *Respondents.*

30

3-2-41.

## ORDER.

Exhibits.

In this case the estate of the deceased Ponniah is being administered.

The 1st respondent claims to be a son of the deceased by his first wife.

The 2nd to 6th respondents claim to be the children of the deceased by his 2nd wife.

10 The 1st respondent denies the claims of the 2nd, 3rd, and 4th respondents alleging that they are not the legitimate children of Ponniah. These respondents retaliate by stating that the 1st respondent himself is not the child of Ponniah.

I shall first decide whether

(a) the 1st respondent is a lawful heir.

(b) Whether the 2nd 3rd and 4th respondents are lawful heirs as the legitimate children of Ponniah.

The administratrix admits that the claims of all the respondents to be heirs.

20 The 1st respondent's birth certificate is produced showing that his mother was Kaliaamma and his father K. M. Muniandy and that they were said to have been married (1 R 2). The parties are Hindus and apparently the marriage was performed by Hindu rites and customs.

The respondents 2 to 4 contend that K. M. Muniandy is not the same person as Ponniah. The 1st respondent's case is that Ponniah was also known as Muniandy and points to both these names given to the deceased in the Deed of Transfer 15751 of 1899 (1 R 6).

30 Mr. Nadaraja points out to the initials "K.M." and states that they are not the initials of the transferee on 1 R 6 to be Ponniah or Muniandy. This difference is easily explained. In the Deed 1 R 6 Ponniah is referred to as Marimuttu Kangany's son. In 1 R 2 "K. M." presumably stands for Kudiayar Marimuttu—the same name that appears in the Marriage Certificate 1 R 1.

On the evidence I find that the 1st respondent is the son of the deceased Ponniah by his 1st wife.

As regards the respondents 2 to 4 the 1st respondent challenges their legitimacy. On the evidence it is proved that Ponniah and administratrix were married according to Hindu rites. The 1st respondent himself admits that the 2nd to 4th respondents were the

No. D2.  
Order in  
D.C. Kandy  
Case  
No. 5437  
3-2-41.  
—continued

Exhibits. children of Ponniah. It is a pity that the 1st respondent challenged their legitimacy when there were documents proving that fact beyond any doubt. There was the 1st respondent's evidence (2 R 1). There is the Birth Certificate of Ramanathan 4th respondent (2 R 2). There are the affidavits of his own father (2 R 7 & 2 R 8). Before the inquiry started to avoid mud slinging Mr. Nadarajah proposed settling the contest as regards heir-ship and admitting all the respondents as heirs in view of the fact particularly as the deceased's widow admitted their claims—and she is the sister of the deceased's 1st wife. It was quite apparent that the 1st respondent's Counsel was in favour of such a settlement but his client obviously could not be made to fall in with this view. 10

No. D2. Order in D.C. Kandy Case No. 5437. 3-2-41. —continued

When later the 1st respondent gave evidence I was not at all surprised at the attitude he had adopted in refusing to accept the proposed settlement. He was a vicious type of person and never seemed happier than when he was making vile and false allegations. Given a chance he would hand out the most fantastic charges, knowing himself to be most unreliable and untrustworthy he did not hesitate to even make his father out to be a dishonest rogue. My opinion of him is such that I would refuse to believe his evidence on any point on which it is at variance with any other evidence. 20

The 1st respondent made a vile statement that the 4th respondent was not Ramanathan and that Ramanathan was dead and the 4th respondent was actually Ramasamy who was older than Ramanathan. This allegation was made for the first time when the 1st respondent was giving his evidence and I have no doubt it is an invention of the 1st respondent. I must here say in fairness to his counsel that he frankly stated that it was the first he ever heard of it and that he would not press that allegation.

I have no hesitation in finding that the respondents 2-4 are legitimate children of Ponniah who to set all doubts at rest got his marriage even registered (1 R 1) in 1919. This marriage would have the effect of legitimising children born of these two before the marriage was registered (Leg. Enactments Volume 3 Ch. 95 Section 20). 30

The only other question to be decided is whether the 1st respondent who was given a Deed of Gift No. 7881 of 1927 (1 R 3) by his father Ponniah should bring the property gifted into collation if he wishes to inherit as an heir.

The point to determine is whether, as is stated by respondents 2 to 6 such gift was made on the occasion of his marriage. 40

The Law is now a matter of statute and it was held in Vaitianathan vs. Meenatchie (17 N.L.R. 26) that the Roman Dutch Law as to collation was superseded by Section 39 of Ordinance 15

of 1876 (Leg. Enactment Volume II Ch. 47 Section 35). This section enacts that "children.....are bound to bring into hotchpot or collation all that they have received from their deceased parents above the others either on the occasion of their marriage or to advance or establish them in life, unless it can be proved that the deceased parent either expressly or impliedly released any property so given from collation".

Exhibits.  
No. D 2.  
Order in  
D.C. Kandy  
Case  
No. 5437.  
3-2-41.  
—continued

10 The parts of this enactment relevant to the present case are found in the words "the occasion of their marriage" and (b) "unless it can be proved that the deceased parent, either expressly or impliedly released any property so given."

The first point to decide is whether this gift to 1st respondent was given "on the occasion of his marriage". The Deed itself is in the ordinary language of a Deed of Gift "for and in consideration of natural offspring love".... "in expectation of all necessary aid and assistance from him during my life time" and "divers other good causes". The Deed of Gift was executed on 1st November, 1927.

20 The 1st respondent admitted that he gave notice of marriage between himself and one Ponnamma on 7th September, 1927. He had to admit that a notice of marriage was given by him also in 1926. The notice in 1927, (2 R 3) expired about the 7th December. In spite of both these notices the 1st respondent did not marry Ponnamma. He has some vile excuse to give for not marrying which I refuse to believe. The letters which passed between his father and himself about this time clearly show that the Deed of Gift was given on the occasion of this contemplated marriage. The 1st respondent denies that he received these letters but I don't believe him. The letter (2 R 4) is admittedly a genuine letter written by the deceased Ponniah to the 1st respondent. He begins the letter which is dated 1-2-1927, by stating, "The last date of notice is 7-12-27". The very next sentence refers to the signing of the Deed on 1-11-27 and he goes on to complain that it had been decided to register the marriage on 7-11-27 but that did not take place. The whole of this letter refers to the Deed signed on 1-11-27 and to the marriage.

30 The father repeats "You should either look for some day before 7-12-27 and register". I have finished by giving you land". Once the 1st respondent got the Deed (1 R 3) in his favour he did not go through the marriage which he admits his father was very keen on.

40 There are two points raised by Mr. Perera for 1st respondent. Firstly he contends that evidence cannot be led to prove that the gift was made on the occasion of the marriage. His contention is that the Deed itself is the only evidence available to vary the Deed. I cannot accede to this contention. The evidence of the

Exhibits. letter (2 R 4) does not vary the Deed but is evidence showing the provocation or the cause which led to the Deed of Gift being executed without in any way varying or contradicting the Deed.

No. D 2.  
Order in  
D.C Kandy  
Case  
No. 5437.  
3-2-41.  
—continued

Mr. Perera's second point is that this gift was not such a gift as liable to be brought into collation. He cites in support of his contention the case of Cooray vs. Haramanis Perera 5 S. C. C. 113. I cannot find that the gift in this case is anything more than an ordinary Deed of Gift. It is also significant that the life interest is reserved to the donor.

I am of opinion that all the evidence points only to one inference—mainly, that it was a gift on the occasion of the marriage of the 1st respondent. The fact that the marriage did not take place does not in my opinion make any difference. The intention of the law clearly was that the gift should be on the occasion of a marriage performed or contemplated, and I hold that this was such a gift. The phrase “divers other causes” in the Deed can easily be held to refer to the contemplated as one of these “diverse causes”.

10

The 1st respondent has led no evidence to show that this gift was either expressly or impliedly reserved from the liability to collation. I accept the evidence that after the 1st respondent got the property and did not go on with his marriage his father had nothing to do with him until he died.

20

This also proves that the Deed Gift was on the occasion of his marriage and when that did not take place the father treated the 1st respondent as he deserved to be treated.

I therefore hold that :—

1. All the respondents are lawful heirs.
2. The property gifted to the 1st respondent was on the occasion of his marriage and that its value was 6000/- and that it must be brought into collation. I would also order that the 1st respondent to pay to the other respondents the costs of this inquiry.

30

Sgd. W. SANSONI,  
D. J.

**The Schedule attached to the above order as per  
order of Court dated 15th May 1950.**

1. The southern portion of ten acres (A 10. R 0. P 0.) from and out of all that land called Kirigalpottewatte containing in extent in the aggregate twenty seven acres one rood and twenty two perches (A. 27 R. 1 P. 22) situated at Kirigalpotte in Udugama Gampahasiyapattu Matale South in the District of Matale Central

40

Province and bounded in its entirety on the East by Crown land and the land of Mr. Penny South by the fence of Nallacaruppen Chetty's Estate West by high road leading to Trincomalie and fence of lands belonging to Thepanis Appu and others and on the North by Crown land and the fence of Kongiah's garden and which said southern portion according to Plan of Survey bearing No. 1835 dated 17th October, 1927, prepared by Mr. J. R. Holloway Licensed Surveyor is bounded on the East by the limit of the property known as Matale Estate South by the fence of the property of the Estate belonging to Nallakaruppen Chetty West by High Road leading from Matale to Dambulla and the limit of the remaining portion of this land and the North also by the remaining portion of this land together with the tiled house of two rooms, plantations and everything standing on the said portion.

10

20

Exhibits.  
 No D 2.  
 Order in  
 D. C. Kandy  
 Case  
 No 5437.  
 3-2-41.  
 —continued

2. All that field called and known as Nikawalakumbura containing in extent two pelas paddy sowing situated at Udugama aforesaid and bounded on the East by fence of Pallekumbura South by limit of Kiri Banda's field West by limit of Kalu Banda's field and on the North by the fence of Palihanagederahena together with everything thereon.

---

**D 1.**

**Letters of Administration in D. C. Kandy Case No. 5437.**

LETTERS OF ADMINISTRATION (with the will annexed, and otherwise). *de bonis non.*

IN THE DISTRICT COURT OF KANDY.

Testamentary }  
 Jurisdiction } No. T. 5437.

No. D 1.  
 Letters of  
 Adminis-  
 tration in  
 D. C. Kandy  
 Case  
 No. 5437.  
 3-3-49.

To: PONNIAH MURUGIAH of Palapatwala, Matale.

Whereas Kuna Marimuttu Thevar's son Ponniah of Palapatwala Matale, deceased, lately departed this life without leaving a will you are therefore fully empowered and authorised by these

30

Exhibits  
 No. D 1.  
 Letters of  
 Administration in  
 D.C. Kandy  
 Case  
 No. 5437.  
 3-3-49.  
 —continued

Presents to administer and faithfully dispose of the property and estate, rights, and credits of the said deceased, and to demand and recover whatever debts may belong to his estate, and to pay whatever debts the said deceased did owe, so far as such property and estate, rights, and credits shall extend, you having been already affirmed well and faithfully to administer the same, and to render a true and perfect Inventory of all the said property and estate, rights, and credits to this Court on or before the 7th day of April, 1949, next and also a true and just account of your administration thereof on or before the 4th day of July, 1949, and you are therefore by these Presents deputed and constituted Administrator of all the property and estate, rights and credits of the said deceased. (You are, nevertheless, hereby prohibited from selling any immovable property of the estate unless you shall be specially authorised by the Court so to do).

10

Given under my hand and the  
 Seal of the Court this 3rd day of  
 March 1949.

Sgd. H. A. DE SILVA,  
*District Judge.*

No. D 8.  
 Bond  
 No. 1080.  
 26-2-42.

**No. D 8.**  
**Bond No. 1080.**

20

Application No. 161  
9-7-42.

No. **1080.**

KNOW ALL MEN BY THESE PRESENTS that I, Ponniah Sellasamy of the Kachcheri, Matale, held and firmly bound unto and do hereby acknowledge to be justly and truly indebted to Wijesundara Abeykoon Dasanayake Mudiyanse Lage Leclawathie Menika of Paluwatta in Padivita, Kohonsiya Pattu of Matale South in the District of Matale, Central Province (hereinafter called the mortgagee in the sum of Rupees One Thousand and Five hundred (Rs. 1500 -) which I have this day borrowed and received of and from the said mortgagee and therefore renouncing the beneficium non numeratae pecuniae the meaning of which has been explained to me agree undertake and bind myself and my heirs executors or administrators to pay the said sum of Rs. 1500/- and interest that might accrue thereon unto the said mortgagee her heirs executors administrators and assigns on demand and until such payment I engage and bind myself and my heirs executors or assigns to pay interest on the said sum of Rs. 1500/- at and after the rate of 10 per cent per annum,

30

40



10 And for securing unto the said mortgagee and her heirs execu-  
 tors, administrators and assigns the due payment of all sums of  
 money payable under by virtue or in respect of these Presents I do  
 hereby specially hypothecate and mortgage to and with the said  
 mortgagee her heirs executors administrators and assigns as a first  
 or primary mortgage the premises mentioned and more particularly  
 described in the schedule to these presents with all the estate right  
 title interest property claim and demand whatsoever therein and  
 thereto which said premises have been held and possessed by me  
 under and by virtue of Deed of Gift No. 7881 dated 1st day of  
 November, 1927 attested by H. D. Gunasekera, Notary Public, of  
 Matale and also by D. C. Kandy Testamentary Case No. 5437.

Exhibits.  
 No. D 8.  
 Bond  
 No. 1080.  
 26-2-42.  
 --continued

20 And I hereby covenant and declare with and to the said  
 mortgagee and her heirs, executors, administrators and assigns that I  
 have good right to mortgage the said premises in the manner afore-  
 said and that the said premises are free from all encumbrances and  
 that I shall and will at all times during the continuance of these  
 Presents do and execute or cause to be done and executed all such  
 further and other acts, deeds and matters which may be necessary or  
 expedient for the better or more perfectly assuring the said premises  
 or any part thereof by way of mortgage unto the said mortgagee and  
 her heirs executors, administrators or assigns as may be reasonably  
 required and shall and will keep and maintain the said premises  
 hereby mortgaged in good order and shall not nor will cut down fell  
 or destroy any timber or other trees or plantations or break down  
 or demolish any buildings or do or commit any other act of waste or  
 damage whereby or by reason whereof the said premises or any part  
 thereof shall deteriorate in value and shall not nor will execute  
 any other mortgage nor demise or lease the said premises without the  
 consent in writing of the said mortgagee or her aforewritten and all  
 such mortgages or leases or any demise whatsoever executed without  
 such consent shall be absolutely null and void.

30 And I do hereby further engage and bind myself and my afore-  
 written for the payment of any such balance sum as may be left due  
 and payable under and by virtue of these presents if the proceeds  
 realized by the sale of the premises hereby mortgaged and hypothe-  
 cated as aforesaid shall be found to be insufficient to cover the whole  
 of the amount recoverable hereunder and the cost of the action in  
 which such sale shall be decreed.

**The Schedule above referred to :**

40 1. The southern portion in extent ten acres (A 10. R 0. P 0,) from and out of all that land called Kirigalpottewatte containing in extent in the aggregate twenty seven acres, one rood and twenty two perches (A 27. R 1. P 22.) situated at Kirigalpotta in Udugama in Gampahasiya Pattu of Matale South in the District of Matale, Central Province and bounded in its entirety on the East by Crown

Exhibits.  
 No. D 8  
 Bond  
 No. 1080.  
 26-2-42.  
 —continued

land and the land of Mr. Penny South by the fence of Nallacaruppen Chetty's Estate West by high road leading to Trincomalie and the fence of lands belonging to Thepanis Appu and others and on the North by Crown land the fence of Kongiah's garden and which said southern portion containing Ten acres (A 10. R 0. P 0.) in extent being bounded according to Plan No. 1835 dated 17th October, 1927 made by J. R. Holloway Licensed Surveyor on the East by the limit of Matale Estate South by the fence of the garden of Nallacaruppen Chetty West by the high road from Matale to Dambulla and the limit of the remaining portion of this land and on the North also by the limit of the remaining portion of this land together with the two tiled houses, rooms and plantations standing thereon.

10

2. The field called Nikawelekumbura of two pelas in paddy sowing extent situated at Udugama aforesaid and bounded on the East by fence of Pallekumbura South by the limit of Kiri Banda's field West by limit of Kalu Banda's field and on the North by fence of Palihenagederahena.

3. An undivided one-twelfth (1/12) share of the land called Kirigalpottewatte containing in extent in the aggregate twenty seven acres one rood and twenty two perches (A 27. R 1. P 22) situated at Kirigalpotta in Udugama aforesaid and bounded in its entirety on the East by Crown Land and the land of Mr. Penny South by the fence of Nalla Caruppen Chetty's estate West by the high road leading to Trincomalie and fence of lands belonging to Thepanis Appu and others and on the North by Crown Land, the fence of Kongiah's garden and excluding therefrom the southern portion in extent ten acres (A 10. R. 0. P 0) and which said Southern portion according to Plan of Survey bearing No. 1835 dated 17th October, 1927, prepared by Mr. J. R. Holloway Licensed Surveyor is bounded on the East by the limit of property known as Matale Estate, South by the fence of the Estate belonging to Nallacaruppen Chetty, West by high road leading from Matale to Dambulla and the limit of remaining portion of this land, and on the North also by the limit of the remaining portion of this land.

20

30

In witness whereof I do hereunto and to two others of the same tenor and date as these Presents set hand at Matale on this twenty sixth day of February, One thousand nine hundred and forty two.

Witnesses :

Signed in the presence of us and we )  
 declare that we are well acquainted with ) Sgd. P. SELLASAMY.  
 the executant and know his proper name )  
 occupation and residence.

Sgd. O. H. GUNASEKERA.

Sgd. A. L. SAMARASEKERA,  
*N. P.*

40

Sgd. M. P. B. ETTIPOLA.

10 I, Andawattage Lionel Samarasekera of Matale, Notary Public, do hereby certify and attest that the foregoing instrument having been read over and explained by me the said Notary to the said Ponniah Sellasamy of the Kachcheri Matale, who has signed this Deed as "P. Sellasamy" who is known to me in the presence of Owitigala Vithana Aratchige Herbert Gunasekera of Elwala who has signed as "O. H. Gunasekara" and Medawalauwe Punchi Banda Etipola of Matale who has signed as "M. P. B. Etipola" the subscribing witnesses both of whom are known to me and the same was signed by the said mortgagor and also by the said witnesses in my presence and in the presence of one another all being present at the same time on the twenty sixth day of February, in the year One thousand nine hundred and forty two.

Exhibits.  
No. D 8.  
Bond  
No. 1080.  
26-2-42.  
—continued

And I further certify and attest that no consideration was paid in my presence three stamps for the value of Rs. 16/- were affixed to the duplicate of this instrument and the original a stamp of Rupee one (Re. 1/-).

Sgd. A. L. SAMARASEKERA,  
*Notary Public.*

20 Date of Attestation  
26th February, 1942.

I, F. C. Fernando, Registrar of Lands, Matale, do hereby certify that the foregoing is a true copy of a Deed of mortgage made from the duplicate filed of record in this office and the same is granted on the application of Mr. P. Murugiah of Vellakal Palapatwala.

Sgd. F. C. FERNANDO,  
*Registrar of Lands.*

30 Land Registry, Office,  
Matale, July 10, 1942.

**No. P 2.**

**Mortgage Bond No. 10834.**

No. P 2.  
Mortgage  
Bond  
No. 10834.  
24-2-44.

Application No. 204.  
25-8-48.

Prior Registration B141/27.

No. 10834.

KNOW ALL MEN BY THESE PRESENTS that I Kuna Mawanna Ponniah's son Sellasamy of Kirigalpotte in Gampahasiya Pattu of Matale South in the District of Matale Central

Exhibits. Province, (hereinafter calling myself the mortgagor) am held and  
 No P 2. firmly bound unto Don Abraham Weerakoon Appuhamy of Gola-  
 Mortgage henwatta in Gampahasiya Pattu of Matale South aforesaid (herein-  
 Bond after referred to as the mortgagee) in the sum of Rupees Four  
 No. 10834. Thousand (Rs. 4,000/-) of lawful money of Ceylon for money  
 24-2-44. borrowed and received by me from him and I therefore hereby renoun-  
 —continued cing the beneficium Non numeratae pecuniae do engage and bind  
 myself to pay on demand unto the said mortgagee or to his certain  
 attorneys, heirs, executors, administrators or assigns the said sum of  
 Rupees Four Thousand (Rs. 4,000/-) together with interest thereon 10  
 at the rate of ten cents per Rupees ten per mensem the said interest  
 to be payable quarterly the first quarter's interest Rupees One  
 hundred and twenty (Rs. 120/-) being paid at the execution hereof.

And for securing the payment of the said amount with the  
 interest accruing thereon I the said mortgagor do hereby specially  
 mortgage and hypothecate to and with the said mortgagee and his  
 aforewritten as a first or primary mortgage free from any encum-  
 brance whatsoever and subject to the conditions hereinafter men-  
 tioned the property in the schedule hereto fully described with all  
 the estate right title interest property claim and demand whatsoever 20  
 therein and thereto.

And I the said mortgagor do hereby covenant and declare with  
 and to the said mortgagee and his aforewritten that I shall not nor  
 will at any time hereinafter during the continuance of the mortgage  
 effected by these presents mortgage the aforesaid premises hereby  
 mortgaged and hypothecated or commit any act or deed whereby or  
 by reason whereof the said premises may be in anywise encumbered  
 without the consent in writing of the said mortgagee or his afore-  
 written having been first had and obtained thereto and that any  
 mortgage or encumbrance without such consent in writing shall be 30  
 absolutely null and void.

And I the said mortgagor do hereby further engage and bind  
 myself for the payment of any such balance sum as may be left due  
 and payable under and by virtue of these presents if the proceeds  
 realized by the sale of the premises hereby mortgaged and hypothe-  
 cated as aforesaid shall be found to be insufficient to cover the whole  
 of the amount of the monies recoverable hereunder and the costs of  
 the action in which such sale shall be decreed.

And I do declare further to engage and bind myself my heirs  
 executors and administrators for the true performance of this 40  
 obligation.

**The schedule referred to:**

All that southern portion in extent ten acres (A 10. R 0. P 0)  
 out of the land called and known as Kirigalpottewatte in extent

twenty seven acres one rood and twenty two perches (A 27. R 1. P. 22) situated at Kirigalpotta in Udugama in Gampahasiya Pattu of Matale South in the District of Matale Central Province, and which said southern portion is according to Plan No. 2911 dated 25th September, 1937 made by J. R. Holloway, Licensed Surveyor, bounded on the East by Wavinna Estate South by Nikakotuwa Estate West by Matale-Trincomalie main road, and remaining portion of the said land and on the north by fence of remaining portion of the said land together with the buildings plantations and everything thereon, held and possessed by me upon deed of Gift No. 7881 dated 1st November, 1927 attested by H. D. Gunasekera, Notary Public, (True Copy whereof is hereby annexed).

Exhibits.  
 No. P 2.  
 Mortgage  
 Bond  
 No. 10834.  
 24-2-44.  
 —continued

IN WITNESS WHEREOF I the said mortgagor do hereunto and to two others of the same tenor and date as these presents set my hand at Matale on this twenty fourth day of February One thousand nine hundred and forty four.

WITNESSES :

Signed in the presence of us and we declare that we are well acquainted with the executant and know proper name occupation and residence. } Sgd. P. SELLASAMY.

Sgd. J. DE COSTA.

Sgd. S. P. WIJAYATILAKE.  
N. P.

Sgd. P. B. EKANAYAKA.

I, Samarappulige Piyasoma Wijayatilake of Matale, Notary Public do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said notary to the said Kuna Mawanna Ponniah's son Sellasamy who had signed as "P. Sellasamy" who is known to me in the presence of Joseph de Costa of King Street, Matale, and Ekanayaka Mudiyansele Punchi Banda of Tibbotuwawa in Matale, who have signed as "J. D. Costa" and "P. B. Ekanayaka" respectively the subscribing witnesses thereto both of whom are known to me the same was signed by the said executant and also by the said witnesses in my presence and in the presence of one another all being present at the same time at Matale on this twenty fourth day of February in the Year One thousand nine hundred and forty four.

And I further certify and attest that four stamps of the value of Rupees thirty four are affixed to the duplicate of this instrument and one of one rupee to the original hereof. Of the consideration hereof Rs. 2,160/- was paid in my presence Rs. 120/- was deducted as three months interest in advance and the balance was retained in the hands of the mortgagor to be paid later on the mortgagor, producing

Exhibits. a mortgage bond effecting the said premises duly cancelled and discharged and that before the foregoing instrument was read over as aforesaid in the original and duplicate of page 1 line 2 "Kirigalpotha" page 3 line 5 "hereto" were rectified page 1 line 19 (FORTY Rs. 40/-) being line 20 "paid at the execution hereof" were scored out page 2 line 19 "mortgagor" rectified.

No. P 2.  
Mortgage Bond No. 10884. 24-2-44.  
—continued

Sgd. S. P. WIJAYATILAKE,  
*Notary Public.*

Date of Attestation.  
24th February, 1944.

10

I, F. C. Fernando, Registrar of lands, Matale, do hereby certify that the foregoing is a true copy of a mortgage bond made from the duplicate filed of record in this office and the same is granted on the application of P. Murugiah, Esqr., Vellakal Estate, Matale.

Sgd. F. C. FERNANDO,  
*Registrar of Lands.*

Land Registry, Office,  
Matale, August 26, 1948.

**No. D 5.**

**Answer filed by Sellasamy in D. C. Matale  
Case No. M. B. 36.**

20

IN THE DISTRICT COURT OF MATALE.

DON ABRAHAM WEERAKOON APPU-  
HAMY of Golehenwatta *Plaintiff.*

No. M B 36.

*vs.*

K. M. PONNIAH'S son SELLASAMY of  
Kirigalpotha. *Defendant.*

This 6th day of January, 1949.

The Answer of the above-named defendant appearing by his Proctor W. Dias Desinghe, states as follows:

30

1. This defendant admits paragraphs 1, 2, 3 & 4 of the Plaint.  
Further answering this defendant states.

2. That the premises mentioned in the schedule to the plaint are now included in the Estate of K. N. Ponniah deceased in Testamentary Proceedings No. 5437 District Court, Kandy.

3. That the action is not maintainable in law.

Wherefore the defendant prays that the plaintiff's action be dismissed with costs and for such other and further relief as to this Court shall seem meet.

Sgd. W. DIAS DESINGHE,  
*Proctor for Defendant.*

Exhibits.

No. D 5.  
Answer filed  
by Sella-  
samy in  
D.C. Matale  
Case  
No. M.B. 36  
6-1-49.  
—continued

True Copy of Answer filed in the above Case.

Sgd. P. B. ALUWIHARE,  
*Ag. Secretary.*

10 19-12-1950.

**No. D 9.**

**Letter from P. Balasingam to Deputy Fiscal, Matale.**

Kandy 9th September, 1949.  
(Ceylon).

No. D 9.  
Letter from  
P. Bala-  
singam to  
Deputy  
Fiscal,  
Matale.  
9-9-49.

P. BALASINGAM,  
Proctor, S. C.  
and  
Notary Public.

THE DEPUTY FISCAL, MATALE.

20 **D. C. Matale M B 36.**

I am instructed by Mr. P. Murugiah the Administrater de Bonis Non of the Estate of the late Mr. K. M. Ponniah which is being administrated in D. C. Kandy Testamentary Case No. 5437 that you have advertised for sale on the 23rd September, 1949 the property called Kirigalpottewatta situated at Udugama, Matale District and to call your attention to the fact that the property belongs to the Estate of the late Mr. K. M. Ponniah and to nobody else and that the heirs would be entitled to the property after payment of Estate duty and Testamentary expenses.

30 Will you therefore please be good enough to mention this to the prospective bidders at the sale.

I am Sir,  
Your obedient servent,  
Sgd. P. BALASINGAM.

True Copy.

Sgd. Illegibly.  
10-11-50.

Deputy Fiscal's Office, F. M. Matale.  
Matale, 10th November, 1950.

Exhibits.

No. P 3.  
Fiscal's  
Conveyance  
No. 942.  
21-2-50.

No. P 3.

Fiscal's Conveyance No. 942.

No. 942.

FISCAL'S CONVEYANCE TO PURCHASER AFTER CONFIRMATION  
OF SALE BY COURT.

TO ALL TO WHOM THESE PRESENTS SHALL  
COME.

Greeting.

WHEREAS by a mortgage bond dated the 24th day of Feb-  
ruary, 1944 bearing No. 10834 and attested by S. P. Wijayatilake of  
Matale Notary Public, and registered in the Matale District Land  
Registry in B. 141/27 the payment to Don Abraham Weerakoon  
Appuhamy of Golahenwatta, Plaintiff, of the sum of Rupees Four  
thousand (Rs. 4,000/-) with interest thereon as in the said bond  
provided, was secured by mortgage of the property and premises in  
the Schedule hereto fully described and hereby conveyed.

10

AND WHEREAS by a decree entered in action No. M B 36  
of the District Court of Matale on the 25th day of February, 1949,  
it was ordered and decreed that Kuna Mawanna Ponniah's son  
Sellasamy of Kirigalpotta the defendant in the said action do pay to  
Don Abraham Weerakoon Appuhamy of Golahanwatta, the plaintiff  
in the said action the sum of Rupees Six thousand and ten  
(Rs. 6,010/-) together with interest on the sum of Rupees Six thousand  
and ten (Rs. 6,010/-) at the rate of five per centum per annum  
from the 25th day of February, 1949 till date of payment in full,  
and costs of suit as taxed by the officer of the said Court amounting  
to Rupees..... (Rs.....), and that in default of  
payment of the said sum of Rupees Six thousand and ten  
(Rs. 6,010/-) interest, and costs within three months from the date  
of the said decree the said property and premises be sold.

20

30

AND WHEREAS an order for the sale of the said property  
and premises was given by the said Court to the Deputy Fiscal of  
the Matale District on the 9th day of August 1949, under section  
12 (2) of the Mortgage Ordinance, No. 21 of 1927.



AND WHEREAS after due notice and publication in manner law prescribed the said property and premises were exposed to public sale on the 23rd day of September, 1949 by W. B. Galagoda, Fiscal's Marshal, Matale.

Exhibits  
No. P3.  
Fiscal's  
Conveyance  
No. 942.  
21-2-50  
—continued

Acting under the authority of the said Deputy Fiscal, and were sold to Casi Lebbe Raja Marikkar's son Jainudeen of King's Street, Matale, as the highest bidder at the said sale for the sum of Rupees Four hundred (Rs. 400 -).

10 AND WHEREAS the said Casi Lebbe Raja Marikkar's son Jainudeen of King's Street, Matale, has duly paid to the said Deputy Fiscal; the whole of the said purchase money in reduction of his claim and costs and has produced the order of the said Court dated 11th day of January, 1950, and has thus become entitled to a conveyance of the said property and premises.

AND WHEREAS the said Court by an order dated the 11th day of January, 1950, certified and stamped copy whereof is annexed to the original hereof, has duly confirmed the said sale.

20 NOW THESE PRESENTS WITNESS that R. D. P. Paulusz, Esquire., Deputy Fiscal of the Matale District Central Province, in consideration of the said sum of Rupees Four hundred (Rs. 400/-) so paid the said Casi Lebbe Raja Marikkar's son Jainudeen of King's Street, Matale as aforesaid the receipt whereof the said Deputy Fiscal doth hereby acknowledge hath sold and assigned and by these presents doth sell and assign unto the said Casi Lebbe Raja Marikkar's son Jainudeen of King's Street, Matale, his heirs, executors administrators, and assigns the said property and premises in the said schedule hereto fully described.

30 TO HAVE AND TO HOLD the same with their and every of their appurtenances to him the said Casie Lebbe Raja Marikkar's son Jainudeen of King's Street, Matale, his heirs, executors, administrators and assigns for ever.

IN WITNESS WHEREOF the said Deputy Fiscal hath hereunto subscribed his name at Matale this 21st day of February, 1950. Three stamps to the value of Rs. 8.00 have been affixed to the Duplicate hereof and one Re. 1.00 to the original.

Witnesses :

1. Sgd. Illegibly.
2. Sgd. Illegibly.

Sgd. Illegibly.

Deputy Fiscal.  
G.

Exhibits

**The Schedule above referred to :**

No. P 3,  
Fiscal's  
Conveyance  
No. 942  
21-2-50.  
—continued

All that southern portion in extent 10 acres out of the land called and known as Kirigalpottewatta in extent 27 acres 1 rood and 22 perches situated at Kirigalpotta in Udugama in Gampahasiya pattu of Matale South in the District of Matale, Central Province which said southern portion is according to Plan No. 2911 dated September, 25, 1937 made by J. R. Holloway Licensed Surveyor, bounded on the East by Wawinna Estate, South by Nikakotuwa Estate, West by Matale—Trincomalie Road and remaining portion of the said land and on the North by the fence of the remaining portion of the said land together with the buildings, plantations and everything thereon and registered in B 141/27.

10

Witnesses :

1. Sgd. Illegibly.
2. Sgd. Illegibly.

Sgd. Illegibly.

*Deputy Fiscal.*

G.

**Schedule.**

All that southern portion in extent 10 acres out of the land called and known as Kirigalpottewatte in extent 27 acres 1 rood and 22 perches, situated at Kirigalpotte in Udugama in Gampahasiya-pattu of Matale South in the District of Matale Central Province which said southern portion is according to Plan No. 2911 dated September 25, 1937, made by J. R. Holloway Licenced Surveyor, bounded on the East by Wawinne Estate, South by Nikakotuwa Estate, West by Matale Trincomalie Road and remaining portion of the said land and on the North by the fence of the remaining portion of the said land together with the buildings, plantations and everything thereon and registered in B 141/27.

20

30

True Copy.

Sgd. Illegibly.

*Secretary.***Order Confirming Sale of Land.**

No. M.B. 36.

IN THE DISTRICT COURT OF MATALE.

DON ABRAHAM WEERAKOON APPU-  
HAMY of Golahenwatta, in Matale.

*Plaintiff.**against*

40

K. W. P. Sellasamy of Kirigalpoththa, Exhibits.  
*Defendant.* No. P 3.  
 CASI LEBBE RAJA MARIKKAR'S son Fiscal's  
 JAINUDEEN of King Street, Matale. Conveyance  
No 942.  
21-2-50.  
*Purchaser.* —continued

10       Whereas the under-mentioned property was on the 23rd day of  
 September, 1949 sold by the Fiscal of the Matale District in execu-  
 tion of the Decree in the above-named Action; and whereas thirty  
 days have elapsed since the receipt of the said Fiscal's report of the  
 said sale, and no application has been made to set aside the same.  
 It is ordered that the said sale be and the same is hereby confirmed.

Sgd. P. R. GUNASEKERA,  
*District Judge.*

The 11th day of January, 1950.

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**No. D 10.**

**Letter from Defendant's Proctor to Plaintiff.**

No. D 10.  
 Letter from  
 Defendant's  
 Proctor to  
 Plaintiff.  
 13-3-50.

EDWARD DE SILVA,  
 Proctor S. C.  
 and  
 Notary Public.

"Edward House"  
 Matale, 13th March, 1950.

20

C. L. JAINUDEEN ESQR.,  
 No. 68, King Street,  
 Matale.

Dear Sir,

30

I am instructed by Mr. P. Murugiah of Palapatwala Matale  
 the Administrator of the Estate of the late Mr. and Mrs. K. P.  
 Ponniah that you are about to take forcible possession of a piece of  
 land called Kirigalpottewatte situated at Palapatwela belonging to  
 the Estate of the above deceased, and in his possession as such  
 Administrator and as owner with his brothers and sisters. This is  
 therefore to warn you against any such attempt at taking forcible  
 possession as it may entail serious consequences. You are therefore  
 requested if you have any right to seek your remedy by Process  
 of Law.

I am Dear Sir,  
 Yours faithfully,  
 Sgd. EDWARD DE SILVA.

## Extracts of Encumbrances.

Division: N.	Volume: 138.	Folio:	Boundaries: E. by crown forest and Mr. Penny's property. S. by Nallakaruppen Chettiar's garden. W. by Trincomalie Road.
Folio: 280.	Volume: Bought forward from Kiririgapota-watta	Folio:	N. by Tepanis Appu's Punchi Banda's gardens Bandirala's Appubamy's gardens and Trincomallee Road.
Name of Land: T. P. No.	Village or town and street: Udugama.	Station Pattu: Gampahasiya.	Korale: Matale.
Lot No.	Station Pattu: Gampahasiya.	District: Kandy.	Province: Central.
Asst. No.	District: Kandy.	Province: Central.	Extent: A. 25 R. 1. P. 30.
Date of Registry Day Book No. and Date.	Grantors Names in full and residence.	Grantees Names in full and residence.	Nature & particulars and alienations and encumbrances to be concisely and clearly stated.
Kandy, 9th July 1901.	Theobald, C. P.	R. W. Boulton.	By purchase value Rs. 210/-.
1904, 3, October.	Richard William Boulton of Bambaragala Estate, Rattota.	Kuna Marimuttu Tevar's son Ponniah of Makulgharuppe.	Conveyance. Cons. Rs. 2,600/-.
1907, 2nd May, No. 3498.	Ahamed Ummal Nathar Ummal and Mira Lebbe all of Nilapattanam.	Keena Kadiravel Magan Mutiah of Kenda-golla.	Transfer of an undivided half share of the above with the buildings thereon exclusive of the portion in extent 2 acres 3 roods and 30 perches belonging to S. Noogu Lebbe.
D B. 9090. 27 March, 1912.	Theobald, C. P.	K. M. Rasiyah for and on behalf of K. M. Ponniah.	Transfer of undivided one half of above Cons. Rs. 200/-.
Carried over to	Volume N 1	Folio. 67	
			Remarks.
			Signature of Registrar.
			Regn Stamp Duty
			Name of Notary Judge, &c.
			No. and Date of Deed.
			As per this deed W. by road leading to Trincomallee, fence of the garden belonging to Tepanis Appu Punchi Banda and Bandirala Appusinnu and Trincomalie Road N. by crown forest and the fence of the garden of Kongaiya.
			Cons. Rs. 860/- for this and the lands in N. 161/238 & 239.
			Defendants, Sena Cader Mira Saibo and others. Extent 26 acres or 26 acres 0 R. 12 P. E. by Mr. Penny's land S. by limit of S. T. K. R. Nallakaruppen Chetty W. Trincomalie high road and limit of Tepanis Appu and Appusingho's land N. land of Kongaiya and Crown land.

Date of Registry Day Book No. and Date.	Grantors Names in full and residence.	Grantees Names in full and residence.	Nature & particulars and alienations and encumbrances to be concisely and clearly stated.	No. and Date of Deed.	Name of Notary Judge, &c.	Regn Stamp Duty	Signature of Registrar.	Remarks.	Exhibits
DB 9113. 26th March, 1913.	Abdul Cader's son Meera Saibo of Alu- wilhara.	Kuna Marimuttu The- var's son Ponniah of Kirigalpotta.	Transfer of undivided one tenth of the above and of the buildings and plantations thereon.	No. 3227 22nd February, 1913.	H. D. Weerasekera, N.P.	Rs. 5 -	Sgd. Jas G. de Silva.	Cons. Rs. 500/- for this and lands in N 161 239, 162 256, W. road leading to Trincomalee and fence of the garden belonging to Thepanisappu and others. N. land of Keugaya and Crown land (as per this land).	P 4. Extracts of Encum- brances 1901-1950. --continued
DB 15776 21st December, 1915.	Seiyadu Ahamadu Nat- chy the wife of Sena Ana Sama Lebbe (decd.) and daughter Magudu Pathamma- machechi the wife of Cader Mira Saibo both of Kailapathan, India.	Pena Ena Mahamadu Ismail's son Muham- madu Abubakkar Miskin Saibo of Alu- wilhara.	Transfer of an undivided one half share of the above and of the buildings thereon.	No. 5458. 14th December, 1915.	H. D. Weerasekera, N.P.	Rs. 9 50.	Sgd. E. F. Dias	Cons. Rs. 3,250 - for this and the land in N 161 and 206 239 I extent A. 27. R. 1. P. 22. difference of boundaries as per above remarks.	
9314. 8th July, 1919.	Pena Ena Mahamadu Ismail's son Maham- madu Abubakkar Mis- kin Saibo of Aluwi- hara.	Nana Marimuttu The- var's son Ponniah of Udagama (Makul- gaharuppe).	Transfer of an undivided one half share of the above and of the houses and buildings thereon, Cons. Rs. 2,500/-.	2275. 5th July, 1915.	R. A. F. Jayasinghe, N.P.	—	Sgd. A. de S. Wickra- matillake.	Difference as per above remarks.	
Division B Volume 138. Folio 233.	For previous trans- actions relating to a portion of this property are regd. in B180 33.	See Volume N 188. Folio 67							
4447. 22nd Septem- ber, 1941.	Ponniah Murgiah and two others vs. P. Sellasamy and five others.	Palapatwala	Prohibitory notice under Sec- tion 237 of Civil Procedure Code affecting all the right title and interest of the defendants in and to the above.	D. C. Kandy, Case No. 5437. 3rd February, 1941.	Harold Molder, A.D.F.	A. 26. R. 0. P. 0.  - 75 Cts.	Sgd. M. K. Simius.	With the land in B 121 55 claim Rs. 178 75½ Property seized on 22-9-41.	
<p>I, E. R. De Silva, Registrar of Lands Matale, do hereby certify that the foregoing is a true extract of the registration entries appearing in Land Register Volumes, N 133 280, N 188 67 and B 138 233 of this office up to and including 23rd November, 1950, and the same is granted on the application of R. Edirimanasingham Esqr., Proctor, S.C., Matale.</p> <p>Land Registry Office, Matale, November 29, 1950.</p> <p style="text-align: right;">Sgd. E. R. DE SILVA, Registrar of Lands.</p> <p style="text-align: right;">B 111 27 and B 180 33. (SEAL).</p> <p style="text-align: right;">47 &amp; 48</p>									

Division	Volume	Folio	Name of Land	Village or Town and Street	Pattu	Korale	Matale South	Province	Nature & particulars of alienations and encumbrances to be concisely and clearly stated.	No. and Date of Deed.	Name of Notary Judge, &c.	Regn Stamp Duty	Signature of Registrar.	Remarks.	Exhibits.
B 27.	141.	27.	Kirigalpottewatte, Southern portion of	Udugama. (Kirigalpotta).	Gampahasiya.	Matale	Central.								
1521.			Ponniiah Sellasamy of Matale.	Wijesundara Abeykoon Dasanayaka Mudiyanselage Leelawathi Menika of Paluwatta.				Mortgage of the above with the two tiled houses and rooms thereon for Rs. 1,500 - with interest at 10 % per annum.	1080. 26th February, 1942.	A. L. Samarasekera, N. P.		Sgd. F. C. Fernando.	With lands in folios 28 and 29.	E. Matale Estate. S. Garden of Nallacuruppon Chetty. W. High road from Matale to Dambulla and the remaining portion of this land. N. Remaining portion of this land. A. R. P. Encumbrances. 1901-1950. —continued	
1568.			Kuna Mawanna Ponniiah's son Sellasamy of Kirigalpotta.	Don Abraham Weerakoon Apphamy of Golchenwatta.				Mortgage of the above with the buildings thereon for Rs. 4,000/- with interest 10 cts. per Rs. 10 - per mensem payable quarterly.	10834 24th February, 1944.	S. P. Wijayatilake, N. P.		Sgd. F. C. Fernando.			
1836.			The address of the mortgagee in the above registered mortgage bond No. 10834, is D. A. Weerakoon Apphamy, Golchenwatta, Palapatwala.						Appln. dated 21-3-44.		Rs. 50 Cts.	Sgd. F. C. Fernando.			
3831.			Wijesundara Abeykoon Dassanayake Mudiyanselage Leelawathi Menika of Paluwatta.	Ponniiah Sellasamy of Matale.				Discharge of the above registered mortgage bond No. 1080.	Discharge dated 22-7-44.		Rs. 2/-	Sgd. F. C. Fernando.	With lands in folio 28 and 29.		
3795.			Don Abraham Weerakoon Apphamy of Golchenwatte. Plff vs. Kuna Mawanna Ponniiah's son Sellasamy of Kirigalpotta. Defendant.					Mortgage action affecting the above with the buildings thereon.	D. C. Matale, Case No. M. 36 Appln. dated 21-8-48.		Rs. 5/-	Sgd. F. C. Fernando.	E. Wawinna Estate. S. Nikakotuwa Estate. W. Matale Trincomalee road and remaining portion of the said land.		
Division B Folio 33.			Volume 180.	Brought forward B141	Volume Folio 27				Volume Folio 33						
3249			Kaliappa Thevar's daughter Kaliamma of Palapatwela, Matale.					Decree of Court whereby it is ordered and decreed that all the respondents are lawful heirs of the above (2) the property gifted to the 1st respondent was on the occasion of his marriage and that its value was Rs. 6,000 - and that it must be brought into collation and further ordered that the 1st respondent the costs this inquiry.	D. C. Kandy Testy Case No. T5437 dated 3rd February, 1941. 15th May, 1950.	W. Sansoni, D. J., Kandy.	Rs. 6 -.	Sgd. E. R. de Silva.	With land in folio 34 with tiled house of two rooms thereon.		
19th May, 1950.			(1) Ponniiah Sellasamy, (2) Ponniiah Murugiah, (3) Ponniiah Marimuttu, (4) Ponniiah Ramanathan, (5) Ponniiah Cumaraswamy, (6) Ponniiah Mononmani all of Palapatwela. Respondents.												

I, E. R. de Silva, Registrar of Lands, Matale, do hereby certify that the foregoing is a true extract of the registration entries appearing in Land Registry volumes B141 27 and B180 33 of this office upto and including 23rd November, 1950, and the same is granted on the application of R. Edirimanasingham, Esqr., Proctor S. C., Matale.

Land Registry Office,  
Matale, November 29, 1950.

Sgd. E. R. de SILVA,  
Registrar of Lands.

(SEAL).

## D 6.

## Extracts of Encumbrances.

Exhibits.  
No. D 6.  
Extracts of  
Encum-  
brances.  
1901-1941.

Boundaries: E. by Crown forest and Mr. Penny's property.

S. by Nalla Karuppen Chetty's garden.

W. by Trincomalee Road.

N. by Tepanis Appu's, Panchi Banda's garden, Bandirala's Appusingho's garden and Trincomalee Road.

D 6 Vide B 141 27 and following entries.  
D 7

Application No. 156/24-5-50.—N 133/280, 188, 67, B 138/233, B 141/27, B 180/33.

Division: N Volume 133. Korale: Matale.

Folio: 280.

Name of Land: Kirigalpottewatta.

Village or Town, Street: Udugama.

Pattu: Gampahasiya. Province: Central.

District: Kandy.

Date of Registry  
Day Book No.  
and Date.

Grantees Names  
in full and  
residence.

Nature and Particulars  
of alienations and  
incumbrances.

No. and date  
of Deed.

Name of Notary,  
Judge, &c.

Signature of  
Registrar

Regn.  
Stamps duty

Remarks.

Kandy, 9 July,  
1901.

The Fiscal, C. P.  
Kandy.

By Purchase Rs. 210/-.

13626. 3rd Septem-  
ber, 1892.

M. S. Crowford,  
Fiscal.

Sgd. E. Jansz.

Rs. 2/-.

Richard William Boul-  
ton of Bambaragala  
Estate, Rattota.

Kuma Marimattu Teva-  
er's son Ponniah of  
Makulgatharuppa.

Conveyance  
Cons. Rs. 2600/-.

N 6840,  
14, June, 1804.

J. B. Seibel,  
N. P.

Sgd. E. Jansz.

Rs. 7.50.

As per this deed W. by road leading to  
Trincomalee fence of the garden belong-  
ing to Thepanis Appu, Panchi Banda  
Bandirala Appu Singho and Trincomalie  
road. N. by Crown forest and the fence  
of the garden of Kaangiah.

1907, 2 May,  
No. 3498.

Ahamado Ummal Na-  
thar Ummal and As-  
sen Mira Lebbe all  
of Kaulapatnam.

Transfer of an undivided half  
share of the above with the  
buildings thereon exclusive  
of the portion in extent 2  
Acres 3 roods and 30 per-  
ches belonging to S. Noogu  
Lebbe.

No. 79.  
30 April, 1907.

G. V. Jayasinghe,  
N. P.

Sgd. Jas G. de Silva.

Rs. 6/-.

Cons. Rs. 860/- for this and the lands in  
N 161 238 and 239.

DB 9090.  
27, March,  
1912.

The Fiscal,  
C. P., Kandy.

K. M. Rasiyah, for and  
on behalf of K. M.  
Ponniah.

Transfer of undivided one half  
of the above Cons. Rs. 200/-.

17962.  
8, March, 1912.

G. S. Sexton,  
Fiscal.

Sgd. Jas G. de Silva.

Rs. 2/-.

Defendants Sena Kader Meeru Saibo and  
others. Extent 26 or A 26. R O.  
P 12. E: by Mr. Penny's land. S: by  
limit of S. T. K. R. Nallakarupen Chetty.  
W: by Trincomalie high road limit of  
Thepanis Appu and Appusingho's lands.  
N: by land of Kaangiah and Crown land.

Carried over to N 188/67.  
1-4-13.

Division N. Folio 67.	Volume 188.	Volume.	Folio.	Exhibits.				
Date of Registry Day Book No. and Date.	Grantees Names in full and residence.	Brought forward	N 133.	280/1-4-13.	No. D 6. Extracts of Encum- brance. 1901-1941. —continued			
		Grantees Names in full and residence.	Nature and particulars of alienations and incumbrances.	No. and date of Deed.	Name of Notary, Judge, &c.	Regn. Stamp duty.	Signature of Registrar.	Remarks.
DB 9413. 26, March, 1913.	Abdul Carder's son Meera Saibo of Aluwihara.	Kunna Marimuttu The- var's son Ponniah of Kirigalpotte.	Transfer of undivided one tenth of the above and of the buildings and Planta- tions thereon,	3227. 22, February, 1913.	H. D. Weerasekera, N. P.	Rs. 5/-.	Sgd. Jas G. de Silva.	Cons. Rs. 500/- for this and lands in N 161 239 162/256. W: road leading to Trincomalee and fence of the garden belonging to Thepanis Appu and others. N; land of Kangiah and Crown land (as per this deed).
DB 13776. 21, December, 1915.	Seiyadu Ahamadu Nat- chy the wife of Sena Ana Sami Lebbe de- ceased and daughter Mogudu Pathumma Natchi the wife of Cader Meera Saibo of Kalapatnam, India.	Peena Ena Mahamma- du Ismail's son Mu- hamadu Abubakker Miskin Saibo of Alu- wihare.	Transfer of an undivided one half share of the above and of the buildings thereon.	5458. 14, December, 1915.	H. D. Weerasekera, N. P.	Rs. 9.50.	Sgd. L. F. Dias.	Cons. Rs. 3,250/- for this and the land in N 161/239 and 206/1. Extent A. 27, R. 1, P. 22. Difference of boundaries as per above remark.
9314. 8, July, 1919.	Peena Ena Mahamma- du Ismail's son Mu- hammadu Abubakkar Miskin Saibo of Alu- wihara.	Nena Marimuttu The- var's son Ponniah of Udugama, Makulga- haruppa.	Transfer of an undivided one half share of the above and of the houses and buildings thereon. Cons. Rs. 2,500/-	2275. 5, July, 1919.	R. A. F. Jayasinghe, N. P.	—	Sgd. A. D. S. Wickra- matilake.	Difference as per above remarks. District: Matale.

For subsequent transaction See B 135/233.



Division B. Folio 233.	Volume 138.	For Pre. Trans.	Volume. Folio. N 188 57	Boundaries.	E. Limit of the land belonging to Mr. Penny S. Limit of the land belonging to S. T. K. R. Nalla Karupen Chetty. W. Trincomalie high road and the limit of the lands belonging to Thepanis Appu and Appu Singho. N. Land of Kongiah and the land belonging to Crown.	Exhibits. — No. D 6. Extracts of Encum- brance. 1901—1941. —continued
Instrument relating to a portion of this property are registered in B 180/33.		Intld. E. R. DE R. L. 19-5-50.		Extent: A. 26. R. 0. P. 0.		

Date of Registry Day Book No. and Date.	Grantors Names in full and residence.	Grantees Names in full and residence.	Nature and particulars of alienations and incumbrances.	No. and date of Deed.	Name of Notary, Judge, &c.	Regn. Stamp duty.	Signature of Registrar.	Remarks.
4447. 22, Septem- ber, 1911.	Ponniah Murugiah and two others of Palapatwela. Vs. P. Sellasamy and five others	Deftd.	Prohibitory Notice under Sec- tion 237 of Civil Procedure Code affecting all the right title and interest of the de- pendent in and to the above.	D. C. Kandy, Case No. 5437. 3rd Febru- ary, 1941.	Herald Melder A. D. F.	-.75.	Sgd. M. K. Sirines.	With the land in B121/55 claim Rs. 778/75½ property seized on 22-9-41.

I, E. R. de Silva, Registrar of Lands, Matale, do hereby certify that the foregoing is an extract of the Registration entries appearing in the Land Register Volumes N 133/280 N 188/67 B 138/233 of this office, up to and including 27, May, 1950, and the same is granted on the application of E. de Silva, Esqr. of Matale.

Matale, 21-5-50.

Sgd. E. R. DE SILVA,  
Registrar of Lands.

## Extracts of Encumbrances.

Exhibits.  
No. D 7.  
Extracts of  
Encumbrances.  
1942—1950.

Division B. Folio 27.	Volume 141.	Name of land : Village or town and street :	District :	Grantor Names in full and residence.	Grantees Names in full and residence.	Nature and particulars of alienations and incumbrances.	No. and date of Deed.	Name of Notary, Judge, &c.	Regn Stamps duty.	Extent: A. 10. R. 0. P. 0.	Boundaries:	Remarks.
1521 14 March 1942.		Kirigalpottewatte Southern portion of Utugama, Kirigalpotta.	Matale.	Ponniiah Sellasamy of Matale.	Wijesundara Abeykoon Dasanayaka Mudi- yanselage Leelawa- thie Menike of Pala- patwala.	Mortgage of the above with the two tiled houses and rooms thereon for Rs. 1500/- with interest at 10 per annum.	1080. 26, February, 1942	A. L. Samarasekera. N. P.	—	Sgd. F. C. Fernando.	E. Matale Estate. S. Garden of Nalla Carpen Chetty. W. High road from Matale to Dambulla and the remaining portion of this land. N. Remaining portion of this land.	With lands in folio 28 and 29.
1568 17 March 1944.		Kuna Mawanna Pon- niah's son Sellasamy of Kirigalpotta.		Don Abraham Weera- koon Appuhamy of Golehenwatta.		Mortgage of the above with the buildings thereon for Rs. 4000 - with interest at 10 cents per Rs. 10/- per mensem payable quarterly.	10834 24, February, 1944.	S. P. Wijayatilake.	—	Sgd. F. C. Fernando.		—
1836 30 March 1944.		The Address of the mortgagee in the above registered mortgage bond No. 10834 is D. A Weerakoon Appuhamy, Golehenwatta, Palapatwala.					Application dated 21-3-44.	—	Rs. 2/-	Sgd. F. C. Fernando.		With lands in folio 28 and 29.
3831 26 July 1944.		Wijesundara Abeykoon Dasanayake Mudi- yanselage Leelawa- thie Menike of Pala- patwala.		Ponniiah Sellasamy of Matale.		Discharge of the above regis- tered mortgage bond No. 1080.	Discharge dated 22-7-44.	—	Rs. 5/-	Sgd. F. C. Fernando.		With lands in folio 28 and 29.
3795 26 August 1950.		Don Abraham Weerakoon Appuhamy of Golehen- watta. Vs. Kuna Mawanna Ponniiah's son Sellasamy of Kirigalpotta.				Mortgage action affecting the above with the buildings thereon.	D. C. Matale Case No. M 36. Application dated 24-8-48.	Wijayatilake & Wijayatileke Proctor for Plaintiff.	Rs. 5/-	Sgd. F. C. Fernando.	E. Wavina Estate. S. Nikakotuwa Estate. W. Matale Trincomalie road and remain- ing portion of this land.	Carried over: Volume 13180. Folio 83.

Division B. Volume 180.  
 Folio 33. Brought forward Volume. Folio. 27.  
 Instrument relating to the entire property of this are  
 Registered in B 138/233.

Inbld. E. R. DE SILVA,  
*R. J.*  
 19-5-50.

Name of Land: Kirigalpottewatte Southern portion of  
 Village or Town and Street: Udugama (Kirigalpotta).  
 Pattu: Gampahasiya. Korale: Matale South.  
 District: Matale. Province: Central.

Date of Registry Day Book No. and Date.	Grantor Names in full and residence.	Grantees Names in full and residence.	Nature and particulars of alienations and incumbarances.	No. and date of Deed.	Name of Notary, Judge, &c.	Regn. Stamps duty.	Signature of Registrar.	Remarks.
3249 19 May, 1950.	Kaliappa Thevar's daughter Palapatwala, Matale. Vs. 1. Ponniah Sellasamy 2. Ponniah Murugiah 3. Ponniah Marimuthu 4. Ponniah Ramanathan 5. Ponniah Coomaraswamy 6. Ponniah Manonmani all of Palpatwala. Respondents.	Kaliamma of Petitioner.	Decree of Court whereby it is ordered and decreed that all the respondents are lawful heirs of the above (2) the property gifted to the 1st respondent was on the occa- sion of this marriage and that its value was Rs. 6000 - and that it must be brought into collation and further ordered that the 1st respon- dent to pay to the other res- pondent the costs of this inquiry.	D. C., Kandy Testy: Case No. T 5437, dated 3rd February, 1941. 1st May, 1950.	W. Sansoni, D. J., Kandy.	Rs. 6/-	E. R. de Silva.	With lands in folio 34 with tiled house of two rooms thereon.

Boundaries: E. Matale Estate.

S. Garden of Nallakarupen Chetty.

W. High road from Matale to Dambulla and the remaining portion  
of this land.

N. Remaining portion of this land.

Extent: A. 10. R. 0. P. 0.

Exhibits  
—  
No. D 7.  
Extracts of  
Encum-  
brances.  
1942—1950.  
—continued

I, E. R. de Silva, Registrar of Lands, Matale, do hereby certify that the fore-  
going is an extract of the registration entries appearing in the Land Register  
volumes B 141/27 and B 180/33 of this office, upto and including 27 May, 1950,  
and the same is granted on the application of E. De Silva Esqr. of Matale.

Land Registry,  
Matale, 31 May, 1950.

Sgd. E. R. DE SILVA,  
Registrar of Lands.

Supreme Court of Ceylon  
No. 140 (Final) of 1951.

District Court, Matale  
No. L. 203.

*In Her Majesty's Privy Council  
on an Appeal from the Supreme Court of Ceylon.*

BETWEEN

C. L. JAINUDEEN of No. 68, King Street, Matale.  
*Plaintiff-Respondent.*

VERSUS

P. MURUGIAH of Kirigalpotha, Matale.  
*Defendant-Appellant.*

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RECORD  
OF PROCEEDINGS

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