

(28)

Judgment 28, 1969

No. 32 OF 1968

Supreme Court of Ceylon,  
No. 436 (Final) of 1964.

District Court of Kuliypitiya,  
Case No. 784/P.

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

BETWEEN

PATTINI KUTTIGE JOKEENU NONIS of Poogalla, Kithalawa,  
in Yatikaha Korale South.

(Plaintiff-Appellant)  
APPELLANT

AND

- 1. HORATALPEDI DURAYALAGE PETHTHA *alias* PETHTHA VEDA,
- 2. HORATALPEDI DURAYALAGE WATTUWA, both of Eluwapola,  
in Mayurawathie Korale.

UNIVERSITY OF LONDON  
 INSTITUTE OF ADVANCED  
 LEGAL STUDIES  
 - 9 MAR 1970  
 25 RUSSELL SQUARE  
 LONDON

(Defendants-Respondents)  
(RESPONDENTS)

RECORD  
OF PROCEEDINGS

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*(Defendants-Respondents)*  
(RESPONDENTS)

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RECORD  
OF PROCEEDINGS

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**PART 1.**

**No. 1.**

No. 1.  
Journal  
Entries.  
7.12.62. to  
27.3.67.

**Journal Entries**

**IN THE DISTRICT COURT OF KURUNEGALA HOLDEN  
AT KULIYAPITIYA**

Pattini Kuttige Jokeenu Nonis of Poogalla.

..... *Plaintiff*

No: 784

Class: V

10 Amount: Rs. 14,000/- *Versus*

Nature: Partition

Procedure: Regular

1. Horatalpedi Durayalage Peththa  
alias Peththa Veda of Eluwapola  
and another.

..... *Defendants*

**JOURNAL**

The 7th day of December, 1962.

20 Mr. A. B. M. De Alwis, Proctor for Plaintiff, files appointment and  
Plaint together with Plaintiff's pedigree, Abstract of title and Application  
for Registration of a Lispendens and moves that the same be accepted and  
that the Lispendens be forwarded for registration and return and that a date  
be given to file Kachcheri Receipt for survey fees:

1. *Plaint accepted.*
2. Forward Lispendens to Registrar of Lands Kurunegala for registra-  
tion and return on or before 23-1-63.
3. Kachcheri Receipt for Rs. 75/- being survey fees to be deposited  
on or before 23-1-63.

30

Sgd. A. M. AMEEN,  
*Additional District Judge*

Summons issued with Precept returnable the      day of      19,



1. Notice served on Village Headmen and affixed on the land after due Proclamation.
2. Summons served on 1st and 2nd defendants,
 

Defendants 1	Present
— do — 2	Present
3. Vide Journal Entry of 10-4-63, Extend and Reissue Commission returnable 17-7-63 furnishing postal address.

No. 1.  
Journal  
Entries.  
7.12.62 to  
27.3.67.  
—continued.

Statements of 1st and 2nd defendants 17-7-63.

10

Sgd. A. M. AMEEN,  
29-5-63

10- 6-63 Mr. Alwis, Proctor for Plaintiff, furnishes postal addresses of the defendants.

Amend and re-issue commission returnable 17-7-63.

Sgd. A. M. AMEEN,  
*Additional District Judge*

10- 6 Commission amended and re-issued to Mr. V F Warnakula-suriya, Licensed Surveyor.

Intld.

20 17- 7-63

1. Commission not executed as correct postal addresses of parties have not been furnished—vide report filed.

Extend and Re-issue commission for 5-9-63 giving correct postal address.

2. Statements of claim of 1st and 2nd defendants—due. Mr. D. A. B. Ratnayake and Assistants file proxy of 1st defendant together with his statement.

Sgd. A. M. AMEEN

17- 8-63 Commission re-issued.  
Returnable 4/9

30 5- 9-63 Mr. A. B. M. de Alwis for plaintiff.  
Mr. Ratnayake and Assistants for 1st  
Return to Commission due—not received.

No. 1.  
Journal  
Entries.  
7.12.62 to  
27.3.67.  
—continued.

Call for and extend and re-issue for 7-11-63.  
2nd defendant present and states that he agrees to a partition  
in terms of the plaint.

Sgd. A. M. AMEEN,  
5-9-63

20- 9 Commission re-issued to Mr. V. F. Warnakulasuriya.

Intld.

7-11-63 Return to Commission due—filed with report, Plan No. 6620,  
field notes etc.

Tax and Pay. Balance if any for 18-12-63. 10

Total value. . . . .Rs. 14,724.00

Claimants other }  
than parties } nil

Consideration of Plan for same date.

Sgd. A. M. AMEEN,  
*Additional District Judge*

Taxed at Rs. 239/32

Balance Survey Fees Rs. 164/32 due.

Intld.

7-11-63 Requisition No. 1212 for Rs. 75/- issued to Mr. V F. Warnakulasuriya, Licensed Surveyor. 20

Intld.

18-12-63 Mr. A. B. M. de Alwis for Plaintiff.

Mr. Ratnayake and Assistants for 1st defendant.

Balance Survey Fees Rs. 164.32—Kachcheri Receipt filed.

Consideration of Plan accepted by Plaintiff and 1st Defendant.

Trial on 11-3-64.

Sgd. A. M. AMEEN,  
*Additional District Judge,*  
18-12-63 30



18-12 Requisition No. 1272 for Rs. 164/32 issued to Mr. V. F. Warnakulasuriya, Licenced Surveyor. No. 1.  
Journal  
Entries.  
7.12.62. to  
27.3.67.  
—continued.

Intld.

31- 1-64 Mr. D. A. B. Ratnayake and his Assts. for 1st defendant files his list of witnesses and documents and moves for summons on their witnesses.

Proctor for Plaintiff received copy.

Allowed.

Sgd.  
*Additional District Judge*

31- 1- Summons issued to Fiscal Marshal, Kuliyaipitiya.

Intld.

31- 1-64 Mr. A. B. M. de Alwis for Plaintiff files plaintiff's list of witnesses.

Proctor for 1st defendants received copy.

File.

Sgd.  
*Additional District Judge*

29- 2-64 Mr. D. A. B. Ratnayake and his Assts. for 1st defendant files 1st defendant's additional list of witnesses with copy and the list served on Proctor for plaintiff.

File.

Sgd.  
*Additional District Judge*

11- 3-64 TRIAL (1)

Mr. A. B. M. de Alwis for plaintiff  
Mr. Ratnayake & Assts. for 1st defendant } Present

*Vide* proceedings.

Further trial 18-3-64.

Sgd.  
*Additional District Judge*

No. 1.  
Journal  
Entries.  
7.12.62. to  
27.3.67.  
—continued.

18- 3-64 FURTHER TRIAL (2)

Mr. A. B. M. de Alwis for Plaintiff.

Mr. D. A. B. Ratnayake & Assts. for 1st defendant.

Mr. Ratnayake moves for a date on personal grounds. Mr. de Alwis has no objections.

Allowed.

Further Trial 15-4-64.

Sgd.  
*Additional District Judge*

15- 4-64 FURTHER TRIAL (3)

10

Mr. A. B. M. de Alwis for Plaintiff — Present

Mr. Ratnayake & Assts. for 1st Defendant — Present

*Vide* proceedings.

Documents and Addresses on 30-4-64.

Sgd.  
*Additional District Judge*

30- 4-64 ADDRESSES (1)

Mr Ratnayake moves for a date.

Defence has no objections.

Allowed.

Documents and Addresses on 7-5-64.

20

Sgd.  
*Additional District Judge*

7- 5-64 ADDRESSES

*Vide* proceedings,  
Defendants documents D1 to D8 filed,  
Plaintiff's documents due,  
Judgment on 28-5-64.

Sgd.  
*Additional District Judge* 30

3 -6-64 Mr A. B. M. de Alwis for Plaintiff.

No. 1.  
Journal  
Entries.  
7.12.62 to  
27.3.67.  
—continued.

Mr. D. A. B. Ratnayake & Assts. for 1st defendant.  
28th May 1964 being a Public Holiday the case is called to-day.

Judgment delivered in Open Court in the presence of the parties.

Sgd.  
*Additional District Judge*

12-6 -64 Proctor for Plaintiff-Appellant files petition of appeal of the Plaintiff-Appellant from the judgment and order of Court dated 3-6-64, together with—

- 10
- (a) Secretary's Certificate in appeal.
  - (b) Notice of tendering security in appeal with Precept.
  - (c) Notice of Appeal with copies of Petition of Appeal.
  - (d) An application for typewritten copies with Money Order for Rs. 25/-.

and moves that the same be accepted and that the notice tendering security be issued forthwith and that the Petition of Appeal be forwarded to the Supreme Court in due course.

- 20
1. Accept Petition of appeal.
  2. Issue notice of tendering security, returnable 22-6-64.
  3. Forward Money Order to Government Agent.

Sgd.  
*Additional District Judge*

Notice of Tendering Security issued to Fiscal Marshal. 12-6-64

- 17- 6-64
1. Money Order No. 220850 (security) for 200/- with Paying in voucher, sent to Government Agent, Kurunegala.
  2. Money Order No. 220851 (certified copy) for Rs. 25/- with Paying in Voucher sent to Government Agent, Kurunegala.

Intld.

22- 6-64 Mr. A. B. M. de Alwis for Plaintiff Appellant.  
30 Mr. D. A. B. Ratnayake & Assistant for 1st Defendant-Respondent  
Notice of tendering security served on

No. 1.  
Journal  
Entries.  
7.12.62 to  
27.3.67.  
—continued.

1st Defendant-Respondent

2nd Defendant-Respondent

and 1st Defendant's Proctor—Mr. D. A. B. Ratnayake

2nd Defendant-respondent waives security.

I fix security in Rs. 200/-.

Issue Notice of appeal on bond being furnished for 30-7-64.

Sgd.  
*Additional District Judge*

Bond filed.

Intld. 10

22- 6-64 Notice of Appeal issued through Fiscal.

Intld.

1- 7-64 1. Kachcheri Receipt 1788 of 19-6-64 for Rs. 200/ filed.

2. Kachcheri Receipt 1789 of 19-6-64 for Rs. 25/- filed.

Intld.

30- 7-64 Mr. A. B. M. De Alwis for Plaintiff.

Mr. Ratnayake & Assistants for Defendant.

Notice of Appeal served on Proctor for Defendant and on  
Defendants 1 & 2.

Defendant's proctor is present. 20

1st Defendant is absent.

2nd Defendant is present.

Forward record to Registrar of the Supreme Court.

Sgd.  
*Additional District Judge*

28- 7-66 Registrar, Supreme Court returns record with order of Their  
Lordships dismissing the appeal with costs.

Notice parties for 9-9-66 to communicate Supreme Court Order. No. 1.  
Journal Entries. 7.12.62 to 27.3.67.  
Sgd. Additional District Judge —continued.

Notice Issued.

Sgd.  
29-7-66

9- 9-66 Notice served on Plaintiff and Defendants.

Plaintiff is

Defendants are 1.

10

2.

Vide Journal Entry of 28-7-66

Defendant-respondent present and informed of the decision of the Supreme Court.

Sgd.  
Additional District Judge

27- 3-67 Registrar, Supreme Court calls for record as permission to appeal to Privy Council has been allowed.

Forward record with all Documents.

20

Sgd.  
District Judge

---

**No. 2**

**Plaint of the Plaintiff**

(with Pedigree and Abstract of Title)

No. 2.  
Plaint of the  
Plaintiff.  
7.12.62.

IN THE DISTRICT COURT OF KURUNEGALA HOLDEN  
AT KULIYAPITIYA

Pattini Kuttige Jokeenu Nonis of Poogalla,  
Kitalawa in Yatikaha Korale, South.

. . . . . Plaintiff

No. 2. No: 784  
 Plaintiff of the Class: V  
 7.12.62. Value: Rs. 14,000/-  
 —continued. Nature: Partition  
 Procedure: Regular

*Versus*

1. Horatalpedi Durayalage Peththa alias  
 Peththa Veda, Ketawalegedera, Wewagama.
2. Horatalpedi Durayalage Wattuwa both of  
 Wewagama, Weweliyadda.

... .. *Defendants* 10

On this 7th day of December, 1962.

The Plaintiff of the Plaintiff abovenamed appearing by Augustine Basil Marcus De Alwis, his Proctor, states as follows:—

1. The parties to this action reside and the land sought to be partitioned is situated within the jurisdiction of this Court.

2. The lands called (1) Galagawawatta in extent One Acre, Two Roods and Ten Perches (1A. 2R. 10P.) depicted in Title Plan No. 284676 dated 29th October, 1912 (2) Galagawahena in extent Three Acres, One Rood and Seven Perches (3A. 1R. 07P.) and depicted in Title Plan No. 298661 dated 25th November, 1913 and (3) Galagawawatta in extent Two 20 Acres and twenty two Perches (2A. 0R. 22P) and depicted in Title Plan No. 284583 dated 17th October, 1912, were at the disposal of the Crown, which said lands are contiguous to each other and form one property and fully described in the Schedule hereto and is of the reasonable value of Rs. 14,000/-.

3. The Crown by its Grants dated 20th September, 1913, 20th February, 1914 and 10th May, 1919 respectively granted the said lands to the person called Horatalpedi Durayalage Peruma, who thereupon, became entitled thereto, and entered into possession thereof.

4. The said Peruma being so seized and possessed of the said lands 30 amalgamated the same into one property as described in the Schedule hereto and by Deed of Gift No. 2452 dated 15th July, 1924 and attested by E. F. W. Jayawardena, Notary Public gifted the same to his children:

Peththa the 1st Defendant abovenamed;  
 Sekara; and  
 Wattuwa the 2nd Defendant abovenamed  
 each of whom thereupon became entitled to an undivided 1/3rd share of the said land and entered into possession thereof.

5. The said Sekara being so seized and possessed of an undivided 1/3rd share of the said land by Deed No. 29662 dated 18th March, 1960 and attested by S. D. Karunaratne, Notary Public sold the same to Sumanadasa, who thereupon, became entitled thereto and entered into possession thereof.

No. 2.  
Plaint of the  
Plaintiff.  
7.12.62.  
—continued.

6. The said Sumanadasa being so seized and possessed of the said 1/3rd share of the said land by Deed No. 820 dated 26th July, 1962 and attested by A. B. M. De Alwis, Notary Public, sold the same to Jokeenu Nonis the Plaintiff abovenamed, who thereupon became entitled thereto  
10 and entered into possession thereof.

7. The parties to this action are thus entitled to the said land in the following shares:—

Plaintiff to an undivided 1/3rd share.

1st Defendant to an undivided 1/3rd share, and

2nd Defendant to an undivided 1/3rd share.

8. The plaintiff and before him his predecessors-in-title have been in the undisturbed and uninterrupted possession of the said share of the said land for a period of well over ten years and in respect of such possession pleads and claims the benefits of Section 3 of Ordinance No. 22 of 1871.

20 9. The common and undivided possession of the said land by the parties being inconvenient and impracticable the Plaintiff seeks to partition the same under the provisions of the Partition Act No. 16 of 1951 and if a partition thereof being impracticable to have such order in terms of Section 26 of the said Act.

10. The improvements on the said land are held in common by the parties, excepting the tiled house standing thereon and belonging to the 1st defendant.

Wherefore the Plaintiff prays:—

- 30 (a) That he be declared entitled to an undivided 1/3rd share of the said land.
- (b) That the Court be pleased to order a partition thereof in terms of the provisions of the Partition Act No. 16 of 1951 and if a partition thereof being impracticable to make such order in terms of the provisions of Section 26 of the said Act.
- (c) That he be allotted a divided and specific portion of the said land in lieu of his undivided share therein and that he be put placed and quieted in possession thereof.

No. 2.  
Plaint of the  
Plaintiff.  
7.12.62.  
—continued.

- (d) For Costs of contest, if any.  
(e) For costs Pro-rata; and  
(f) For such other and further relief as to this Court shall seem meet.

Sgd. A. B. M. De Alwis,  
*Proctor for Plaintiff*

### THE SCHEDULE ABOVE REFERRED TO

All those contiguous allotments of land called Galagawawatta shown as Lot 1 in P.P.942 in extent One Acre, Two Roods and Ten Perches as per Title Plan No. 284676 dated 29th October, 1912 situated at Ketawalagedera, Galagawawatta shown as Lot 2F in P.P. 934 containing in extent Two Acres and Twenty two perches as per Title Plan No. 284583 dated 17th October, 1912 situated at Eluwapola and Galagawahena shown as Lot 2E in P.P. 934 and containing in extent Three Acres One Rood and Seven Perches as Per title Plan No. 298661 dated 25th November, 1913 situated at Eluwapola in Mayurawathie Korale of Dambadeni Hatpattu in the District of Kurunegala of the North Western Province and bounded on the North by Lot 20P in P.P. 933 and T.P. 288046 and by the Village limit of Wadugedera East by Lots 1A and 1B in P.P. 942 and Village limit of Ketawalagedera South by T.P. 260368, Gansabawa Road and Lot 18-1/2 in P.P. 934 and on the West by Lots 2G and 2D in P.P. 934 and T.Ps. 284579 and 284589, containing in extent exclusive of the Gansabawa Road passing through the land Seven Acres (7A. 0R. 00P.), together with everything appertaining thereto and Registered in F224/213. 10

Sgd. A. B. M. De Alwis,  
*Proctor for Plaintiff*

No. 2.  
Plaint of the  
Plaintiff.  
7.12.62.  
—  
Pedigree  
—continued.

### Plaintiff's Pedigree Filed with the Plaintiff IN THE DISTRICT COURT OF KURUNEGALA HOLDEN AT KULIYAPITIYA

No....

#### Plaintiff's Pedigree

30

- (1) Galagawawatta in extent 1A. 2R. 10P. depicted in Title Plan No. 284676 dated 29th October, 1912 and attached to Crown Grant dated 20th September, 1913.
- (2) Galagawahena in extent 3A. 1R. 07P. depicted in Title Plan No. 298661 dated 25th November, 1913 and attached to Crown Grant dated 20th February, 1914; and



(3) Galagawawatta in extent 2A. 0R. 22P. depicted in Title Plan No. 284583 dated 17th October, 1912 and attached to Crown Grant dated 10th May, 1919.

No. 2.  
Plaint of the  
Plaintiff.  
7.12.62.  
—  
Pedigree  
—continued.

Were at the disposal of the

CROWN

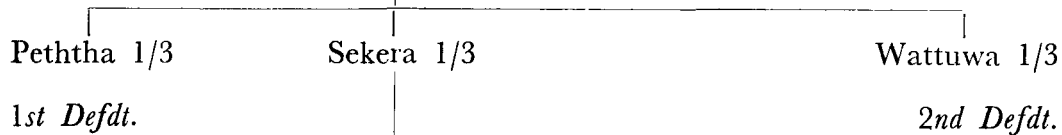
Granted by its Grants dated 20th September, 1913, 20th February, 1914 and 10th May, 1919

Horatalpedi Durayalage Peruma

10

Amalgamated the said lands and formed one property of the extent of about Seven Acres

Gifted to his children in equal shares 2452/15-7-1924 attested by E. F. W. Jayawardena, N.P.



sold 1/3  
29662/18-3-1960  
attested by S. D. Karunaratne, N.P.

Sumanadasa

20

Sold 1/3  
820/26-7-1962  
attested by A. B. M. De Alwis, N.P.

Jokeenu Nonis

*Pltff.*

**Shares:**

Plaintiff to . . . . . 1/3  
1st Defendant to . . . . . 1/3  
2nd Defendant to . . . . . 1/3

Sgd. A. B. M. De Alwis,  
*Proctor for Plaintiff*

30

Kuliyapitiya, 7th Dec., 1962.

No. 2.  
Plaint of the  
Plaintiff.  
7.12.62.  
—  
Abstract of  
Title.

**IN THE DISTRICT COURT OF KURUNEGALA HOLDEN AT KULIYAPITIYA.**

**Abstract of Title** (1) Galagawawatta of 1A. 2R. 10P. (2) Galagawahena in extent 3A. 1R. 07P. and (3) Galagawawatta in extent 2A. OR. 22P.

Nature of Instrument	Names of Parties		Share of land dealt with	Original or Copy
	Grantor	Grantee		
Crown Grants dated 20-9-1913, 20-2-1914 and 10-5-1919	The Crown	Horatalpedi Durayalage Peruma	Entirety	Copy
Deed of Gift No 2452 dated 15th July, 1924 attested by E. F. W. Jayawardena N. P.	Horatalpedi Durayalage Peruma	Horatalpedi Durayalage Peththa, -do- Sekera and -do- Wattuwa.	-do-	Copy
Tr. No. 29662 dated 18-3-1960 attested by S. D. Karunaratne, N. P.	Horatalpedi Durayalage Sekera	K. A. D. Sumanadasa	$\frac{1}{3}$	Original
Tr. No. 820 dated 26-7-1962 attested by A. B. M. De Alwis, N.P.	K. A. D. Sumanadasa	P. K. Jokeenu Nonis	$\frac{1}{3}$	Original.

Kuliyapiiya, 7th December, 1962.

Sgd. A. B. M. de Alwis,

*Proctor for Plaintiff.*

## No. 3

**Commission Issued to V. F. Warnakulasuriya, Licensed Surveyor**  
**(with Plans Nos. 284583, 284676 & 298661, 21-3-63)**

No. 3.  
 Commission  
 Issued to  
 V. F. Warnakulasuriya.  
 Licensed  
 Surveyor.  
 21.3.63.

IN THE DISTRICT COURT OF KURUNEGALA HOLDEN  
 AT KULIYAPITIYA

**COMMISSION TO SURVEY LAND IN TERMS OF THE  
 PARTITION ACT NO. 16 of 1951**

No. 784/P.

To: Mr. V. F. Warnakulasuriya,  
 Licensed Surveyor,

10 *Katuneriya.*

You are hereby directed to proceed to the land or lands described in the schedule in the plaint attached hereto and to survey the said land or lands to which the said action relates and to make due return to this Commission on or before 28th day of May 1963. The case will be called in Open Court on 29-5-63.

You are further directed in terms of Section 17(1) of the Partition Act No. 16, 1951 on receipt of this commission, to fix a date for commencing the survey of the said land or lands and to, at least fourteen days before and date, issue notice in writing to all the parties named in the attached  
 20 plaint that you propose to commence the Survey of the said land or lands on that date.

You are further directed that the said notice shall be sent in the prescribed form, and through the post by registered letter directed to the address or addresses stated in the said plaint.

You are further directed that in addition to the said written notice, you shall at least fourteen days before the date fixed for the survey, cause the fact that you will commence the survey on that date to be orally proclaimed after beat of tom-tom on the land or lands to be surveyed.

You are to survey any larger land than that described in the schedule  
 30 to the plaint if any defendant named in the plaint points out such larger land as the land which should be the subject matter of the partition action.

You are further directed that you shall duly execute the said commission before the date fixed for the purpose and make due return thereto in the prescribed form and shall transmit to this Court in terms of Section 18(1) of the said Act:—

No. 3.  
Commission  
Issued to  
V. F. Warnakulasuriya.  
Licensed  
Surveyor.  
21.3.63.  
—continued.

- (a) a report verified by affidavit stating:—
- (i) the dates on which notice of survey was issued to the parties.
  - (ii) the nature and value of the land or lands surveyed and of add. buildings, walls, trees, fences, wells, plantations and other improvements thereon and the details of your computation of such value.
  - (iii) the parties to the action who were present at the Survey and the name and address of any person (not being a party to the action) who at the time of the survey preferred any claim and the nature of such claim. 10
  - (iv) the result of your investigation of any particular fact of matter specifically referred to in the terms of your commission.
  - (v) any fact, matter or circumstance relating to your survey or to the land or lands surveyed which in your opinion, may be necessary for, or prove of assistance in the determination of the action.
- (b) a Plan of the land or lands surveyed, verified by affidavit, showing:
- (i) the boundaries of any divisions of the land subsisting at the time of your survey such divisions being indicated by appropriate numerals. 20
  - (ii) the locations of all buildings, walls, and wells such, locations being indicated by appropriate letters.
  - (iii) the trace or course of any road, path, or stream with the boundaries of the land or lands and
  - (iv) any other physical feature of or on the land which in your opinion may be necessary or prove of assistance in, the determination of the action.

(c) a certified copy of your field notes.

Title Plan Nos. 284583, 298661 and 284676 are annexed.

The 21st day of March, 1963.

Sgd. A. M. AMEEN,  
*Additional District Judge*

10- 6-63 Extended and re-issued for 16-7-63. The case will be called in the open Court on 17-7-63.

No. 3.  
Commission  
Issued to  
V. F. Warnakulasuriya.  
Licensed  
Surveyor.  
21.3.63.  
—continued.

Sgd. A. M. AMEEN,  
*Additional District Judge*

17- 8-63 Extended and re-issued for 4-9-63. The case will be called in open Court on 5-9-63.

Sgd. A. M. AMEEN,  
*Additional District Judge*

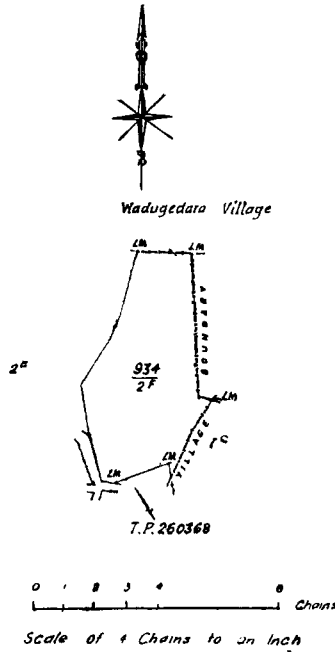
10 20- 9-63 Extended and re-issued for 6-11-63. The case will be called in the Open Court on 7-11-63.

Sgd. A. M. AMEEN,  
*Additional District Judge*

No. 3.  
Commission  
Issued to  
V. F. Warnakulasuriya.  
Licensed  
Surveyor.  
21.3.63.  
Plan No.  
284583—  
17.10.12.

B.S. Sheet 16 of 1  $\frac{17}{7, 8, 15, 16}$  & 1  $\frac{17}{23, 24, 31, 32}$

No. 284583



PLAN

of an allotment of land called Galagawakotta in Eluwapala Village Mayurawari,  
Korale of Dambadeni Halpattu in the District of  
KURUNEGALA

NORTH-WESTERN PROVINCE

Bounded as follows.

North by the Village Limits of Wadugedara

East by Lots 1 & 1<sup>c</sup> in P.P. 942

South by T.P. 260368 & a Road

West by a Road & Lot 2<sup>a</sup> in P.P. 934

Containing in Extent  $\begin{matrix} A & R & P \\ 2 & 0 & 22 \end{matrix}$   
Acres Two & Perches Twenty two

1879  
18 7.1911

Applied for

Drawn by }  
Written }  
Examd }  
Regld } Initialled

Typed by } Sgd. (A. Subramaniam)  
Copied }  
Compd. } Initialled

Surveyor General's Office  
Colombo 17<sup>th</sup> October 1912

Sgd / R. S. Templeton

Surveyor General

Surveyor General's Office  
Colombo 6<sup>th</sup> March 1963

True Copy

Sgd. (Signature Illegible)

for Surveyor General

True Copy

*S. Rajendra*  
(S. Rajendra)  
Licensed Surveyor  
1321, Hulsadorf Street  
Colombo 5<sup>th</sup> September 1967  
579/67

Furnished at the request of Mr. A. B. M. De Alwis

Fee Rs. 12/30

Rupes Stamp  
Initialed  
Dated 6.3.63

S. S. A. L. S. U.

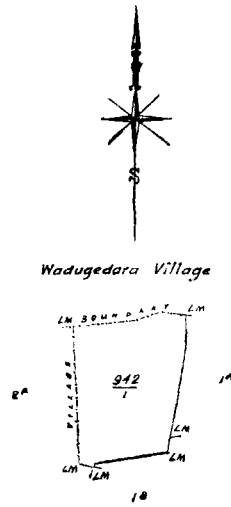
B.S. Sup. Sheet 16 of 1  $\frac{17}{7, 8, 15, 16}$  & 1  $\frac{17}{25, 24, 31, 32}$

No. 284676

No. 3.  
Commission  
Issued to  
V. F. Warnakulasuriya.  
Licensed  
Surveyor.  
21.3.63.

Plan No.  
284676

29.10.12.



Scale of 4 Chains to an Inch

### PLAN

of an allotment of land called Gologawawatta in Ketawalggedara Village, Mayurawati  
Korale of Dambadeni Hatpattu in the District of

KURUNEGALA

### NORTH - WESTERN PROVINCE

Bounded as follows:

- North by the Village Limits of Wadugedara
- East by Lots 1A & 1B in PP 942
- South by Lot 1B in PP 942 & Lot 2F in PP 934
- West by Lot 2F in PP 934

Containing in Extent 1 2 10

Acres One, Roads Two & Perches Ten Only

1954  
24 7.1911

Applied for

Drawn by  
written  
Examd  
Reg'd

Initialled

Typed by } Sgd. (A. Subramaniam)  
Copied }  
Comp'd } Initialled

Surveyor General's Office,  
Colombo, 29<sup>th</sup> October 1912

Sgd / R S Triplican

Surveyor General

Surveyor General's Office  
Colombo, 6<sup>th</sup> March 1963

True Copy

Sgd (Signature Illegible)

for Surveyor General

Furnished at the request of Mr. A. B. M. De Alwis

Fee Rs 10/00.

True Copy

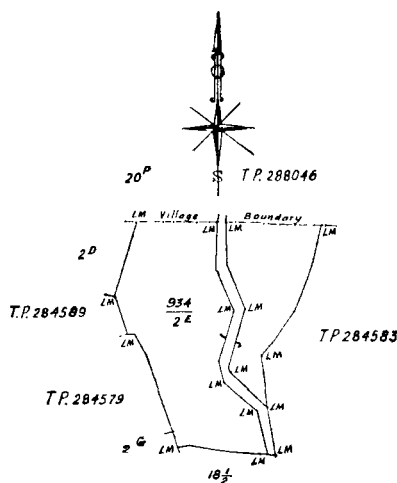
*A. Rajendra*  
(S. Rajendra)  
Licensed Surveyor  
132, Mulstard Street  
Colombo, 2<sup>nd</sup> September 1963

Rupee Stamp  
Initialled  
Dated 6 3 63

S E A L E D

No. 3.  
Commission  
Issued to  
V. F. Warnakulasuriya.  
Licensed  
Surveyor.  
21.3.63.  
Plan No.  
298661.  
25.11.13

B.S. Sup Sheet  $\left[ \begin{array}{l} 17 \\ 7, 8, 15, 16 \end{array} \right\}$  L 102  
Or No 16  
 $\left[ \begin{array}{l} 17 \\ 23, 24, 31, 32 \end{array} \right\}$   
Field Book No 26852  
No. 298661



0 1 2 3 4 5  
Chains

Scale of 4 Chains to an Inch

PLAN

of an allotment of land called Galagawehena in Eluwapola Village Mayurawath

Korale of Dambadeni Hatpattu in the District of

KURUNEGALA

NORTH-WESTERN PROVINCE

Bounded as follows:-

North by Lot 20<sup>P</sup> in P.P. 933 & T.P. 288046

East by T.P. 284583 & a Road

South by Lot 18 $\frac{1}{2}$  in P.P. 934

West by Lots 2<sup>0</sup> & 2<sup>D</sup> in P.P. 934 & T.Ps 284579 & 284589

Containing in Extent } A R P  
Exclusive of the Road } 3 1 7  
passing through the land } Acres three Road one & Perches Seven Only.

S.O's 949  
10 7 1913

Applied for

Drawn by }  
written }  
Examd }  
Regld } Initialled

Typed by } Sgd (A Subrameniam)  
Copied }  
Compd } Initialled.

Surveyor General's Office.  
Colombo, 25<sup>th</sup> November 1913.

Sgd | R S Templeton

Surveyor General

Surveyor General's Office.  
Colombo, 6<sup>th</sup> March 1963.

True Copy

Sgd (Signature Illegible)

True Copy

for Surveyor General

Furnished at the request of Mr. A.B.M. De Alwis

Fee Rs. 12/30.

(S. Rajendra)  
Licensed Surveyor  
1324, Bulladart Street,  
Colombo, 5<sup>th</sup> September 1967

579/67

Rupes Stamp  
Initialled  
Dated 6.3.67

SEALED



No. 4

Statement of the 1st Defendant

No. 4.  
Statement  
of the 1st  
Defendant.  
17.7.63.  
17-7-63.

IN THE DISTRICT COURT OF KURUNEGALA HOLDEN  
AT KULIYAPITIYA

Pattini Kuttige Jokeenu Nonis of Poogalla,  
Kitalawa in Yatikaha Korale South.

. . . . . Plaintiff

No: 784/P. Versus

10 1. Horatalpedi Durayalage Peththa alias  
Peththa Veda of Eluwalpola in Mayurawathie  
Korale, and another.

. . . . . Defendants

The 17th day of July, 1963.

The statement of the 1st defendant abovenamed appearing by his Proctors Damian Adrian Bernard Ratnayake and his assistants Kirthi Tissa Wettewa and Indrani Jayatilleka states as follows:—

- 1. This defendant admits the jurisdiction of this Court to hear and determine this action but denies the cause of action pleaded in the plaint.
- 20 2. This defendant denies all and singular the other averments in the plaint which are not admitted herein.
- 3. This defendant admits that he, Sekera and Wattuwa the 2nd Defendant became the owners of the premises in suit.
- 4. This defendant, the said Sekera and Wattuwa the 2nd defendant were the owners of the following among other lands, in addition to the land in suit, the correct name of which, however, is Korameegahamulawatte:—
  - (a) Dehigaha-Irawella of one pela paddy sowing extent situated at Wattegedera,
  - (b) Heen Irawella of five lahas paddy sowing extent situated at Wattegedera,
  - 30 (c) Kandegederawela of five lahas paddy sowing extent situated at Wattegedera,

No. 4.  
Statement  
of the 1st  
Defendant.  
17.7.63.  
—continued.

- (d) Wanepolawatte of 6-1/2 Acres at Wewaliadde.
- (e) Galagawawatte of 4 acres at Wewaliadde.
- (f) Hettiwatta alias Galagawawatte of 2-1/2 acres at Wewaliadde.
- (g) Wattewela of six pelas paddy sowing situated at Diadora.

5. On 26th June, 1947 the said three parties exchanged with one another their interests in the said premises and at such exchange the following lands were allotted to the said three parties respectively:—

A. To this defendant:—

- (a) the land in suit.
- (b) Dehigaha-Irawella aforesaid.
- (c) Heen Irawella aforesaid.
- (d) Kandegederawela aforesaid.

10

B. To Sekera and to 2nd defendant jointly:—

- (a) Wanepolawatta aforesaid.
- (b) Galagawawatte of 4 acres aforesaid;
- (c) Hetti Watte alias Galagawawatte aforesaid.
- (d) Wattewela aforesaid.

6. The said three parties thereafter possessed their respective lands adversely to each other and acquired prescriptive title thereto.

7. This defendant states that he has acquired prescriptive title to the 20 entirety of the premises in suit.

8. This defendant denies that Sekera had the right to convey to Sumanadasa any interests in the land in suit or that the said Sumanadasa had the right to convey any interests in the said land to plaintiff.

9. All the improvements on the land have been made by this defendant.

Wherefore this defendant prays:—

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

Sgd. D. A. B. Ratnayake,  
*Proctor for 1st Defendant* 30

No. 5

No. 5.  
Return to  
Commission.  
6.11.63.

**Return to Commission**  
**(with Plan No. 6620 and Field Notes)**

3rd November 1963, Katuneriya.

D.C. KURUNEGALA HOLDEN AT KULIYAPITIYA  
NO. 784/P.

Pattini Kuttige Jokinu Nonis of Poogalla, Kitawala in Yatikaha Korale  
South . . . . . *Plaintiff*

*Versus*

- 10 1. Horatalpedi Durayalage Peththa alias Peththa Veda, of Ketawalagedara, Wewagama
  - 2. Horatalpedi Durayalage Wattuwa both of Wewliadde, Wewagama
- ..... *Defendants*

**1. Date fixed for the commencement of the survey:** 22nd October 1963. But owing to the rain and the floods and the impassable stretches of road, the parties were notified of the change of date, and the survey was executed on the 28th October 1963.

**2. Date of issue of notice to parties by registered post:** 8th October 1963.

20 **Date of oral proclamation of the survey:** 10th October 1963.

**3. Date of survey:** 28th October 1963.

**4. Nature and value of the property surveyed:** The property surveyed is a land planted with coconut, and is in two blocks 1 & 2 as depicted on my plan No. 6620. It is low-lying and swampy and partly neglected.

Its northern boundary from a-b consists of a live fence about 30 years old.

Its eastern and part of the southern boundary from b-c-d-e consists of a barb wired live fence also about 30 years old.

The southern boundary e-f is the gansabha road, the western boundary  
30 from f-g being a continuation of that road, and the portion from g-a being indefinite.

No. 5.  
Return to  
Commission.  
6.11.63.  
—continued.

There is another gansabha road running through the land and dividing it into the two blocks 1 & 2 as depicted on the plan.

The superimposition of the title plan of the land 284583, 298661 and 284676 is shown in red dotted lines. There are no visible landmarks at present on the boundaries as they must have got displaced or got buried under ground within the course of the 50 years or more of the original survey.

I estimate the soil value of the land at . . . . .	Rs.	4200.00
And the plantations and house and well at . . . . .		10524.00
The entire land being valued at . . . . .		14724.00
<b>(b) Buildings:</b> The house in lot 1 claimed by the 1st defendant is partly of burnt brick and partly of mud, cadjan roofed and in a deteriorating condition and is valued at . . . . .		1200.00
The 3 temporary sheds (40 Rs. each) valued at . . . . .		120.00
And the kitchen valued at . . . . .		60.00
		1380.00

10

The 1st defendant claimed that he had built the house and other structures and had been living there for over 30 years.

<b>(c) Plantations:</b> In lot (1) there are 138 coconut trees about 65 years old valued at . . . . .	Rs.	2070.00	20
142 coconut trees between 25 and 30 years old	}	claimed to have been planted by the 1st defendant and valued at	
12 coconut plants about 6 years old			
46 coconut plants about 3 years old			
39 coconut plants about 1 year old			
		Rs. 3775.00	

There are also 1 goraka tree, 2 jambola, 1 kaduru, 10 jak (big and small), 4 mango (big and small), 32 Kajju (big and small), 1 beli, 1 tamarind, 4 bread fruit (big and small), 19 arecanut (big and small) all claimed to have been planted by the 1st defendant and valued at . . . . .	Rs.	395.00	30
--	-----	--------	----

Lot (2) contains:—

19 coconut trees about 65 years old valued at . . . . . Rs. 295.00

85 coconut trees between the ages  
of 25 and 30 years

2 coconut plants about 7 years  
old

1 coconut plant about 2 years  
old

claimed to have  
been planted by  
the 1st defendant  
and valued at Rs. 2141.00

10 There are also 13 jak trees (big and small), 1 breadfruit,  
12 kaju (big and small), 1 mango, 1 caraw, and  
2 daminna trees all claimed to have been planted  
by the 1st defendant and valued at . . . . . Rs. 318.00

(d) **Nature of walls, wells, fences and other  
improvements:**— The brick built well claimed to  
have been put up by the 1st defendant is valued at Rs. 150.00

(e) **Parties present:**— The plaintiff and both the  
defendants were present at the survey.

20 (f) **Claimants other than parties their addresses and nature  
of claims:**—Nil.

**5. Result of investigation of any particular fact or matters  
specifically referred to in the commission:** Nil.

**6. Facts, matters, circumstances, relating to the survey or  
to the property surveyed which in my opinion may be necessary  
for or prove of assistance in the determination of the partition  
action:**— The 1st defendant stated that originally 21 acres were given by  
his parents to be divided among 3 parties, and that he has been enjoying  
this land for his share for over 30 years.

30 Beside these 3 amuvams and 15 lahas of paddy land had also been  
donated to them, out of which only 25 lahas are being enjoyed by him.

I, Vincent Fernando Warnakulasuriya, Licensed surveyor make oath  
and (do hereby solemnly, sincerely and truly declare and affirm and)  
state as follows:—

1. I am the commissioner appointed in the above case.

No. 5.  
Return to  
Commission  
6.11.63  
—continued.

2. I executed the commission issued to me in accordance with the directions made therein, and to the best of my information and knowledge, the foregoing particulars relating to my survey of the property described in my Plan No. 6620 and certified copy of my field notes are true and accurate and my said plan and particulars mentioned therein embody the particulars prescribed by section 18(1) of the partition act No. 16 of 1951.

Sgd. V. F. WARNAKULASURIYA

Sworn to at Wennappuwa on this 6th day of November 1963 before me.

Sgd. . . . . J.P.U.M. 10

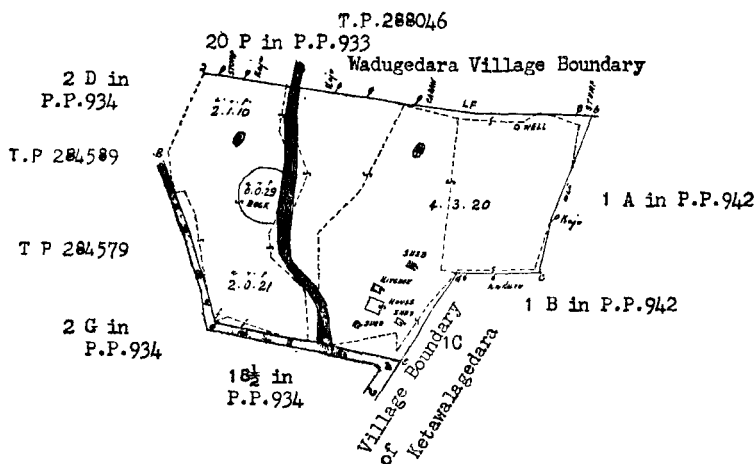
VINCENT F. WARNAKULASURIYA  
SURVEYOR & LEVELLER,  
KATUNERIYA.



**PLAN NO. ——— 6620.**



No. 5.  
Return to  
Commission  
6.11.63.  
—  
Plan No. 6620  
28.10.63.



SCALE OF 4 CHAINS TO AN INCH.

# PLAN

**OF AN ALLOTMENT OF LAND** Comprised of (1) Galagawawatta (Lot 1 in P.P.942) T.P.284676, (2) Galagawatta (Lot 2F in P.P.934) T.P.284583, (3) Galagawahena (Lot 2E in P.P.934) T.P.298661, situated at Ketawalagedara, Eluwapola in Mayurawathie Korale in Dambadeni Hatpattu ..... Kurunegalle District

## NORTH WESTERN PROVINCE

**BOUNDED**

On the North: By Lot 20 P in P.P.933 & T.P. 288046 and by Village boundary of Wadugedara.  
On the East : By Lot 1A and 1B in P.P.942 and Village Limit of Ketawalagedara.  
On the South: Gansabha Road and lot 18 1/2 presently by Gansabha Road.  
On the West : By Lot 2G and 2D in P.P.934 and T.P. 284579 & 284589, presently by Gansabha Road and Lot 2D.

Lot (1) is in Extent ... 4.3.20      Lot (2) is in Extent ... 2.1.10

**CONTAINING IN EXTENT**

D.G.Kurunegalle holden at  
Kuliyapitiya No. 704.P

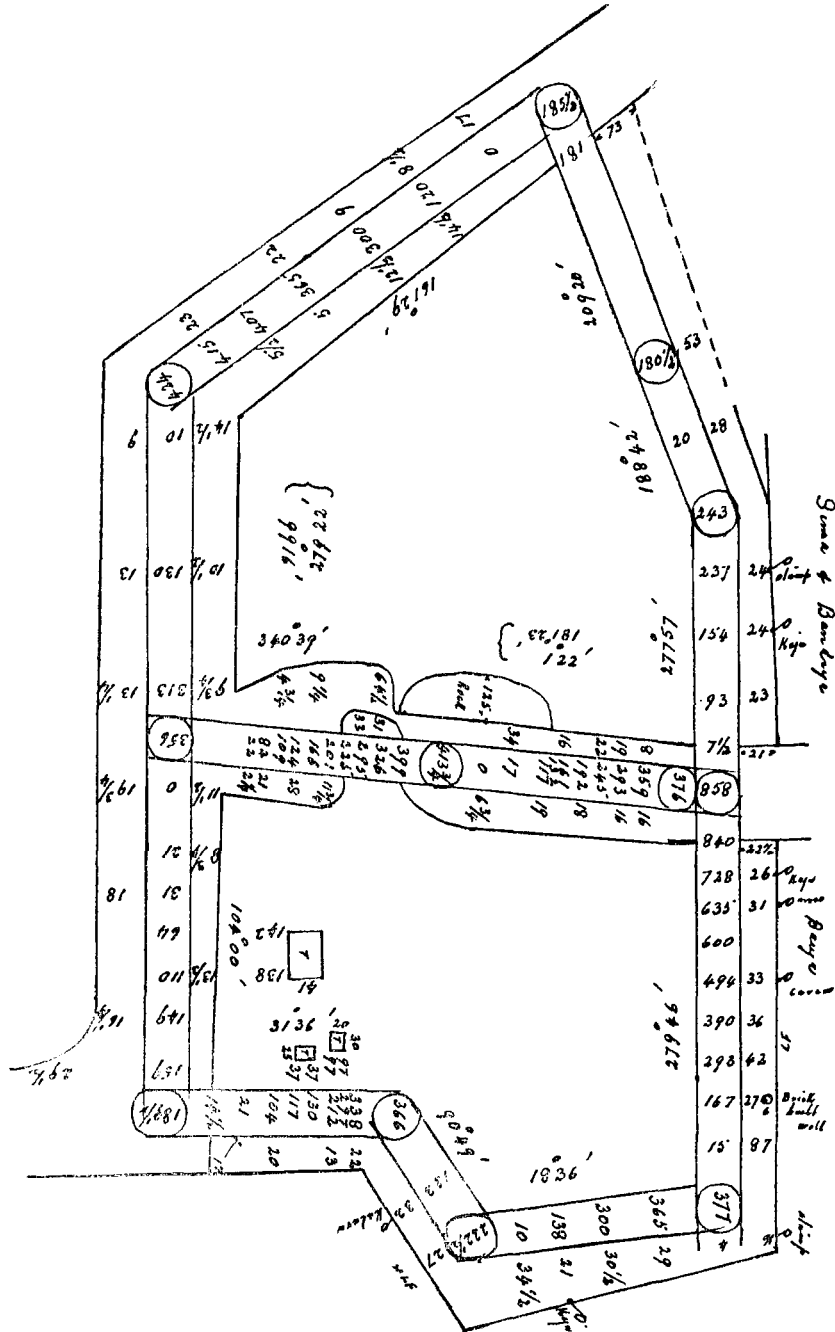
A . R . P  
7 . 0 . 30

*True Copy*  
*20.7.67*

**SURVEYED ON THE 28th October 1963 BY**

*V.F. Warnakulasuriya*  
**LICENSED SURVEYOR, LEVELLER, COURT, & FISCAL SURVEYOR.**

No. 5.  
Return to  
Commission  
6.11.63.  
Field Notes  
28.10.63.



This is a true copy of the field notes of the prole-  
-masonry survey in D.C. Kurumegalle holden  
at Kuliyaipolaya No. 784/P 28/Oct/1963

*[Handwritten signature]*  
20/7/67



**Issues Framed**

11-3-64

Plaintiff present

Mr. de Alwis for the Plaintiff

Defendants present

Mr. Ratnayake for the defendants.

The following facts are admitted:—

10 By Crown grants dated 20-9-1913, 20-2-1914 and 10-5-1919 H.P.D. Peruma became entitled to the said lands which became one property, to the extent of seven acres. The said Peruma gifted it in equal shares to his three children, the first defendant, Sekera and Wastuwa the second defendant, in this case.

Mr. de Alwis suggests the following points of contest:—

- (1) Did Sekera referred to in the plaint transfer his 1/3rd share on deed No. 29662 of 18-3-60 attested by S. D. Karunaratne N.P. to Sumanadasa.
- (2) Did the said Sumanadasa transfer his 1/3rd share on deed No. 820 dated 26-7-62 attested by A.B.M. de Alwis N.P. to the Plaintiff.
- 20 (3) If the above points of contest are answered in the affirmative is the plaintiff entitled to 1/3rd share of this land.

Mr. Ratnayake has no objection to the above points of contest and he suggests the following points of contest:—

- (4) Did Petta the first defendant, Sekera and Wastuwa exchanged their lands as described in para. 5 of the statements of the defendants.
- (5) As a result of such exchange, are the premises in suit, in the exclusive possession of Petta the first defendant.
- (6) Prescriptive rights of parties.

I accept all the issues.

30

Sgd.  
*Additional District Judge*  
11-3-64

No. 7.  
Plaintiff's  
Evidence

Evidence of  
P. K. Jokeenu  
Nonis.  
Examination

**No. 7**

**Plaintiff's Evidence**

Mr. de Alwis calls—

**P. K. Jokeenu Nonis**, affirmed, 28 years, Superintendent, Mahendra Estate, Kitalawa.

I am the plaintiff in this case. I seek to partition the land called Galagawa Watte depicted in plan No. 6620 dated 28-10-63 and made by Warnakulasuriya and filed of record marked X together with the report marked X1.

On the Crown Grants dated 20-9-1913, 20-2-1914 and 10-5-1919 which I produce marked P1, P2 and P3 respectively, Peruma became the owner of this land. Peruma consolidated all these into one land which is surveyed and depicted in Plan X. By deed of gift No. 2452 of 15-7-1924 which I produce marked P4 and attested by E. F. W. Jayawardena, gifted the same to Petta the first defendant, Sekara and Wastuwa the second defendant in equal shares. Sekara on deed No. 29662 dated 18-3-1960 attested by S. D. Karunaratne, N.P. sold 1/3rd share to Sumanadasa and I produce that deed marked P5.

Sumanadasa by deed No. 820 dated 26-7-62 attested by A. B. M. de Alwis N.P., sold it to me the plaintiff and I produce the deed marked P6. Therefore I say that I am entitled to an undivided 1/3rd share, the first defendant to an undivided 1/3rd share and the second defendant to an undivided 1/3rd share. I say that my predecessors in title had been in undisturbed and uninterrupted possession of this land for well over 10 years. I say all the improvements are in common, except for the tiled house which belongs to the first defendant. I ask for a partition of this land and for my pro rata costs.

Evidence of  
P. K. Jokeenu  
Nonis.  
Cross-  
Examination

**Cross-Examination**

From the date of my purchase I have known this land and that would be from 1962. I do not know anything about this land prior to 1962. When I came to know this land the first defendant was residing on this land. I know that Petta, Sekara and Wastuwa are brothers. I derive title through Sekara. In this case I know that Petta is claiming title to the entire land. Sekara has come to Court. He was not summoned to warrant and defend my title. Mahendra estate belongs to one Somasunderam. I have nothing to do with the land of one Peter. I came alone to Court today. (Shown signature on a document which is now marked D1 dated 26-6-47). This is the signature of Peter. Sumanadasa is a nephew of Peter. Peter is a dealer in coconuts. I deny that this land was bought for Peter. I have bought small plots of land at Kitalawa. This is a land in the village of Eluwapola. I have not bought any other lands from this village. I bought this land for Rs. 2,500/- from Sumanadasa. I paid the money to Sumanadasa. I paid that amount

in four instalments before the writing of the deed. On the day the deed was written no money passed. I go there very frequently. I deny that I go there to look after Peter's land. People from that area come to my estate for work. Therefore I go to that village. Before I purchased this land, I went through the deed in favour of Sumanadasa. I did not ask Sumanadasa for how much he bought this land. Sumanadasa asked for Rs. 2,500/- and I paid him Rs. 2,500/-. I deny that Peter bought this land in my name with the idea of fighting this case. I do not know why Peter is present in Court. I did not speak to him. This is the last case, today, in this Court. I do not know why Peter is seated still in the well of this Court.

No. 7.  
Plaintiff's  
Evidence  
—  
Evidence of  
P. K. Jokeenu  
Nonis.  
Cross-  
Examination  
—continued.

Acreage taxes are paid for lands in this area. This land is within the area of Muruthenge Village Committee. Acreage taxes may have been paid. I did not try to find out whether acreage tax is paid to this entire land by the first defendant.

### Re-Examination

I own an undivided 1/3rd share of this land.

Evidence of  
P. K. Jokeenu  
Nonis.  
Re-  
examination

Sgd.  
*Additional District Judge*  
11-3-64

20 Plaintiff's case closed reading in evidence X, X1 and P1 to P6.

## No. 8

### Defendants' Evidence

Mr. Ratnayake calls:—

**H. P. D. Petta Veda**, affirmed, 55 years, cultivator, Ketawalagedera.

I am the first defendant in this case. I am one of the sons of Peruma. I have two brothers namely, Sekara and Wastuwa. I and my brothers are entitled to the other lands also. I have mentioned those lands also in my answer. Those lands were possessed in various groups at various places. We exchanged our family lands and I have set out the particulars of that exchange in paragraph five of the answer. It was agreed, later on deeds were to be written. On 20-6-47 I and my two brothers executed a writing. (Shown D1) This is a document signed by all three of us. I have signed first. We three brothers signed 1D1 on the stamp. Our mother and my mother's cousin have signed on the side of this writing. This writing was made out by Peter Ralahamy. This D1 is in the hand-writing of Peter. According to D1 the three of us were in possession of different lands. Even

No. 8.  
Defendants'  
Evidence  
—  
Evidence of  
H. P. D.  
Pettha Veda  
Examination.

No. 8.  
Defendants'  
Evidence

Evidence of  
H. P. D.  
Peththa Veda  
Examination.  
—continued.

prior to the writing D1 we have been possessing different lands. From about 35 years ago we were possessing different lands. This division was when our parents were alive. No deeds have been so far executed.

There is a plantation on this land aged 35 years and under. This plantation was made by me. Neither Sekera nor Wastuwa did plant this land. There is a house on this land. I built that house about 17 or 18 years ago. I am living in that house. According to D1 I got certain lands and my two brothers got certain separate lands. Sekera and Wastuwa jointly got certain lands. I got separately a certain number of lands. As I suspected that there would be trouble with my brothers, I got lands separately. I preferred to have my lands separately because I thought that otherwise, in the future there would be trouble with regard to possession. The other two brothers are in possession of the lands referred to in D1. I pay the acreage tax for this entire land. I produce a receipt to show that I have paid acreage tax from 1951 to 1962 for this entire land. Even upto-date I have been paying acreage tax. I produce an extract showing the payment of acreage tax marked D2. This land is also called Horameegahamulla Watte. I produce marked D3 the receipt for the tax paid in 1963 for the land called Galagawa Watte alias Horameegahamulla Watte, for the 3rd and 4th quarter of 1963. I also produce the receipt for the taxes paid for the second quarter of 1963 as D4. I have mortgaged the entirety of this land. I produce marked D5 the Mortgage Bond No. 8395 dated 1947 which was shortly after the execution of D1, whereby I mortgaged this land to a person called Menika. 10

Evidence of  
H. P. D.  
Peththa Veda  
Cross-  
Examination.

### Cross-Examination

I am a cultivator and a native physician. My father died about 20 to 21 years ago. Upto the time of his death I resided in the land where I am now residing. I was enjoying the produce of this land. My father did not take any produce of this land. I used to help my father whenever he wanted to go on pilgrimages. I went to Veyangoda to study medicine. When I was 13 years of age I went there to study about medicine. I was studying medicine there for about 2 or 3 years. Prior to that I was attending Wewagama school. It may be that I was born somewhere in 1909. I attended school till the age of 11 years. After I returned to the village from Veyangoda, as the priest under whom I was studying medicine, died, I got married and went to reside on this land. Even prior to the marriage I was residing on this land. Subsequently I divorced my wife. After I got a divorce from my wife I did not go anywhere. 30

Q. Did you not go to Vennappuwa?

A. No.

I have been to Vennappuwa but I have never resided at Vennappuwa. 40 I went on studying medicine like that from a Wedamahattaya at Vennappuwa. I was going there, once in two weeks. After I returned from Vennappuwa after studying medicine, I got married to my present wife Meiya.

My father was living in the Mulgedera and he was living there with all his children. The mulgedera was at Wanepola. I put up the house standing on the land in suit and nobody helped me to put up that house. Even my mother did not help me to put up that house. According to D1 there was an exchange of lands between me, Sekera and Wastuwa. According to D1 Galagawa Watte was given to Sekera. There are three lands by the name of Galagawa Watte. A land called Horameegahamulla Watte was given to me on D1.

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Defendants'  
Evidence  
—  
Evidence of  
H. P. D.  
Peththa Veda  
Cross-  
Examination.  
—continued.

Q. I put it to you that you were given a land called Horameegahamulla Watte and some other lands and no land by name of Galagawa Watte was given to you?

A. No. There are three Galagawa Wattes.

Q. I put it to you that Galagawa Watte was given to Sekera according to D1?

A. No answer.

In this writing D1 it is not stated that I was also given a land called Horameegahamulla Watte alias Galagawa Watte.

Q. I put it to you that your father possessed this land till 1945 until his death?

20 A. No.

Q. Thereafter the house in which you were living came down.

A. No. In this land I was living in three houses. Now I am in occupation of the 4th house. Only the house where I am now residing stands on this land.

Q. I put it to you that after the house where your father was living came down you put up this house with the help of your other brothers and Batti?

A. No.

I was living on good terms with my brothers. I deny that I was quarrelling with my brothers. My brothers come to quarrel with me but I do not go to quarrel with them. I cannot remember when they came to quarrel with me. I do not go to the houses of my brothers. Even now they come to quarrel with me. After the death of my mother, which was about 11 years ago, I have not been to the houses of my brothers. I cannot remember the exact year in which my mother died. In this land in dispute there are coconut trees. Wastuwa and Sekera do not pluck nuts. They have never plucked

No. 8  
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Evidence of  
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Cross-  
Examination.  
—continued.

coconuts. I deny that as a result of their coming to pluck coconuts on this land that I have gone to quarrel with them. They need not have come to pluck coconuts in my land because they have sufficient lands. The husband of my sister is Menika.

Q. Sekera, Wastuwa and you were picking coconuts on this land at different times?

A. They need not come to this land to pluck coconuts because they have given different lands.

Q. I put it to you that as a result of you all plucking nuts at different times there was quarrelling between you and your brothers? 10

A. I deny that.

Q. I put it to you further that as a result of this, your mother, your sister and your brother-in-law intervened and brought about a settlement among the three brothers?

A. No. There was no such thing. There are plantations on this land. There are 138 coconut trees of 60 to 65 years of age.

Q. How many coconut trees have you on this land?

A. There are about 50 to 60 trees that are tall. There are also vacancies and I cannot tell how many trees are there in all.

There are about 300 coconut trees that are bearing. Except for 25 or 30 tall trees, all the other trees were planted by me. I planted the trees of the age of 30 to 35 years.

Q. How many trees were planted by Sekera and the second defendant?

A. In my land they did not plant any trees.

Q. Your father did not plant any trees on this land?

A. The tall trees were planted by him. There are about 50 to 60 tall and old trees.

DI is an agreement between me, Sekera and the second defendant to show that we were the owners of the lands mentioned against each person's name, until deeds are written to that effect. According to this we were to possess these lands until deeds are executed. The land I have mortgaged is the land called Horameegahamula Watte which has been registered in folio F.447/153. There are two roads running towards the West of this land. 30

By arrangement I was given the Western portion of this land. Across this land there is a public road running and this road leads to Wadugedera. I possessed all the two or three blocks although it was divided into two by this public road.

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Defendants'  
Evidence  
—  
Evidence of  
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Cross-  
Examination.  
—continued.

I have described Horameegahamula Watte in the Mortgage Bond as a land inherited from my father.

Q. Your mortgage bond has no reference to D1.

A. Yes.

Horameegahamula Watte is a land I inherited from my father.

10 Q. Therefore Horameegahamula Watte is a different land.

A. No. It is the land where I am residing.

Q. In the deed of gift 2452 executed by your father, there is no reference to a land called Horameegahamulla Watte?

A. (Witness thinks for a long time) There are three Galagawa Wattes and all the three lands were given different names and one of them was given the name of Horameegahamula Watta.

Q. In the mortgage bond you have not referred to the deed of gift either?

A. No answer.

20 No writings were made by reference to deeds and putting the deed numbers and so forth but the lands were referred to by the names that are being used now. The names of lands that were being used even by my father were put in D1.

Q. You were able to draft the mortgage bond according to D1.

A. Yes.

My mother wrote D1 giving the names that were being used even during the life-time of my parents, for various lands.

Sgd.  
*Additional District Judge*  
11-3-64

30 It is now 4 p.m.

Further trial on 18-3-64.

Sgd.  
*Additional District Judge*  
11-3-64

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Defendants'  
Evidence  
—  
Evidence of  
H. P. D.  
Peththa Veda  
Cross-  
Examination.  
—continued.

15-4-64

Mr. Ratnayake instructed by Mr. de Alwis for the plaintiff.

Mr. D. A. B. Ratnayake for the defendant.

Mr. Adv. Ratnayake for the plaintiff moves to add another following issue:—

(7) If issue 1 to 3 are answered in the affirmative is the plaintiff entitled to a partition as prayed for.

Mr. Ratnayake for the defendant has no objection.  
I allow the issue to go in.

Sgd. 10  
Additional District Judge  
15-4-64

Mr. Ratnayake calls:—

**H. P. D. Petta Veda**, affirmed, recalled:

**Cross-Examination continued**

(shown D1) The extent of Horameegahamula Watte shown in D1 is 7-1/2 acres. Dehigaha Irawella Cumbura is one pela in extent. Heen Irawella Cumbura is five lahas in extent. I cannot give the extent in acres. Kandegedera Wela is one pela in extent. Wanepola Watte is about 7 or 7-1/2 acres in extent. Hettiwatte and Galagawa Watte is about 7 or 7-1/2 acres. I have deeds in respect of Hetti Watte. Wattewela Cumbura is 3 pelas in extent. From the high-lands I have mentioned so far, I get about 2000 nuts during the best season. That is from Horameegahamula Watte. I do not know anything about the produce from the land called Wanepola Watte. I have been to that land. Now I do not go to that land. After the death of my mother I had not been to that land. My mother died about 10 years ago. About 10 years ago also there were trees bearing in Wanepola Watte. But I do not know the number of nuts that were plucked for a season from that land. This writing D1 says that we should possess even in future as we had been possessing earlier. 30

Dehigaha Irawella Cumbura, Heen Irawella, and Kandegedera are being possessed by me. Before me my father was not possessing these lands. The properties mentioned in D1 belonged both to my father and mother. From the age of 15 years I have been possessing this land. At the age of 15, my father and mother asked me to take charge of Horameegahamula Watte and cultivate it. When I was attending school I got a boutique room put up and I spent on it. The carpenter is not alive.



Q. What is his name.

A. No answer.

There was no watcher on this land. After I returned home I used to look after this land. When I was away in school, I had kept a boy in the tea boutique and that boy used to look after this land also. I do not know that boy's name. From about the age of 10 years I have been running this tea boutique and attending school also. When I was away in school that boy used to look after the tea boutique. My father was residing at Wanepola Watte which is within a 'Call' distance from my residing land Horameegahamula Watte. During that time Sekera was living in Wanepola Watte with my parents. Wastuwa was also living in the parental home. I planted about 250 coconut trees on this residing land. When I went to reside on this land there were about 125 coconut trees. During that time I was attending school, running a tea boutique and also was planting coconut. I started learning medicine at the age of 13 years. I studied from a Vedamahattaya at Vennappuwa. Horameegahamula Watte is about 20 miles from Vennappuwa. Once a week I used to go to Vennappuwa to study medicine and come back the same day. Until the death of the Wedamahattaya I was going there to study medicine. I had been to Vennappuwa twice or thrice a week and sometimes I used to go once a month also. I was studying general medicine. I was studying like that for about 2 or 3 years. My father gave this Horameegahamula Watte on a deed. Even the other brothers were given lands on deeds. I cannot give my age in 1924. I am now 54 years of age. This document D1 states that we will continue possessing the lands as we have been possessing earlier until we execute deeds. Until today no deeds have been executed. Three lands have been given to the other two brothers. No particular lands have been given to each of those two brothers, separately. They were given lands together. Wattuwa was given Hetti Watte and Galagawa Watte on D1. Although the lands were given together to both the other brothers, they were possessing them separately. Sekara and Wastuwa were given lands together. Sekara is in possession of Wanepola Watte exclusively. Hetti Watte and Galagawa Watte are being exclusively possessed by Wastuwa. Hetti Watte is also called Galagawa Watte. Horameegahamula Watte is also known as Galagawa Watte and that land according to D1 was given to both Sekara and Wastuwa. But now they are possessing them separately. Wastuwa has two lands. My mother executed D1 thinking that there may be future quarrels over these lands between the three brothers. My mother invited all three brothers and thinking that there may be future troubles over possession of these properties, she with our consent, executed D1 giving these lands separately to the three brothers.

I have been fairly educated. In respect of these lands deeds have been written.

Q. Even before 1947 you have been possessing these lands.

A. Yes.

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Defendants'  
Evidence

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Evidence of  
H. P. D.  
Peththa Veda  
Cross-  
Examination.  
—continued.

No. 8  
Defendants'  
Evidence  
—  
Evidence of  
H. P. D.  
Peththa Veda  
Cross-  
Examination.  
—*continued.*

*Q.* There had not been an occasion where the lands you have been possessing were given to others and the lands possessed by others were given to you, when D1 was executed.

*A.* Yes.

It was I who looked after my brothers for seven to eight years. Even before D1 was executed we have been possessing the lands in the same way and even after D1 we are possessing those lands in the same way. My mother wanted us to execute D1 fearing that in future years there may be troubles among the brothers.

*Q.* At or about the time D1 was executed your brothers were plucking 10 coconuts from this land.

*A.* No. A fourteen acre land has been separated off for them.

*Q.* Why didn't you execute any deeds.

*A.* I did not take any interest to get deeds executed.

*Q.* I put it to you that Sekara and Wastuwa were plucking nuts from your land and you were plucking nuts from their lands.

*A.* I deny that.

There had been no quarrels among the three brothers. D1 was written by Sgt. Peter. According to D1 we should continue possessing these lands according to the manner in which we were possessing them earlier. The 20 deeds were to be executed giving each person his share in accordance with what was written in D1.

*Q.* Was Wastuwa given complete lands or any shares of any land.

*A.* Five lands were given to Sekara and Wattuwa together.

According to D1 Sekara was not given any specific land. Now he is possessing Wattewela Cumbura and Wanepola Watte exclusively. Wattuwa is possessing Hettiwatte, Galagawa Watte and Ma Irawella Cumbura exclusively.

*To Court:—*

*Q.* Why is it that what was given to Sekera also was embodied in D1.

*A.* Wattuwa and Sekara were friendly and they agreed to get them 30 together.

I made a mistake earlier. Sekara and Wattuwa were given lands together.

Q. But you were not quite friendly with them.

A. Not that I am not friendly with them but I am not associating with them.

Q. Now at least tell the truth. You had fallen out with Sekara and Wattuwa.

A. No answer. (witness starts worshipping Court addressing Court as 'Hamuduruwane'.)

Q. At or about the time D1 was written you had fallen out with Sekara and Wattuwa over something or other.

10 A. I cannot remember.

Q. Ever since D1 was written you were not on speaking terms with Sekara and Wattuwa.

A. Whenever we met each other we just talked generally.

Now I say that I was on talking terms with them.

Q. Now for how long you have been angry with Wattuwa and Sekara.

A. (witness thinks) I cannot remember, Oh! Hamuduruwane when we got angry.

From the time my mother died I have not been associating with Sekara.

I am on talking terms with Wattuwa.

20 Q. What have you done for Wattuwa for the last ten years.

A. I have bought lands for Wattuwa.

Hetti Watta, I bought at an auction sale. From my aunt Dingu another land called Wanepola Watte was got by me for Wattuwa. Not only for Wattuwa but I bought some lands on deeds for both Wattuwa and Sekara.

Q. You could have got your brothers to execute a deed and got this land for yourself when you bought lands for Sekara and Wattuwa on deeds.

A. I did not get any deeds written in my favour.

I bought lands on deeds for Wattuwa out of my own money.

30 Q. Why didn't you get your brothers to execute a deed and give you this land exclusively, when you bought lands for them and executed deeds.

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Defendants'  
Evidence

A. I did not suspect them and therefore I did not get any deed executed in my favour.

Evidence of  
H. P. D.  
Peththa Veda  
Cross-  
Examination.  
—continued.

I wanted to get deeds written and my mother said that there was a shortage of funds and therefore that was not done. I bought lands for my brothers with my own money and monies borrowed from others.

**Cross-Examination continued**

Q. I put it to you that after the death of your father you started plucking nuts from the lands your different brothers were in possession of.

A. I deny that.

Q. Then there were disputes and fights.

10

A. No.

Q. Did they ever come and pluck coconuts from Horameegahamula Watte.

A. No.

I even settled some debts my father had incurred. I own those receipts even now. Wanepola Watte was mortgaged to a Chetti and I settled that debt and the receipts for the payments are still with me.

All three brothers were doing coconut transaction with Sgt. Peter. All three brothers and our mother came to Sgt. Peter's place and DI was written there. The lands were to be possessed as possessed earlier until deeds were executed. Wastuwa and Sekara are living in the same house. They were given lands together. I gave all the necessary instructions to my proctor. I mortgaged Horameegahamula Watte which I say is one and the same land as Galagawa Watte.

Evidence of  
H. P. D.  
Peththa Veda  
Re-  
Examination.

**Re-Examined**

I know the land the surveyor surveyed in this case. I call that land Horameegahamula Watte. It is not Galagawa Watte. It is the name given to the surveyor by the Plaintiff. I say that the correct name of this land is Horameegahamula Watte. Before DI was written I was living in Horameegahamula Watte in the village of Ketawalagedera. Sekara and Wattuwa were living in a different village called Weweliyadde. They were living together in one house. I was living separately.

Q. Are they still living together.

A. Yes.

They are still living in Weweliyadde. Sekara is married. Wattuwa is not married. Both are living in the same house. Sekara is married to one Pinnie. We are Kandiyans and associated marriages are common among Kandiyans.

No. 8  
Defendants'  
Evidence  
—  
Evidence of  
H. P. D.  
Peththa Veda  
Re-  
Examination.  
—continued.

Q. Do you know that Wattuwa and Sekara are keeping the same woman.

A. Yes.

They are keeping the same woman, living in the same house and in the same village. Therefore they were jointly given lands. But between them they are possessing separate lands. Sekara possesses Wanepola Watte and 10 Wattewala Cumbura, and Wattuwa possesses Hetti Watte, Galagawa Watte and Ma Irawella Cumbura. Galagawa Watte is at Weweliyadde. Both of them are living at Wanepola Watte in Weweliyadde.

Q. Have you taken any produce from the lands they have been possessing or the lands that have been given to Sekara and Wastuwa.

A. No.

Q. Have they taken any produce from any lands given to you.

A. No.

My mother's name is Batti. (Shown D1) My mother has signed D1. My mother's father is Peruma Weda. Peruma Weda had a sister called Apuri. 20 Apuri had a son and he is one Hapuwa. Hapuwa and Batti are cousins. My uncle also has signed this D1. This D1 was written with the intervention of responsible persons, in order to prevent any future disputes among the three brothers. The land to the North of the land surveyed in this case belongs to Hotha alias Horathala and others. Onto the East of this land surveyed is the land belonging to Petta Velduraya. Onto the South is the road and onto the West is the road leading to the cemetery. Across this land also there is a road leading to Wadugedera Village. The road that runs across this land is not a boundary to this land. Horameegahamula Watte is also known as Galagawa Watte. The land for which I had paid taxes from 1951 30 is called Galagawa Watte. About 20 to 21 years prior to the execution of D1 my father died. Now I say he died about 20 years ago and about 3 or 4 years prior to the execution of D1. I do not know the produce of the lands possessed by Wattuwa or Sekara. From 1947 onwards I did not pluck coconuts from the lands they are possessing. There had never been common possession of these lands among the three brothers. When I went to study medicine at Wennappuwa, I would have been about 13 to 14 years of age.

*To Court:—*

Q. Your brothers are claiming shares from your land.

A. Yes.

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Evidence

*Q.* Similarly, are you also claiming any shares from the lands possessed by Sekara and Wattuwa.

Evidence of  
H. P. D.  
Peththa Veda  
Re-  
Examination.  
—continued.

*A.* (Witness thinks) Now I do not have any shares from those lands.

*Q.* Independent of this case, do you say whether you are entitled to shares from the lands possessed by Wattuwa and Sekara.

*A.* (Witness thinks) I have given up all claims to the lands possessed by Sekara and Wattuwa.

Sekara got married about 30 years ago.

Sgd.  
Additional District Judge 10  
15-4-64.

Evidence of  
E. P. D.  
Jayasinghe  
Examination

**E. P. D. Jayasinghe**, affirmed, 22 years, Administrative Secretary, Cultivation Committee, Wadugedera-Katuwattewela Palatha.

I know the last witness. In our division he has fields. He has Kandedgera Irawella, Heen Irawella and Dehigaha Irawella Cumbure. (shown receipt dated 14-3-63 marked D6 issued by the Cultivation Committee). This is a receipt for the tax paid. Petta Weda has paid the taxes on D6. I also know Wattuwa and Sekara. They also own fields in our area. Wattuwa owns Ma Irawella. Sekera owns Weweliyadde Cumbure. There is an application made by Wattuwa in respect of Ma Irawella, claiming that that field belongs to him. The application was to get his name entered as the owner of this field. 20

Evidence of  
E. P. D.  
Jayasinghe  
Cross-  
Examination.

**Cross-Examination**

I have been to these fields. I have been to Heen Irawella Cumbura. Petta Weda is cultivating that field. I have not been to this land at the time the field was being worked. I only know that Petta Weda had come and paid taxes saying that it was his field giving the names of certain fields. We do not verify the deeds in respect of fields. The receipt only says that we had received certain payment from Petta Weda. I have never looked into deeds to find out the owners of any fields. Wattuwa has not signed any document before me. Therefore I do not know his signature. The application had been signed by a person to say 'Wattuwa'. I do not know how this application for insertion of the owner's name had been made. I was only appointed recently. This application is dated 1959. 30

Evidence of  
E. P. D.  
Jayasinghe  
Re-  
Examination.

**Re-Examination**

This application is in respect of Ma Irawella of two roods. This application was among the official documents in our office. About this fact, entries

have been made in the registers also. Apart from Petta Weda nobody else claimed Heen Irawella Cumbura and similiary nobody else claimed Ma Irawella which was claimed by Wattuwa.

Sgd.  
*Additional District Judge*  
 15-4-64.

No. 8  
 Defendants'  
 Evidence  
 —  
 Evidence of  
 E. P. D.  
 Jayasinghe  
 Re-  
 Examination.  
 —continued.

**W. A. John Appuhamy**, affirmed, 49 years, Revenue Overseer, Village Committee, Muruthenge.

Evidence of  
 W. A. John  
 Appuhamy  
 Examination

The Chairman of the Muruthenge V C. has been summoned to cause to be produced certain documents. I have been authorised to appear in Court on his behalf. (shown extract from the Register marked D7). This shows payments of rates from 1945 onwards. Before 1951 the name of the land had not been mentioned. In 1951 the name of the land has been given as Galagawa Watte and rates had been paid by Petta Weda. Notice of assessment for the year 1953 in respect of Galagawa Watte had been issued in the name of Petta Weda. I produce the notice of assessment marked D8.

### **Cross-Examination**

In 1945 the name of the land has not been mentioned. Upto 1950 there is no mention of the name of the land. In 1951 the name 'Galagawa Watte' has been inserted. The name of this land had been made in pencil and the rest of the entries in respect of this land had been made in ink. All these entries are in respect of Galagawa Watte. If there had been any change in the name of any land, that would have been entered in this register. In our Registers the name of this land belonging to Petta Weda has been given as Galagawa Watte. About 2 or 3 years ago the name 'Horameegahamula Watte' has been entered as the name of that land. (shown D3) - (Item No. 308). The entry there relates to that receipt. In this the name of the land has been given as Horameegahamula Watte and below that, within brackets, the name 'Galagawa Watte' has been written and there is some erasures also. Therefore for the first time in our registers the name Horameegahamula Watte appears in the entry dated 23-12-63.

Evidence of  
 W. A. John  
 Appuhamy  
 Cross-  
 Examination.

*Q.* The normal thing for you to have done was to put the bracket for the name Horameegahamula Watte since the name of the land had been throughout Galagawa Watte.

*A.* Yes.

From 1952 to 62 the land had been described as Galawa Watte and if there had been any change in the name it should have been entered as Galagawa Watte alias Horameegahamula Watte. Therefore the receipt D3 speaks of Horameegahamula Watte and within brackets 'Galagawa'. I do not know what is Horameegahamula Watte and Galagawa Watte.

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**Re-Examination**

—  
Evidence of  
W. A. John  
Appuhamy.  
Re-  
Examination.

Petta Weda has only one land according to the registers and for it he pays taxes. For every land of over five acres tax has got to be paid.

Sgd.  
*Additional District Judge*  
15-4-64.

Evidence of  
P. Rajapaksa  
Examination.

**Pabilis Rajapaksa**, affirmed, 32 years, Administrative Secretary, Cultivation Committee, Diyadora Palatha.

I know Petta Weda in this case. I also know Sekara and Wattuwa. I do not know whether in my Palatha, Petta Weda has any lands. In our documents his name does not appear as the owner of any lands. I know Sekara. He has fields in our Palatha. He has a field called Wattewela. That fact is entered in our registers. There is nobody else claiming that Wattewela field.

**Cross-Examination**

Nil.

**Re-Examination**

Nil.

Sgd.  
*Additional District Judge*  
15-4-64 20

Defendant's case closed reading in evidence D1 to D8.  
Documents and addresses on 30-4-64.

Sgd.  
*Additional District Judge*  
15-4-64

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**No. 9**

**Addresses to Court**

No. 9.  
Addresses to  
Court.

Mr. D. A. B. Ratnayake Addresses Court:—

D1 is in 1947. It would be seen from D1 that they had been in possession of various sets of lands even before D1. D1 is merely produced to show that at a certain period of time the possession had started whereby the three brothers possessed different lands. Therefore D1 is not repugnant to the provisions of



Prevention of Frauds Ordinance. He cites Current Law Report Vol. I at page 77. No. 9. It is not correct to say that on D1 the defendant derives title. The mother of the three brothers is a signatory to this D1, his father being dead at that time. His uncle is also a signatory to the document. Therefore this is a solemn document. Addresses to Court. —continued.

The entry in the Register of Taxes paid, in respect of the land Horameegahamula Watte is in English after 1956. D6 shows the properties possessed by the other brothers. All the documents produced confirms that there was a division and division was followed even in respect of other lands. D5 is in respect of Horameegahamula Watte and according to that on two sides there are two roads and the plan also gives two roads on two sides.

*The Vendor Sekara was present in Court and he was not called to show that the agreement was repudiated. The second defendant is another party and he was in Court and he too was not called to show that this agreement has been repudiated. If those two persons had given evidence to show that D1 has not been acted upon, then it would be a point against the first defendant.*

This is a land where the first defendant resides. He resides in the village of Ketawelagedera and the others are living at Weweliyadde. The Plaintiff has not called Sekara to warrant and defend his title.

It may be that the three brothers were not getting on well and therefore it is possible that the elders themselves got together and executed D1 to prevent future trouble. The plaintiff only in 1962 bought this land, and the people who knew everything about this land have not been called. First defendant is entitled to exclusive ownership to this land.

**Mr. Alloy Ratnayake** addresses Court on behalf of the Plaintiff.

*See paragraph five of the answer of the first defendant. He refers there to an exchange of lands among the three brothers. No particular land has been given to the second defendant. But he admits that both Sekara and Wattuwa were given lands jointly, and the first defendant was given certain other lands.*

D1 is in plaintiff's favour. The question to decide is whether D1 contemplates adverse possession. If the three brothers had been possessing separate lands, then there is no necessity to execute D1.

Wattuwa says that he accepts the pedigree of the plaintiff and he was also present and he did not call him because he thought that his case is strong. D1 has created a trust. D1 says "We will be continuing to possess as we have been possessing earlier until deeds were executed." Deeds have not been written and the trust had not been terminated.

*That because there was trouble among the others when the other brothers went and plucked coconuts from this land, the mother intervened and approached Sgt. Peter and*

No. 9.  
Addresses to  
Court.  
—continued.

wrote D1 and permitted the sons to possess as they had been possessing earlier. That act by itself is not sufficient to constitute independent and adverse possession.

If according to the first defendant Sekara and Wattuwa were given lands jointly and they were keeping one woman as their wife, then why should they possess lands separately, as the first defendant tried to make out.

He cites 61 N. L. R. page 361.

D5 has been registered in a completely different folio. There were three different Galagawa Watte. This Galagawa Watte has been given to the first defendant on a deed of gift by his father but in D5 he says that he had inherited it from his father. Galagawatte referred to in D1 has been given jointly to the other two brothers and not to the first defendant. 10

Earlier position of the first defendant was that D1 speaks of lands possessed by their parents. Later in his evidence he says that he bought Hettiwatte and Wanepola at an auction sale in favour of his brothers.

He also cites 22 N. L. R. page 510  
60 N. L. R. page 297  
48 N. L. R. page 112  
56 N. L. R. page 250  
and 3 C. L. W. page 69.

Sgd. 20  
Additional District Judge  
7-5-64

Judgment on 28-5-64.

Sgd.  
Additional District Judge  
7-5-64.

No. 10.  
Judgment of  
the District  
Court  
3.5.64.

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**No. 10**  
**Judgment of The District Court**

28-5-64

**JUDGMENT**

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This is an action instituted by the plaintiff to partition the land called Galagawa Watte more fully described in the schedule to the plaint. The case went to trial on the following issues:—

- (1) Did Sekara referred to in the plaint transfer his 1/3rd share on deed No. 29662 of 18-3-60 and attested by S. D. Karunaratne, N.P., to Sumanadasa.
- (2) Did the said Sumanadasa transfer his 1/3rd share on deed No. 820 dated 26-7-62 attested by A.B.M. de Alwis N.P., to the plaintiff.
- (3) If the above points of contests are answered in the affirmative, is the plaintiff entitled to 1/3rd share of this land.
- (4) Did Petta the first defendant, Sekera and Wattuwa exchange their lands as described in para. 5 of the statements of the 1st defendant.
- 10 (5) As a result of such exchange, are the premises in suit, in the exclusive possession of Petta the first defendant.
- (6) Prescriptive rights of parties.

No. 10.  
Judgment of  
the District  
Court  
3.6.64.  
—continued.

The following facts were admitted at the trial:—

“ By crown grants dated 20-9-1913, 20-2-1914, and 10-5-1919 H. P. D. Peruma became entitled to the said lands which became one property to the extent of 7 acres. The said Peruma gifted it in equal shares to his three children, Petta the first defendant, Sekera and Wattuwa the second defendant in this case.”

According to the plaintiff Sekara on deed No. 29662 marked P5 dated  
20 18-3-1960 sold 1/3rd share of this land to Sumanadasa. Sumanadasa by  
deed No. 820 of 26-7-62 sold it to him (the plaintiff). Therefore the plaintiff  
claims 1/3rd share of this land to himself, and he gives 1/3rd share to the  
first defendant and 1/3rd share to the second defendant. He also stated that  
the tiled house in the land in question, belongs to the first defendant. He  
stated that he knew about this land only from the date of his purchase and  
that was on 26-7-62. He also stated that when he came to know this land,  
the first defendant was residing on this land. He also stated that Petta,  
Sekera and Wattuwa were brothers. He also stated that Petta the first defen-  
dant was claiming title to the entire land. He was confronted with document  
30 D1 and he recognized the signatures of certain people and he also stated that  
Peter was a dealer in coconuts. He further stated that he paid the consider-  
ation on P6 by four instalments before the deed was written and that on the  
day the deed was written no money passed. He denied however that he  
went there to look after Peter's land. It is significant that Peter was present  
in Court throughout the entire proceedings in this case and that fact was  
also admitted by the plaintiff; and Peter, he admitted, was seated, while  
he was giving evidence, in the well of the Court. He also further stated  
that he did not know who paid the acreage tax for the entire land. The  
first defendant gave evidence and he stated that by a family arrangement,  
40 for which he produced document D1 and admittedly signed by the three

No. 10  
Judgment of  
the District  
Court  
3.6.64.  
—continued.

brothers namely, himself, Sekara and Wattuwa, he was to possess this land and deeds were to be written later and that no deeds have been written thereafter. He, however, proved to my entire satisfaction and those facts had not been contested by the plaintiff, that he had built this house on this land about 17 or 18 years ago and that he is living in that house and that there is the plantation on this land, which is about 35 years old and that it is also his work. According to the family arrangement referred to in D1, he was given certain lands and the other two brothers Wattuwa and Sekara were given other lands. In fact Sekara and Wattuwa jointly got certain lands. He stated that he was not getting on quite well with his brothers and therefore he preferred to have his lands separately. He also produced D2 to prove that he has been paying acreage tax for this land from 1951 to 1962. He has also stated that this land is also called Horameegahamula Watte. He has produced D2 a receipt for the tax paid till 1963, D3 a receipt for the taxes paid for the 3rd and 4th quarter of 1963 and D4 a receipt for the taxes paid for the 2nd quarter of 1963. The most convincing document he has produced is D5 a mortgage bond No. 8395 of 1947 and that deed is very significant because it was very shortly after D1 was executed. Under cross-examination this defendant, I should say, fared very well. I was quite impressed with his demeanour and he appeared to be speaking the truth and nothing but the truth, in this case. It is an admitted fact that the other two brothers Sekara and Wattuwa have other lands as well. The other evidence called by the first defendant was to prove his other documents and he has proved them.

Learned Counsel for the plaintiff has cited authorities after making a good study of this case and he was trying to maintain that possession of this land by the first defendant, was possession for his brothers as well. There is some substance in this submission but then when all the facts in the case are taken together I cannot resist coming to the conclusion that because there was trouble between the first defendant Petta on the one hand, and Sekara, and Wattuwa on the other, that mother of these brothers had got hold of a village lawyer to execute document D1. No doubt the Learned Counsel for the plaintiff has rightly pointed out that D1 has no force or effect in law in so far as it is an agreement pertaining to the land and it is not a Notarially executed one.

But the importance of D1 cannot be lightly stressed. D1 shows clearly that there was a family arrangement at or during this time. That was dated 26-8-47. Now the only other question is as to whether the parties have acted according to that family arrangement. Here again apparently it would appear that they have not acted as contemplated in D1 in so far as no deeds have been executed thereafter. But then D5 is dated 1-7-47 and that is a very important point, i.e. that ever since that period, at least, that the parties have acted on the footing that this land was to be possessed and enjoyed exclusively by the first defendant, and the other lands were to be possessed and enjoyed jointly by the other two brothers Sekara and Wattuwa to the exclusion of Petta. Further, nor does it end there Petta has improved this

land; he has also put a substantial building on this land. That again shows that Petta has prescribed to this property to the exclusion of his brothers and all others. Now it is significant that the plaintiff's deed is dated 26-7-62 and the deed of his predecessor in title is dated 18-3-60. These recent deeds have been apparently the attempts made to create title, and in my opinion Wattuwa and Sekara are at the bottom of it. It is also significant to observe that neither Sekara nor Wattuwa has been called as witnesses by the plaintiff and what is more, the second defendant Wattuwa is also a party to this case. In spite of that fact, even he has not been called by the plaintiff as his witness.

10 I am of the view that the plaintiff is a handy man of Peter and that Peter is the mischief-maker behind the scene and that Wattuwa and Sekara are also acting in concert with Peter but at the same time Wattuwa and Sekara are not bold enough to come forward and testify to any facts. The plaintiff had had the opportunity to call either Wattuwa or Sekara as his witness and yet he has elected not to call them, and that is a strong point in favour of the first defendant. The defendant has looked after this land as his own, he had improved this land and also paid acreage tax from 1951 onwards and also put up a substantial building on this land and now the land has increased in value. This is an attempt made by the plaintiff, Peter, Sekara

20 and Wattuwa to deprive the first defendant of the good things he has earned through the years. In the result I reject the evidence of the plaintiff and I accept the evidence of the first defendant and of his witnesses and I answer the issues as follows:—

- |       |  |
|-------|--|
| Issue | (1) – Yes, but this deed was executed only to create title and actually no title passed. |
| „     | (2) – Yes, but this deed was executed only to create title and actually no title passed. |
| „     | (3) – No.  |
| „     | (4) – Yes.   |
| 30 „  | (5) – Yes.   |
| „     | (6) – The first defendant has prescribed to this land exclusively.                       |

In the result I dismiss the plaintiff's action with costs.

Sgd.

*Additional District Judge*

28-5-64

No. 11.  
Petition of  
Appeal to the  
Supreme  
Court  
12.6.64.

**No. 11**

**Petition of Appeal to The Supreme Court**

IN THE DISTRICT COURT OF KURUNEGALA HOLDEN  
AT KULIYAPITIYA

Pattini Kuttige Jokeenu Nonis of Poogalla,  
Kitalawa in Yatikaha Korale, South.

..... . *Plaintiff*

No. 784/P.

*Versus*

1. Horatalpedi Durayalage Peththa alias Peththa  
Veda, 10

2. Horatalpedi Durayalage Wattuwa both of Eluwa-  
pola in Mayurawathie Korale.

..... . *Defendants*

In the matter of an appeal to The Supreme  
Court from the Judgment dated 3rd June,  
1964.

*Between*

Pattini Kuttige Jokeenu Nonis of Poogalla,  
Kitalawa aforesaid.

..... . *Plaintiff-Appellant.* 20

S.C. 436/(F)  
1964

*Versus*

1. Horatalpedi Durayalage Peththa alias Peththa  
Veda of Eluwapola aforesaid.

..... . *1st Defendant-Respondent*

2. Horatalpedi Durayalage Wattuwa also of Eluwa-  
pola aforesaid.

..... . *2nd Defendant-Respondent.*

To:

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

No. 11.  
Petition of  
Appeal to the  
Supreme  
Court  
12.6.64.  
—continued.

On this 12th day of JUNE, 1964.

The Humble Petition of Appeal of the Plaintiff-Appellant abovenamed, appearing by his Proctor AUGUSTINE BASIL MARCUS DE ALWIS, respectfully sheweth as follows:—

1. The Plaintiff-appellant abovenamed instituted the above action  
10 for a partition of the land called Galagawawatta more fully described in the schedule to the Plaint.

2. The Plaintiff-appellant claimed one third (1/3) share of the said land, and conceded one third (1/3) share each to the 1st defendant-respondent and the 2nd Defendant-respondent who are brothers, the Plaintiff-appellant himself having purchased from a Vendee of another brother of the 1st Defendant-respondent and of the 2nd Defendant-respondent.

3. The 2nd Defendant-respondent stated in open Court that he accepts the one third (1/3) share conceded to him, and did not file a statement.

4. The 1st Defendant-respondent claimed the entire land, on the  
20 ground of prescription on the basis that he had exclusive possession for over ten years as a result of an exchange of lands among the three brothers.

5. The case went to trial on seven issues agreed upon by both the parties and accepted by the learned District Judge.

6. After trial the learned District Judge delivered judgment on the 3rd day of June, 1964, dismissing the Plaintiff-Appellant's action with costs.

7. Being aggrieved and dissatisfied with the said judgment, the Plaintiff-appellant begs to appeal therefrom to Your Lordships' Court on the following among other grounds which may be urged by Counsel at the hearing of this appeal, viz:—

- 30 (a) that the said judgment is contrary to law and against the weight of evidence adduced in this case;
- (b) that the learned District Judge has misdirected himself both on the law as well as on the facts of this case;
- (c) that the learned District Judge has in his judgment, statement that the most convincing document the 1st Defendant-respondent has produced is "D5" a Mortgage Bond No. 8395 of

No. 11.  
 Petition of  
 Appeal to the  
 Supreme  
 Court  
 12.6.64  
 —continued.

1947, to prove prescriptive possession. It is humbly submitted that “ D5 ” refers to and is in respect of a land called Korameegahamulawatte and is registered in Folio No. F447/153 as admitted by the 1st Defendant-Respondent, whereas the premises sought to be partitioned is Galagawawatta registered in Folio No. F224/213. Moreover, the 1st Defendant-Respondent never contended that the “ Lis Pendens ” in this case was registered in the wrong folio;

- (d) that moreover, “ D5 ” refers to title by paternal inheritance, whereas “ P4 ” which refers to the land sought to be partitioned 10 is a Deed of Gift;
- (e) that it is further submitted with respect that the learned District Judge has erroneously interpreted the document “ D1 ” to be a family arrangement by which “ the land sought to be partitioned was to be possessed and enjoyed exclusively by the 1st Defendant-respondent, and the other lands were to be possessed and enjoyed jointly by the other two brothers Sekera and Wattuwa; ”
- (f) that moreover, the 1st Defendant-respondent had in his statement, referred to an “ exchange ” of lands among the three 20 brothers, and this was contained in issue 4 where again an “ exchange ” is referred to. And the document relied upon to prove the exchange was “ D1 ”. It is humbly submitted that D1 does not refer to any “ exchange ” of lands at all, but merely refers to the fact that the brothers agreed to carry on possessing the lands they were possessing at the time of the execution of D1 in the same manner as they were possessing up to that date till such time as deeds were written. If at all, “ D1 ” only proves that the brothers would be carrying on 30 possession in the same manner as they were possessing before the execution of D1, and that therefore each was possessing in trust for the others. This was only a convenient arrangement of possession until deeds were written. It is humbly submitted that D1 became necessary to make it quite clear that the possession was on the basis of trust, till such time as Deeds were written. As no deeds were written possession continued on the basis of trust. This is borne out by the fact that Sekera and Wattuwa, the 2nd Defendant-respondent are given lands jointly according to D1 which could not have been the case if D1 was to give rights of exclusive possession to each of the 40 three brothers;



- (g) that moreover, it is humbly submitted that D1 has no force or effect in law and as such cannot be the basis of any exchange of lands which can be legally accepted. Although the learned District Judge realized this it is humbly submitted that he has been erroneously too much influenced by "D1" which was wrongly admitted in evidence, as the basis of exclusive possession;
- (h) that it is humbly submitted with respect that the learned District Judge has failed to address his mind to the question of prescription amongst co-owners, and to the fact that adverse possession by one co-owner against another must be proved by more cogent evidence than that is adduced by the 1st Defendant-Respondent in this case. In fact he has not addressed his mind at all to the question of ouster or adverse possession by the 1st Defendant-Respondent against the Plaintiff-Appellant's predecessor-in-title, Sekera, a brother of the 1st Defendant-Respondent;
- (i) that it is further submitted that in D1 which was so heavily relied upon by the 1st Defendant-Respondent, there is no mention whatsoever of Korameegahamulawatte, and that the entries in the Revenue Registers show that Korameegahamulawatte is entered in the registers only on 23rd December, 1963 for the first time i.e. after the action was instituted;
- (j) that the learned District Judge has not answered issue No. 7 in this case;

No. 11.  
Petition of  
Appeal of the  
Supreme  
Court  
12.6.64.  
—continued.

WHEREFORE the Plaintiff-Appellant prays:—

- (a) that the judgment and order dated 3rd June 1964, of the learned District Judge be set aside and vacated with costs and the premises in suit ordered to be partitioned as prayed for in the Plaint;
- (b) for costs in Your Lordships' Court, and;
- (c) for such other and further relief as to Your Lordships' Court may seem meet.

Sgd. A. B. M. DE ALWIS,  
*Proctor for Plaintiff-Appellant*

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No. 12.  
Decree of the  
Supreme  
Court  
dismissing  
Appeal  
18.7.66.

**No. 12**

**Decree of the Supreme Court  
Dismissing Appeal**

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER  
OTHER REALMS AND TERRITORIES, HEAD OF  
THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND  
OF CEYLON

Pattini Kuttige Jokeenu Nonis of Poogalla,  
Kitalawa in Yatikaha Korale South. 10

..... *Plaintiff*

*Versus*

Horatalpedi Durayalage Peththa alias  
Peththa Veda, Ketawalegedera, Wewagama,  
and another.

..... *Defendants*

S.C. 436/64 (F)

Pattini Kuttige Jokeenu Nonis of Poogalla  
Kitalawa in Yatikaha Korale South.

..... *Plaintiff-Appellant* 20

*against*

Horatalpedi Durayalage Peththa alias  
Peththa Veda, Ketawalegedera, Wewagama,  
and another.

..... *1st and 2nd Defendants-Respondents*

Action No. 784/P.

DISTRICT COURT OF KULIYAPITIYA

This cause coming on for hearing and determination on the 18th day  
of July, 1966 and on this day, upon an appeal preferred by the Plaintiff-  
Appellant before the Hon. Ponnuduraisamy Sri Skanda Rajah, Puisne 30

Justice and the Hon. Anthony Christopher Augustus Alles, Puisne Justice of this Court, in the presence of Counsel for the Plaintiff-Appellant and the 1st Defendant-Respondent.

No. 12.  
Decree of the  
Supreme  
Court  
dismissing  
Appeal  
18.7.66.  
—continued.

It is considered and adjudged that this appeal be and the same is hereby dismissed.

It is ordered and decreed that the Plaintiff-Appellant do pay to the 1st Defendant-Respondent the taxed costs of this appeal.

Witness the Hon. Miliani Claude Sansoni, Chief Justice at Colombo, the 25th day of July, in the year One Thousand Nine Hundred and Sixty Six and of Our Reign the Fifteenth.

Sgd. B. F PERERA,  
*Deputy Registrar, S.C.*

**No. 13**

**Application for Conditional Leave to Appeal to  
the Privy Council**

**IN THE SUPREME COURT OF THE ISLAND  
OF CEYLON**

No. 13.  
Application  
for Condi-  
tional leave  
to Appeal to  
the Privy  
Council  
9.8.66.

In the matter of an application for conditional leave to appeal to Her Majesty the Queen in Council under Rule 2 of the Schedule to the Appeals (Privy Council) Ordinance (Cap. 100).

S.C. Application  
No. 322/66

Pattini Kuttige Jokeenu Nonis of Poogalla,  
Kithalawa in Yatikaha Korale South.

. . . . . *Plaintiff-Petitioner*

*Versus*

S.C. 436/64 F.  
D.C. Kuliyapitiya 784/P

- 1. Horatalpedi Durayalage Peththa alias Peththa Veda.
- 2. Horatalpedi Durayalage Wattuwa both of Eluwapola in Mayurawathie Korale.

. . . . . *Defendants-Respondents*

No. 13.  
Application  
for Condi-  
tional leave  
to Appeal to  
the Privy  
Council  
9.8.66.  
—continued.

TO HIS LORDSHIP HONOURABLE THE CHIEF JUSTICE AND THE  
OTHER JUDGES OF THE SUPREME COURT OF THE  
ISLAND OF CEYLON.

The 9th day of AUGUST, 1966.

The petition of the Plaintiff-Petitioner abovenamed appearing by AUGUSTINE BASIL MARCUS DE ALWIS, his Proctor, states as follows:

1. That feeling aggrieved by the judgment and decree of this Court pronounced on the 18th day of July, 1966, the plaintiff-petitioner is desirous of appealing therefrom to Her Majesty the Queen in Council.

2. That the said judgment is a final judgment and the matter in dispute in the appeal amounts to or is of the value of Rupees Five thousand and/or the appeal involves directly or indirectly some claim or question to or respecting property amounting to or of the value of Five thousand Rupees or upwards.

3. The Petitioner has by notice dated 29th day of July, 1966 sent by registered post and by ordinary post duly given the defendants-respondents notice of this intended application as required by Rule 2 of the schedule to the Appeals (Privy Council) Ordinance.

WHEREFORE the Plaintiff-petitioner prays:—

- (a) for conditional leave to appeal to Her Majesty the Queen in Council against the judgment of this Court dated the 18th day of July, 1966 pronounced in the above action;
- (b) for costs; and,
- (c) for such other and further relief as to this Court shall seem meet.

Sgd. A. B. M. DE ALWIS,  
*Proctor for Plaintiff-Petitioner*

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**No. 14**

**Minute of Order Granting Conditional Leave to Appeal  
to the Privy Council**

No. 14.  
Minute  
of Order  
granting  
Conditional  
Leave to  
Appeal to the  
Privy Council  
23.1.67.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON 30

In the matter of an application for Conditional Leave to Appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance.

Application No. 322/66  
(Conditional Leave)

Pattini Kuttige Jokcenu Nonis of Poogalla,  
Kithalawa in Yatikaha Korale South.

No. 14.  
Minute of  
Order  
granting  
Conditional  
Leave to  
Appeal to the  
Privy Council  
23.1.67.  
—continued.

. . . . . *Plaintiff-Petitioner*

*Versus*

S.C. No. 436/64 (F)  
D.C. Kuliyaipitiya 784/P

1. Horatalpedi Durayalage Peththa alias  
Peththa Veda.

2. Horatalpedi Durayalage Wattuwa both of  
Eluwapola in Mayurawathie Korale.

. . . . . *Defendants-Respondents*

10 The application of Pattini Kuttige Jokeenu Nonis of Poogalla, Kithalawa  
in Yatikaha Korale South, for Conditional Leave to Appeal to Her Majesty  
the Queen in Council from the Judgment and Decree of the Supreme Court  
of the Island of Ceylon pronounced on the 18th day of July, 1966 in S.C.436/64  
(Final) D.C. Kuliyaipitiya Case No. 784/P, having been listed for hearing  
and determination before the Honourable Vaitilingam Manicavasagar,  
Puisne Justice, and the Honourable Anthony Christopher Augustus Alles,  
Puisne Justice, in the presence of S. Sharvananda, Esquire, Advocate, for  
the Plaintiff-Petitioner and T.B. Dissanayake, Esquire, with Sepala Muna-  
singhe, Esquire, Advocates for the 1st Defendant-Respondent, order has  
20 been made by Their Lordships on the Twenty-Third day of January, 1967  
allowing the aforementioned application for Conditional Leave to Appeal  
to Her Majesty the Queen in Council.

Sgd. N. NAVARATNAM,  
*Registrar of the Supreme Court*

**No. 15**

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

No. 15.  
Application  
for Final  
Leave to  
Appeal to the  
Privy Council  
8.2.67.

IN THE SUPREME COURT OF THE ISLAND  
OF CEYLON

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

No. 15.  
Application  
for Final  
Leave to  
Appeal to the  
Privy Council  
8.2.67.  
—continued.

S.C. Application  
No. 322/66

Pattini Kuttige Jokeenu Nonis of Poogalla,  
Kithalawa in Yatikaha Korale South.

..... *Plaintiff-Appellant Petitioner*

*Versus*

S.C. 436/64 (F)  
D.C. Kuliyaipitiya 784/P

1. Horatalpedi Durayalage Peththa alias  
Peththa Veda of Eluwapola in Mayurawathie  
Korale.
2. Horatalpedi Durayalage Wattuwa of Weweli-  
yadda in Mayurawathie Korale.

.. . . . *Defendants-Respondents-Respondents* 10

TO HIS LORDSHIP THE HONOURABLE CHIEF JUSTICE AND THE  
OTHER JUDGES OF THE SUPREME COURT OF THE  
ISLAND OF CEYLON

On this 8th day of February 1967.

The petition of the Plaintiff-appellant petitioner appearing by AUGUSTINE BASIL MARCUS DE ALWIS, his Proctor, states as follows:—

1. The petitioner on 23rd day of January, 1967 obtained conditional leave from this Court to appeal to Her Majesty the Queen in Council against the judgment of this Court pronounced on 18th day of July 1966.
2. The petitioner has in compliance with the conditions on which such 20 leave was granted given security by deposit of a sum of Rs. 3000/- with the Registrar of the Supreme Court and hypothecation thereof by a bond for the due prosecution of the appeal and the payment of all such costs as may become payable to the respondents and also deposited with the Registrar of the Supreme Court a sum of Rs. 300/- in respect of the amounts and fees mentioned in Section 4 (2) (b) and (c) of the Appeals (Privy Council) Ordinance (Cap. 100).
3. This petitioner has given notice of this application to the defendants-respondents by sending a copy of same by registered post to each of them on the 8th day of February, 1967. 30

WHEREFORE the Plaintiff-appellant petitioner prays:—

- (a) that he be granted Final leave to appeal against the said judgment of this Court dated 18th July, 1966 to Her Majesty the Queen in Council;
- (b) for costs; and,

(c) for such other and further relief as to your Lordships Court shall seem meet.

Sgd. A. B. M. De ALWIS,  
*Proctor for Plaintiff-Appellant,  
Petitioner*

No. 15.  
Application  
for Final  
Leave to  
Appeal to  
the Privy  
Council  
8.2.67.  
—continued.

**No. 16**

**Minute of Order Granting Final Leave to Appeal to the  
Privy Council**

No. 16.  
Minute of  
Order  
granting  
Final Leave  
to Appeal to  
the Privy  
Council  
6.3.67.

IN THE SUPREME COURT OF THE ISLAND  
OF CEYLON

10

In the matter of an application for Final Leave to appeal to the Privy Council under the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance.

Application No.                      Pattini Kuttige Jokeenu Nonis  
322/66                                      of Poogalla, Kithalawa in Yatikaha Korale,  
(Conditional Leave)                      South.

... .. *Plaintiff-Petitioner*

S.C. No. 436/64 (F)  
D. C. Kuliyaipitiya  
20 784/P.

1. Horatalpedi Durayalage Peththa alias  
Peththa Veda.

S.C. Application No.                      2. Horatalpedi Durayalage Wattuwa  
50/67                                      both of Eluwapola in Mayurawathie  
(Final Leave)                              Korale.

..... . *Defendants-Respondents*

30 The Application of Pattini Kuttige Jokeenu Nonis of Poogalla, Kithalawa in Yatikaha Korale South, for Final Leave to Appeal to Her Majesty the Queen in Council from the Judgment and Decree of the Supreme Court of the Island of Ceylon pronounced on the 18th day of July, 1966 in S.C. 436/64 (Final) D.C. Kuliyaipitiya Case No. 784/P, having been listed for hearing and determination before the Honourable Vaitilingam Manicavasagar, Puisne Justice and the Honourable George Terrence Samerawickrame, O.C., Puisne Justice in the presence of S. Sharvananda Esquire, Advocate for the Plaintiff-Appellant-Petitioner and T. B. Dissanayake

No. 16.  
Minute  
of Order  
granting  
Final Leave  
to Appeal to  
the Privy  
Council  
6.3.67.  
*—continued.*

Esquire, with Miss A. P. Abeyratne, Advocates, for the Defendants-Respondents-Respondents, order has been made by Their Lordships on the Sixth day of March, 1967 allowing the aforementioned application for Final Leave to Appeal to Her Majesty the Queen in Council.

Sgd. N. NAVARATNAM,  
*Registrar of the Supreme Court*

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## PART II — EXHIBITS

P. 1.  
Crown Grant  
No. 12953  
20.9.13.

**P 1**

**Crown Grant No. 12953**

Appl. No. 294/16-2-60.

905K

—  
908

12953

(WASTE LAND)

GEORGE THE FIFTH, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith etc. 10

Sgd. R. E. Stubbs.

( S E A L )

I certify that the above signature attached by means of a stamp under the provisions of Ordinance No. 11 of 1884 and No. 30 of 1884, has been so attached in my presence.

Sgd. . . . .

*Private Secretary to the Officer  
Adg. the Govt.* 20

TO ALL TO WHOM THESE PRESENTS SHALL COME,  
GREETING.

KNOW Ye that for and in consideration of the sum of Twenty-nine Rupees (Rs. 29/-) lawful money of Ceylon, to Us paid by Horatal Pedi Durayalage Peruma of Eluwapola (the receipt whereof is hereby acknowledged), We, of Our special grace, certain knowledge, and mere motion, have granted and assigned, and by these Presents do grant and assign, unto the said Horatal Pedi Durayalage Peruma, his Heirs, and Assigns, the following premises, to wit:—

an allotment of land called Galagawawatta in Ketawalagedara Village, Mayurawati Korale of Dambadeni Hatpattu, Kurunegala District North-Western Province:

P. 1.  
Crown Grant  
No. 12953  
20.9.13.  
—continued.

Bounded as follows:—North by the Village limits of Wadugedera, East by Lots 1A and 1B in p.p. 942, South by Lot 1B in p.p. 942 and lot 2F in p.p. 934, West by Lot 2F in p.p. 934.

Containing in extent — One Acre Two Roods and Ten perches (1A. 2R. 10P.).

according to the annexed Survey and description thereof, authenticated  
10 by R. S. Templeton Esquire, Surveyor-General, bearing date the 29th  
October, 1912—No. 284676.

To have and to hold the said premises with their and every of their appurtenances unto the said Horatal Pedi Durayalage Peruma, his Heirs, and Assigns, in free and common soccage for ever, he and they yielding and paying yearly and every year to Our Governor of Our Island of Ceylon on behalf of Us, Our Heirs and Successors, a quit rent of a Pepper-corn on the First day of January in each year, or so soon thereafter as the same shall be demanded, and subject to the several Provisos and Reservations hereinafter declared and contained concerning the same; that is to say,  
20 Provided always that the said lands shall be liable to such Regulations as now exist, and as may hereafter be enacted, relative to landed property in general; and that it shall at all times be lawful for Us, Our Heirs and Successors, or for any person or persons acting in that behalf by Our or their authority, to resume and enter upon possession of any of the said Lands which it may at any time by Us, Our Heirs and Successors, be deemed necessary to resume for making and constructing such Roads and Bridges as may be necessary for public purposes, or for the benefit of the proprietors of other lands already purchased or to be hereafter purchased from Us, Our Heirs and Successors, in and upon the said Lands hereby granted and  
30 assigned; and provided also, that it shall at all times be lawful for Us, Our Heirs and Successors, or for any person or persons acting in that behalf by Our or their authority, to cut, search, dig for, and take away all such indigenous Timber, Stones, Cabook, and other Materials, the produce of the said Lands, as may be necessary or requisite for making and keeping the said Roads and Bridges in repair, or for any other public works whatsoever.

AND We do hereby also save and reserve to Us, Our Heirs and Successors, all right and title to the Mines, Minerals, Plumbago, Gold, Silver, Copper, Iron, Tin, Lead and other Metals, and the Ores thereof, and to

P. 1.  
Crown Grant  
No. 12953  
20.9.13.  
—continued.

all Mineral Oil, Coal, Shale, or other deposit or formation from which Mineral Oil may be obtained (which said Mineral Oil, Coal, Shale, or other deposit or formation as aforesaid shall hereinafter, in these presents, be deemed to be included and comprised in the term "Minerals") in or upon the said Lands, together with full power of entry for the same respectively, and all other powers and privileges necessary or requisite for the building or constructing such Roads or Bridges as aforesaid; or for cutting, procuring, and carrying away the Timber, Stone, Cabook, and other Materials for the purposes aforesaid, or for the discovering or working such Mines; or procuring, smelting, and carrying away the said Plumbago, Gold, Silver, Copper, Iron, Tin, Lead, and other Metals, or the Ores thereof, or any Minerals in or upon the said Lands. 10

And provided further, that the said description and admeasurement herein contained of the said premises hereinbefore mentioned to be granted and assigned shall be hereby taken to be correct; and in the event of any error or mistake hereafter appearing therein, that the said Horatal Pedi Durayalage Peruma, his Heirs, or Assigns, shall not be entitled to claim any compensation or abatement of the price paid for the same by reason thereof.

IN TESTIMONY WHEREOF WE have caused these Our letters to be made Patent, and the Public Seal of Our said Island to be hereunto affixed at Nuwara Eliya in the said Island, this Twentieth day of September, in the Year of our Lord One thousand Nine hundred and Thirteen. 20

By Excellency's command,

Sgd. . . . .  
*Acting Colonial Secretary*

I certify in terms of Section 11 of Ordinance No. 13 of 1905, that the above signature was attached by means of a stamp in my presence. 30

Sgd. . . . .

*An Officer specially appointed by the Governor for purposes of the above-mentioned section.*

I, S. Samarasinghe, Registrar of Lands, Kurunegala do hereby certify the foregoing is a true copy by mechanical process of duplicate of deed No. 12953 dated

20-9-1913 Crown Grant filed in this office and is issued on the application of Mr. H. P. Sethera of Kuliypitiya.

P. 1.  
Crown Grant  
No. 12953  
20.9.13.  
—continued.

Sgd. S. Samarasinghe,  
*Registrar*

Date: 19-2-60  
Kurunegala

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**P 2**

**Crown Grant No. 16546**

P. 2.  
Crown Grant  
No. 16546  
20.2.14.

10 Appl. No. 294/16-2-60

4498 K  

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4519

16546

(WASTE LAND)

GEORGE THE FIFTH, by the Grace of God of the United Kingdom of Great Britain and Ireland of the British Dominions beyond the Seas, King, Defender of the Faith, etc.

Sgd. . . . .

20

I certify that the above signature attached by means of a stamp under the provisions of Ordinance No. 11 of 1884 and No. 30 of 1884, has been so attached in my presence.

Sgd. . . . .  
*Private Secretary to the Governor.*

TO ALL TO WHOM THESE PRESENTS SHALL COME.  
GREETING.

KNOW Ye that for and in consideration of the sum of Fifty-four Rupees (Rs. 54/-) lawful money of Ceylon to Us paid by Horatal Pedi Durayalage Peruma of Eluwapola (the receipt whereof is hereby acknowledged), We, of Our special grace, certain knowledge, and mere motion, have granted and assigned, and by these Presents do grant and assign, unto the said Horatal Pedi Durayalage Peruma his Heirs and Assigns, the following premises to wit:—

P. 2.  
Crown Grant  
No. 16546  
20.2.14.  
—continued.

An allotment of land called Galagawahena in Eluwapola Village Mayurawati Korale of Dambadeni Hatpattu Kurunegala District North Western Province.

Bounded as follows:— North by lot 20P in P.P. 933 and T.P. 288046, East by T.P. 284583 and a Road South by Lot 181/2 in P.P. 934, West by Lots 2G and 2D in R.P. 934 and T.P. 284579 and 284589.

containing in extent exclusive of the Road passing through the land Three Acres One Rood and Seven Perches (A3 R1 P7). according to the annexed Survey and description thereof, authenticated by R. S. Templeton Esquire, Surveyor-General, bearing date the 25th November, 1913 No. 298661. 10

To have and to hold the said premises with their and every of their appurtenances unto the said Horatal Pedi Durayalage Peruma his Heirs and Assigns, in free and common soccage for ever, he and they yielding and paying yearly and every year to Our Governor of Our Island of Ceylon, on behalf of Us, Our Heirs and Successors, a quit rent of a Pepper-corn on the First day of January in each year; or so soon thereafter as the same shall be demanded, and subject to the several Provisos and Reservations hereinafter declared and contained concerning the same; that is to say, Provided always that the said Lands shall be liable to such Regulations as now exist, and as may hereafter be enacted, relative to landed property in general; and that it shall at all times be lawful for Us, Our Heirs and Successors or for any person or persons acting in that behalf by Our or their authority, to resume and enter upon possession of any of the said Lands which it may at any time by Us, Our Heirs and Successors, be deemed necessary to resume for making and constructing such Roads and Bridges as may be necessary for public purposes, or for the benefit of the proprietors of other lands already purchased or to be hereafter purchased from Us, Our Heirs and Successors, in and upon the said lands hereby granted and assigned, and provided also, that it shall at all times be lawful for Us, Our Heirs and Successors, or for any or persons acting in that behalf by Our or their authority, to cut, search, dig for, and take away all such indigenous Timber, Stones, Cabook, and other Materials, the produce of the said Lands, as may be necessary or requisite for making and keeping the said Roads and Bridges in repair, or for any other public works whatsoever. 20 30

AND We do hereby also save and reserve to Us, Our Heirs and Successors, all right and title to the Mines, Minerals, Plumbago, Gold, Silver, Copper, Iron, Tin, Lead and other Metals, and the Ores thereof and to all Mineral Oil, Coal, Shale, or other deposit, or formation from which Mineral Oil may be obtained (which said Mineral Oil, Coal, Shale, or other deposit or formation as aforesaid shall hereinafter, in these presents, be deemed to be included and comprised in the term “Minerals”) in or upon the said Lands, together with full power of entry for the same respectively, and all other powers and privileges necessary or requisite for the building or constructing such Roads, or Bridges as aforesaid; or for cutting, procuring, 40

and carry away the Timber, Stone, Cabook, and other Materials for the purposes aforesaid; or for the discovering or working such Mines or procuring, smelting, and carrying away the said Plumbago, Gold, Silver, Copper, Iron, Tin, Lead, and other Metals, or the Ores thereof, or any Minerals in or upon the said Lands.

P. 2.  
Crown Grant  
No. 16546  
20.2.14  
—continued.

AND provided further, that the said description and admeasurement herein contained of the said premises hereinbefore mentioned to be granted and assigned shall be hereby taken to be correct, and in the event of any error or mistake hereafter appearing therein, that the said Horatal Pedi  
10 Durayalage Peruma his Heirs or Assigns, shall not be entitled to claim any compensation or abatement of the price paid for the same by reason thereof.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent, and the Public Seal of Our said Island to be hereunto affixed at Nuwara Eliya, in the said Island, this Twentieth day of February, in the Year of our Lord One Thousand Nine Hundred and Fourteen.

By His Excellency's Command

Sgd. . . . .  
*Colonial Secretary*

20 I certify in terms of Section 11 of Ordinance No. 13 of 1905, that the above signature was attached by means of a stamp in my presence.

Sgd. . . . .  
*An Officer specially appointed by the Governor, for purposes of the above mentioned section.*

30 I, S. Samarasinghe, Registrar of Lands, Kurunegala, do hereby certify the foregoing is a true copy by mechanical process of duplicate of Deed No. 16546 dated 20-2-1914 Crown Grant filed in this Office and is issued on the application of Mr. H. P Sekara of Kuliypitiya.

Sgd. S. Samarasinghe,  
*Registrar*

Date: 20-2-60  
Kurunegala

P. 3.  
Crown Grant  
No. 11670  
10.5.19.

## P 3

## Crown Grant No. 11670

Appl. No. 294/16-2-60

11670

(WASTE LAND)

GEORGE THE FIFTH, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, King, Defender of the Faith, etc.

Sgd. R. E. Stubbs

I certify that the above signature attached 10  
by means of a stamp under the provisions  
of Ordinance No. 11 of 1884 and No. 30  
of 1884, has been so attached in my  
presence.

Sgd. . . . .  
*Private Secretary to the Officer Adg.  
the Govt.*

TO ALL TO WHOM THESE PRESENTS SHALL COME.

GREETING.

KNOW Ye that for and in consideration of the sum of Forty-Six Rupees 20  
(Rs. 46/-) lawful money of Ceylon, to Us paid by Horatal Pedi Durayalage  
Peruma of Eluwapola (the receipt whereof is hereby acknowledged), We,  
of Our special grace, certain knowledge, and mere motion, have granted  
and assigned, and by these Presents do grant and assign, unto the said Horatal  
Pedi Durayalage Peruma, his Heirs, and Assigns, the following premises,  
to wit:—

An allotment of land called Galagawawatta, in Eluwapola Village,  
Mayurawati Korale of Dambadeni Hatpattu Kurunegala District,  
North-Western Province.

Bounded as follows:— North by the Village Limits of Wadugedera, 30  
East by Lots 1 and 1C in P.P. 942. South by T.P. 260368 and a  
road, West by a road and Lot 2E in P.P. 934.

containing in extent Two Acres and Twenty Two Perches (A2. R0. P22).  
according to the annexed Survey and description thereof, authenticated  
by R. S. Templeton, Esquire, Surveyor-General, bearing date the 17th  
October, 1912, No. 284583.



TO HAVE AND TO HOLD the said premises with their and every of their appurtenances unto the said Horatal Pedi Durayalage Peruma, his Heirs and Assigns, in free and common soccage for ever, he and they yielding and paying yearly and every year to Our Governor of Our Island of Ceylon, on behalf of Us, Our Heirs and Successors, a quit rent of a Pepper-corn on the First day of January in each year, or so soon thereafter as the same shall be demanded, and subject to the several Provisos and Reservations hereinafter declared and contained concerning the same; that is to say, Provided always that the said Lands shall be liable to such Regulations  
 10 as now exist, and as may hereafter be enacted, relative to landed property in general; and that it shall at all times be lawful for Us, Our Heirs and Successors, or for any person or persons acting in that behalf by Our or their authority, to resume and enter upon possession of any of the said Lands which it may at any time by Us, Our Heirs and Successors, be deemed necessary to resume for making and constructing such Roads and Bridges as may be necessary for public purposes, or for the benefit of the proprietors of other lands already purchased or to be hereafter purchased from Us, Our Heirs and Successors, in and upon the said lands hereby granted and assigned, and provided also, that it shall at all times be lawful for Us,  
 20 Heirs and Successors, or for any person or persons acting in that behalf by Our or their authority to cut, search, dig for, and take away all such indigenous Timber, Stones, Cabook, and other Materials, the produce of the said Lands, as may be necessary or requisite for making and keeping the said Roads and Bridges in repair, or for any other public works whatsoever.

AND We do hereby also save and reserve to Us, Our Heirs and Successors all right and title to the Mines, Minerals, Plumbago, Gold, Silver, Copper, Iron, Tin, Lead and other Metals and the Ores thereof, and to all Mineral Oil, Coal, Shale, or other deposit or formation from which Mineral Oil may be obtained (which said Mineral Oil, Coal, Shale, or  
 30 other deposit or formation as aforesaid shall hereinafter in these presents, be deemed to be included and comprised in the term "Minerals") in or upon the said Lands, together with full power of entry for the same respectively, and all other powers and privileges necessary or requisite for the building or constructing such Roads or Bridges as aforesaid, or for cutting, procuring, and carrying away the Timber, Stone, Cabook, and other Materials for the purposes aforesaid, or for the discovering or working such Mines, or procuring, smelting, and carrying away the said Plumbago, Gold, Silver, Copper, Iron, Tin, Lead, and other Metals, or the Ores thereof, or any Minerals in or upon the said Lands.

40 And provided further, that the said description and admeasurement herein contained of the said premises hereinbefore mentioned to be granted and assigned shall be hereby taken to be correct; and in the event of any error or mistake hereafter appearing therein, that the said Horatal Pedi Durayalage Peruma his Heirs, or Assigns, shall not be entitled to claim any compensation or abatement of the price paid for the same by reason thereof.

P. 3.  
Crown Grant  
No. 11670  
10.5.19.  
—continued.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent, and the Public Seal of Our said Island to be hereunto affixed, at Colombo, in the said Island, this Tenth day of May, in the Year of Our Lord One thousand Nine hundred and Nineteen.

By His Excellency's Command,

Sgd. . . . .  
*Acting Colonial Secretary*

I certify in terms of Section 11 of Ordinance No. 13 of 1905, that the above signature was attached by means of a stamp in my presence.

Sgd. . . . .  
*An Officer specially appointed by the Governor for purposes of the above-mentioned section.*

I, S. Samarasinghe, Registrar of Lands, Kurunegala, do hereby certify the foregoing is a true copy by mechanical process of duplicate of deed No. 11670 dated 10-5-1919 Crown Grant filed in this Office and is issued on the application of Mr. H. P. Setheru, of Kuliya-pitiya.

Sgd. S. Samarasinghe,  
*Registrar*

Date: 19-2-60  
Kurunegala

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**P 4**

P. 4.  
Deed of Gift  
No. 2452  
attested by  
E. F. W.  
Jayewardene  
Notary  
Public.  
15.7.24.

**Deed of Gift No. 2452 Attested by E. F. W. Jayewardene,  
Notary Public**

Appl. No. 124/20-1-60

30

PRIOR REGISTRATION: Search dispensed with: F 138  
99, 100 & 101

GIFT

Rs. 2500/-

No. 2452

KNOW ALL MEN BY THESE PRESENTS I, Horatalpedi Durayalage Peruma of Weweliadda for and in consideration of the natural love and affection I bear unto my children Horatalpedi Durayalage Peththa (ii)

Ditto Sekara and (iii) Ditto Wattuwa all of Weweliadda (hereinafter sometimes called the Donees) and for Diverse other causes and considerations me thereunto specially moving do hereby give, grant, convey, make over and confirm unto the said Donees, their heirs, executors, administrators and assigns as a Gift absolute and irrevocable all those Premises in the Schedule hereto more fully described and of all the value of Rupees Two Thousand Five hundred and all the estate right, title, interest claim and demand whatsoever of me in to out of or upon the said premises.

P. 4.  
Deed of Gift  
No. 2452  
attested by  
E. F. W.  
Jayewardene  
Notary  
Public  
15.7.24.  
—continued.

To have and to hold the said Premises unto the said Donees and their  
10 aforewritten for ever absolute and irrevocable.

And I do hereby for myself, my heirs, executors and administrators, covenant with the said Donees and their aforewritten that the said Premises are free from all encumbrances and that I and my aforewritten will always warrant and defend the said Premises unto the said Donees and their aforewritten against any person or persons whomsoever.

### SCHEDULE

(1) The three contiguous blocks of lands called Galagawa watta, Galagawawatta and Galagawa Hena all forming one land about seven acres in extent excluding the Gansabawa Road running through the land  
20 situated at in the Villages of Ketawalagedera, and Eluwapola in Maiyurawathie Korale of Dambadeni Hatpattu Kurunegala District North Western Province and bounded on the North by lot No. 20P in P.P. 933 and T.P. 288046 and the Village limit of Wadugedera East by Lot 1A and 1B in P.P. 942 and the Village Limit of Ketawalagedera South by T.P. 260368 the Gansabawa Road and Lot 18-1/2 in P.P. 934 and West by lots 2G and 2D in P.P. 934 and T.Ps. 284579 and 284589 held and possessed by me on three Crown Grants.

(2) All that field called Gansuriyagaliakumbura about one pela paddy sowing extent of soil situated at Wattegedera in Maiyurawathi Korale  
30 aforesaid and bounded on the North by the Garden of the Donor, East by the field of Menika, South by Water Course, and West by the field of Peththa Vel Duraya.

(3) All that field called Bakmeegahakumbura about one pela paddy sowing extent of soil situated at Wattegedera aforesaid and bounded on the North by the Wire fence separating the land of Wattuwa and others, East by the limitary ridge of the field Meniki and others, South by the Water Course and West by the field of Kekula and others to both of which fields I am entitled by right of Paternal Inheritance.

(4) All that field called Wattewela about one pela paddy sowing  
40 extent of soil situated at Diyadora in Maiyurawathi Korale aforesaid and bounded on the North by the jungle of the Donor and others, East by the

P. 4.  
Deed of Gift  
No. 2452  
attested by  
E. F. W.  
Jayawardene  
Notary  
Public.  
15.7.24.  
—continued.

field of Kekula and others, South by the field of Wattuwa and others and West by the field of Meniki and others to which I am entitled by right of Maternal Inheritance.

KNOW all men by These Presents that I the said Ranhotipedi Durayalage Batti mother of the said Donees on behalf of them do hereby thankfully accept this Gift subject to the conditions imposed herein.

IN WITNESS WHEREOF we have to these presents and two others of the same tenor and date set our hands at Dandagomuwa on this fifteenth day of July one thousand nine hundred and twenty four.

WITNESSES:

10

We declare that we are well acquainted with the parties abovenamed and know their proper names, occupations and residences.

Signature of ... (Sgd. . . ) . . .  
Peruma.

Signature of . (Sgd. . . . ) . . . .  
Batti.

Signature of

1. Sgd. . . . .  
Siappuhami.
2. Sgd. . . . .

Sgd. E. Felix W. Jayawardena 20  
*N.P.*

I, Edmund Felix Wijayasinha Jayawardena, of Dandagomuwa in the Island of Ceylon, 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 Horatalpedi Durayalage Peruma and Ranhotipedi Durayalage Batti both of Weweliadda both of whom have signed in Sinhalese in the presence of Merinna Costage Siyappu Hami of Horawaduuna who has signed in Sinhalese and Don Joseph Perera Nettisinha of Kuliyaipitiya who has signed as D. J. P. Nettisinha and all of whom are known to me, the same was signed by the said parties and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Dandogamuwa on this fifteenth day of July, one thousand nine hundred and twenty four.

And I further certify and attest that the Duplicate of this Instrument bears five stamps of the value of Rupees forty two and the original a stamp of the value of one Rupee which were supplied by me and that after the deed was so explained in cancelling the stamps in the Original " 2500 " written on the stamp by a mistake and subsequently it was altered into " 2452 ".

WHICH I ATTEST.

Date of attestation:  
15th July 1924.

Sgd. E. Felix W. Jayawardena  
*Notary Public*

P. 4.  
Deed of Gift  
No. 2452  
attested by  
E. F. W.  
Jayawardena.  
Notary  
Public  
15.7.24.  
—continued.

I, S. Samarasinghe, Registrar of Lands Kurunegala do hereby certify the foregoing is a true copy by mechanical process of Duplicate of Deed No. 2452 dated 15-7-1924 attested by Notary, E. F. W. Jayawardena filed in this office and is issued on the application of Mr. H. P. Sekara of Kuliypitiya.

10

Date: 26-1-60  
Kurunegala

Sgd. S. Samarasinghe,  
*Registrar*

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**D 2**

D. 2.  
Payment of  
acreage Tax.

**Payment of Acreage Tax**

**Translation**

I certify that Mr. H. P. Petta Veda of Ketawalagedara has paid acreage taxes to the Murutenge Village Committee in the manner mentioned below.

20	1945	No. 75	H. P. Petta Veda, Esqr., Ketawalagedara Wewagama—7 acres	Rs	1.75
	1946	77	”	”	2.80
	1947	75	”	”	3.50
	1948	72	”	”	3.50
	1949	72	”	”	3.50
	1950	72	”	”	3.50
	1951	72	Galagawawatta	”	3.50
	1952	6	”	”	3.50
	1953	5	”	”	3.50
30	1954	G 5	”	”	3.50
	1955	G 5	”	”	3.50
	1956	G 5	”	”	3.52
	1957	G 5	”	”	3.52
	1958	G 5	”	”	3.50
	1959	G 5	”	”	3.50
	1960	G 5	”	”	3.53
	1961	G 5	”	”	3.50
	1962	G 5	”	”	3.50

40

Sgd. In English,  
*Chairman Village Committee,*  
*Murutenge*

D. 2. V C Office,  
 Payment of Murutenge, Nakkawatta  
 acreage Tax. 9-5-63  
 —continued.

Translated by me,

Sgd. 17-3-64  
*Sworn Translator, District Court,  
 Kurunegala*

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**D 1**

D. 1.  
 Writing  
 Executed by  
 Peththa  
 Veda, Sekera  
 & Wattuwa.  
 26.6.47.

**Writing Executed by Peththa Veda,  
 Sekera and Wattuwa**

Translation

On the 26th day of June, 10  
 1947 at Dandagamuwa

We the undersigned Horatalpedi Durayalage Petta Veda of Ketawalagedera, ditto Sekera of Weweliyadde and ditto Wattuwa of Weweliyadde are the owners of the property mentioned below by right of inheritance and agree to possess as possessed earlier until deeds are executed.

- To 1. Horatalpedi Durayalage Petta Veda the land called Korameegahamulawatte where he resides;
2. Dehigahairawellakumbura,
3. Heenirawellakumbura, and
4. Kandegederawela the four high and low lands. 20
- To 1. Sekera and Wattuwa residing at Weweliyadde the land called Wanepolawatte where they reside now.
2. Galagawawatte
3. Mairawellakumbura
4. Hettiwatte and
5. Wattewelakumbura the five high and low lands.

Do hereby agree to allow the said several persons the lands mentioned herein until deeds are executed.

Sgd. Batti  
 Sgd. Hapuwa

Sgd. Peththa  
 Sgd. Sekera 30  
 Sgd. Wattuwa

1. **First Witness:**

Ranhotipeti Durayalage Batti the mother of the aforesaid three persons.

D. 1.  
Writing  
Executed by  
Peththa  
Veda, Sekera  
& Wattuwa.  
26.6.47.  
—continued.

2. **Second Witness**

Wagapedi Durayalage Hapuwa the paternal uncle of the aforesaid three persons.

Sgd. K. A. D. Peter  
26-6-47

Translated by me,

10

Sgd. . . . . 11-3-64  
*Sworn Translator*

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**D 5**

**Mortgage Bond No. 8395 Attested by K. A. P. Rodrigo,  
Notary Public**

D. 5.  
Mortgage  
Bond  
No. 8395,  
attested by  
K. A. P.  
Rodrigo,  
Notary  
Public.  
1.7.47.

PRIOR REGISTRATION: Search dispensed with  
Registered F. 447/153.  
K'gala, 27 July, 1947.

Sgd. . . . .  
*Registrar of Lands*

20 MORTGAGE BOND: Rs. 200/-

**No. 8395**

This 1st day of July, 1947.

KNOW ALL MEN BY THESE PRESENTS THAT I, Horatalpedi Durayalage Peththa Veda of Ketawalagedara in Maiyurawathie Korale of Dambadeni Hat Pattu Kurunegala District North Western Province (hereinafter sometimes called and referred to as the said debtor) am held and firmly bound unto Horatalpedi Durayalage Menika of Katuattewela (hereinafter sometimes called and referred to as the said creditor) in the sum of Rupees Two hundred (Rs. 200/-) of lawful money of Ceylon borrowed  
30 and received by me from the said creditor and therefore I the said debtor

D. 5.  
Mortgage  
Bond  
No. 8395  
attested by  
K. A. P.  
Rodrigo,  
Notary  
Public.  
1.7.47.

—continued.

hereby renouncing the *Beneficium non numeratae pecuniae* do hereby engage and bind for myself and my heirs, executors, administrators to repay the said sum of Rupees Two hundred on demand and until such repayment to allow the possession of the mortgaged premises in lieu of interest on the said sum.

And for further assuring to the said creditor his heirs, executors, administrators and assigns the payment of all monies payable under by virtue or in respect of these presents I the said debtor do hereby specially mortgage and hypothecate to and with the said creditor and his aforewritten as a primary mortgage the premises fully and particularly described in the schedule hereunto together with all rights easements privileges servitudes and appurtenances whatsoever belonging thereto or in any wise appertaining or used or enjoyed therewith or reputed or known as part and parcel thereof, and all the estate right, title, interest property claim and demand whatsoever of me the said debtor in to upon or out of the said premises. 10

And I the said debtor do hereby covenant with the said creditor and his aforewritten that the said premises are not subject to any other charge or encumbrance whatsoever and that I the said debtor and my aforewritten shall and will at the request of the said creditor or his aforewritten do and execute or cause to be done and executed all such other and further acts, deeds and assurances for the more perfectly and effectually assuring to the said creditor and his aforewritten by way of mortgage and hypothecation the said premises or any portion thereof as by the said creditor or his aforewritten shall or may be reasonably required. 20

#### **The Schedule above referred to**

The land called Koramigahamulawatta in extent about seven and a half acres situated at Ketawalagedera and Eluwapola in Maiyurawathie Korale aforesaid and bounded on the North by the land of Horatala and others, East by the land of Peththa Liyanna and others, South by the Gansabawa Road, West by the Road leading to the Cemetery held and possessed by me the said debtor by right of paternal inheritance. 30

IN WITNESS WHEREOF I the said debtor do hereunto and to two others of the same tenor and date as these presents set my hand at Dandagamuwa on this First day of July One thousand nine hundred and Forty Seven.

Signature of

Sgd. . . . .  
Peththa Veda



WITNESSES

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

1. Sgd. . . . .

2. Sgd. . . . .

Sgd. . . . .  
*N.P*

D. 5.  
Mortgage  
Bond  
No. 8395  
attested by  
K. A. P.  
Rodrigo,  
Notary  
Public  
1.7.47.  
--continued.

10 I, KURUPPU ARACHCHIGE PAULIS RODRIGO of Danda-  
gamuwa in the Island of Ceylon, 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 debtor Horatalpedi Durayalage  
Peththa Veda who has signed in Sinhalese and is not known to me in the  
presence of the attesting witnesses Rankothpedige Alwis of Thummodara  
who has signed in Sinhalese and Victor Reginald Joseph of Diyadora who  
has signed as " V R. Joseph " both of whom are known to me and who  
stated that they know the executant the same was signed by the said  
debtor and also by the said witnesses and by me the said Notary in my  
20 presence and in the presence of one another all being present at one and the  
same time at Dandagamuwa aforesaid on this first day of July One Thousand  
Nine Hundred and Forty Seven.

And I further certify and attest that the duplicate hereof bears two  
stamps of the value of Rupees Three.

That the consideration was acknowledged to have been received and  
that before the foregoing was read over and explained as aforesaid, in  
duplicate page 1 line 6 in word Durayalage and in line 7 in word Keta-  
walagedera the letter " g " were altered to " a ".

WHICH I ATTEST

30 Date of Attestation  
1st July, 1947

Sgd. K. A. P. Rodrigo  
*Notary Public*

(SEAL)

**Endorsements appearing on the deed:**

1. Received and cancelled.  
Sgd. Menika (in Sinhalese) 16.7.48
2. Discharge registered. F 447/153 K'gala 19 July 1948.

Sgd.. . . . .  
*Registrar.*

D. 8.  
Notice of  
Assessment  
issued by the  
Muruthenge  
Village  
Committee.  
8.12.52.

**Notice of Assessment Issued by the Muruthenge  
Village Committee**

**Translation**

Form K

Muruthenge Village Committee

Notice of Assessment

Under the rules framed under Section 59 of the Village Committees Ordinance

To: Mr. H. P. Petta Veda

10

Take notice that in pursuance of the provisions of the Village Communities Ordinance the undermentioned property has been assessed for the year 1953 as hereunder set forth:

Name and or number of property and situation	Extent/Annual Value	Amount of tax payable and times of payment for the year
Wadugedera	7A	On or before the
Palatha		31st day of March
WD 6 Galagawa	Rs 3/50	1953 -/88
Watta		20
		On or before the
		30th day of June,
		1953 -/88
		On or before the
		30th day of Sep-
		tember, 1953 -/88
		On or before the
		31st day of Decem-
		ber, 1953 -/88

Date of service of notice 8-12-52

30

Sgd. ....  
Chairman

Signature of person serving notice

Sgd. illegibly  
*R O V C, Murutenge  
 Village Committee*

D. 8.  
 Notice of  
 Assessment  
 issued by the  
 Muruthenge  
 Village  
 Committee.  
 8.12.52.  
 —continued.

Translated by me

Sgd. . . . .  
*Sworn Translator,  
 D C Kurunegala  
 30-4-64*

10

---

**D 7**

**Particulars Supplied to the Cultivation Committee  
 Kurunegala District, regarding Field  
 known as "Ma Irawella"**

D. 7.  
 Particulars  
 supplied to  
 the Cultiva-  
 tion  
 Committee,  
 Kurunegala  
 District,  
 regarding  
 field known  
 as "Ma  
 Irawella"  
 16.6.59.

**Translation**

182

No. 74/10 Wadugedera Katuwattewela, 179,  
 Cultivation Committee, Dambadeni Hatpattu  
 Kurunegala District.

- |    |   |   |
|----|---|---|
| 1. | Name in full:   | Mr. Horatalpedi Durayalage Wattuwa.   |
| 20 | 2. Address:   | Weweliyadda, Wewagama.  |
| 3. | Whether a citizen<br>of Ceylon or not:  | Citizen of Ceylon.  |
| 4. | Name of field<br>situated within the<br>area of the said Cul-<br>tivation Committee | Ma Irawella.  |
| 5. | Boundaries:   | North: Land of the owner.<br>East: field of Menika.<br>South: Ela<br>West: field of Kongha. |
| 30 | 6. Extent of soil:  | A - R2 - P0   |
| 7. | Whether tattumaruru<br>or not:  | —   |

- D. 7. Particulars supplied to the Cultivation Committee, Kurunegala District, regarding Field known as "Ma Irawella". 16.6.59. —continued.
8. If tattumaru, after how many years: —
9. Name of village where the field is situated: Wattegedera.
10. I am an owner cultivator of the said land.

I, the undersigned, do hereby certify that the particulars supplied are true and correct.

Date: 16. 6. 59.

Sgd. Wattuwa

Signature or thumb impression 10

Translated by me,

Sgd..  
Sworn Translator,

D. C. Kurunegala, 30.4.64.

P. 5.  
Deed of  
Transfer  
No. 29662  
attested by  
S. D.  
Karunaratne,  
Notary  
Public.  
18.3.60

**P 5**

**Deed of Transfer No. 29662 attested by S. D. Karunaratne,  
Notary Public.**

Regd. in F. 224/213.  
Kurunagala, 21 March 1960

Sgd..... 20  
R.L.

PRIOR REGISTRATION – AS NOTED BELOW

Date 18th March, 1960.

No. 29662

TRANSFER

Rs. 2500.00

TO ALL TO WHOM THESE PRESENTS SHALL COME  
Horatalpedi Durayalage Sekera of Weweliyadda in Mayurawathie Korale  
(hereinafter sometimes called the said Vendor)

## SENDS GREETING.

WHEREAS the said Vendor is under and by virtue of Deed of Gift No. 2452 dated 15th July, 1924 and attested by E. Felix W. Jayawardene, Notary Public, (a certified copy of which is herewith produced) entitled to the land and premises more fully described in the Schedule hereto.

P. 5.  
Deed of  
Transfer  
No. 29662  
attested by  
S. D.  
Karunaratne.  
Notary  
Public  
18.3.60.

And Whereas the said Vendor has agreed with Kulappu Arachchige DON SUMANADASA of Mahanugalanda Estate Labuyaya, Kuliyaipitiya (hereinafter sometimes called the said Vendee) for the absolute sale and assignment unto him of the said land and premises for and at the price or  
10 sum of Rupees Two Thousand and Five Hundred.

NOW KNOW YE AND THESE PRESENTS WITNESS THAT THE SAID VENDOR in pursuance of the said agreement and in consideration of the said sum of Rupees Two Thousand & Five Hundred (Rs.2500.00) of lawful money of Ceylon well and truly paid to the said Vendor by the said Vendee (the receipt whereof is hereby admitted and acknowledged) doth hereby sell assign transfer set over and assure unto the said Vendee his heirs executors administrators and assigns all that the said Premises fully and particularly described in the said Schedule hereto together with all and singular the buildings and plantations thereon and the right ways water courses,  
20 privileges easements servitudes and appurtenances whatsoever thereof or thereunto belonging or in any wise appertaining or usually held and enjoyed therewith or reputed and known as part and parcel thereof and all the estate right, title interest, claim and demand whatsoever of the said Vendor in to out of or upon the said several Premises.

TO HAVE AND TO HOLD THE SAID SEVERAL PREMISES hereby sold and conveyed or intended so to be and every part or portion thereof unto the said Vendee his heirs executors administrators and assigns absolutely for ever together with all the title deeds vouchers and writings relating thereto.

30 AND the said Vendor for himself and his heirs executors and administrators doth hereby covenant promise and declare with and to the said Vendee his heirs executors administrators and assigns that the said vendor now has good right title and full power to grant and convey the said Premises in the manner aforesaid and that the same are free from all encumbrances whatsoever.

AND that he and his aforewritten shall and will always warrant and defend the title to the Premises hereby sold and every part or portion thereof against any and every person or persons whomsoever and further also shall and will at all times hereafter at the request and cost of the said Vendee or  
40 his aforewritten do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things whatsoever which shall or may be necessary for better and more perfectly assuring the said

P. 5.  
Deed of  
Transfer  
No. 29662  
attested by  
S. D.  
Karunaratne.  
Notary  
Public  
18.3.60.  
—continued.

Premises hereby sold and conveyed and every part or portion thereof unto the said Vendee and his aforewritten as by him or his aforewritten shall or may reasonably be required.

**The Schedule Above Referred to**

All that undivided one third part or share from and out of all those three contiguous blocks of lands called and known as Galagawawatta shown as Lot 1 in P.P. 942 containing in extent One Acre, Two Roods and Ten Perches as per Title Plan No. 284676 dated 29th Oct. 1912 and authenticated by R. S. Templeton, Surveyor-General, situated at Ketawalagedera Galagawawatta shown as Lot 2F in the P.P. 934, containing in extent Two Acres and Twenty Two Perches as per Title Plan No. 284583 dated 17th Oct. 1912 and authenticated by the said Surveyor-General, situated at Eluwapola and Galagawahena shown as Lot 2E in the aforesaid P.P. 934 and containing in extent Three Acres, One Rood and Seven Perches as per Title Plan No. 298661 dated 25th Nov. 1913 and authenticated by the said Surveyor-General situated at Eluwapola in Mayurawathie Korale of Dambadeni Hatpattu in the District of Kurunegala North Western Province and bounded on the North by Lot 20P in P.P. 933 and T.P. 288046 and by the village limits of Wadugedera, East by Lots 1A and 1B in P.P. 942 and by the village limits of Ketawalagedera South by T.P. 260368, the Gansabawa Road and Lot 18-1/2 in P.P. 934 and on the West by Lots 2G and 2D in P.P. 934 and T.Ps. 284579 and 284589 and containing in extent exclusive of the Gansabawa Road passing through the land Seven Acres (A7. R0. P0.) more or less and Registered under F - 224/213 and comprised of lands Registered under F - 138/99 to 101, together with a like share of all the Plantations, buildings and everything standing thereon.

IN WITNESS WHEREOF the said Vendor doth hereunto and to two others of the same tenor and date as These Presents set his hand at Kuliya-pitiya on this Eighteenth day of March One Thousand Nine Hundred and Sixty.

WITNESSES

Signed and delivered in the presence of us and we declare that we are well acquainted with the said executant and know his proper name, occupation and residence.

Sgd. (Sekera in Sinhalese)  
*Signature of Sekera.*

- 1. Sgd. (U. C. Perera in Sinhalese)  
*Signature of Chandradasa Perera.*
- 2. Sgd. (A. M. Dingiri Banda)  
*Signature of Dingiri Banda.*

Sgd. S. D. Karunaratne,  
*N.P.*

I, STANLEY DARNEL KARUNARATNE of Kuliypitiya in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing INSTRUMENT having been duly read over and explained by me to the said Vendor Horatalpedi Durayalage Sekera who has signed in Sinhalese and who is not known to me in the presence of Uduwage Chandredasa Perera of Kuliypitiya who has signed in Sinhalese and Atapattu Mudi-yanselage Dingiri Banda of Piduma who also has signed in Sinhalese the subscribing witnesses thereto both of whom are known to me and who stated that they knew the said vendor the same was signed by the said Vendor by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Kuliypitiya aforesaid on this Eighteenth day of March One Thousand Nine Hundred and Sixty.

P. 5.  
Deed of  
Transfer  
No. 29662  
attested by  
S. D.  
Karunaratne.  
Notary  
Public  
18.3.60.  
—continued.

AND I further certify and attest that the Duplicate of this Instrument bears two stamps of the value of Rupees Forty and the Original a stamp of the value of Rupees One.

THAT the full consideration was paid in cash in my presence and

THAT in the Original on page 1 in line 12 “ a certified copy of which is herewith produced ” were interpolated and both in the Duplicate and Original on page 2 in the Schedule in line 6 “ situated ” was retyped, in line last “ B.S. ” on page 3 in line 4 “ B.S. ” and in line 16 “ and ” were struck off, on page 3 in line 11 “ B ” was retyped, and on page 1 in line 11 and on page 3 in line 2 “ 5 ” was adjusted, before the said Instrument was so read over and explained as aforesaid.

WHICH I ATTEST

Date of Attestation  
18th March, 1960

Sgd. S. D. Karunaratne  
*Notary Public*

(SEAL)

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## P 6

P. 6.  
Deed of  
Transfer  
No. 820  
attested by  
A. B. M. de  
Alwis  
Notary  
Public  
26.7.62.

**Deed of Transfer No. 820 Attested by A. B. M. de Alwis,  
Notary Public**

Regd. F. 224/213

Kurunegala, 27 July 1962

Sgd. . . . .  
*Registrar of Lands*

PRIOR REGISTRATION F-224/213 Search dispensed with.

Date: 26th July, 1962

**No. 820**

10

TRANSFER

Rs. 2500-00

TO ALL TO WHOM THESE PRESENTS SHALL COME

Kulappu Arachchige Don Sumanadasa of Mahanugalanda Estate of Labuyaya in Yatikaha Korale South (hereinafter sometimes called the said Vendor).

SENDS GREETING.

WHEREAS the said vendor is under and by virtue of Transfer Deed No. 29662 dated 18th March 1960 and attested by S. D. Karunaratne, Notary Public, entitled to the land and premises more fully described in the Schedule hereto.

20

AND WHEREAS the said Vendor has agreed with Pattini Kuttige Jokeenu Nonis of Poogalla, Kitalawa in the said Korale (hereinafter sometimes called the said Vendee) for the absolute sale and assignment unto him of the said Premises for and at the price or sum of Rupees Two Thousand & Five Hundred.

**NOW KNOW YE AND THESE PRESENTS WITNESS THAT THE SAID VENDOR** in pursuance of the said agreement and in consideration of the said sum of Rupees Two Thousand & Five Hundred (Rs. 2500-00) of lawful money of Ceylon well and truly paid to the said Vendor by the said Vendee (the receipt whereof is hereby admitted and acknowledged) doth hereby sell, assign, transfer, set over and assure unto the said Vendee his heirs, executors, administrators and assigns all that the said Premises fully and particularly described in the said Schedule hereto together with all and singular the buildings and plantations thereon and

30



the right ways, water courses, privileges, easements, servitudes and appurtenances whatsoever thereof or thereunto belonging or in any wise appertaining or usually held and enjoyed therewith or reputed and known as part and parcel thereof and all the estate right, title, interest, claim and demand whatsoever of the said Vendor into out of or upon the said several Premises.

P. 6.  
Deed of  
Transfer  
No. 820  
attested by  
A. B. M. de  
Alwis  
Notary  
Public  
26.7.62.

—continued.

TO HAVE AND TO HOLD THE SAID SEVERAL PREMISES hereby sold and conveyed or intended so to be and every part or portion thereof unto the said Vendee his heirs, executors, administrators and assigns  
10 absolutely for ever together with all title deeds, vouchers, and writings relating thereto.

AND the said Vendor for himself and his heirs, executors and administrators doth hereby covenant promise and declare with and to the said Vendee his heirs, executors, administrators and assigns that the said Vendor now has good right title and full power to grant and convey the said Premises in the manner aforesaid and that the same are free from all encumbrances whatsoever.

AND that he and his aforewritten shall and will always warrant and defend the title to the Premises hereby sold and every part or portion thereof  
20 against any and every person or persons whomsoever and further also shall and will at all times hereafter at the request and cost of the said Vendee or his aforewritten do and execute or cause to be done and executed all such further and other acts, deeds, assurances, matters and things whatsoever which shall or may be necessary for better and more perfectly assuring the said Premises hereby sold and conveyed and every part or portion thereof unto the said Vendee and his aforewritten as by him or his aforewritten shall or may reasonably be required.

#### THE SCHEDULE ABOVE REFERRED TO

All that undivided one third part or share from and out of all those  
30 three contiguous blocks of lands called and known as Galagawawatta shown as Lot 1 in P.P. 942 containing in extent One Acre, Two Roods and Ten Perches as per Title Plan No. 284676 dated 29th Oct. 1912 and authenticated by R. S. Templeton, Surveyor-General, situated at Ketawalagedera Galagawawatta shown as Lot 2F in P.P. 934 containing in extent Two Acres and Twenty Two Perches as per Title Plan No. 284583 dated 17th Oct. 1912 and authenticated by the said Surveyor-General situated at Eluwapola and Galagawahena shown as Lot 2E in the aforesaid B.S.P.P. 934 and containing in extent Three Acres, One Rood and Seven Perches as per  
40 Title Plan No. 298661 dated 25th Novr., 1913 and authenticated by the said Surveyor-General situated at Eluwapola in Mayurawathie Korale of Dambadeni Hatpattu in the District of Kurunegala North Western Province and bounded on the North by Lot 20P in P.P. 933 and T.P. 288046 and by the village limits of Wadugedera, East by Lots 1A & 1B in P.P. 942 and by

P. 6.  
Deed of  
Transfer  
No. 820  
attested by  
A. B. M. de  
Alwis,  
Notary  
Public  
26.7.62.  
—continued.

the village limits of Ketawalagedera South by T.P. 260368, the Gansabawa Road and Lot 18-1/2 in P.P. 934 and on the West by Lots 2G and 2D in P.P. 934 and T.Ps. 284579 and 284589 and containing in extent exclusive of the Gansabawa Road passing through the land Seven Acres (A7. R0. P0.) more or less, together with a like share of all the plantations, buildings and everything standing thereon.

IN WITNESS WHEREOF the said Vendor doth hereunto and to two others of the same tenor and date as These Presents set his hand at Kuliypitiya on this Twenty Sixth day of July, One Thousand Nine Hundred and Sixty Two.

10

WITNESSES

Signed and delivered in the presence of us and we declare that we are well acquainted with the said executant and know his proper name, occupation and residence.

} Signature of Sumanadasa  
Sgd. (K. A. D. Sumanadasa  
in Sinhalese)

Signature of Ran Banda.

- 1. Sgd. (A. M. Ran Banda in Sinhalese)
- 2. Sgd. (K. A. D. Peter)

Sgd. A. B. M. De Alwis, 20  
N.P

I, Augustine Basil Marcus de Alwis of Kuliypitiya in the Island of Ceylon, NOTARY PUBLIC, do hereby certify and attest that the foregoing INSTRUMENT having been duly read over and explained by me to the said Vendor Kulappu Arachchige Don Sumanadasa who has signed in Sinhalese and who is not known to me in the presence of Adikari Mudi-yanselage Ran Banda of Tummodara who has signed in Sinhalese and Kulappu Arachchige Don Peter of Mahanugalanda Estate of Labuyaya who has signed as "K. A. D. Peter" the subscribing witnesses thereto both of whom are known to me and who stated that they knew the said Vendor the same was signed by the said Vendor by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present at the same time at Kuliypitiya aforesaid on this Twenty Sixth day of July One Thousand Nine Hundred and Sixty Two.

30

AND I further certify and attest that the Duplicate of this Instrument bears two stamps of the value of Rupees Forty and the Original a stamp of the value of Rupees One.

THAT the full consideration was acknowledged to have been received in advance.

WHICH I ATTEST

40

Date of Attestation,  
26th July, 1962

Sgd. A. B. M. De Alwis,  
Notary Public

(SEAL)

**D 6****Field Tax Receipt**D. 6.  
Field Tax  
Receipt  
14.10.63.

## TRANSLATION

## RECEIPT

Cultivation Committee, 74/10, Wadugedara/Katuwattewela No. 626689

Place: Eluwapola

1962/63

Date: 14/10/63

Received Rupees Seven and cents fifty (7/50) from H. P Petta Veda Esqr., of Ketawalagedera for the fields mentioned hereunder.

10 Cheque/M.O./No. (7/50)

Sgd. illegibly

*The Signature of Authorised Officer*

	A	R	P
(i) Kandegedara-Kandegedarawela ..	0	2	00
(ii) Wattegedara-Heenirawella .	0	1	00
(iii) Wattegedara-Dehigahamulairawella	0	2	00

---

 1 1 00
 

---

(Seal)

20

Translated by me,

Sgd. ....

Mallawa M. Herath,  
Sworn Translator, D.C.,  
Kurunegala.

7-3-64

D. 4.  
Acreage Tax  
Receipt for  
2nd Quarter,  
1963  
21.11.63.

**Acreage Tax Receipt for 2nd Quarter,  
1963**

TRANSLATION

No. 170                                  ' F ' Form                          No. in the Cash Book: 365  
Murutenge Village                      *Receipt*                                  Date: 21-11-63  
Committee

Description	Amount due	Head and Sub-head or "Account"	10
1963 Acreage Tax	2.81	Acreage Tax	
No. G 4 – Korameegahamulawatta alias Galagawawatta (For Second quarter)			

Received a sum of Rupees Two and cents eighty one from H. P. D. Petta Veda Esqr. of Ketawalagedara.

Sgd. ....  
*for Chairman Village Committee,  
Murutenge.*

Date: 21-11-63

20

Translated by me,

Sgd. Mallawa M. Herath,  
*Sworn Translator, D.C.,  
Kurunegala.*

7-3-64

**D 3**

**Acreage Tax Receipt for 3rd & 4th  
Quarters, 1963**

D. 3.  
Acreage Tax  
Receipt for  
3rd & 4th  
Quarters,  
1963  
23.12.63.

TRANSLATION

MURUTENGE VILLAGE COMMITTEE

Assessment Acreage Tax Receipt No. 308

Amount Rs. 5 cts. 62 (Rupees Five and cents sixty two)

Name: H. P. D. Veda Esq.

No. of House or Premises:

10 Street or Village: Wadugedara Palatha.

Name of Land: G 4, Korameegahamulawatte (Galagawawatta)

What Quarter: For 3 and 4 quarters 1963

Date: 23-12-1963

Sgd. Illegibly,

*C.O./R.O.*

*Chairman, V.C.*

Translated by me,

Sgd. Mallawa M. Herath,

*Sworn Translator, D.C.,*

*Kurunegala.*

7-3-64

No. ....

# 32 OF 1968

Supreme Court of Ceylon,  
No. 436 (Final of 1964.

District Court of Kuliyaipinna,  
Case No 784 P.

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

BETWEEN

PATTINI KUTTIGE JOKEENU NONIS of Poogalla,  
Kithalawa, in Yatikaha Korale South.  
*Plaintiff-Appellant*  
APPELLANT

AND

1. HORATALPEDI DURAYALAGE PETHTHA  
*alias* PETHTHA VEDA.
2. HORATALPEDI DURAYALAGE WATTUWA,  
both of Eluwapola, in Mayurawathie Korale.  
*Defendants-Respondents*  
RESPONDENTS

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## RECORD OF PROCEEDINGS

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