

11/1962

IN THE PRIVY COUNCILNo. 1 of 1961ON APPEAL FROM THE SUPREME COURT OF CEYLONB E T W E E N :

CHELLAMMAH, wife of Philip of
Bankshall Street, Karaiyoor,
Jaffna

Appellant

- and -

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
30 MAR 1963
25 RUSSELL SQUARE
LONDON, W.C.1.

68207

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1. Vyraavan Kanapathy of Sandilipay.
2. Rasamany, widow of Muttu of Bankshall Street, Karaiyoor Jaffna.
3. Kamakai, alias Rebecca wife of Anthonipillai of Moolai Road, Chundikuli.
4. Velan Marimuttu of Sandilipay,
5. Velan Vaithian of Sandilipay.
6. Pathan Kanapathy and wife.
7. Ponny, both of Sandilipay.
8. Arumugam Veerasingham and wife
9. Packiam, both of Uduvil, Manipay.
10. Sinnaya Arumngathan of Changanai.
11. Kanapathy Sellan and wife
12. Setthai, both of Sandilipay.
13. Kuddy, widow of Sinnapodian Vally of Changanai.
14. Vairavy Chelliah of Kaddadi, Jaffna.
15. Ellupolai Sinnapody and wife
16. Velliammai both of Kellavil Lane, Chuthumalai.
17. Kanapathy Murugan and wife
18. Rasu both of Changanai.
19. Murugar Ponnar and wife
20. Ledchumy both of Alaveddy.
21. Visuvan Kathiravelan and wife
22. Thangamuttu both of Nallur North.
23. Vairavy Nallathamby of Moolai Road, Chundikuli.
24. Kanapathy Chellan and wife
25. Thangammah both of Vaddukoddai East.
26. Maruchelin Anthonipillai of Kokilamandai, Naranthani North.

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RespondentsCASE FOR THE APPELLANTRecord

1. This is an Appeal from a Judgment and Decree of the Supreme Court of Ceylon, dated the 9th May, 1958, allowing the appeals of the 14th, 15th, 16th,

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23rd and 26th Respondents (14th and 27th to 30th Respondents in the Record) and of the 1st, 4th, 5th, 6th, 7th, 10th, 11th, 12th, 13th, 17th, 18th, 19th, 20th, 21st, 22nd, 24th and 25th Respondents (4th to 11th, 20th to 26th and 31st to 34th Respondents in the Record) from a Judgment of the District Court dated the 28th March 1956 and ordering that the costs in both Courts be paid by the Appellant personally.

- p.1, 1.16
- p.19, 1.31.
- p.218 et seq.
2. All the parties to this litigation claimed to be heirs of the estate of Kanapathy Kanthar ("the Deceased") who died on the 19th May 1938. The litigation began in the year of the Deceased's death when an illegitimate son of the deceased claimed to inherit under a will which was later agreed to be invalid. On the 20th January 1941 it was agreed that Arumugam, the Appellant's father, who claimed to be sole heir and was admittedly an heir of the Deceased, be granted letters of administration "leaving the question of heirship open giving the status as an heir." In 1943 the Appellant's father died and on the 30th June 1944 the Appellant, his daughter, was appointed administratrix de bonis non of the estate of the Deceased. In 1955-56, after further proceedings which are not material to this appeal, an inquiry into the question of heirship was held in the District Court.

3. The claimants at this inquiry fell into four groups (The Respondents are hereinafter in this Case referred to by their numbers as they appear in the Record):-

(1) The Appellant and her sister, the 16th Respondent, claimed to be sole heirs on the footing that the Deceased was an illegitimate son of Kathirinchy, or Katherine, whose sole heir was her brother Eliavy, the father of Arumugam.

(2) The 14th and 27th to 30th Respondents ("the Maternal Group") claimed to be heirs through the Deceased's mother on the footing that the Deceased was the son of Kannattai, that she had two brothers, Eliavy and Sinnavy, and that they were descendants of Sinnavy.

(3) The 4th to 11th, 20th to 26th and 31st

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to 34th Respondents ("the Paternal Group") claimed to be heirs through the Deceased's father on the footing that the Deceased's father's parents were Theivi and Velan, that Theivi later married Nannian, and that they were descendants of Nannian.

10 (4) The 17th and 18th Respondents claimed also through the Deceased's father on the footing that they were descendants of Ramu, the Deceased's father's brother, but they did not appeal against the rejection of their claim by the District Court Judge.

4. The pedigrees claimed by the different groups are set out in the Record at pp. 124-8, 179, 206, 214.

5. In his reserved Judgment dated the 28th March 1956 the District Court Judge upheld the claim of the Appellant and her sister to be sole heirs and rejected the claims of all the other parties to be heirs. p.264

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6. The Appellant gave evidence in support of her claim. She testified to the relationship between the Deceased and herself and stated that after her mother's death when she was 5 or 6 years old she was brought up by the Deceased in his house at Karaiyoor. She produced - p.221.

- (1) Dowry deed granted her by Deceased in 1923. A.1. p.335.
- (2) Certificate of her marriage in 1923. A.2. p.335.
- 30 (3) Mortgage bond in favour of Kathirinchi widow of Kaithar and Kanapathy Kanthar (the Deceased). A.3. p.322.
- (4) Certificate of death of Kathirinchi widow of Kaithar in 1915. A.4. p.329.
- (5) Certificate of marriage of her parents in 1896. A.5. p.318.
- (6) Certificate of death of her mother in 1910. A.6. p.328.
- 40 (7) Certificate of death of her father's mother in 1919. A.7. p.334.

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She stated that Kathirinchhi (the mother of the Deceased) had married Kaithar at Kayts and that she had two brothers, her grandfather Eliavy, and Sinnavy, who also got married at Kayts and whose Christian name was Gnanapiragasam and who had married Innesam and had one child Elizabeth. She stated that Elizabeth had no children. She produced -

- A.8. p.314. (8) Certificate of baptism of Gnanapiragasam in 1860. 10
- A.9. p.314. (9) Certificate of baptism of Elizabeth in 1863.
- A.10. p.315.) (10) Certificates of marriage between Elizabeth
A.12. p.316.) and Pavilu Averan in 1881.
- A.11. p.317. (11) Certificate of baptism of Ponniah, the son of Pavilu Averan by a later marriage.

She denied that any of the Respondents were heirs of the Deceased or had come to the Deceased's house and associated themselves as his relations or came to see him in hospital or attended his funeral. 20
She also produced -

- A.16. p.321. (12) Certificate of death of Sinnavy in 1906.

In the course of cross-examination she gave the following evidence -

- p.228, 1.4. "My father's father was Eliavy. Eliavy had a brother called Sinnavy. Sinnavy lived at Kod-dady, which is a part of Vannarponnai West, Sinnavy did not marry Sinnachchi. (Shown A1). A1 is the dowry deed in my favour. The 2nd attesting witness to A1 is one Sinnavy Kandiah of Vannarponnai East. I do not know the names of the attesting to my dowry deed. A1 was attested by Notary B. Joachimpillai. I do not know whether Kandiah was a son of Sinnavy. I do not know Sinnavy Kandiah. My father Eliavy Arumugam was a Hindu right through. I became a Roman Catholic to marry Philip. Before my marriage I was a Hindu. My mother too was a Hindu. (Shown A4). I knew Catherine mentioned in A4. I am now 50 or 52 years of age. I do not know Kaithar Kanthar. My uncle (intestate) was Kanapathy Kanthar. He was also known as Kaithar Kanthar. It is only after 30 40

10 looking at A4 that I came to know that my uncle was also known as Kaithar Kanthar. My grandmother also told me that my uncle was known as Kaithar Kanthar. A4 was obtained during the life-time of my father Arumugam. (Shown A16). A16 is the death certificate of Kanthar Sinnavy. The informant of his death was Kanapathy Kanthar, the intestate. Kanapathy Kanthar has given the age of Sinnavy as 60 years. I do not know whether there was any other person called Kaithar Kanthar. It was the intestate who was known as Kaithar Kanthar. My uncle Kanthar married a woman called Piragasi at Trincomalee in 1909. Prior to that he had one or two mistresses."

20 "Kanthar was the son of Kathirinchi, who was a christian. Kanthar was a Roman Catholic right throughout. He belonged to St. Mary's Cathedral, Jaffna. He was baptised soon after his birth. I have not produced his baptismal certificate as it cannot be traced. I have also not produced his marriage certificate. His marriage certificate has been obtained. His marriage certificate is with my lawyers. Kanthar had one child by the union. The name of his child is Sinnappu, who is dead. I have not produced his death certificate. Sinnappu died when he was one or two years old. He must have died in 1912 or 1913. Kanthar had no relations at Changanai. I do not know when Kanthar was born. When I came to know him he was a Roman Catholic. I came to know him when I was about 5 or 6 years of age. I did not know him before that. When I first came to know him he resided at Karayoor. I deny that I was Kanthar's cook. Kanthar's wife was alive when Kanthar was residing at Karayoor."

p.230, 1.9.

30 "I heard that Kanapathy Kanthar was a bastard. I came to know about it from Kathirinchi."

p.231, 1.3.

40 "My father was living at Alaveddy. He used to come to Karayoor very often. After my uncle's death my father settled down at Karayoor. Till my uncle died my father lived at Alaveddy. Kathirinchi

p.231, 1.37.

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married one Kaithar of Kayts. He was a Roman Catholic. Kanapathy, the father of Kanthar, was from Vaddukodai."

p.232.

7. Evidence corroborating the baptismal certificates was given by N. John, the Sacristan of St. Mary's Church, Kayts, and S.A. Dominic the Sacristan of St. Mary's Cathedral, Jaffna. The latter testified that he knew the Deceased, that his name appeared in one of the registers of St. Mary's Cathedral, that he was buried in the Cathedral Burial Grounds, but without honours because he was not a practising Catholic.

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T.M. Anthony, a retired lecturer, testified as follows:

p.233, l.26.

"I married in 1914. Since my birth I am residing at Karayoor. Gurunagar is the same place as Karayoor. My house is at Bankshall Street in Karayoor. I knew the deceased Kanthar. I also knew his mother. I attended her funeral. She was known as Kathirinchi. She was buried in St. Mary's Cathedral burial grounds. I know the petitioner from her childhood. She was living with Pariari Kanthar (the intestate). I was a member of the Jaffna Urban Council for some time. I represented Ward No. 2 in the Jaffna Urban Council. Ward No. 2 also embraces Karayoor. Kanthar was also a voter of Ward No. 2. He was my physician. He also supported me in the Urban Council elections. I had borrowed monies from him. I have settled that debt. Kanthar married one Piragasi, a woman from Trincomalee. I also attended Kanthar's funeral. He was buried at St. Mary's Cathedral burial grounds. When he fell ill Mooper Rajendram, Arumugam, Sellammah and I took him to the Manipay Hospital for treatment. On the first occasion he was in the hospital for two days. After one or two days he was taken back to the Manipay Hospital for treatment. He died in that hospital. I was present when he died. It was I who gave him some water when he was breathing his last. Kathirinchi married one Kaithar. The intestate was known as Kanapathy Kanthar. I have spoken to Kathirinchi. Kathirinchi lived with another man called Kanapathy. The deceased was all along known as Kanapathy Kanthar. I knew notary Joachimpillai, who lived very close to my house. He practised as a notary in both English and Tamil. The 16th respondent was also present

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at Kanthar's funeral. I did not see any of the other respondents at the Manipay Hospital."

In cross-examination -

10 "I do not know whether Kanthar was a native of Koddady. He was living at Karayoor even when I was a small boy. Sellammah lived with Kanthar. I do not know whether Kanthar's relations lived at Koddady. Kathirinchi was the widow of Kaithar. I did not know Kaithar. I do not know whether Kathirinchi was a native of Karayoor. I did not know Kanapathy. One Kandiah also lived with Kanthar. He learnt medicine under Kanthar. p.235, 1.7.

I knew the deceased Kanthar for about 40 years. Kanthar was a Hindu by birth. I do not know whether he hailed from Changani. We used to call him Pariari Kanthar. I knew Eliavy Arumugam. He was from Alavaddy. I have seen him at Kanthar's house. He used to go to Alaveddy from Karayoor. Eliavy Arumugam was also a physician. p.235, 1.14.

20 Kanthar was known as Kanapathy Kanthar. I knew Kathrinchi for about 42 years. I attended her funeral. She died in Karayoor. Kanthar came to live at Karayoor long before I came to know him." p.235, 1.20.

8. Evidence on behalf of the Paternal Group was given by the following witnesses:-

30 Dr. S.G.C. Mills stated that he was employed at the hospital in which the Deceased died on the 19th May 1938. He identified a letter dated the 20th August 1938, which he had written to Mr. Nadarajah the Postmaster of Changanai, in which he said that the Deceased told him that "there are other heirs at Changanai, namely Vairavan and Sinnavan." The witness stated that he had known the Deceased for about 38 years but did not know whether he had relations at Changanai. p.239.

In cross-examination -

"Nadarajah wrote and found out from me as to what happened to Kanthar as some Palla people went P.240, 1.11.

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and troubled him. Neither Nadarajah nor I had any interest in this matter. I cannot now say whether Nadarajah sent that letter by post or through somebody else. I did not preserve the letter sent to me by Nadarajah. I sent 4R16 through a Palla man. 3 or 4 Palla people brought Nadarajah's letter. I did not know them before. I do not know Vairavan and Sinnavan. On the first occasion Sinnavan came to the hospital. They told me that they were close relatives of the deceased. I found out the names of only Vairavan and Sinnavan. Actually the man who died told me the names of these two persons stating that they were his heirs. (The witness volunteers).

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Q. My question to you was whether you found out the names of those two people when they visited the deceased at the hospital?

A. I did not find out their names from them.

Vairavan and Sinnavan visited the deceased at the hospital.

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Q. Did you ask them for their names?

A. Yes. At that time I was going to the ward to give an injection to the deceased.

Then I asked them "Who are you" and so on. On an average 75 or 80 patients come to the hospital daily. I wrote 4R16 about three months after the death of the deceased. Aiyathurai created a big scene at the hospital when the man died. He was rolling on the verandah of the Dispensary.

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Q. Do you tell the Court that you distinctly remember that three months later these two men Vairavan and Sinnavan came there?

A. Yes.

As soon as Nadarajah wrote to me I recollected everything that took place in a flash.

Q. Did the man who died tell you the relationship of Vairavan and Sinnavan to him?

A. No.

Q. Do you know that these people belong to the Nalava community and not to the Palla community?

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A. I do not know. I thought that they belonged to the Palla community."

V. Balasingham produced the death certificate of the Deceased and deposed that the information had been given him by a cousin or close relation of the Deceased.

p.241
4R17. p.352.

Vairavan Kanapathy (the 22nd Respondent) deposed as follows:-

10 "My father was Vairavan. Vairavan's father was Nannian. My father died about ten years ago. Nannian had a brother called Velan. Nannian married Theivy. Velan also married Theivy. Velan and Theivy had a daughter. No. They had a son. Velan's son was Kanapathy, who married Kannattai. My father told me that Kanapathy and Kannattai lived at Koddady. Kanapathy and Kannattai had a son called Kanthar, who was a physician. Kanthar lived at Karayoor. Nannian and Theivy had four children, Vairavan, Sinnavan, Velan and Valli. 20 Sinnavan had four children, viz., the 20th, 21st, 24th and 26th respondents. Velan had two children Marimuttu and Vaithy, the 4th and 5th respondents. Valli had four children, Ledchumy, Thangamuttu, Ponni and Sinnapillai, Sinnapillai married Vaithy. The original 20th respondent Kanapathy is dead. He left behind two children. Thangammah and Rasammah, the 22nd and 24th respondents. I knew the deceased Kanthar. I knew his mother to some extent. Her name is Kannattai. I attended Kanthar's 30 funeral. I also visited him at the Manipay Hospital. My father too visited him there."

p.242, l.25.

40 In cross-examination he said that he knew Kannattai, but not her parents or her brothers and sisters, that she died about 5 or 6 years before the Deceased, that he did not attend her funeral, that he did not know whether she was Christian or Hindu, that he knew the Deceased for more than 15 years, that he knew the Deceased for the first time about 20 years ago, that the Deceased had died about 18 or 20 years ago, that he did not know whether the Appellant or her father were related to him but that the Appellant was a cook in his house, that he did not know when Kanapathy married Kannattai, that he did not know whether Kannattai had any brothers

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or sisters or whether those brothers and sisters had any children, that his father had told him about Velan, that his father told him that the Deceased did not marry anyone, that he did not know whether the Deceased was an illegitimate child.

A number of witnesses were called to corroborate this testimony.

- p.256, l.28. 9. The only witness called on behalf of the Maternal Group was Vairavy Chelliah, the 28th Respondent, who stated that Kannattai's brother Sinnavy had married Sinnachchi and produced a family from which this Group was descended. In support of his evidence he produced 3 conveyances of land. In cross-examination he stated - 10
- p.258, l.1. "I do not know whether Sinnavy was baptised at Kayts. I also do not know whether he married at Kayts. I do not know whether he married one Innesam. I do not know Elizabeth and Pavilu Avuran. I know Avuran Ponniah. I do not know whether Pavilu Avuran married Elizabeth. Avuran Ponniah and I are masons. Ponniah may be related to me. I do not mix with him freely. I do not know whether Pavilu Avuran married for the first bed Sinnavy's daughter Elizabeth. I have not produced the birth certificates of my mother's brothers and sisters. I have also not produced my birth certificate to show that Mutty was my mother. I have also not produced the marriage certificate of Sinnavy and Sinnachchi. I do not know whether Sinnavy and Sinnachchi were legally married." 20 30
- p.261. 10. The 18th Respondent and one other witness testified on behalf of the 4th group of claimants.
- p.266, l.31. 11. In the course of his judgment the District Court Judge said that in order to succeed Group (1) must prove that the Deceased was an illegitimate child of Kathirinchy and that Groups (2) and (3) must prove that the Deceased was a legitimate child of Kanapathy. The Judge proceeded to analyse the evidence both oral and documentary. In so doing he applied his knowledge of the class of people with whom the evidence was concerned and his opinions of the credibility of the individual witnesses. He held that neither Group (1) nor Group (2) nor Group (3) were entitled to any share 40
- p.271, l.15.

in the estate and that the evidence led by the Respondents failed to prove that Kanapathy was married to the Deceased's mother, whatever her name.

12. Accordingly the District Court Judge answered the Issues as follows:-

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| | 1. Did Kanthar and wife Kathirasi have a daughter Kathirinchi and a son Eliavy? - | Issues: p.218.
Answer: p.272. |
| | Yes. | |
| 10 | 2. Was the deceased Kanthar, the son of Kathirinchi? - | |
| | Yes. | |
| | 3. Was Eliavy's son Arumugam? - | |
| | Yes. | |
| | 4. Was Arumugam the sole heir of the deceased Kanthar? - | |
| | Yes. | |
| 20 | 5. Are the Administratrix de bonis non and her sister, the 16th respondent, the heirs of the said Arumugam? - | |
| | Yes. | |
| | 6. Are the 14th and 27th to 30th respondents barred by the order dated 19-2-51 from proving heirship to the estate? - | |
| | No. | |
| | 7. Was Kanthar the legitimate son of Velan Kanapathy? - | |
| | No. | |
| | 8. Was Theivy, the mother of Kanapathy, the father of Kanthar? - | |
| 30 | 10. Did Theivy, after the death of Velan, marry Nanian? | |
| | 11. If so, are the respondents 4 to 11 and 20 to 26 heirs of Kanthar? | |
| | 12. If so, what portion of the estate did they inherit? | |

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13. Has the Administratrix de bonis non taken the produce and income from the land and buildings belonging to the estate?
14. If so, what is the amount of such income?
15. Is the Administratrix de bonis non liable to bring the income into Court and to pay the heirs such income?
16. Did Arumugam, the original Administrator, take the produce? 10
17. What is the amount of such income?
18. Is Sellammah as executrix of the estate of Eliavy Arumugam liable to bring that amount into Court?
19. Did the Administratrix de bonis non or Sellammah in her personal capacity and the 16th respondent sell the properties referred to in schedule B to the statement of objections filed by the 4th to 11th and 20th to 26th respondents on 17-10-55? 20
20. Has the Administratrix de bonis non failed to disclose the properties referred to in schedule "A" to the petition?
21. Did the Administratrix de bonis non and her sister mortgage any of the properties belonging to the estate without the permission of Court? -
- 10, 11 and 12. Do not arise in view of the answer to issue No. 7. 30
- 13 to 21. Do not arise in view of the answers to Issues 1 to 5 and 30 and 31.
22. Did the deceased leave behind drugs and medicine at the time of his death? -
No.
23. If so, what is their value? -
Does not arise.

24. Have the interest of Kanthar Sinnavy devolved on the 14th, 27th, 28th and 30th respondents? -

No.

25. If so, what share? -

Does not arise.

26. Did Sinnan, widow of Murugan, inherit the estate of the deceased, Kanthar on the pedigree filed of record dated 29-8-40? -

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No.

27. Did Sinnan die leaving behind a Last Will bequeathing her estate to the 17th and 18th respondents? -

Sinnan alias Sinny left behind a Last Will; but she had no estate to bequeath.

28. Have the interests of the 2nd respondent devolved on the 31st to 34th respondents? -

No.

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29. If so; what is the extent of that interest? -

Does not arise.

30. Did Sellammah and her sister sell any properties after the estate was closed in 1951 in their personal capacity as heirs of their father,

Yes.

31. If so, are they accountable in this proceedings for such sale? -

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No.

In the result, I would hold that the administratrix de bonis non Sellammah and the 16th respondent are the only heirs of the Late Kanapathy Kanther. Contesting respondents to pay the cost of this inquiry.

I would order Sellammah to file proper accounts."

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- p.273, 282.
p.289.
13. Petitions of Appeal to the Supreme Court were filed on behalf of the respondents included in Groups (2) and (3). The Respondents included in Group (4) filed Objections to the said Judgments but did not pursue their appeal.
- p.296.
14. The appeal was argued on the 30th April 1958 and the Judgment of the Supreme Court (Sansoni J, T.S. Fernando J. agreeing) was delivered on the 9th May 1958. In the course of their Judgment the Supreme Court reversed the findings and conclusions of fact reached by the District Court Judge and held to the contrary:-
- (a) that the certificate of death of Kathirinchy widow of Kaithar (A4) did not refer to the Deceased's mother.
- (b) that the Kathirinchy who was the mother of the Deceased was not the widow of Kaithar.
- (c) that it was not part of the Appellant's case that Kathirinchy first married Kaithar and after she became a widow had a child, the Deceased, by Kanapathy. 20
- (d) that the District Court Judge should not have accepted that Sinnavi had changed his name to Gnanapragasam or that he had a daughter Elizabeth who died childless.
- (e) that the District Court Judge should not have rejected the evidence of the 28th respondent although he did not impress him favourably as a witness.
- (f) that the group to which the 28th respondent belonged (the Maternal Group) had established their claim to be descendants of Sinnavi, a brother of the Deceased's mother Kannathai, and were therefore entitled to share in the estate in the same proportion as the Appellant and her sister. 30
- (g) that the marriage of the Deceased's parents might be presumed from the evidence -
- (i) that the Deceased had recognised the parents of some of the Paternal Group as his heirs; 40
- (ii) that witnesses had stated that

Kanapathy and Kannathai had lived together as husband and wife and while so living together had a child who was the Deceased.

(iii) that persons who had special means of knowledge of the relationship between Kanapathy, Kannathai and Kanthar were said to have made statements relating to the existence of their relationship before this dispute arose.

10 (h) that the District Court Judge wrongly held that Dr. Mills was mistaken in his evidence.

(i) that the evidence of the 22nd respondent was entitled to greater consideration and credit than it received from the District Court Judge.

(j) that both groups of appellants to the Supreme Court had established their claims to be heirs of the Deceased.

20 By Decree dated the 9th May 1958 the Supreme Court allowed the appeals of the Respondents in question and ordered that the costs in both Courts be paid by the Appellant personally. p.304.

15. The Supreme Court granted to the Appellant by Decree dated the 16th July 1958 conditional leave to appeal to the Privy Council and by Decree dated the 6th August 1958 final leave to appeal to the Privy Council. p.308.
p.312.

30 16. By Order dated the 18th June 1959, the Supreme Court declared that this appeal should stand dismissed for non-prosecution, but by Order in Council, dated the 20th November 1959, it was ordered that leave be granted to the Appellant to enter and prosecute this Appeal.

17. The Appellant humbly submits that the Judgment and Decree of the Supreme Court of Ceylon both dated the 9th May 1958 should be set aside and that the Judgment of the District Court dated the 28th March 1956 should be restored for the following among other

R E A S O N S

40 1. BECAUSE there was no evidence sufficient in law to prove that the parents of the Deceased were legally married.

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2. BECAUSE the District Court Judge was entitled to hold and rightly held as a fact that it was not proved that the parents of the Deceased were legally married.
3. BECAUSE even if it was proved or should be presumed that the parents of the Deceased were legally married, the District Court Judge was entitled to hold and rightly held as a fact that neither group of the Respondents had established their claim to be heirs of the Deceased. 10
4. BECAUSE the District Court Judge having heard and seen the witnesses was entitled to assess their accuracy and credibility and his assessment should not have been overridden by the Supreme Court.
5. BECAUSE the District Court Judge was entitled to draw and rightly drew from the documentary evidence together with all the other evidence in the case the inferences set out in his Judgment. 20
6. BECAUSE the Supreme Court erred in reversing the findings of the District Court and replacing them with their own findings of fact and conclusions based thereon.
7. BECAUSE the Judgment of the District Court was right and should be restored.

DINGLE FOOT.

JOSEPH DEAN