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In the Privy Council.

No. 14 of 1951.  
 LEGAL STUDIES  
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 UNIVERSITY OF LONDON

ON APPEAL FROM THE SUPREME  
 COURT OF CEYLON

THAIALPARGAR SELVAGURU of Valvettiturai

*Petitioner-Appellant*

*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR of Valvettiturai

2. KANDASAMY PARAMAKURU of Valvettiturai

*Respondents-Respondents.*

RECORD OF PROCEEDINGS

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ON APPEAL FROM THE SUPREME  
COURT OF CEYLON

THAIALPARGAR SELVAGURU of Valvettiturai  
*Petitioner-Appellant*

*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR of Valvettiturai

2. KANDASAMY PARAMAKURU of Valvettiturai

10

*Respondents-Respondents.*

RECORD OF PROCEEDINGS

No. 1.

Journal Entries.

In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

No. A 27 Testy :

In the Matter of the Application for Appointment of a Guardian *ad litem* of  
the minor KANDASAMY PARAMAKURU of Valvettiturai.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*

*versus*

20 1. G. THAIALPAGAR

2. K. PARAMAKURU both of Valvettiturai ... .. *Respondents.*

No. 1.  
Journal  
entries,  
21st  
December,  
1943, to  
10th  
January,  
1950.

The 21st day of December, 1943.

Mr. M. Chelvathamby, Proctor, files proxy petition and affidavit of  
the Petitioner and for reasons stated therein moves for an Order *nisi* on the  
Respondent to show cause if any why the 1st Respondent should not be  
appointed Guardian *ad liem* over the minor the 2nd Respondent.

1. Enter and issue Order *nisi* for 27.1.44 on the Respondents.

Initialled : E. W.  
*Additional District Judge.*

- In the District Court of Jaffna (held at Point Pedro).
- No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—*continued.*
- 24.12.43. Order *nisi* entered. Initialled :
- 10.1.44. Copy of Order *nisi* issued on Respondents. Initialled :
- 19.1.44. Return to copy of Order *nisi* on Respondents. Received and filed. Initialled :
- 27.1.44. Mr. M. CHELVATHAMBY for Petitioner. Copy of Order *nisi* to appoint Guardian *ad litem* over the minor served on 1st and 2nd Respondents. They are absent. Enter order absolute. Further 10 steps on 17.2. Initialled : E. W.,  
A.D.J.
- 17.2.44. Mr. CHELVATHAMBY for Petitioner. Order absolute tendered. Later : case called for further steps. Call 25.2. Initialled : E. W.,  
A.D.J.
- 17.2.44. Appointment of Guardian *ad litem* entered. Initialled.
- 18.2.44. Mr. M. CHELVATHAMBY, Proctor, files petition and affidavit 20 together with Last Will and its translation bearing No. 18703 dated 28.6.43 and moves for an Order *nisi* on the Respondents to show cause why probate should not be issued to him as the Executor in the said Last Will.  
1. Enter Order *nisi* for service on the Respondents for 17.3.44.  
2. Publications in the Hindu Organ and Gazette for same date.  
3. Forward statement of declaration to the Commissioner of Estate Duty. Initialled : E. W.,  
A.D.J. 30
- 17.3.44. Mr. CHELVATHAMBY for Petitioner.  
1. Order *nisi* not entered. Enter now for 21.4.44.  
2. Publication in the Gazette and paper for same date.  
3. Has statement of declaration been sent to the Commissioner of Estate Duty ? Yes. Await certificate for 21.4.44. Initialled : E. W.,  
A.D.J.
- 20.3.44. Commissioner of Estate Duty acknowledges the receipt of the declaration of property.
- 17.4.44. Order *nisi* entered. Initialled : 40

- 21.4.44. Mr. CHELVATHAMBY for Petitioner. In the District Court of Jaffna (held at Point Pedro).  
 (1) Order *nisi* already entered.  
 (2) Publication in the Government Gazette and paper due—  
 not filed—For 12.5.44.  
 (3) Certificate not received. Await for 12.5.44.  
 Initialled : E. W.,  
 A.D.J.
- 24.4.44. Commissioner's certificate received and filed. No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—  
 Initialled : continued.
- 10 12.5.44. Mr. CHELVATHAMBY for Petitioner. Commissioner's certificate already received and filed. As the Petitioner is ill, the Proctor for Petitioner, moves for time to issue Order *nisi* and to file Gazette and News Paper publications.  
 Allowed for 15.6.44.  
 Initialled : E. W.,  
 A.D.J.
- 7.6.44. Copy of Order *nisi* issued on the Respondent to Fiscal Marshal, Point Pedro.  
 Initialled :
- 20 15.6.44. Mr. CHELVATHAMBY for Petitioner. Copy of Order *nisi* served on the 1st Respondent who is also the Guardian *ad litem* of the 2nd Respondent Minor. He is present and objects. Objections on 13.7.  
 (2) Proof of publications in the Gazette and papers due—13.7.  
 Initialled : E. W.,  
 A.D.J.
- 13.7.44. Mr. CHELVATHAMBY for Petitioner—absent.  
 1. Objection due from the 1st Respondent Thayalpagar—not filed.  
 2. Proof of publications in the Gazette and papers due—on 3.8.  
 3. Mr. Thanabalasingham for 1st Respondent files proxy of the 1st Respondent and moves for a date to file objection. Objection on 3.8.44.  
 Initialled : E. W.,  
 A.D.J.
- 30 Later. Proof of publications in the papers filed. Initialled : 13.7.44.
- 40 3.8.44. Mr. CHELVATHAMBY for Petitioner. Mr. THANABALASINGHAM for 1st Respondent.  
 1. Objection due—not filed.  
 2. Proof of publication in the Government Gazette due on 31.8.

In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

No. 1.  
Journal  
entries,  
21st  
December,  
1943, to  
10th  
January,  
1950—  
*continued.*

3. Mr. Thanabalasingham for 1st Respondent moves for one month's time to file objections in this case—Allowed time till 31.8.44.

Initialled : E. W.,  
A.D.J.  
31.8.44.

31.8.44. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
(1) Proof of publication in the Government Gazette due— 10  
further date 21.9.  
(2) Objections due from the 1st Respondent filed.

Initialled : E. W.,  
A.D.J.

21.9.44. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
Proof of publication in the Government Gazette due—filed.  
Objection by 1st Respondent to the issue of Probate to the  
Petitioner already filed.  
Inquiry on 15.2.45.

Initialled : E. W. 20  
A.D.J.

27.9.44. Mr. M. CHELVATHAMBY for Petitioner moves that the Court may be pleased to advance the hearing of the objections in this case to a date before 19.10.44, in view of the Order of Court dated 22.9.44, in case No. 1862/P of this Court calling upon the 1st Plaintiff to take steps for substitution in place of the deceased 2nd Plaintiff in that case on 19.10.44.

Mention on 12.10.

Initialled : E. W., 30  
A.D.J.

12.10.44. Mr. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
Case called—*Vide* Journal Entries of 27.9.44.  
The date of the inquiry will stand.

Initialled : E. W.,  
A.D.J.

30.1.45. 1st Respondent deposits Rs. 26/- as batta to witnesses.

30.1.45. Mr. C. THANABALASINGHAM for 1st Respondent files list of witnesses and cites 5 witnesses.

3.2.45. Petitioner's list of witnesses filed with notice to Respondent's 40  
Proctor.

Initialled :

- 5.2.45. Kachcheri Receipt No. 10 of 1.2.45 for Rs. 26/- being batta to 1st Respondent's witness received and filed. In the District Court of Jaffna (held at Point Pedro).
- 8.2.45. Mr. C. THANABALASINGHAM for Respondent files additional list of witnesses and documents and cites one witness as per list filed. Initialled : No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—*continued.*
- 8.2.45. Mr. CHELVATHAMBY cites two witnesses. Initialled :
- 13.2.45. Additional list of documents of the petitioner filed. Initialled :
- 10 INQUIRY (1)
- 15.2.45. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
*Vide* proceedings.  
Further hearing on 29.6.45. Initialled : E. W.,  
A.D.J.
- 20 28.2.45. One Sankar Veluppillai—witness in this case requests to refund the batta of Rs. 25/- deposited in his favour. He gives a statement of travelling expenses incurred by him.
- |  |       |
|--|-------|
| (a) Train fare from :                        |       |
| Polonnaruwa to Kodigamam and back            | 23.80 |
| (b) Bus fare and buggy hire                  | 7.50  |
| (c) 3 days subsistence allowance at Rs. 4/20 | 12.60 |
- Issue requisition for Rs. 25/-. Initialled : E. W.,  
A.D.J.
- 30 1.3.45. Requisition for Rs. 25/- issued in favour of Mr. Sankar Veluppillai, Polonnaruwa. Initialled :  
*Chief Clerk.*
- 7.6.45. Summons on 1st Respondent's witness—M. Ramalingam, issued. Initialled :
- 7.6.45. Proctor for 1st Respondent Mr. C. THANABALASINGHAM deposits Rs. 31/50 batta to 1st Respondent's witness and cites 2 witnesses as per list filed. Initialled :
- 40 13.6.45. Return to summons on witness—M. Ramalingam is received and filed. Reported not served as he is in Samaltivu—Trinomalee. Sent to deputy Fiscal Trincomalee. Initialled :



In the District Court of Jaffna (held at Point Pedro).

No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—*continued.*

- 16.6.45. Kachcheri Receipt No. 513 of 11.6.45 for Rs. 31/50 being batta to witness received and filed. Initialled :
- INQUIRY (2).
- 29.6.45. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
Inquiry is postponed for 26.10.  
I am engaged in hearing a partly heard Crown case where the witnesses have come from India and this case will not be reached. 10
- 30.6.45. Return to summons on 1st Respondent's 3rd witness received and filed. 10  
Reported served on him.  
Initialled :
- 6.7.45. One Sankar Veluppillai—witness in this case requests to refund to him Rs. 30/- as he has attended this Court on 29.6.45 in connection with this case. Certificate of attendance and details of expenditure are annexed. Mr. Thanabalasingham, Proctor, who deposited the batta for the witness consents to the sum of Rs. 30/- being paid. 20  
Issue requisition for Rs. 30/-.  
Initialled :  
*A.D.J.*
- 7.7.45. Requisition for Rs. 30/- issued in favour of Sankar Veluppillai. Initialled :
- 7.7.45 Requisition Posted, Initialled :
- 1.8.45. Summons on 1st Respondent's witness—K. Selladurai Pillai is reissued. Initialled : 30
- 5.10.45. Proctor for 1st Respondent deposits Rs. 30/- being batta to witness—S. Veluppillai. Initialled :
- 5.10.45. Proctor for 1st Respondent cited one witness—S. Veluppillai as per list filed to Fiscal, North Western Province. Initialled :
- 11.10.45. Kachcheri Receipt 394 of 8.10.45 for Rs. 30/- being batta to witness received and filed. Initialled :
- 15.10.45. Return to summons on witness—S. Veluppillai received and filed. Reported served on him. 40  
Initialled :

- 20.10.45. Mr. C. THANABALASINGHAM for 1st Respondent files affidavit of the 1st Respondent and for reasons stated therein moves that the above case be postponed to another date. Mention on 26.10. Initialled : E. W.,  
A.D.J.
- 22.10.45. Mr. C. THANABALASINGHAM for 1st Defendant files additional list of witnesses and documents. Initialled :
- INQUIRY (3).
- 10 26.10.45. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
(Vide Journal Entries of 20.10.45 to postpone this case for another date) Vide proceedings.  
Issue commission returnable 7th December, 1945, to Mr. McIntyre. Call case on 7th December, 1945. To fix trial date.  
Initialled :  
A.D.J.
- 20 26.10.45. One Veluppillai witness in this case sends telegram stating that he is sick and unable to attend.  
Initialled :  
A.D.J.
- 29.10.45. One S. Veluppilai—witness in this case informs that he was unable to appear in Court on 26.10.45 as he was suffering from fever and unfit to travel. Further he states that a medical certificate will be forwarded if necessary.  
Initialled :  
A.D.J.
- 30 31.10.45. Paying in voucher for Rs. 52/50 issued in favour of Mr. C. Thanabalasingham being deposit (under miscellaneous) for Commissioner's fees.  
Initialled :
- 1.11.45. K.R. 117 of 31.10.45 for Rs. 52/50 received and filed.  
Initialled :
- EODIE. Commission issued to Mr. E. T. McIntyre, Handwriting Expert, Colombo, returnable 9.11.45 with documents referred to in the Commission.  
Initialled :
- 40 10.11.45. Commissioner (the Examiner of questioned documents) returns Commission with his report and moves that the Court be pleased to send him a pay order for the sum of Rs. 52/50.

In the District Court of Jaffna (held at Point Pedro).

No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—*continued.*

In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

- (1) File.  
(2) Issue requisition for Rs. 52/50.

Initialled :

*A.D.J.*  
15.11.45.

No. 1.  
Journal  
entries,  
21st  
December,  
1943, to  
10th  
January,  
1950—  
*continued.*

15.11.45. Requisition for Rs. 52/50 issued in favour of Mr. E. T. MacIntyre,  
Colombo.

Initialled :

17.11.45. Requisition sent by post.

Initialled :

10

21.11.45. 1st Respondent moves for a paying-in-voucher for Rs. 73/50 being  
costs ordered on 26.10.45. (Deposited under Miscellaneous).

EODIE. Kachcheri Receipt  $\frac{U}{5} \frac{67}{29663}$  of 21.11.45, filed for Rs. 73/50.

7.12.45. Mr. M. CHELVATHAMBY for Petitioner.

Mr. C. THANABALASINGHAM for 1st Respondent.

1. Return to Commission due from the Examiner of questioned  
documents—already received and filed.

2. Costs Rs. 73/50 to be paid to the Petitioner by the 20  
1st Respondent.

*Vide* Kachcheri receipt deposited on 21.11.

3. Trial on 5.4.45.

Initialled :

*A.D.J.*

11.12.45. Mr. M. CHELVATHAMBY for Petitioner moves for a requisition  
in his favour for Rs. 73/50, being costs of the day ordered to be  
paid by the 1st Respondent to the Petitioner on 26.10.45.  
Petitioner consents—Issue requisition.

Initialled :

30

*A.D.J.*

13.12.45. Requisition for Rs. 73/50 issued, to Mr. M. Chelvathamby,  
Proctor.

Initialled :

*A.D.J.*

Received requisition.

Sgd. M. CHELVATHAMBY,  
*Proctor.*

13.3.46. Paying-in voucher for Rs. 100/- issued to the 1st Respondent  
being batta to Mr. MacIntyre.

Initialled :

40

- 13.3.46. Kachcheri receipt No. 57 of 13.3.46, for Rs. 100/- being batta to E. J. MacIntyre—witness. Initialled :
- EODIE. Proctor for Respondent files additional list of witnesses. Initialled :
- 13.3.46. Summons re-issued on witness K. Selladurai Velvattiturai—1st Respondent's witness. Initialled :
- 10 13.3.46. Mr. C. THANABALASINGHAM for Respondents, cites 4 witnesses as per lists filed (one to Point Pedro, one to North Central Province and one to Western Province). Initialled :
- 20.3.46. Return to summons on witness, E. T. MacIntyre received and filed. Reported served on him. Initialled :
- 21.3.46. Return to Summons on witnesses—Sethulingam and Sinniah received and filed. Reported served on them. Initialled :
- 20 22.3.46. Summons issued on witness S. Veluppillai to Deputy Fiscal, Tangalle.
- 27.3.46. Return to summons on witness S. Veluppillai from North Central Province received and filed. Reported not served and that he is in Tangalla. Initialled :
- INQUIRY (4).
- 5.4.46. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
(Further hearing). *Vide* proceedings.  
Further hearing 9.5.46. Initialled :
- 30 5.4.46. Mr. E. T. MacIntyre moves for a requisition for Rs. 100/- being batta deposited for his attendance. He is present in Court to give evidence.  
Issue requisition. Initialled :  
*A.D.J.*
- 40 8.4.46. Requisition for Rs. 100/- issued in favour of Mr. MacIntyre by registered post. Initialled :

In the District Court of Jaffna (held at Point Pedro).  
—  
No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—  
*continued.*

In the District Court of Jaffna (held at Point Pedro).

No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—*continued.*

12.4.46. Return to summons on witness—S. Veluppillai received and filed. Reported served on him.

Initialled :

17.4.46. One S. Veluppillai witness in this case moves to refund to him the batta of Rs. 30/- deposited in this case. He annexes certificate of attendance. Pay.

Initialled :

*A.D.J.*

25.4.46. Requisition for Rs. 30/- issued in favour of M. S. Veluppillai.

Initialled :

10

30.4.46. Mr. C. THANABALASINGHAM for Respondent files additional list of witnesses and cites one witness as per list filed.

Initialled :

**INQUIRY (5).**

9.5.46. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
(Further hearing).  
*Vide* proceedings.  
Judgment reserved.

14.5.46. Documents D1—D19 filed with list.

Initialled :

20

29.5.46. Documents P2—P4 filed with list.

Initialled :

17.1.47. Order delivered in open court in the presence of Mr. Thanabalasingham for 1st Respondent and of Mr. K. Vellipuram, Proctor takes notice on behalf of Mr. Chelvathamby, Proctor for Petitioner. Secretary for report on security for 7.2.47.

(Sgd.) EARL WIJEYWARDENE,  
*Additional District Judge.*

25.1.47. Mr. C. THANABALASINGHAM for 1st Respondent.

30

Appellant files petition of appeal of the 1st Respondent-Appellant against the order of this Court dated 17.1.47 and notice of tendering security and moves that the petition of appeal be accepted and notice be issued on Respondents and Mr. M. Chelvathamby, Proctor, Puloly East. He further supplies stamps for certificate in appeal and Supreme Court decree to the value of Rs. 10/- and Rs. 10 respectively.

1. Accept Petition of appeal.

2. Issue notices on Respondents and the Proctor returnable 7th February, 1947.

(Sgd.) E. WIJEYWARDENE,  
*A.D.J.*

40

- 30.1.47. Notice issued on Petitioner-Respondent and on Guardian *ad litem* of 2nd Respondent Minor and Mr. M. Chelvathamby, Proctor.  
Initialled :
- 5.2.47. Secretary's report on Security.  
The Estate consists of immovable property of Rs. 2070/- and movable properties Rs. 6568/-.  
Security may be fixed at Rs. 6900/-.  
Initialled :
- 10 7.2.47. Mr. CHELVATHAMBY for Petitioner.  
Mr. THANABALASINGHAM for 1st Respondent.  
Notice of tendering security served on Mr. Chelvathamby, Proctor, for Petitioner and on 1st Petitioner Respondent and 1st Respondent-Appellant, Guardian *ad litem* of 2nd Respondent. They are present. 2nd Respondent waives security. Security of consent fixed at Rs. 200/- cash.  
Initialled :  
*Secretary.*  
*A.D.J.*
- 20 7.2.47. Paying in voucher for Rs. 200/-, issued to Respondent-Appellant.  
Initialled :
- 7.2.47. Bond to prosecute appeal filed with Kachcheri Receipt for Rs. 200/-.  
(Sgd.) E. WIJEYWARDENE,  
*A.D.J.*
- 30 7.2.47. Mr. THANABALASINGHAM for Appellant files perfected security bond for appeal costs together with notice of appeal and moves that notice of appeal be ordered to be served on the Respondents and on the Proctor for 1st Respondent and submits his application for typewritten copy with Rs. 15/- in cash. Issue Notice returnable 6.3.47.  
Sgd. E. WIJEYWARDENE,  
*A.D.J.*
- 10.2.47. Cash Rs. 15/- deposited. Treasury receipt No. 41 of 10.2.47 for Rs. 15/- filed.  
Initialled :
- 14.2.47. Notice of appeal issued on Respondents and Mr. M. Chelvathamby, Proctor.  
Initialled :
- 40 28.2.47. Return to notice on Respondents and Mr. M. Chelvathamby, Proctor, filed.  
Initialled :

In the District Court of Jaffna (held at Point Pedro).

No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—  
*continued*

In the  
District  
Court of  
Jaffna (held  
at Point  
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No. 1.  
Journal  
entries,  
21st  
December,  
1943, to  
10th  
January,  
1950—  
*continued.*

- 6.3.47. Mr. M. CHELVATHAMBY for Petitioner.  
Mr. C. THANABALASINGHAM for 1st Respondent.  
Notice of appeal served on Petitioner's Proctor and on the  
Respondents. Proctors present.  
Forward record to Supreme Court in due course.  
As the Appellant has failed to give security for the  
2nd Respondent's costs of appeal as required by Section 756  
of the Civil Procedure Code, the Proctor for the Petitioner moves  
that the petition of appeal be held to be abated.  
Inquiry 15.3.

10

Sgd. E. WIJEYWARDENE,  
A.D.J.

## INQUIRY (6).

- 15.3.47. Mr. CHELVATHAMBY for Petitioner-Respondent.  
Mr. C. THANABALASINGHAM for 1st Respondent-Appellant.  
*Vide* proceedings.

Sgd. E. WIJEYWARDENE,  
A.D.J.

- 20.3.47. Order delivered in open court in the presence of Mr. PARAMSOTHY  
on behalf of Mr. C. THANABALASINGHAM for 1st Respondent and  
Mr. K. VALLIPURAM on behalf of Mr. CHELVATHAMBY for  
Petitioner. Parties are present.

Sgd. E. WIJEYWARDENE,  
A.D.J.

- 20.3.47. Mr. M. CHELVATHAMBY for Petitioner-Respondent moves that  
he may be furnished with two typewritten copies of this case  
for the use of the Petitioner-Respondents' Counsel.

Initialled :

- 22.12.47. Record received from the Supreme Court together with Supreme  
Court and Decree. The judgment entered in this case is set  
aside. The petition for probate is dismissed with costs in both  
Courts. Call case on 8.1.48 to pronounce Supreme Court  
judgment.

30

The Supreme Court Judge has made the following  
observations : This appears to him to be matter for the Criminal  
Investigation Department.

Initialled : E. W.,  
A.D.J.

- 8.1.48. Case called. To pronounce Supreme Court judgment and to  
consider the observation of the Supreme Court. *Vide* Journal  
Entry of 22.12.47. Forward record to Superintendent of  
Police, Northern Province for necessary action.

40

Initialled : E. W.,  
A.D.J.

- 8.1.48. Case sent to Superintendent of Police, Jaffna.
- 15.9.48. Case received back from Superintendent of Police, Northern Province with his letter No. R 67/48 of 14.9.46. Letter filed in connected case No. 2297.
- In the District Court of Jaffna (held at Point Pedro).  
No. 1. Journal entries, 21st December, 1943, to 10th January, 1950—*continued.*
- Initialled :  
*Secretary.*
- 10 15.9.48. Superintendent of Police in Charge, Criminal Investigation Department, requests that he shall be grateful if the productions marked P1, D6, D8, D9, D10, D11, D12 and D13 in the above case be sent to him under registered cover for the purpose of the Criminal Investigation referred to this department.
2. These productions will be returned after examination by the Government Examiner of Questioned Documents.  
Submit with case 2297.
- Initialled : E. W.,  
*A.D.J.*
- 17.9.48. Forward productions referred to in journal entry of 15.9.48 to Superintendent (C.I.D.).
- Initialled :  
*D.J.*
- 20 18.9.48. Documents marked P1, D6, D8, D9, D10, D11, D12 and D13 are sent to Superintendent of Police in Charge, C.I.D., Torrington Square, Colombo.
- Initialled :  
*Secretary.*
- 1.12.48. Call case on 3.12.48 for steps to continue the administration proceedings as the estate requires administration. Proctor for 1st Respondent is Mr. C. THANABALASINGHAM. The heirs will have to be noticed to file papers for administration.
- Initialled :  
*D.J.*
- 30 3.12.48. Mr. C. THANABALASINGHAM, Proctor, for 1st Respondent. Case called—*Vide* journal entry of 1.12.48. Call case on 7.1.49 with District Court case No. 1862.
- Initialled :  
*D.J.*
- 7.1.49. Case called—*Vide* journal entry above. *Vide* journal entry of 7.1.49 in D.C. 1862.
- Initialled :  
*D.J.*
- 40 20.7.49. Superintendent of Police, C.I.D., returns documents marked P. 1, D. 6, D. 8, D. 9, D. 10, D. 11, D. 12 and D. 13 and reports



In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

No. 1.  
Journal  
entries,  
21st  
December,  
1943, to  
10th  
January,  
1950—  
*continued.*

that the documents have been signed by one and the same person.

File.

Initialled :

*D.J.*

19.8.49. Document referred to in journal entry of 20.7.49 kept in the safe—*Vide* order of 19.8.49 in case No. 2297.

Initialled :

2.11.49. Mr. C. THANABALASINGHAM, Proctor for 1st Respondent, moves that the documents D. 1 to D. 8 and D. 11 to D. 19 be returned to the 1st Respondent as they are necessary to be produced in evidence in case No. 2297 District Court of Point Pedro.

Submit case 2297.

Initialled :

*D.J.*

Support on Bench.

Initialled :

*D.J.*

3.11.49.

17.11.49. Mr. C. THANABALASINGHAM, Proctor for 1st Respondent. Case called to be supported.

Mr. Thanabalasingham in support.

I wish to examine the documents.

Submit in chambers for my order.

20

Initialled :

*D.J.*

D. 9 and D. 10 to be retained.

Return other documents applied for.

Initialled :

*D.J.*

17.11.49.

14.12.49. C. THAYALAPGAR of Valvettiturai moves for a certified copy of the Report made by the Police on payment of legal fees.

There is no report.

Refused.

Initialled :

*D.J.*

10.1.50. As the matter of this case is before the Privy Council and as he has to give instructions, Mr. C. THANABALASINGHAM, Proctor for 1st Respondent moves that documents D. 9 and D. 10 produced by the 1st Respondent and kept in the safe be made available to him for perusal before the Secretary of this Court. Application allowed.

Perusal to be in the presence of the Secretary.

40

(Sgd.) SRI SKANDA RAJAH,  
*District Judge.*

No. 2.

## Petition of Petitioner.

In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Application for Appointment of a Guardian *ad litem* of  
the minor KANDASAMY PARAMAKURU of Valvettiturai.

No. 2.  
Petition of  
Petitioner,  
21st  
December,  
1943.

Testamentary Jurisdiction No. 227.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR  
10 2. KANDASAMY PARAMAKURU, both of Valvettiturai ... .. *Respondents.*

The 21st day of December, 1943.

The Petition of the abovenamed Petitioner appearing by M. CHELVATHAMBY,  
his Proctor, states as follows :—

1.—That the petitioner's sister Arudchelvam, widow, of Kumarakuru,  
died on 3rd July 1943 at Valvettiturai within the jurisdiction of this Court  
leaving behind a Last Will dated 28th June 1943 and attested by V.  
Sabaratnam Notary Public under No. 18703 and leaving behind property  
worth over Rs. 2500/—.

2.—That by the said Last Will the said Arudchelvam bequeathed and  
20 devised all her property to the Petitioner and appointed the Petitioner  
Executor of the said Last Will.

3.—That the heirs to the estate of the deceased but for the Last Will  
are her father the 1st Respondent and her sister's son the 2nd Respondent  
and the Petitioner.

4.—That the said 2nd Respondent is a minor of the age of about 10  
years living under the care guardianship and support of his grandfather the  
1st Respondent.

5.—The Petitioner is about to take steps to have the said Last Will  
proved in a Court of Law.

30 6.—It has therefore become necessary that a Guardian *ad litem* should  
be appointed over the said minor Respondent for the purpose of the intended  
testamentary proceedings.

7.—The 1st Respondent has no interest adverse to that of the said

In the District Court of Jaffna (held at Point Pedro).

No. 2.  
Petition of Petitioner,  
21st  
December,  
1943—  
*continued.*

minor and is therefore a fit and proper person to be appointed Guardian *ad litem* over the said minor for the said purpose.

Wherefore the Petitioner prays :—

1. That the 1st Respondent be appointed Guardian *ad litem* over the minor the 2nd Respondent for the purpose of the intended testamentary proceedings.
2. For costs incurred in this behalf ; and for such other and further relief as to this Court shall seem meet.

(Sgd.) M. CHELVATHAMBY,  
*Proctor for Petitioner.*

10

No. 3.  
Affidavit of  
Petitioner,  
21st  
December,  
1943.

No. 3.  
**Affidavit of Petitioner.**

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Application for the Appointment of a Guardian *ad litem* of the minor KANDASAMY PARAMAGURU of Valvettiturai.

Testamentary Jurisdiction No. A.27/Testy.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR
2. KANDASAMY PARAMAKURU, both of Valvettiturai ... .. *Respondents.* 20

I, THAIALPAGAR SELVAGURU of Valvettiturai presently of Colombo do hereby solemnly sincerely and truly affirm and declare as follows :

1.—I am the Petitioner above named.

2.—That my sister Arudchelvam widow of Kumarakuru died on 3rd July 1943 at Valvettiturai within the jurisdiction of this Court leaving behind a Last Will dated 28th June 1943 and attested by V. Sabaratnam, Notary Public under No. 18703 and leaving behind property worth over Rs. 2500/—.

3.—That by the said Last Will the said Arudchelvam bequeathed and devised all her property to me and appointed me Executor of the said 40 Last Will.

4. That the heirs to the estate of the deceased but for the Last Will are her father the 1st Respondent and her sister's son the 2nd Respondent and myself.

5.—That the said 2nd Respondent is a minor of the age of about 10 years living under the care guardianship and support of his grandfather the 1st Respondent.

6.—I am about to take steps to have the said Last Will proved in a Court of Law.

10 7.—It has therefore become necessary that a Guardian *ad litem* should be appointed over the said minor Respondent for the purpose of the intended testamentary proceedings.

8.—The 1st Respondent has no interest adverse to that of the said minor and is therefore a fit and proper person to be appointed Guardian *ad litem* over the said minor for the said purpose.

Affirmed to at Puloly East Point Pedro } (Sgd.) T. SELVAGURU.  
this 21st day of December, 1943

Before me,

(Sgd.) G. SUBRAMANIAM,  
*Justice of the Peace.*

In the District Court of Jaffna (held at Point Pedro).

No. 3.  
Affidavit of Petitioner, 21st December, 1943—  
*continued.*

20

No. 4.

**Affidavit of V. Sabaratnam and two others.**

Estate worth under Rs. 5000/-.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Last Will and Testament of the late Arudchelvam widow of KUMARAKURU of Valvettiturai, Deceased.

Testamentary Jurisdiction No. 227 P.T.

30

We, VAIRAVANATHER SABARATNAM of Policandy Notary Public of Vadamardchy VALLIPURAM RAMALINGAM of Uduppiddy Imayanankurichy, and MURUGUPPILLAI CHELLIAH of Valvettiturai do hereby solemnly sincerely and truly affirm and declare as follows :—

1. We were present at Valvettiturai on the 28th day of June 1943 and saw Arudchelvam widow of Kumarakuru set her hand at the paper writing marked " A " now produced and shown to us and we publish and declare

No. 4.  
Affidavit of V. Sabaratnam and two others, 21st December, 1943.

In the District Court of Jaffna (held at Point Pedro).

No. 4. Affidavit of V. Sabaratnam and two others 21st December, 1943—  
*continued.*

the same as and for her last will and testament and in testimony thereof and in the presence of the said Arudchelvam and in the presence of one another we subscribed our names as attesting witnesses thereto.

2.—The signature “ (\*) ” is the proper handwriting of the deceased and the signatures “ (\*) ” “ (\*) ” and “ (\*) ” are the proper handwriting of the attesting Notary and the witnesses to the said writing.

3.—We further affirm and declare that the said Arudchelvam widow of Kumarakuru was at the time of so setting her signature to the paper writing to all appearances as we believe of sound mind memory and understanding.

10

The contents of this were read over and explained to the affirmants who appeared to understand the same and set their hands and affirmed to the truth and correctness thereof at Point Pedro this 21st day of December, 1943

(Sgd.) (In tamil) V. SABARATNAM.  
(Sgd.) (In tamil) V. RAMALINGAM.  
(Sgd.) M. CHELLIAIAH.

Before me,

E. SUBRAMANIAM,  
*Justice of the Peace.*

20

No. 5. Order nisi, 24th December, 1943.

No. 5.  
Order Nisi.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Application for Appointment of a Guardian *ad litem* of the minor KANDASAMY PARAMAKURU of Valvettiturai.

Testamentary Jurisdiction No. A 27.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR

2. KANDASAMY PARAMAKURU both of Valvettiturai ... .. *Respondents.* 30

This matter coming on for disposal before L. W. DE SILVA Esquire Additional District Judge on the 21st day of December 1943 in the presence of Mr. M. CHELVATHAMBY Proctor on the part of the Petitioner and the petition and affidavit of the Petitioner having been read :

\* See certified copy of Record.

It is ordered that the 1st Respondent be appointed Guardian *ad litem* over the minor the 2nd Respondent for the purpose of representing and defending him in the testamentary proceedings to be instituted in respect of the estate of the late Arudchelvam and her Last Will unless the Respondents or any other person shall appear before this Court on or before the 27th day of January 1944 and shew sufficient cause to the satisfaction of this Court to the contrary.

The 24th day of December, 1943.

(Sgd.) J. E. A. ALLES,  
*Additional District Judge.*

10

In the District Court of Jaffna (held at Point Pedro).

No. 5.  
Order *nisi*,  
24th  
December,  
1943—  
*continued.*

No. 6.

Appointment of Guardian *ad litem*.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Application for Appointment of a Guardian *ad litem* over the minor KANDASAMY PARAMAGURU.

Testamentary Jurisdiction No. A 27/PT.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR

20 2. KANDASAMY PARAMAGURU both of Valvettiturai ... .. *Respondents*

Upon the Motion of Mr. M. CHELVATHAMBY, Proctor, on the part of the Petitioner and on reading the petition and affidavit of the Petitioner from which it appears that the 2nd Respondent is a minor and that the 1st Respondent is a fit and proper person to be appointed Guardian *ad litem* over the minor the said 2nd Respondent and the Respondents not having appeared and shown cause to the contrary although they were duly served with Order *nisi* so to do.

It is Ordered that the 1st Respondent be and he is hereby appointed Guardian *ad litem* over the minor the 2nd Respondent for the purpose of  
30 representing and defending him in the testamentary proceedings to be instituted by the Petitioner.

The 17th day of February, 1944.

(Sgd.) (Illegible),  
*Addl. District Judge.*

No. 6.  
Appoint-  
ment of  
Guardian  
*ad litem*,  
17th  
February,  
1944.

In the District Court of Jaffna (held at Point Pedro).

No. 7. Petition.

No. 7. Petition, 17th February, 1944.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Last Will and Testament of the late ARUDCHELVAM widow of KUMARAKURU of Valvettiturai, deceased.

Testamentary Jurisdiction No. 227/PT.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. Petitioner versus

- 1. GNANASEGARAMPILLAI THAIALPAGAR
- 2. KANDASAMY PARAMAKURU both of Valvettiturai. (Minor) 01  
The 2nd Respondent is a minor by his Guardian *ad litem*  
the 1st Respondent ... .. Respondents.

The 17th day of February, 1944.

The Petition of the above-named Petitioner appearing by M. CHELVATHAMBY his Proctor states as follows :—

1.—That the Petitioner’s sister Arudchelvam widow of Kumarakuru died at Valvettiturai within the jurisdiction of this Court on 3rd July 1943 leaving behind a Last Will dated 28th June 1943.

2.—That by the said Last Will attested by V. Sabaratnam, Notary Public, under No. 18703 the said Arudchelvam bequeathed and devised all 20 her property unto the Petitioner and appointed him Executor thereof.

3.—Full and true particulars of the property left behind by the deceased are contained in the schedule hereto annexed.

4.—That the heirs to the estate of the deceased but for the Last Will are her father the 1st Respondent and her sister’s son the 2nd Respondent and the Petitioner.

5.—That the 2nd Respondent is a minor and by an Order of the Court dated . . . . the 1st Respondent was appointed Guardian *ad litem* over the minor the 2nd Respondent.

6.—That the Petitioner claims Probate as Executor appointed by the 30 said Last Will.

Wherefore the Petitioner prays :—

- (i) That he be declared entitled to take our Probate as the Executor appointed by the said Last Will and that Probate be issued to him accordingly ;
- (ii) for costs incurred in this behalf, and for such other and further relief as to this Court shall seem meet.

(Sgd.) M. CHELVATHAMBY,  
Proctor for Petitioner.

## SCHEDULE ABOVE REFERRED TO.

	1.	Land situated at Samarapathuthevankurichy and Valvettikurichy called Niruvatambai in extent 53 1/8 Lms. V.C. This is according to measurement in extent 40 Lachams V.C. and 10 Kulies. Of this 30 Lachams V.C. and 16 Kulies. Of this undivided 1/6 share ... ..	2000.00	In the District Court of Jaffna (held at Point Pedro). No. 7 Petition, 17th February, 1944— <i>continued.</i>
10	2.	Land situated at Valvettiturai called Peeththianmanai in extent 1 1/2 V.C. with plantations and hut. The whole of this ... ..	300.00	
	3.	Amount due from G. Thaiapagar the Respondent (as per claim made by the deceased in case No. 1780/P(D.C.J.)) ... ..	5200.00	
	4.	Arrears of pension for the month of June 1943 ... ..	33.85	
	5.	One chain with pendant ... ..	125.00	
	6.	One pair of bangles ... ..	160.00	
	7.	One pair of ear studs ... ..	25.00	
	8.	One ring ... ..	20.00	
20	9.	One gold hair pin set with stones ... ..	60.00	
	10.	One gold chain weighing 6 sovereigns ... ..	250.00	
	11.	One brooch weighing one sovereign ... ..	50.00	
		(Items 9, 10 and 11 are with the 1st Respondent as per claim in case No. 1780/P(D.C.J.))		
	12.	One table ... ..	25.00	
	13.	Two chairs ... ..	5.00	
	14.	Two brass lamps ... ..	20.00	
	15.	One almyrah ... ..	100.00	
	16.	One suit case ... ..	4.00	
30	17.	Two silk sarees ... ..	60.00	
	18.	Two silk jackets ... ..	15.00	
	19.	One brass pot ... ..	7.00	
	20.	One basin ... ..	4.00	
	21.	One cradle ... ..	15.00	
	22.	Four brass pans ... ..	10.00	
	23.	One lodda ... ..	3.00	
	24.	A pair of scissors ... ..	7.00	
	25.	An image of Pillayar ... ..	25.00	
	26.	An image of Krishna ... ..	25.00	
40	27.	An image of Amman ... ..	25.00	
	28.	One Sodopasaram ... ..	30.00	
	29.	One torch ... ..	5.00	
		Items 12 to 29 are in possession of the 1st Respondent		
	30.	Two wooden beds ... ..	200.00	
	31.	Six chairs ... ..	10.00	



In the District Court of Jaffna (held at Point Pedro). — No. 7. Petition, 17th February, 1944— <i>continued.</i>	32.	One bench ... ..	10.00		
	33.	Two wooden boxes ... ..	16.00		
	34.	One brass pot ... ..	10.00		
	35.	Two loddas ... ..	6.00		
	36.	Two brass pans ... ..	3.00		
	37.	One hanging lamp ... ..	2.00		
	38.	One tea pot ... ..	5.00		
	39.	Two old books on medicine ... ..	10.00		
	40.	Two brass padlocks ... ..	1.00		
	41.	Two pairs of shoes ... ..	10.00	10	
	42.	One hopper mould ... ..	1.00		
	43.	One screen curtain ... ..	3.00		
	44.	One settee ... ..	8.00		
	45.	One mattress ... ..	25.00		
	46.	One pillow ... ..	2.00		
	47.	Two screens ... ..	5.00		
	48.	One Almyrah ... ..	25.00		
	49.	One silver saphthalaththy ... ..	25.00		
	50.	Two brass trays ... ..	4.00		
	51.	One flag marked "C.V." ... ..	3.00	20	
	52.	Six sarees ... ..	20.00		
	53.	Eleven plates ... ..	10.00		
	54.	Three group photos ... ..	3.00		
	55.	One leather suit case ... ..	4.00		
	56.	One mirror ... ..	10.00		
	57.	One sewing machine ... ..	25.00		
	58.	One wardrobe ... ..	15.00		
	59.	One sandal stone ... ..	2.00		
	60.	One knife ... ..	2.00		
	61.	One chembu ... ..	1.00	30	
	62.	One trunk ... ..	4.00		
	63.	One grinding stone ... ..	3.00		
	64.	Two buckets ... ..	2.00		
	65.	One table ... ..	25.00		
			Total value ... ..	9118.85	
		Liabilities—			
		Medical and funeral expenses ... ..	500.00		
			Net value ... ..	8618.85	

(Sgd.) M. CHELVATHAMBY,  
*Proctor for Petitioner.*

No. 8.

**Affidavit of the Petitioner.**

In the District Court of Jaffna (held at Point Pedro).

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Last Will and Testament of the late ARUDCHELVAM widow of KUMARAKURU of Valvettiturai, deceased.

No. 8. Affidavit of the Petitioner, 17th February, 1944.

Testamentary Jurisdiction No. 227 P.T.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*

*vs.*

1. GNANASEGARAMPILLAI THAIALPAGAR

2. KANDASAMY PARAMAGURU, both of Valvettiturai (Minor)

10 The 2nd Respondent is a minor by his Guardian *ad litem*  
the 1st Respondent ... .. *Respondents.*

I, THAIALPAGAR SELVAGURU of Valvettiturai do hereby solemnly sincerely and truly affirm and declare as follows :—

1.—That my sister Arudchelvam widow of Kumarakuru died at Valvettiturai within the jurisdiction of this Court on 3rd July 1943 leaving behind a Last Will dated 28th June 1943.

2.—That by the said Last Will attested by V. Sabaratnam, Notary Public, under 18703 the said Arudchelvam bequeathed and devised all her property unto me and appointed Executor thereof.

20 3.—Full and true particulars of the property left behind by the deceased are contained in the schedule hereto annexed.

4.—That the heirs to the estate of the deceased but for the last Will are her father the 1st Respondent and her sister's son the 2nd Respondent and myself.

5.—That the 2nd Respondent is a minor and by an order of this Court dated 27th January 1944 the 1st Respondent was appointed Guardian *ad litem* over the minor the 2nd Respondent.

6.—I claim Probate as the Executor appointed by the said Last Will.

SCHEDULE ABOVE REFERRED TO.

30 IMMOVABLES.

1. Land situated at Samarapahuthevan Kurichy and Valvettikkurichy called Niruvattambai in extent 53 1/8 Lms. V.C. This according to measurement in extent 40 Lms. V.C. and 10 Kulies. Of this 30 Lachams V.C. and 16 Kulies. Of this an undivided 1/6 share 2000.00

In the District Court of Jaffna (held at Point Pedro).	2. Land situated at Valvettiturai called Paththianmanal in extent $1\frac{1}{2}$ Latchams V.C. with plantations and hut. The whole of this ... ..	300.00
	Total ...	2300.00

## MOVABLES.

No. 8. Affidavit of the Petitioner, 17th February, 1944— <i>continued.</i>	3. Amount due from G. Thaiialpagar the 1st Respondent (as per claim made by the deceased in case No. 1780/P D.C.J. ... ..	5200.00
	4. Arrears of pension for the month of June 1943 ... ..	33.85
	5. One chain with pendant ... ..	125.00
	6. One pair of bangles ... ..	160.00
	7. One pair of ear stud ... ..	25.00
	8. One ring ... ..	20.00
	9. One gold hair pin set with stones ... ..	60.00
	10. A gold chain weighing 6 sovereigns ... ..	250.00
	11. One brooch weighing one sovereign ... ..	50.00
	(Items 9, 10 and 11 are with the 1st Respondent as per claim in case No. 1780/P D.C.J.)	
	12. One table ... ..	25.00
	13. Two chairs ... ..	5.00
	14. Two brass lamps ... ..	20.00
	15. One almirah ... ..	100.00
	16. One suit case ... ..	4.00
	17. Two silk sarees ... ..	60.00
	18. Two silk jackets ... ..	15.00
	19. One brass pot ... ..	7.00
	20. One basin ... ..	4.00
	21. One cradle ... ..	15.00
	22. Four brass pans ... ..	10.00
	23. One lodda ... ..	3.00
	24. A pair of scissors ... ..	7.00
	25. An image of Pillayar ... ..	25.00
	26. An image of Krishna ... ..	25.00
	27. An image of Amman ... ..	25.00
	28. One Sodopasaram ... ..	30.00
	29. One torch ... ..	5.00
	(Items 12 to 29 are in possession of the 1st Respondent)	
	30. Two wooden beds ... ..	200.00
	31. Six chairs ... ..	10.00
	32. One bench ... ..	10.00
	33. Two wooden boxes ... ..	16.00
	34. One brass pot ... ..	10.00
	35. Two loddas ... ..	6.00
	36. Two brass pans ... ..	3.00
	37. One hanging lamp ... ..	2.00

	38.	One tea can ... ..	5.00	In the
	39.	Two old books on medicine	10.00	District
	40.	Two brass padlocks	1.00	Court of
	41.	Two pairs of shoes ... ..	10.00	Jaffna (held
	42.	One hopper mould ... ..	1.00	at Point
	43.	One screen curtain ... ..	3.00	Pedro).
	44.	One settee ... ..	8.00	—
	45.	One mattress	25.00	No. 8.
	46.	One pillow ... ..	2.00	Affidavit of
10	47.	Two screens	5.00	the
	48.	One almirah ... ..	25.00	Petitioner,
	49.	One silver Sapthalaththy	25.00	17th
	50.	Two brass trays	4.00	February,
	51.	One flag marked "C.V."	3.00	1944—
	52.	Six sarees ... ..	20.00	<i>continued.</i>
	53.	Eleven plates	10.00	
	54.	Three group photos	3.00	
	55.	One leather suit case	4.00	
	56.	One mirror ... ..	10.00	
20	57.	Sewing machine	25.00	
	58.	One wardrobe	15.00	
	59.	One sandal stone	2.00	
	60.	One knife ... ..	2.00	
	61.	One Chempu	1.00	
	62.	One trunk ... ..	4.00	
	63.	One grinding stone	3.00	
	64.	Two buckets	2.00	
	65.	One table ... ..	25.00	
		Total	6818.85	
30		Liabilities—		
		Medical and funeral expenses	500.00	
		Total value of immovables	2300.00	
		Total value of movables	6818.85	
		Gross value of assets	9118.85	
		Nett value	8618.85	

(Sgd.) T. SELVAGURU.

Affirmed to at Point Pedro.

This 17th day of February 1944.

40 Before me,  
(Sgd.) G. SUBRAMANIAM,  
*Justice of the Peace.*

In the District Court of Jaffna (held at Point Pedro).

No. 9.  
Order Nisi

No. 9.  
Order nisi,  
17th March,  
1944.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Last Will and Testament of the late ARUDCHELVAM widow of KUMARAKURU of Valvettiturai, deceased.

Testamentary Jurisdiction No. 227/P.T.

THAIALPAGAR SELVAGURU of Valvettiturai .... .. *Petitioner*  
*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR
2. KANDASAMY PARAMAKURU both of Valvettiturai 10  
The 2nd Respondent is a minor by his Guardian *ad litem*  
the 1st Respondent ... .. *Respondents.*

This matter coming on for disposal before L. W. de SILVA Esquire Additional District Judge on the 17th day of March 1944 in the presence of Mr. M. CHELVATHAMBY, Proctor, on the part of the Petitioner and the petition and affidavit of the Petitioner having been read.

It is ordered that the Last Will dated 28th June 1943 bearing No. 18703 be declared proved that the Petitioner be declared entitled to take out Probate as the Executor appointed by the said Last Will and that Probate be issued to him accordingly unless the Respondents or any other 20 person shall appear before this Court on or before the 21st day of April 1944 and show sufficient cause to the satisfaction of this Court to the contrary.

(Sgd.) L. W. DE SILVA,  
*Additional District Judge.*

No. 10.  
Order nisi,  
17th April,  
1944.

No. 10.  
Order Nisi.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Last Will and Testament of the late ARUDCHELVAM widow of KUMARAKURU of Valvettiturai, deceased.

Testamentary Jurisdiction No. 227/P.T.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*vs.*

1. GNANASEGARAMPILLAI THAIALPAGAR
2. KANDASAMY PARAMAKURU both of Valvettiturai 30  
The 2nd Respondent is a Minor by his Guardian *ad litem*  
the 1st Respondent ... .. *Respondents.*

This matter coming on for disposal before L. W. de Silva Esquire Additional District Judge on the 17th day of March 1944 in the presence

of Mr. M. CHELVATHAMBY, Proctor, on the part of the Petitioner and the petition and affidavit of the Petitioner having been read.

It is ordered that the Last Will dated 28th June 1943 bearing No. 18703 be declared proved that the Petitioner be declared entitled to take out Probate as the Executor appointed by the said Last Will and that Probate be issued to him accordingly unless the Respondents or any other person shall appear before this Court on or before the 21st day of April 1944 and show sufficient cause to the satisfaction of this Court to the contrary.

The 17th day of April, 1944.

10

(Sgd.) L. W. DE SILVA,  
Additional District Judge.

In the District Court of Jaffna held at Point Pedro).

No. 10.  
Order nisi  
17th April,  
1944—  
continued.

No. 11.

Statement of Objections of 1st Respondent.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Last Will and Testament of the late ARULCHELVAM widow of KUMARAGURU of Valvettiturai, deceased.

Testamentary Jurisdiction No. 227/P.T.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*vs.*

1. GNANASEGARAMPILLAI THAIALPAGAR of Valvettiturai

2. KANDASAMY PARAMAGURU of Valvettiturai

20 The 2nd Respondent is a minor by his Guardian *ad litem*  
the 1st Respondent ... .. *Respondents.*

This 31st day of August 1944.

The Statement of Objections of the 1st Respondent above-named appearing by C. THANABALASINGHAM his Proctor states as follows :—

1.—Replying to paragraph 1 of the petition this Respondent while denying that the late Arulchelvam left a Last Will, admit the rest of the averments contained therein.

2.—Replying to paragraph 2 of the petition, this Respondent denies all and singular the averments contained therein, and states that the said 30 Will is not the act and deed of the said Arulchelvam and that the said Last Will is a forgery and that the signature of the said Arulchelvam has been forged. This Respondent further states that on the 28th day of June 1944 neither the attesting notary nor any of the witnesses were present at the house of the said Arulchelvam at any time on the said date.

3.—Replying to paragraph 3 of the petition this Respondent denies that the deceased left behind the properties more fully described under items 1, 2, 3 and 9 to 65 of the schedule to the petition, or that the deceased

No. 11.  
Statement of objections of 1st Respondent, 31st August, 1944.

In the District Court of Jaffna (held at Point Pedro).

No. 11. Statement of objections of 1st Respondent, 31st August, 1944—  
*continued.*

was entitled to any of them. Further replying to the said paragraph this Respondent admits that the deceased left behind the properties described under items 4 to 8 but states that the articles described under items 5 to 8 are in the possession of the Petitioner. The Respondent further denies that the Petitioner spent Rs. 500/- for medical and funeral expenses and states that the sum of Rs. 200/- is the reasonable amount that may be paid on account of such expenses.

4.—Replying to paragraphs 4 and 5 of the petition, this Respondent admits the correctness of the averments contained therein.

5.—Replying to paragraph 6 of the petition, this Respondent denies 10 that the Petitioner is entitled to probate.

Wherefore this 1st Respondent prays :—

- (a) That the application of the Petitioner be dismissed.
- (b) For costs and for such other and further relief as to this Court shall seem meet.

Proctor for 1st Respondent.

(Sgd.) C. THANABALASINGHAM.

No. 12. Affidavit of 1st Respondent, 19th October, 1945.

### No. 12.

#### Affidavit of 1st Respondent.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO). 20

In the Matter of the Last Will and Testament of the late ARUDCHELVAM widow of KUMARAKURU of Valvettiturai, deceased.

Testamentary Jurisdiction No. 227/P.T.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*versus*

1. GNANASEGARAMPILLAI THAIALPAGAR

2. KANDASAMY PARAMAKURU, both of Valvettiturai. (Minor.)

The 2nd Respondent is a minor by his Guardian *ad litem*

the 1st Respondent ... .. *Respondents.*

I, GNANASEGARAMPILLAI THAIALPAGAR of Valvettiturai do 30  
hereby solemnly and truly declare and affirm as follows :—

1.—I am the 1st Respondent above named.

2.—That the witness Kanagaratnam Selladuraipillai is a material witness for me. The said Kanagaratnam Selladuraipillai is the father-in-law of the Petitioner. He is a witness to deed marked D.9. Documents marked D. 1, D. 2 and D. 4 will conclusively that document marked D. 9 could not have been executed on the night of 28th June 1943 and that the documents marked D. 9 and D. 10 are forgeries.

3. I issued summons on the said Kanagaratnam Selladuraipillai and deposited batta and he is evading service of summons as his evidence will be against himself and his son-in-law the Petitioner.

4.—The documents marked D. 1, D. 2 and D. 4 will prove that the said witness Kanagaratnam Selladuraipillai was at Vavuniya at the time when the Last Will was executed.

5.—The said witness Kanagaratnam Selladuraipillai attended court on the previous dates and after the documents D. 1, D. 2 and D. 4 were marked he purposely evades to attend Court.

10 6.—I am told that he has gone to India and he will not come to Ceylon till this case is decided.

7.—It is therefore necessary that the case be postponed to a longer date or in the alternative a date may be given to record his evidence.

The contents of this were read over and explained to the affirmant in tamil his own language and that he appeared to understand the same and set his signature thereto and affirmed to the truth and correctness hereof at Point Pedro this 19th day of October, 1945.

G. THAIALPAGAR.

20

Before me,

(Sgd.) (Illegible),  
*Justice of the Peace.*

No. 13.

Commission to Handwriting Expert.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

In the Matter of the Last Will and Testament of the late Arudchelvam widow of KUMARAKURU of Valvettiturai, deceased.

Testamentary Jurisdiction No. 227/P.T.

THAIALPAGAR SELVAGURU of Valvettiturai ... .. *Petitioner*  
*versus*

30

1. GNANASEGARAMPILLAI THAIALPAKAR
2. KANDASAMY PARAMAKURU, both of Valvettiturai (Minor)  
The 2nd Respondent is a minor by his Guardian *ad litem*  
the 1st Respondent ... .. *Respondents.*

To Mr. E. T. McIntyre,  
Handwriting Expert, Colombo.

You are hereby commissioned and empowered to examine the tamil signature “ (\*) ” in the documents marked P. 1, D. 9 and D. 10 annexed

\* See certified copy of Record.

In the District Court of Jaffna (held at Point Pedro).

No. 12.  
Affidavit of 1st Respondent, 19th October, 1945—  
*continued.*

No. 13.  
Commission to Handwriting Expert, 31st October, 1945.



In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).  
— —

No. 13.  
Commission  
to Hand-  
writing  
Expert,  
31st  
October,  
1945—  
*continued.*

hereto along with the tamil signature “ (\*) ” in the admitted documents marked D. 8, D. 11, D. 12 and D. 13 annexed hereto.

And send your report to this court on or before the 9th day of November 1945 giving your opinion as to whether the said signatures in the documents marked P. 1, D. 9 and D. 10 was written by the same person as the one who wrote the admitted signatures marked D. 8, D. 11, D. 12 and D. 13, or whether they have been forged.

A sum of Rs. 52/50 has been deposited in this Court to pay your fees.

The 31st day of October, 1945.

(Sgd.) E. WIJEYWARDENE,  
*Additional District Judge.* 10

No. 14.  
Petitioner's  
Evidence.

No. 14.

Petitioner's Evidence.

DISTRICT COURT NO. 227/P.

15.2.45.

Mr. S. SOORASANGARAN for Petitioner instructed by Mr. CHELVATHAMBY.  
Mr. C. THANABALASINGHAM for Respondents.

Evidence  
of T.  
Selvaguru.  
Examin-  
ation—

Evidence of T. SELVAGURU.

Petitioner's case.

Mr. SOORASANGARAN calls—

T. SELVAGURU : affirmed, 27, no employment, Valvettiturai, Petitioner.

I am a son of the 1st Respondent by his first wife. My mother was certain Sivakamypillai. She had two other children—the deceased and the mother of the 2nd Respondent. My mother died in 1922. A day before her death she donated a half share of land No.1 referred to in the schedule to my father the 1st Respondent in trust for me, my sister the deceased and my other sister, the mother of the 2nd Respondent. My sister the deceased was married to certain Kumaraguru. He died in September 1933 and my sister the deceased drew from Government certain sums of money as commuted pension and widows pension. I and my sister the deceased and the 2nd Respondent continued to live in the same building as the 1st Respondent. The 1st Respondent has married a second time and has five children by his second marriage. I got married in August 1941. Shortly after my marriage my father-in-law proposed a marriage for my sister with one Muthuthamby, Superintendent of an estate. 1st Respondent was not agreeable to this marriage because he had to give dowry to my sister. The deceased complained to one

\* See certified copy of Record.

Ramalingam and S. V. Iyengar, Principal of Valvettiturai Boys English School, that 1st Respondent was not allowing her to get married. As a result of my father the 1st Respondent adopting that attitude in regard to my sister's marriage there was ill-feeling between the 1st Respondent and my sister. Thereafter she used to speak to the 1st Respondent. She asked 1st Respondent to arrange the marriage or to return the money that was given as commuted pension. 1st Respondent was not agreeable. Thereafter she asked the 1st Respondent to return to her the title deeds for land No. 2. She granted a power of attorney to the 1st Respondent in  
 10 respect of this particular land. She wanted to eject a Palla man from this compound and that is why a power of attorney was given to the 1st Respondent. Later she sent a note through one Ramalingam intimating to the 1st Respondent that the power of attorney granted to him was cancelled and requesting him to return the title deeds. 1st Respondent did not comply with that request. Then my sister filed case 1780 of this Court against the 1st Respondent on 13.1.43 for the recovery of a sum of Rs. 5200/- being commuted pension and Rs. 360/- being the value of jewels entrusted to the 1st Respondent. Thereafter in February 1943 1st Respondent has sold a share of the land called  
 20 Peethiyanmanual purporting to act on the power of attorney. I came to know about that only now. The power of attorney was not in force at the time of the sale. There is a case pending now in regard to this land. Thereafter the 1st Respondent charged my father-in-law for criminal trespass. Thereafter I, my sister the deceased and the 2nd Respondent sued the 1st Respondent in case No. 1862P claiming a half share of land No. 1 referred to in the schedule to the petition. The case was filed on 17.4.43. 1st Respondent sued me and my wife on 19.8.43 to have us ejected from land No. 1 where we were living at that time. That was case No. 1942P. Cases Nos. 1780P, 1862P and 1942P have been laid by  
 30 pending the decision of this inquiry. In June 1943 my sister the deceased fell ill. 1st Respondent did not know that my sister was ill at first but he came to know later. He did not visit my sister as there was ill-feeling between us. 1st Respondent and his wife and children live in another portion of this building. During her illness the deceased herself spent for her medical expenses. I also assisted her. Dr. Visuvalingam treated her at first and later she was removed to the Manipay hospital. She was also treated by one Kandiah, an ayurvedic physician, for a day or two. About the 26th June, 1943, she said that she wanted money for her medical expenses and she wanted to sell a portion of the land which she was entitled  
 40 to. She wanted me to find a prospective purchaser and I found out one. Ultimately we agreed to sell 2 lachams for Rs. 780/- to one Chelliah. This agreement was arrived at on the 27th June, 1943. The deed was not executed on the 27th as it was arranged to have the deed executed on the following day. The transfer deed in favour of Chelliah was executed on the 28th early in the morning. On the night of the 27th she was seriously ill and she wanted to execute a deed as early as possible because there was

In the District Court of Jaffna (held at Point Pedro).

—  
 No. 14.  
 Petitioner's Evidence—  
 continued.

—  
 Evidence of T. Selvaguru. Examination—  
 continued.

In the District Court of Jaffna (held at Point Pedro).

No. 14. Petitioner's Evidence—*continued.*

Evidence of T. Selvaguru. Examination—*continued.*

a case. She told me at 1 a.m. on the 28th June that she had some pain in the chest and that she might not live long. She also said that when the cases were pending if she died my father the 1st Respondent would eject me and therefore she wanted a last will executed. My sister also asked that the other deeds also should be executed at the same time and she asked me to bring the notary. I then told her that the deeds could be executed early in the morning but she would not consent as she said that she would not live long. As she was pressing I went to my father-in-law's place and told him that I was asked by my sister to bring a notary. Then my father-in-law and I went to the notary's office and there I and my father-in-law gave instructions for the execution of the transfer deed. Later we took the notary and his clerk to house at about 3 a.m. According to the instructions given by us the deed in favour of Chelliah was drafted and it was signed. After the transfer deed was executed my sister wanted the notary to draw up the last will and she gave the necessary instructions. At that time Ramalingam, Chelliah, my wife, the deceased, my father-in-law and I were present. After the last will was drawn up it was explained to my sister and was signed by my sister in the presence of the notary and witnesses. Ramalingam and Chelliah signed the deed in the presence of the notary and in the presence of my sister and in the presence of all the others. (Shown last will No. 18703 of 28th June, 1943 (P. 1).) This is the last will executed by my sister Arulchelvam on the 28th June, 1943. By P. 1 my sister devised to me all movable and immovable properties which she was entitled to. By P. 1 I was appointed executor to prove the last will. My other sister's child is with its father's father.

Cross-examination. CROSS-EXAMINATION.

My father is the manager of an English school. The school is situated on a land about 31 lachams in extent. By the donation executed by my mother 1st Respondent is the sole owner of the school. To the North-east of this land 1st Respondent has built a temple. 1st Respondent has not donated any portion of this land to any of his children till I left him. 1st Respondent does not want to transfer the land to any of his children but he wants to donate the land on which the temple stands and the school to the temple. After my marriage my father-in-law and I did not ask that a transfer of the school be executed in my favour. I only asked that a portion of the land be transferred to the children of his first wife.

*Question.* His insistence to transfer the entire land to the temple and not to give any of his children was because of the trouble between you and the 1st Respondent ?

*Answer.* Yes.

The eldest of the children by 1st Respondent's second wife is 19 years old. I married in August 1941. The man who was proposed to my sister for her second marriage resides at Batticaloa. He is the manager of an estate. I do not know whether he was a Police C.I.D. Inspector at one

time. My father-in-law went out of Valvettiturai to propose this marriage. He was not away from Valvettiturai continuously for a period of one or two months. He might have been away for 5 or 6 days. He went only on one occasion to propose this marriage. I cannot remember when he left to propose the marriage. When he left Valvettiturai to propose a marriage he used to write to me. (Shown letter dated 28.6 (D. 1), written from Vavuniya by Petitioner's father-in-law to the Petitioner.) This letter was written to me by my father-in-law at the time he went out to propose a marriage for my sister. (Shown an envelope with the post seal of Vavuniya (D. 2) and asked whether this was the envelope which contained D. 1.) This is an envelope addressed by my father-in-law to me. The postmark on the stamp affixed on the envelope shows 28th June, 1943. The writing on the envelope is that of my father-in-law. Before he wrote D. 1 he wrote a detailed letter to Ramalingam regarding the marriage proposal. Before I received D. 1 I cannot remember whether Ramalingam consulted me about the marriage proposal. (Shown letter dated 14.6.43 (D. 3).) This is written by my father-in-law to Ramalingam and was sent from Puliyantivu. This place is near Vavuniya. (D. 3 read.) Sivaguru is a retired Government pensioner and my father-in-law wanted Ramalingam to consult him. My father-in-law also asked Ramalingam to consult Nadarajah and his wife and me and my wife. (Shown postcard dated 30th June, 1943 (D. 4).) This is also in my father-in-law's handwriting. This was written from Vavuniya. In D. 4 my father-in-law has asked one Kanthasamy as to why he did not come to Vavuniya on the 26th June as arranged.

*Question.* The proposal of marriage was not in June 1942 but in June 1943?

*Answer.* It was arranged previously to solemnise the marriage in the month of June 1943.

(Shown plan of school compound No. 1840 of 1st June 1942 (D. 5).)

This plan was prepared by Mr. K. Velmurugu. Room marked C. 2 is the room which I and my wife occupied. Room marked C. 3 is the room occupied by my deceased sister. The room marked C. 4 is the room occupied by the 1st Respondent and his second wife. Rooms D. 1 and D. 2 are also occupied by the 1st Respondent and his second wife. Room C. 1 and our kitchen had been demolished. Rooms C. 1 and C. 6 were in existence during my sister's lifetime. C. 1 and C. 6 were demolished after I left the house. C. 5 is the common verandah but it is partitioned. There is no wall in between the partition. A rack and screen was put in between. The rack was screened on one side. There is a half wall running parallel to the verandah covering the room of my sister and mine. From the half wall up to the roof a cadjan roof was put up. To get out of my room I have to come up to the edge of the half wall and get out. I have step sisters. When I lived in the house they had not attained age. The eldest of them must be 15 years old. Before the case was filed my step sisters

In the District Court of Jaffna (held at Point Pedro).

No. 14. Petitioner's Evidence—*continued.*

Evidence of T. Selvaguru. Cross-examination—*continued.*

In the District Court of Jaffna (held at Point Pedro).

used to sleep with my sister. After the case was filed my father, and step sisters and step mother used three rooms. Items 9 to 65 are articles belonging to my sister.

Adjourned for lunch.

(Sgd.) E. WIJEYEWARDENE,  
*Adtl. District Judge.*

No. 14.  
Petitioner's Evidence—  
*continued.*

15.2.45.

Trial resumed.

Evidence of T. Selvaguru. Cross-examination—  
*continued.*

T. SELVAGURU : Recalled, Affirmed.

Articles 9 to 65 include 2 wooden beds and several chairs and rack and other things. Besides the articles mentioned in the list I have no other articles. 1st Respondent's belongings were not kept in our rooms. The articles which could not be kept in his room were not kept on the verandah. There are articles on the verandah but they do not belong to the 1st Respondent. The articles that are on the verandah belong to my sister. The whole verandah except for the passage left for going into the rooms is fully packed up with furniture. There is no space in the verandah except a passage about 4 feet wide to get into my room. For the first time my sister spoke to me about selling the land on 26th June, 1943. Before that she said that she wanted to sell the land but she did not ask me to arrange a prospective buyer. When I was asked to get at a buyer my father-in-law was not present. Two days before the deed was executed my father-in-law was not out. On 26.6.43 my father-in-law was at Vavuniya. I did not consult my father-in-law about the sale of this land. I arranged to sell this land to Chelliah. My father-in-law came on the 27th at 5 p.m. to my house. He came unexpectedly. He saw my sister who was not well and went to his house. He told me that he was leaving for Vavuniya, on the 28th morning. He went away on the 28th morning. He is a trader in timber and he must have come in connection with his business. I cannot say how he came to Jaffna from Vavuniya. On the 27th evening an agreement with Chelliah was arrived at with regard to the sale of the land. This agreement was arrived at before his arrival. I did not tell my father-in-law about the intended sale of the land to Chelliah. My father-in-law was not aware of the sale until I put him up at 1 a.m. on the 28th June. I did not have the title deeds of this land. I did not have the deed by which my sister came to possess the land. We gave the details to the notary and from those details the notary executed the deed. Some people bought shares previously and we got particulars from those people and we gave those particulars to the notary. Those people were related to Chelliah and Chelliah got the particulars from them. Chelliah lives by the side of this land and he knew previously about the details of this land. Chelliah did not note down the details on a paper when he came to the notary. The three copies of the deed were drafted at the notary's house, and the signature was obtained at my sister's house after explaining the contents of the deed. My father-

in-law gave instructions to the notary to draft the deed. I was present but it was my father-in-law who gave the instructions. I went to Chelliah and brought him from his house. We came back with the notary, his clerk and Chelliah to the house. Ramalingam lives two miles away. When we came by cart Ramalingam was seated in front of my father-in-law's house waiting for my father-in-law. When we returned from the notary's house it must be about 3.30 a.m. and Ramalingam was seated alone in front of my father-in-law's house. Ramalingam came to see my father-in-law in connection with timber business and when he saw my father-in-law he accompanied us. My father locks the gate at 6 o'clock in the night but we have four keys for that lock. The principal had a key, I had a key and the Vice Principal had a key. We came through the school gate when we returned with the notary. There is only one key for the back door and if we come through that gate we must pass 1st Respondent's house.

G in the plan is the principal's house and H is the vice principal's house. I and J are the boutique keepers' houses. On that day all of them were at home. When we came to the house we all got into the room quietly.

*Question.* Were you taking precautions not to be heard by your father?

*Answer.* We went there taking precautions to see that my father does not come to know this. If my father had been sleeping he could not have heard us talking. I did not observe whether my father or step mother or step sister woke up when we got into the house. My sister was lying ill in my room and it was in that room the deed was signed. All the people were in that room. The principal's house is about 40 yards away from my house. I did not ask the principal or the vice principal or the boutique keeper to sign as witness. Because I knew that these people would not be in my favour I did not ask them to sign as a witness. Mr. Sivaguru lives in the next compound. It was not because he was on our side that my father-in-law wrote to me to consult him but because he was an elderly man my father-in-law asked me to consult him. I did not ask him to sign as a witness. Even if I had asked him he would not have signed.

*Question.* For such transactions he would not have signed as a witness?

*Answer.* For anything.

One of the witnesses to the last will is Chelliah. (Certified copy of deed No. 18702 is produced (D. 6). This was drafted by the notary in his house. D. 6 was signed by my sister. In D. 6 the witnesses are Ramalingam and my father-in-law. For the last will the witnesses are Chelliah and Ramalingam. When my sister signed the document she kept a pillow on her lap and over the pillow she kept a cardboard and over the cardboard she kept the documents and signed them. Two penholders were brought and there was only one ink well. The money was paid on that day itself at the very spot. (Shown postcard dated 30th June, 1943 (D. 7).) This postcard was written by my father-in-law from Vavuniya.

In the District Court of Jaffna (held at Point Pedro).

No. 14. Petitioner's Evidence—*continued.*

Evidence of T. Selvaguru. Cross-examination—*continued.*

In the District Court of Jaffna (held at Point Pedro).

No. 14. Petitioner's Evidence—*continued.*

Evidence of T. Selvaguru. Cross-examination—*continued.*

*Question.* I put it to you that no such deed was executed on the night or early morning of 28th June ?

*Answer.* It was executed.

*Question.* I put it to you that your sister has not signed both the last will and the deed ?

*Answer.* It was she who signed both documents.

Before the 28th June my sister might have executed other deeds when she was with my father. Proctor Ratnasingham was her proctor. She never got any deed executed by notary Sabaratnam to my knowledge. Mr. Ratnasingham's house is about  $\frac{1}{2}$  mile away from my house. Notary Sabaratham's house is about a mile away from my house. To go to Mr. Sabaratham's house one has to pass Mr. Ratnasingham's house. As we want the deed executed in Tamil we went to Mr. Sabaratham. I know English. My father-in-law knows English. (Shown power of attorney No. 220 of 1st April, 1942 (D. 8).) This is my sister's signature. I have signed as a witness. Ramalingam is a good friend of my father. He knows me also. From the time I got married Ramalingam is known to my father-in-law. He is not a good friend of my father-in-law to such an extent as he is friendly with my father. As my father relates all family matters to Ramalingam he takes interest in our family matters. On the next day I did not tell my father that a last will had been executed. I did not tell the Principal also. My intention was that it must be kept as secretly as possible. Until the death of my sister and even afterwards I did not tell about the last will to anybody.

*Q.* Why did your father-in-law write to you to look after every movement of your sister ?—*A.* What he wanted me to do was to look after my sister's illness.

My father-in-law left on the 28th morning and returned after two or three days.

RE-EXAMINATION. (D. 1 read.)

Re-examination.

My sister fell ill twice and I do not know on which occasion D. 1 was written. My father-in-law started proposing a marriage for my sister about two months after my marriage. Nageswaram is my brother-in-law. My father-in-law was trying to get a job for my brother-in-law out of Colombo owing to the food problem. Another reason was that my father-in-law wanted to get him employed at a place closer to Jaffna. I cannot say in which year D. 1 was written. My father-in-law has written to me several letters. I kept these letters both in my room and in my sister's room. Now I am not living there.

*Question.* Can you explain how the letters you received were produced by the 1st Respondent ?

*Answer.* Paramu, 2nd Respondent, was with us and later he went to live with the 1st Respondent. Later he came back to us and said that he was not properly looked after by the 1st Respondent. He told me that my father had opened the room and removed all the letters. Since the purchaser of the land Chelliah wanted the deed to be written in Tamil we went to Notary Sabaratnam to get the deed executed in Tamil. My sister died on 3rd July, 1943. She died at the Manipay Hospital. She was taken to the hospital on the morning of 3rd July and she died that day itself. On previous occasions also she had been ill. Every year during the month of June my sister fell ill. She had heart disease and menses.

In the District Court of Jaffna (held at Point Pedro).

No. 14. Petitioner's Evidence--*continued.*

Evidence of T. Selvaguru. Re-examination--*continued.*

(Sgd.) E. WIJEYWARDENE,  
*Addl. District Judge.*

15.2.45.

Evidence of V. SABARATNAM.

V. SABARATNAM: Affirmed, 75, Notary Public, Polykandy.

Evidence of V. Sabaratnam. Examination.

I have been practising as a notary for the last 35 years. (Shown P. 1.) I attested this last will. Arulchelvam widow of Kumaraguru executed this last will in my presence and in the presence of witnesses, V. Ramalingam and M. Chelliah. Before the testatrix Arulchelvam and the witnesses I read and explained the last will P. 1. I also swore an affidavit along with the two attesting witnesses on the 21st December, 1943.

CROSS-EXAMINATION.

Cross-examination.

I was summoned to produce the protocol copy of deed No. 18702 of 28th June, 1943. I have brought it (D. 9). The transfer deed in favour of Chelliah was drafted in my house at about 4 a.m. When I drafted the deed Petitioner, Selladurai were present. These two people came first. My clerk was also present. My clerk lives about 1/4 mile away from my house. I completed all the three copies of the deed. Besides the transfer deed in favour of Chelliah they also wanted me to execute a last will. They asked me to draft a will and I did not draft the will because I wanted to get the wish of the person who wanted to make the will. As the land was being sold for a consideration I prepared a draft of the transfer deed. Neither the transferee nor the transferor were present at the time I drafted the deed. I went by cart to the Petitioner's place. With regard to last wills I am always very careful. I always depend on reliable witnesses wherever possible. I have known this school for many years. I know the 1st Respondent. I knew that the principal and the vice principal of the school live in the school premises. I did not suggest that the father of the deceased should be called in as a witness. I did not suggest that the principal or the vice principal should be called in as a witness. When I went into the room I went through the verandah. The verandah is a



In the District Court of Jaffna (held at Point Pedro).

No. 14.  
Petitioner's Evidence—  
*continued.*

Evidence of V. Sabaratnam.  
Cross-examination -  
*continued.*

fairly large one. I went in the night. I have not gone to this house before. That was the first time I went to this house. It was a dark night and the Petitioner went ahead with a hurricane lantern and I did not observe whether there were any peculiarities. It appeared that the roof of the house was slanting to the ground. I did not notice whether there was any furniture on the verandah. I wrote out the last will inside the room. I did not see any furniture stacked up on the verandah. I remember having seen a screen on the verandah. As soon as I got into the room the Petitioner told his sister that the notary had come. Then I read out and explained the deed that I drafted in my house. Petitioner's sister was then lying on a bed towards the north. I then asked her to sign the deed. At that time Selladurai, Chelliah, Petitioner, a woman and my clerk were present in the room. I cannot remember whether there were any others present in the room. After I read out the deed the Petitioner's sister demanded the money and when Chelliah gave me the money I handed the money to the Petitioner's sister. The witnesses to the deed were Ramalingam and Selladurai. I forgot to mention the name of Ramalingam when I was asked as to who were present in the room when I read out the deed. Later Petitioner's sister signed the deed and the witnesses also attested. Then she asked me to write a last will. 10

*Question.* She dictated to you what should be done ?

*Answer.* I asked her and she gave me the instructions.

The witnesses to the last will were Ramalingam and Chelliah. Chelliah is the grantee on the earlier transfer deed. The sole beneficiary of the last will is the son-in-law of the witness Selladurai. It took about an hour to go through the whole transaction. The signature to the last will was obtained at about 4 o'clock. We started from my house at 4 o'clock and stayed at the Petitioner's place for about an hour. It must have been about 5 a.m. when I obtained the signature to the last will. For the one hour I was there nobody told me that there was a necessity for me to be quiet and not to talk loud. I behaved normally as if there was no necessity for me to maintain secrecy. I dictated the last will draft to my clerk. My clerk was by my side. When we were drafting the last will the others were seated on a bench which was inside the room. It had fairly dawned when I got out of the house. When I got out I did not meet the Principal or anybody else. I did not meet the 1st Respondent when I went out ; nor did I see anybody else when I went out. 30

*Question.* I put it to you that you have never been to this room ?

*Answer.* No.

*Question.* You have not seen the deceased woman at all ? 40

*Answer.* I have seen the woman and executed the deed.

I have been to the school before ; but I have never been to the house portion of the school before except on this occasion. I do not remember having executed any deeds for the Petitioner's sister. I remember having executed deeds for the 1st Respondent. I must have executed deeds for

the Petitioner. I cannot remember. The ladies in Vadamarachy do not get out of the house when visitors are present in the house.

*Q.* You have had no occasion to see the Petitioner's sister before because you never executed any deeds for her?—*A.* Yes.

Wherever I went to the 1st Respondent's house I have seen Petitioner's sister there. I cannot say when I went to the 1st Respondent. I went there several times. For the last time I went to the 1st Respondent's house about two or three months ago. I cannot say how long before the execution of the last will I went to the 1st Respondent's house.

10 *Question.* I put it to you that you went to the 1st Respondent's house to execute a deed 25 years ago?

*Answer.* Might be.

*Question.* That was the only deed you executed for the 1st Respondent?

*Answer.* I cannot say whether I executed any other deed.

Whenever I went to 1st Respondent's house I have not talked to Petitioner's sister before. I have seen his second wife also and other ladies but I cannot say who is who. I did not know who the 1st Respondent's wife was when I went to 1st Respondent's house. When 20 I went to execute the last will I knew that the Petitioner's sister was the daughter of 1st Respondent and I knew what her name was. I heard so from the Petitioner. From what I heard from others I knew that Petitioner's sister was the widow of Kumaraguru and the daughter of 1st Respondent. I heard so about 8 or 10 years ago long before the execution of this deed.

*Question.* What was the occasion for others to let you know who the Petitioner's sister was?

*Answer.* I have gone sometimes in connection with school matters and on those occasions people might have told me.

30 I am certain that Selladurai signed the transfer deed as an attesting witness. When I prepared the draft of the transfer deed Petitioner and Selladurai gave me instructions. The numbers of title deeds and the boundaries of the land were noted down on a piece of paper and given to me. They read out from a piece of paper. I did not see the piece of paper. I asked from them the whereabouts of the title deeds. They said that they did not have the deeds then and that they would give the details.

*Q.* Did you so attest in your deed?—*A.* I must refer to the deed. (Witness refers to the deed.) Yes it is so stated in the deed.

40 There were two penholders at the time the deed was executed. I took them with me.

*Q.* The pen and the ink used to put the deceased's signature are different from the pen and the ink used for the signatures of the witnesses?—*A.* The ink is not good. We had to shake the bottle now and then and that is why there is difference in the colour of the ink. I have the protocol of the last will. I produce it (D. 10).

In the District Court of Jaffna (held at Point Pedro).

—  
No. 14.  
Petitioner's Evidence—  
*continued.*

—  
Evidence of V. Sabaratnam.  
Cross-examination—  
*continued.*

In the District Court of Jaffna (held at Point Pedro).

No. 14. Petitioner's Evidence—*continued.*

Evidence of V. Sabaratnam. Cross-examination—*continued.*

Re-examination.

Q. The pen used to sign the name of Arulchelvam is the same in all the three deeds D. 9, D. 10 and P. 1 ?—A. Yes.

Q. The signatures of the witnesses on all three documents are different from the signatures of the deceased ?—A. It may be due to the pen that there is a difference.

On the first page of D. 9 the characters are written closer and in small characters. On the first page of D. 10 the characters are written in bigger characters. Both are in my handwriting.

To COURT :

I execute about 800 to 900 deeds for a year. 10

Q. Did the deceased sit up and sign ?—A. Yes.

Q. On what did she place the paper ?—A. There was a pillow and over that there was a cardboard and over the paper was kept and signed.

Q. Did you have both papers ready and get the signature or write one first and get it signed and then draft the other and get the signature ?—A. I first obtained her signature on the transfer deed and after that the last will was drafted and her signature was obtained.

Q. In D. 10 there are lots of superfluous strokes on the letter “ (\*) ” in the signature of the Petitioner's sister which are absent in D. 9 ?—A. It may be due to the fact that there may have been some dirt in the ink and that dirt have got stuck in the nib and caused the bad formation of the letter referred to. Petitioner's sister was very ill and very weak when she signed the deeds. 20

RE-EXAMINATION.

1st Respondent is the manager of a school. I remember certain Sivakamypillai widow of Sithambarapillai executing a deed of donation donating the right of management and proprietorship over the school to the defendant. I attested that deed in 1913. (Shown copy of deed No. 18480 of 1st February, 1943 (P. 2).) This is a deed of partition by which the 1st Respondent and some others had a land of theirs partitioned. This deed was executed in the house of the 1st Respondent ; so the deed says. The second witness to this document is V. Ramalingam who is a witness to the last will and the transfer. He and four other leading persons of Valvettiturai were the arbitrators who settled the differences between the 1st Respondent and his co-owners. 30

(Sgd.) E. WIJEYEWARDENE,  
15.2.45. *Addl. District Judge.*

It is noted that the protocol copies D. 9 and D. 10 be returned to the witness at the conclusion of the case.

No time. Further hearing on 29.6.45. 40  
(Sgd.) E. WIJEYEWARDENE,  
15.2.45. *Addl. District Judge.*

\* See certified copy of Record.

No. 15.

## Order of Postponement.

D.C. 227 P.T.

26.10.45.

In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

Mr. SOORASANGARAN instructed by Mr. SELLATHAMBY for Petitioner.

Mr. THANABALASINGHAM for 1st Respondent.

Of consent the case is postponed. It is agreed that the 1st Respondent should pay a sum of Rs. 73/50 to the Petitioner as costs of to-day before the case is called on the next date.

Call case on 7th December, 1945.

\_\_\_\_\_  
No. 15.  
Order of  
postponement.  
26th  
October,  
1945.

- 10 Mr. THANABALASINGHAM for the 1st Respondent also moves that the documents P. 1, D. 9 and D. 10 be sent to Mr. McIntyre, handwriting expert, along with admitted documents D. 8 and three other documents marked D. 11, D. 12 and D. 13, on which the signature of the deceased Arulchelvam is admitted. Issue commission returnable 7th December, 1945. Call case 7th December, 1945. Trial will be fixed on 7.12.45. Costs to be paid before 7.12. 1st Respondent who is present agrees that if the costs are not so paid his objections to the will should be dismissed with costs.

(Sgd.) E. WIJEYWARDENE,  
*Addl. District Judge.*

20 26.10.45.

5.4.46.

Mr. KULASINGHAM with Mr. SOORASANGARAN instructed by Mr. SELVATHAMBY for Petitioner.

Mr. THANABALASINGHAM for Respondent.

Mr. KULASINGHAM states that on the last date the documents D. 1 to D. 4 were produced on the undertaking given by the Respondent to call the writer of those documents.

- 30 Mr. THANABALASINGHAM states that the writer of the documents is the father-in-law of the Petitioner and that he was present in Court on the day he gave this undertaking. He states that since that date summons have been taken out by him on this witness which the fiscal has failed to serve.

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In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

## No. 16

## Petitioner's Evidence (continued).

## Evidence of M. CHELLIAH.

No. 16.  
Petitioner's  
Evidence—  
*continued.*

Evidence  
of M.  
Chelliah.  
Examina-  
tion

Mr. KULASINGHAM calls—

M. CHELLIAH : Affirmed, 57, fisherman, Valvettiturai.

I know the parties to this action. I knew the deceased Arudchelvam. (Shown P. 1.) I have signed P. 1 as a witness. The other witness is Ramalingam. Arudchelvam signed P. 1 in my presence. I knew notary Mr. Sabaratnam. He also signed the document in my presence. We all signed at the same time and at the same place. 10

I have known Arudchelvam for about 4 or 5 years prior to her death. P. 1 was explained to her.

P. 1 was about a land. (Shown P. 1.) I now say that P. 1 is a last will. (Shown D. 9.) D. 9 is a transfer deed in my favour by Arudchelvam. D. 9 also was executed on the same day and at about the same time. The witnesses to D. 9 are one Selvadurai and Ramalingam. Arudchelvam signed D. 9 in my presence. She, the notary and the witnesses signed D. 9 at the same place and at the same time. P. 1 and D. 9 were executed in Arudchelvam's house which is in the compound where the school is situated. I have been to that compound prior to the day when the deed was executed. We went to her place before the first cock crow. I went of my own accord because I had to get D. 9 executed. I did not speak to Arudchelvam as she was a young woman. I spoke to the Petitioner about this matter on the 25th. It was settled that I should buy this land from Arudchelvam for Rs. 780/-. I was not told why this money was required. After the matter was arranged with the Petitioner on the 25th I went to Arudchelvam's house on the 28th. I was asked to come to Arudchelvam's house. The Petitioner accompanied me to Arudchelvam's house. When the Petitioner and I went to the place we met at the gate Selvadurai, Ramalingam, the notary and his clerk. Then all of us went to Arudchelvam's house and I saw her there. I did not talk to her. The deceased got up from the bed and inquired from the notary whether he had come ready with the deed. The notary said that he has brought the deed and the deceased asked the notary to read the deed. Later the deceased had a copy, the clerk had the second copy and the notary had the third copy. The notary read the contents of the deed. Later the deceased asked for the money and I said that I had brought the money and paid it to the notary. Then when the notary handed the money to the deceased the deceased asked the notary to hand the money to the Petitioner and the money was handed over to the Petitioner. Then the deceased, the witnesses and the notary signed the deed. After D. 9 was executed the deceased said that she must execute a last will. The deceased told the notary that she wanted to transfer her movable and immovable properties to her brother the Petitioner. At that 30 40

time she was not able to talk very well. She had fever at that time. At that time she was able to understand what was told to her. Later the notary drafted the last will in the same room. After that the last will P. I was signed. The deceased seemed to be quite sane and able to think clearly.

In the District Court of Jaffna (held at Point Pedro).

CROSS-EXAMINED.

On the 25th it was not settled that I should buy the land. Petitioner came and inquired from me on the 25th whether I was going to buy this land as I had promised to buy this land. I did not talk to the Petitioner prior to the 25th about the buying of this land.

No. 16. Petitioner's Evidence—continued.

10 Q. Then what do you mean by promise?—A. The Petitioner came and saw me on the morning of the 25th also.

Evidence of M.

I then said that I would buy the land. The price was not settled at that time. Later the Petitioner came to me on the 27th. The Petitioner came to me twice on the 25th. Petitioner came to me for the second time in the evening. The price was not settled when he came to me on the evening of the 25th. The price was settled on the 27th in the afternoon.

Chelliah. Cross-examination.

Q. After the 27th evening you met the Petitioner in the midnight?—A. On the 27th midnight. Petitioner wanted the money urgently and the deceased also was seriously ill; that is why he came and put me up in the 20 midnight. D. 9 was executed on the 27th midnight. I cannot say at what time D. 9 was executed. About 1½ hours before dawn D. 9 was executed. After D. 9 and P. I were executed I deny we all went out together. I went out alone in order to attend to my work. When I left the place I did not get the deed from the notary. I went to my house and from there I went to fish. I know the room where the Respondent sleeps. Respondent lives in the southern portion of the school building in the eastern room.

Q. Your transferor was living in the very next room?—A. On the west. I do not know whether there are only two rooms in the house. I have never been to this house before.

30 Q. Had you to pass the room of the Respondent before you entered the room of the deceased?—A. We can go to her room by the western side without passing the Respondent's room. I had to get on to a verandah before I entered her room. I had to walk about 20 to 25 feet along the verandah before I entered the deceased's room.

Q. The verandah is on the south of the two rooms?—A. Yes.

Q. Had you to pass the room of the Respondent before you got on to the verandah?—A. No. I got on to the verandah, then walked towards the west and then got into the room of the deceased. There was no furniture on the verandah. There was a screen on a side on the verandah. There 40 was nothing to prevent us walking along the verandah.

Q. I put it to you that you never went to the house on that night?—A. How could I have signed the deed if I had not gone there.

Q. Was the verandah open or closed on the south?—A. There was a short parapet wall and the roof of the building was sloping downwards. Selvadurai is the father-in-law of the Petitioner. He has signed my deed as a witness. On the first date of trial he came to court. That was on the

In the District Court of Jaffna (held at Point Pedro).

No. 16. Petitioner's Evidence—*continued.*

Evidence of M. Chelliah. Cross-examination—*continued.*

day when the Petitioner gave evidence. He was in the witness shed with me. I do not know where he is now. Those days he lived in the village. Now he is not in the village. He was living with the Petitioner then.

*Q.* Since the last date of trial he is missing from the village?—*A.* I have not seen him after that date. I did not inquire from the Petitioner where he was. He said that he did not know his whereabouts. Before the last date of trial he was in the village. There was a table and two chairs in the room of the deceased. I kept the document on the table and I signed it. Ramalingam also kept the document on the table and signed it. The deceased kept the document on her lap and signed it. She sat on the bed 10 and kept a pillow on her lap and over pillow she kept a cardboard and then kept the document over the cardboard and signed it. I was in that room for about two hours.

*Q.* Were you then talking in whispers or were you talking in your usual tone?—*A.* We did not talk loudly.

*Q.* Were you trying to observe secrecy in order to prevent anybody in the next room hearing?—*A.* Yes.

*Q.* Before you got into the room did you all come to a settlement that nobody else in the building should know about this transaction?—*A.* No. The notary was not told that the Respondent should not know about this. 20

*Q.* Were you told that the Respondent should not know about this?—*A.* No. After the Petitioner told me I came to know that the deceased was ill. Before P. 9 was executed I knew that the Petitioner was ill.

*Q.* You knew that in the next room the Respondent and his wife and children were sleeping?—*A.* Yes. The principal and the Vice-principal of the school live in the same compound. Their houses are about 10 yards away from the deceased's room.

*Q.* Did you think of getting the Respondent, the principal or the vice-principal as witnesses to your deed?—*A.* No.

*Q.* Did you know the feeling between the Petitioner and the Respondent 30 at the time D. 9 was executed?—*A.* I do not know. I did not examine the title deeds before I purchased on D. 9. I was not given any title deed.

*Q.* Did the Petitioner tell you that there was no deed for this land?—*A.* No.

*Q.* Did you give the name of the land and the description to the Petitioner?—*A.* My nephews and nieces have bought other shares of this land. I told the Petitioner that my children have bought some shares of this land. I did not have any other talk with the Petitioner. The first intimation I had about the execution of the deed was on the morning of the 28th. He asked me to be ready with the money and went to the notary. 40 He came again and took me to the house. I did not take any paper with me. Petitioner did not write down anything on a paper to my dictation. I had the sum of Rs. 780/- with me.

*Q.* For how long?—*A.* I have plenty of money with me. I have two sons in Singapore. I drew a dependent's allowance of Rs. 15/- a month from Government during the war.

*Q.* When you started to draw that allowance you swore an affidavit to

say that you were not possessed of any other means ?—A. No. I submitted an application I made an application to Government because I had no money. I have plenty of properties. My daughter-in-law was living with me and my son was in F.M.S. As my daughter-in-law was living with me I drew the allowance on her behalf. My daughter-in-law did not get a separate allowance from Government. I am not in possession of the property that I bought. I am prevented from taking any possession by Sivaprakasam and the Respondent. Now I have sold the land to my brother. I sold the land last year to my brother about 1½ years after the transfer in my favour. I sold it for Rs. 780/-

10 The notary was Mr. Sabaratnam. A part of the consideration was paid in advance and the balance was paid before the notary. A sum of Rs. 180/- was paid to me in the presence of the notary. (Shown deed No. 19592 of 29th October, 1944 (D. 14).)

In the District Court of Jaffna (held at Point Pedro).

—  
No. 16. Petitioner's Evidence—*continued.*

—  
Evidence of M. Chelliah. Cross-examination—*continued.*

Q. According to the deed you have sold the land for Rs. 830/- ?  
—A. The difference is for the expenses.

Q. According to the deed no money was paid in the presence of the notary ?—A. I do not know about that. I have never been to this school compound after 7 or 8 p.m. except on the day in question. Sometimes the gate of the school compound is locked and sometimes it is not locked. I do not know whether there was a watcher for this school. I know Sivaprakasam I do not know whether there was a watcher of the school. The witness Ramalingam is a carpenter from Udupidy about 4 miles from the Petitioner's house. I do not know how he came to be there. When I went to the school I saw him at the gate. I know the house of Mr. Ratnasingham, Proctor. I deny that his house is about a call's distance away from the school in question.

20

Q. You have to pass his house before you go to Sabaratnam's house ?  
—A. Yes. I do not know whether proctor Ratnasingham was the notary who executed all deeds for the deceased. Notary Sabaratnam's house is

30 about 1½ miles away from the school.

RE-EXAMINED :

Re-examination.

Mr. Ratnasingham is a relation of the parties. He is related to me also. He practises as a notary in the English language. I sold the land to my brother for Rs. 830/-. The sum of Rs. 50/- was the cost of executing the transfer. I paid the costs of the transfer. I have received the sum of Rs. 830/- from my brother. As my children are not here and as my brother has a daughter and as he is not possessed of any property I transferred it to him. I am possessed of property in my village. I am worth Rs. 5,000/- or Rs. 6,000/-.

40

Intld. E. W.  
A.D.J.

5.4.46.

Mr. KULASINGHAM closes his case reading in evidence P. 1 and P. 2.



In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

No. 17.

Respondent's Evidence.

Evidence of E. T. MACINTYRE.

No. 17.  
Respond-  
ent's  
Evidence.

Mr. THANABALASINGHAM calls—

E. T. MACINTYRE: Sworn, 37, Examiner of Questioned Documents,  
Colombo.

Evidence  
of E. T.  
MacIntyre.  
Examina-  
tion.

I have been an examiner of questioned documents for over 8 years. I am a Member of the Institute of Graphological Research, London. I have been trained in England to examine hand-writing. I was also trained for six months in the Berlin Police Institute. I have given evidence in about 400 cases during the last 8 years. I have a fairly large experience in examination of handwriting and documents. I examined the documents forwarded to me. P. 1, D. 9 and D. 10 were the questioned documents. The admitted documents were D. 8, D. 11, D. 12 and D. 13. I was asked to study the signature of Arudchelvam in D. 8, D. 11 and D. 12 and D. 13, and give my opinion with regard to her signature on P. 1, D. 9 and D. 10. I examined the documents and expressed an opinion. I produce my report (D. 15). 10

Q. According to you your conclusions are that the signatures on P. 1, D. 9 and D. 10 are forgeries?—A. Yes; and have not been set by the hand that signed Arulchelvam in D. 8, D. 11, D. 12 and D. 13. I have not got any photographs. It is possible to compare signatures with microscopes. The writing in the disputed signatures are very much slower and more deliberate than the writings in the admitted signatures. The disputed signatures also indicate firmness—very heavy pressure in the writing. The writer of the signature in D. 10 has forgotten the spelling of his own name. Sometimes forgers make a lapse because the next letter is always in their mind. A normal signature is a reflex action, unless a very illiterate man signs in which case he has got to think letter by letter when he signs a document. In D. 9 the letter “Iilanna” has been written with a pen lift. The joining has been welded as finely as possible. The writer of the admitted signatures has got a very polished hand and easy flow of writing. There are unaccounted for ticks in the disputed signatures. These signatures could easily be identified as a forgery. In D. 9 the letter “Illanna” has been written with a tick at the end. In D. 10 the letter “Iddanna” has got a tick on the top of it. The dotting of “Iddanna” in the admitted signature is fairly in the centre of the horizontal line whereas in the disputed signature the dots appear in the end. The positioning in the disputed signatures is in the end and in the admitted signatures the dotting is in the centre. The dash is about  $\frac{1}{4}$ ” long. The alignment differs in the disputed and in the admitted signatures. In the disputed signature there is a tendency to rise upwards from the beginning. In the admitted signatures the alignment is horizontal. The paper used is unruled paper in both cases. In 20 30 40

document P. 1 there is a correction over the letter "Illanna." There too there is an attempt of the "Vana" instead of the "Illanna" as in document D. 10. The same mistake has been nearly made in P. 1. At the end of the letter "Vana" in P. 1 there is a tick which is unfamiliar to the writer of the admitted signatures. The letters in the admitted signatures are well formed and rounded, while in the disputed signatures they are narrowed and diminutive. In the initial letter "Kuna" in P. 1 there is a pen lift. The tick of "Vana" I referred to in document P. 1—there is a tick in the admitted signature D. 12 which is in opposite direction. One is outward and the other is inward. In D. 13 there is a slight outward tick. In D. 8 and D. 11 there are no ticks in "Vana." In view of the fact that there are opposite characteristics found in the disputed signature which are not present in the admitted signatures it is in the highest degree improbable that the writer of the admitted signatures wrote the signatures in the disputed documents. There is a possibility of pen lifts in the case of a sickly person but it would be clumsy retouches and not fine welding. In P. 1, D. 9 and D. 10 the signatures are equi-distant from the top.

10 *Q.* Is there any symptom of trace or attempt to trace?—*A.* No. The signatures in P. 1 and D. 9 and D. 10 have begun and ended at a particular distance from the top of the page and also at a particular distance from the margin of the page.

To COURT :

*Q.* In the case of D. 10 in order to get the document to end so that the signature would come there the hand-writing is in a larger scale ?

—*A.* Yes.

30 *Q.* In the case of D.9 the handwriting of the body of the document is on a much smaller scale?—*A.* Yes. In the case of D.10 the lines are further apart. In the case of D. 9 the lines are very much closer. There is much more written substance in D. 9 than in D. 10. But still the documents have ended more or less at a similar spot so that the signatures have to be placed at similar places on the paper. A similar attempt has been made to end the document in P. 1. (P. 1 is a copy of D. 10.)

CROSS-EXAMINED :

I received the commission from this court on the 3rd November, 1945.

*Q.* Is it October or November ? (Shown report.)—*A.* November. I have dated my letter 3rd October. 3rd October is the date of D. 15. It is not correct to say that the commission reached me on the day I wrote D. 15.

40 *Q.* Then why did you write "The commission was dated 1st November"—were you writing in October?—*A.* It must have been an error. I was probably rushing out to court in connection with another case. I received the commission by post at about 9 or 9.30 a.m. I had the document and the commission with me for 3 days before I dictated the report to the typist.

*Q.* In your letter you commence your report with these words "I have "to acknowledge receipt of your commission dated 1st November which "reached me to-day" ?—*A.* Yes.

In the District Court of Jaffna (held at Point Pedro).

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No. 17. Respondent's Evidence. —continued.

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Evidence of E. T. MacIntyre. Examination—continued.

Cross-examination.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence.—*continued.*  
Evidence of E. T. MacIntrye. Cross-examination—*continued.*

*Q.* So you wrote the report on the very day you received the commission?—*A.* Yes. I sent the report to court on the 8th November by registered post. I got the receipt with me. My reports are dictated by me to my stenographer.

*Q.* You dated your report as on 3rd October, 1945?—*A.* Yes.

*Q.* You kept the report in cold storage till 8th November, 1945?—

*A.* Yes.

*Q.* Why?—*A.* I usually leave the heading to be filled by the stenographer and I only dictated to the stenographer the main body of the letter. The usual acknowledgment is left to my stenographer and I dictated the substance of the letter. The figures 3.10.45 are in my own hand-writing. I posted D. 15 on 8th November, 1945.

*Q.* Why did you keep D. 15 till 8th November, 1945?—*A.* I may have gone outstations in connection with some other cases.

*Q.* Did you go? Please look at your diary?—*A.* I do not have the 1945 diary. I could not have been away from headquarters for about a month. I used to go almost all over the Island. It must have been in the office till I came back to headquarters.

*Q.* Is it the practice for you to write the report and then keep it with you for some time?—*A.* Normally as the report is finished I post it then and there.

*Q.* D. 15 is exhaustive of your reasons for your findings?—*A.* It is not exhaustive. It is only a preliminary report.

*Q.* Do you generally make preliminary reports and final reports?—*A.* Yes; I make two reports. In this case I have made only one preliminary report. I suggested to the proctor that this should be photographed and enlarged and detailed report written. The clients were not in a position to advance the money and that is why the final report was not sent.

*Q.* You wrote D. 15 and suggested to Mr. Thanabalasingham, Proctor, that it would be desirable to have the signatures photographed?—*A.* I must have suggested that prior to writing D. 15. The photographs would be helpful whenever I gave evidence in court.

*Q.* Did you speak to Mr. Thanabalasingham before you wrote D. 15 or afterwards?—*A.* Before I wrote D. 15. He wrote and asked me for my views. Then I mentioned about this matter.

*Q.* On 26th October, 1945, this court ordered commission to issue to you?—*A.* If the court had ordered commission to issue only on the 26th October, 1945, then the date 3.10.45 on D. 15 is obviously a mistake for 3rd November. On 1.11.45 commission was issued from the District Court. Point Pedro.

(Mr. KULASINGHAM reads from the journal entry.)

I now remember that I received the commission on 3rd November, 1945, and the letter D. 15 is dated 3rd October, 1945, by mistake. It should have been 3rd November. On 3rd November it is possible that I might have left

office on some business to the Court. It is possible that I might have dictated a portion of D. 15 before I left for court on the 3rd November.

10 *Q.* How long does the work of actual inspection of these documents take?—*A.* Mostly an hour. I am not sure. I might have dictated a portion of the report before I went to court. I cannot recollect when I dictated the remaining portion of the report D. 15. I replied to Mr. Thanabalasingham's letter stating my fees on the 15th October, 1945. (Mr. Kulasingham marks the document as P. 3). P. 3 was written by my uncle to an inquiry by Mr. Thanabalasingham. I am not sure whether the inquiry was verbal or by letter. In P. 3 I have stated my charges as Rs. 52.50. I had an idea of the documents that I was going to examine and that is why I mentioned the charges as Rs. 52.50. I was told that I had to examine one set of disputed documents and one set of admitted documents I was also given a number of documents I had to examine. Mr. Thanabalasingham gave me this information.

*Q.* He saw you?—*A.* Probably he saw me. He saw me before I wrote the report D.15.

20 *Q.* Did you discuss the matter which was going to be submitted to you for your opinion with Mr. Thanabalasingham?—*A.* He told me that three documents were challenged and that 4 documents were admitted signatures and he asked me whether that would be sufficient for my purposes and I said that that would be sufficient.

*Q.* Was it then that he paid you Rs. 21/-?—*A.* I met him several times afterwards. I do not know when he paid me the money. I have referred to the payment of Rs. 21/- in P. 3. On the subsequent visits by Mr. Thanabalasingham I discussed the question of photographs. In P. 3 I said that if photographs were necessary a further charge of Rs. 83/- would be necessary. Mr. Thanabalasingham met me on two or three occasions. We casually met two or three times—twice in Colombo.

30 *Q.* Was your conversation centred on the subject of photographs?—*A.* Casually I told him about the photographs and I told him the difficulty we had in obtaining permits to get the plates. I am a registered photographer. Mr. Thanabalasingham said that my fees were too high and that I should charge less.

*Q.* Then you agreed to do without photographs?—*A.* Yes.

*Q.* On those two or three occasions nothing else was discussed except the question of photographs?—*A.* It was just a casual visit and not an arranged meeting.

40 *Q.* Did you meet Mr. Thanabalasingham or the 1st Respondent after the commission was issued to you?—*A.* No. I am seeing the 1st Respondent today for the first time.

*Q.* As soon as you received the commission and the documents I take it you sat down and examined the documents?—*A.* I read the commission first and proceeded to examine the documents. I first read the admitted documents. I examined the signature and the admitted documents. I examined the characteristics of the signatures on the admitted documents.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence—*continued.*

Evidence of E. T. MacIntyre. Cross-examination—*continued.*

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence—*continued.*

Evidence of E. T. MacIntyre. Cross-examination—*continued.*

Then I examined the signatures on the disputed documents and I noted down where these characteristics were absent in the disputed signatures.

*Q.* Did you note the characteristics?—*A.* Yes. I wrote them on a piece of paper. I do not have the piece of paper. Generally I do not take my analysis on a rough note to courts. When I wrote the report I had the note by my side.

*Q.* Then you knew from the note in what respects in regard to characteristics the disputed signatures differed from the admitted signatures?—*A.* Yes.

*Q.* You will admit that the test you applied was the test obtained by a comparison of the characteristics of the writer with the disputed signatures?—*A.* Yes.

*Q.* You applied no other test?—*A.* Pen pressure.

*Q.* That is one of the characteristics?—*A.* Yes. A applied a comprehensive test. First the common features in the set of admitted signatures, the details of the construction of the letter, the pressure of the pen, alignment, the size of the letters—round or angular—I examined all such features. When I found any new feature in the disputed signatures I noted it down.

*Q.* Arrangement is akin to alignment?—*A.* Yes. I applied the test of construction of each letter, spacing, pen presentation and pen pressure. I had taken notes on these points.

*Q.* You did not copy out your notes in full in your report?—*A.* I did not because it was a preliminary report. For the final report we come with full details and photographs.

*Q.* Is it not usual for you to give reasons for your opinion expressed in the report?—*A.* In the preliminary report we give only our opinion. In the final report we give reasons. The second report is my verbal evidence here.

*Q.* With regard to the various characteristics, you will admit that the question of pen presentation and pen pressure are the most important?—*A.* No.

*Q.* Then?—*A.* They are also important but not the most important. All must be taken together. Pen pressure, pen presentation, alignment, construction. I examined the signature on D. 8. Pen pressure is light on D. 8.

*Q.* What is pen pressure?—*A.* When you apply the pen to the paper the necessary pressure to write the words is called pen pressure. Each man has a different pressure.

*Q.* Do you find signs of any particular manner of pressure in the document D. 8?—*A.* Very even pressure.

*Q.* The loop in "Kuna"—do you see any signs of pressure. There is pressure in the lower end of the loop?—*A.* The ink has run into the base of the loop and the end of the loop. That is not a sign of pressure.

*Q.* Do you see any sign of pressure in "Ana"?—*A.* There is even pressure. The pen pressure on the horizontal is different and the downward stroke is also different. In anybody's handwriting the pressure is less in

upward strokes than in downward strokes. There is a greater pressure in the downward line in the letter "Ana." The letter "Chena" consists of two parts (\*) and (\*). In the letter (\*) an angle is formed in the downward stroke. (\*) begins with an absorbed loop. The pressure is greater on the horizontal line which finishes the word. The initial stroke of the (\*) is heavier than the horizontal stroke. I do not see any pen pressure in the word (\*). The horizontal stroke is the lightest part of the letter. The short ending of the "Vana" and the dotting of "Immana" and "Iddanna." These were the characteristics that I observed in D. 8. I compared the  
 10 features in D. 8 with the features in D. 11. All the admitted signatures had common features. All the features which I found in D. 8 were found in D. 11. I saw the same features in D. 12 and D. 13.

*Q.* People have sometimes variable signatures?—*A.* Variability in form.

*Q.* If you have one writing with a continental r and the other with an English r—then the formation is different?—*A.* It is difficult for us to give opinion on a single letter. We cannot arrive at any opinion on this peculiarity alone. We merely point that out. We look to the a and e to assist us in our opinion.

*Q.* The question of pen lifts must be considered along with the position  
 20 of the writer at the time of the writing?—*A.* Yes. Pen lifts depend on the position of that part of the hand which is placed at rest when the pen moves. I have not referred to the question of pen pressure in my report. I referred to the question of pen lift as it was apparent. The distinction in the pen pressure was apparent but I thought of mentioning it in my detailed report. I consider pen lift as a very important characteristic because it is carefully welded. Under certain circumstances pen lift is more important than pen pressure. In P. 1 there are breaks in three letters—in "Kuna," "Chana" and "Illanna."

*Q.* With regard to pen lifts, every time the pivot is changed the pen is  
 30 naturally raised from the paper?—*A.* Yes.

*Q.* The occasion for changing the pivot is more frequent if the witness happens to write the signature on a piece of paper placed on a cardboard which is placed on a pillow which is placed on the elbow?—*A.* Yes.

*Q.* Have you any explanation to offer as to why you did not refer to pen pressure in your report?—*A.* Because it was a preliminary report.

*Q.* It is difficult to judge pen pressure without photo enlargements?  
 —*A.* A good microscope is sufficient for the purpose.

*Q.* Then you took the usual steps to study the document?—*A.* I examined under power lens and I transmitted light. I did not do any  
 40 other tests. These are the only things required to find out pen pressure.

*Q.* Did you try to ascertain the angle of presentation of the pen by the writer?—*A.* By the microscope and the light.

\* See certified copy of Record.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence—*continued.*

Evidence of E. T. MacIntyre. Cross-examination—*continued.*

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence—*continued.*

Evidence of E. T. MacIntyre. Cross-examination—*continued.*

*Q.* The signatures on P. 1, D. 9 and D. 10 irresistibly point to common authorship?—*A.* Yes, as compared to the admitted documents. I gave evidence of the characteristics after observations made in the witness box of the signatures. When I see the signatures I can recall the notes that I took at my office. About 95 per cent. of the cases in which I gave evidence the court accepted my evidence. In 5 per cent. of the cases the court did not agree with my opinion. I gave evidence in this court in some cases. I gave evidence in case No. 49PT in which the genuineness of a signature was involved.

*Q.* In 49PT it was alleged that the signature of one Velupillai was a forgery?—*A.* I am not sure. 10

*Q.* You remember the case in which you gave evidence and in which Mudaliyar Rajanayagam gave evidence?—*A.* About 8 years ago in the Jaffa courts. I cannot remember whether I gave evidence in this court before Mr. Rodrigo. I gave evidence in another case in which the genuineness of certain accounts were involved. My evidence was the figures were forgeries. I do not know whether my opinion was accepted or not. I regard the position of ticks as a new feature introduced into the disputed signature which is not present in the admitted signature. The ticks that I refer to are superfluous. The tick does not appear in the admitted signature. 20

*Q.* The ticks could have been caused by the raising or the lowering of the pillow or tiring effort?—*A.* Yes. I find the disputed writings inferior.

*Q.* There must have been some cause for the inferior writings—her illness?—*A.* The formation need not have been altered in spite of her illness and in spite of the position she occupied. The letters in the admitted signatures were well formed and better looking to the eye and polished. Formation is very important but not form. Formation is the matter constructed and the form is the art of construction.

*Q.* The letters in the admitted signatures were well formed—that is what you said?—*A.* I meant the pictorial effect. 30

*Q.* Do you take the pictorial effect also into consideration?—*A.* I take it along with other things. Pictorial effect also should be taken into consideration. Osborn supports that theory.

*Q.* P. 1 is in the same handwriting as D. 10?—*A.* Looks like it. I am not giving a considered opinion.

*Q.* What about the handwriting in P. 1 and D. 9?—*A.* It does not look the same. The letters of the writing in D. 9 are much smaller than the letters in P. 1.

Re-examination.

RE-EXAMINED.

D. 9 and D. 10 are in the same handwriting. In D. 10 the spacing is bigger and in D. 9 the letters are written closer. My office is in Munsoor buildings. One office intervenes my office and the Vanguard office. Both offices are in the same floor. I deny that Mr. Thanabalasingham tried to influence me in my decision. 40

Intld. E. W.,  
A.D.J.

5.4.46 Evidence of S. VELUPILLAI.

S. VELUPILLAI : Affirmed, 31, clerk, Irrigation Department, Tangalle.

In June, 1943, I was in Vavuniya. I know the Petitioner's father-in-law. I am from Valvettiturai. The Petitioner's father-in-law was with me in my house for about a week till 30th June, 1943. He has been to Vavuniya on more than one occasion. Whenever he was in Vavuniya he used to sleep in my house.

10 Q. On the 28th he was in your house?—A. He should have been there. About the 20th July 1st Respondent asked me give evidence to the fact that Mr. Selvadurai was staying with me till the end of (30th) June. I verified the fact and told him that I would give evidence to that effect. Respondent asked me to note down the material dates and I noted down the particular facts and the dates on a piece of paper.

CROSS-EXAMINED.

1st Respondent visited me in July and in September. He asked me to give evidence and to make a note of the period during which Selvadurai stayed with me. I noted it in a register where I entered my personal matters. I usually keep a note of my salary because my salary is deducted for various loans.

20 Q. But for the note in the register you would not remember the period?—A. I cannot remember. I am a distant relation of Selvadurai. 1st Respondent is also a distant relation of mine. 1st Respondent is not closely related to me and I think he must be an uncle of mine. My father was Sankara Namasewayam. To my knowledge my father was not teaching in the 1st Respondent's school but he worked in the 1st Respondent's school. To my knowledge my father was working in the 1st Respondent's school for a few years. I was educated in the 1st Respondent's school. I joined the school in the 1st standard and I left the school after passing the Cambridge Senior. I deny I was a free student of the school. I am not  
30 aware that I was a free student. My father paid my school fees. After passing the Cambridge Senior Examination I was a part time teacher in the 1st Respondent's school. Whenever Selvadurai came to Vavuniya he always used to stay at my place. He had one or two other places to stay in Vavuniya. He was staying in two or three other places. I am unable to say without looking at my register whether he was with me on the 28th June. I cannot remember whether I saw him on the 28th June. I had no occasion to tell the 1st Respondent that Selvadurai stayed with me. My father gave evidence for the Respondent in another case. My father was employed under the 1st Respondent and naturally he must have been a friend of the 1st  
40 Respondent.

RE-EXAMINED : Nil.

Initialled : E. E.,  
A.D.J.

5.4.46.

Inquiry postponed for 9th May, 1946.

(Sgd.) E. WIJEYWARDENE,

5.4.46.

A.D.J.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence—*continued.*

Evidence of S. Velupillai. Examination.

Cross-examination—

Re-examination.



In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

9.5.46.

Trial resumed.

Same appearances as before.

Evidence of S. V. IYANGAR.

No. 17.  
Respondent's  
Evidence—  
*continued.*

Evidence  
of S. V.  
Iyengar.  
Examina-  
tion.

S. V. IYANGAR: Affirmed, 43, Principal, Sithambara Vidyalayam, Valvettiturai.

I was principal of this College for the last 18 years. Before that I was an Assistant for one year. I am a graduate of the Madras University. This is a Secondary School preparing students for the Senior School Certificate examination. 1st Respondent is the Manager of the School. I live within 10 the school compound itself. I know the house where the 1st Respondent lives. His house is about 10 or 15 yards away from my house. I do not remember the exact date when the 1st Defendant's daughter died. I think it must have been in June, 1943. The deceased is the sister of the Petitioner. They are both children of the 1st Respondent by his first wife. They were then living in the same house as the 1st Respondent. At the time of the death of the deceased the feelings between the Petitioner and the deceased on the one side and the 1st Respondent on the other side were, I should think, strained. I usually get up from bed at about 3 or 4 a.m. Those days the school commenced at 8.30 advanced time. The school had one 20 sitting those days. I am a Brahmin. At that time I was living alone. I had to prepare my lessons and I had to prepare my meals and that is why I get up between 3 or 4 a.m. I had to prepare not only my morning tea but also my lunch. The Respondent also gets up at about 3 a.m. Even now he gets up at about 3 a.m. So far as I know he prepares hot water himself for his bath and goes to his temple at about 5 o'clock and comes back at about 6.30 or 7 a.m. The temple is in the school compound itself.

Q. 28th June, 1943, was a Monday?—A. I cannot say. On college days I used to get up at about 3 a.m. There was an outer gate for the school. That gate is generally locked at about 10 p.m. and it is opened at about 30 6 a.m. There are two keys for the gate. One of the keys is with the Manager and the other is with the watcher. When ever I wished to get out I get the key from the Manager. I have no occasion to meet the watcher because he comes at about 11 o'clock. The nearest person accessible to me is the manager. I did not have a key for this gate. The Vice-Principal also lives in the same compound by my side. He also does not have a key for this gate. The Petitioner also does not have a key for that gate. Between 10 p.m. and 6.30 a.m. it is not possible for any outsider to get into the compound without the knowledge of either the Manager or the watcher. It happens even now. 40

Q. Suppose the Petitioner had gone out one evening and not returned would the gates have been locked?—A. He will have to knock at the gate which is covered with a corrugated sheet and the manager will get up for

the noise. The school is an open hall. The school and my house are situated in a compound which is in extent about 30 lachams.

Q. Suppose a party of 5 or 6 persons were getting into the house of the Respondent and the Petitioner would you have noticed from your house?—

- A. Yes. On still days and nights ordinary tones from the Respondent's house could be heard in my house but not on windy days. I was present at the funeral. Nobody then mentioned to me about the execution of a last will or the execution of a deed by the deceased. Even subsequent to that I did not hear. I know Petitioner's father-in-law. I talked to him on the funeral day and on occasions previous to that also. I should think that the ill-feeling between the Respondent and his children started after the marriage of the Petitioner. I condoled with the Petitioner's father-in-law. Itold him that all his efforts have been in vain and he said that he had hopes still. The ill-feeling between the 1st Respondent and the Petitioner started after the Petitioner's marriage. The Petitioner spoke to me with regard to the school. Petitioner said that he should have a hand in the management and a share of the profits. I conveyed this information to the manager and he flatly refused. The manager told me that he was going to make a public trust of this property and that he did not want to donate this property to his children either by his first wife or by his second wife. One Sivaprakasam is the watcher of the school. He sleeps in the school in the nights. The watcher comes to the school at about 9.30 or 10 or 11 p.m. and sleeps till morning.

CROSS-EXAMINED.

The outer gate of the school is on the north. The school building is directly to the south of the gate. My house is to the south-west of the school building. My house is about 40 to 50 yards from the gate. My house is about 15 yards away from the Petitioner's room.

- Q. Could it be 20 or 25 yards?—A. It may be. It is a call's distance away.

Q. It may be 45 yards away from your house?—A. Yes. I do not know whether the deceased lived in a separate room by herself. I have gone there once or twice but I do not know the details.

Q. If she lived in a separate room that would be the middle room of the building?—A. Yes.

Q. That would be about 60 yards from your house?—A. Yes.

- Q. You still say that you could hear people talking in ordinary tones on still days?—A. Yes. The outer gate would be about 100 yards from my bungalow. The watcher Sivaprakasam has a key for the outer door. The boutique keeper also had a key but it was removed from him after the ill-feeling started between the Petitioner and the 1st Respondent. I was told that Arumugam the boutique keeper joined hands with the Petitioner and that is why the key was removed from him. Probably the manager suspected that Arumugam admitted these people at odd hours. By "these people" I mean Petitioner's father-in-law and his brother-in-law.

In the District Court of Jaffna (held at Point Pedro).

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No. 17. Respondent's Evidence—*continued.*

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Evidence of S. V. Iyengar. Examination—*continued.*

Cross-examination.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's. Evidence—*continued.*

Evidence of S. V. Iyengar. Cross-examination—*continued.*

1st Respondent did not have any objection to their coming during day time. Arumugam was locked in and subsequently he was locked out. Whenever I went out I had to ask the manager for the key. The Vice Principal also had to do that. Nobody else lives in this compound. If anybody comes late to the school he should knock at the corrugated sheet and shout out and then the manager opens the gate and takes him in. I know well that the Petitioner did not have a key for this gate. Petitioner himself had complained to me that he was put to great inconvenience on account of the gate being locked. Occasionally when he talked to me he mentioned this to me. The complaint was spread over for a number of months. I was in the habit of talking to the Petitioner. Petitioner used to tell me about his troubles. Whenever Petitioner wanted me to convey his troubles to the 1st Respondent I used to mention it to the 1st Respondent. The key is the key of an ordinary padlock which could be bought anywhere. In June, 1943, Arumugam had his boutique in the school compound. In June, 1943, the key was removed from Arumugam. As soon as ill-feeling started between the parties the key was removed from Arumugam. The ill-feeling started as soon as the Petitioner got married. Except on Friday nights and Saturday nights I usually get up between 3 a.m. and 4 a.m. I finish my cooking at about 5 a.m. I cook lunch also. I had to take cold meals for my lunch. I never kept a servant. I cannot take any meals which are prepared by a non-Brahmin. I never brought a Brahman servant from India. The school starts at 8.30 a.m. and I had to be in the school at 7.30 a.m. The cooking takes about one hour. I would be occupied in cooking till 5 a.m. Then I take my bath and then my friends used to come to me and chat. Friends come to my house at 6 a.m. I do not know whether those people also get up at 3 a.m. I leave for school at 7.30 a.m. I am an asthmatic patient, and as such I could not sleep well. My sleep gets disturbed at about 3 o'clock. That is one of the reasons why I get up at about 3 o'clock. I should think the 1st Respondent also is asthmatic. It is not necessary for him to attend school at 7.30 a.m. He visits the school occasionally. I am in charge of the school. I have seen the manager performing the poojas at the temple daily. At that time I used to do my cooking. Nobody else performs poojas in that temple. There is no priest for that temple. Feelings became strained between the 1st Respondent and the Petitioner after the Petitioner's marriage. Petitioner used to tell me something about his troubles and the Respondent also used to tell me something about his troubles. From these talks I gathered that there must be some ill-feeling. I joined this school in 1927. 1st Respondent's first wife had died before I joined the school. The 1st Respondent's first wife is the mother of the Petitioner and the deceased. In 1927 1st Respondent's second wife was living in the school with the 1st Respondent. Her name is Saraswathy. Saraswathy and the 1st Respondent were living in one part of the house.

Q. And the children of the first wife were living in another part of the house?—A. I have no knowledge of all these things. It may be that the

children of the 1st Respondent by his first wife were living in the other part of the house. Those days my knowledge of the school compound was not quite good. In 1930 the children of the 1st Respondent by his first wife lived in one part of the house and the 1st Respondent and Saraswathy lived in another part of the house. Separate cooking started about 6 or 7 months before the Petitioner's sister died. Separate cooking started on account of the strained feelings. So far as I am aware the strained feelings started owing to the marriage of the Petitioner. The deceased also complained to me on several occasions. She had been complaining to me

10 that her brother was not given a proper share of the school property. The Petitioner must have married about 5 or 6 years ago. It may be that the Petitioner married in August 1941. It was the 1st Respondent who arranged the marriage. Separate cooking did not start prior to the Petitioner's marriage. It started about 5 or 6 months prior to the death of the deceased. 1st Respondent was trying to arrange a second marriage for the Petitioner's sister. Her husband died in 1933.

In the District Court of Jaffna (held at Point Pedro).

—  
No. 17.  
Respondent's Evidence  
—continued

—  
Evidence of S. V. Iyengar.  
Cross-examination—  
continued.

Q. Between 1933 and 1941 1st Respondent had been trying to get her married for the second time?—A. He told me that he had been running about to get a suitable bridegroom and that he could not succeed.

20 I started work in the school as an Assistant. I was appointed Principal in January, 1929, and ever since I have been principal of the school. All the school correspondence is carried on by me. The work that should be properly done by the manager is done by me. 1st Respondent has great confidence in me. I am drawing Rs. 370/- as my monthly salary. I do not pay any part of this salary to the manager. The other teachers also do not pay anything to the manager. There was no petition by the teachers to the Director of Education about the 1st Respondent. 1st Respondent gets an equipment grant which he spends for the school.

Q. How does the 1st Respondent subsist?—A. I am not aware of

30 these things. He used to tell me that he has some lands. I deny I gave evidence for the 1st Respondent in several cases. I gave evidence on his behalf only in one civil case. I did not give evidence on his behalf in any criminal case. In the civil case I had to speak about the free tuition given to certain boys. The boys were the children of one Somasundaram of Valvettiturai.

Q. 1st Respondent did not attend the funeral?—A. It was not a question of attending. He was there. There was a dispute as to who exactly should perform the funeral rites of the deceased. The manager thought that feelings might run riot and he kept aloof. He did not attend

40 the funeral. 1st Respondent used to go into the room of the deceased and peep in. He told me that he visited the deceased when she was ill. I am not sure where he visited or not. I do not know whether there was a litigation between the deceased and the 1st Respondent. I think the litigation started after the deceased's death.

In the  
District  
Court of  
Jaffra (held  
at Point  
Pedro).

No. 17.  
Respond-  
ent's  
Evidence—  
*continued.*

RE-EXAMINED.

The funeral took place in the same house. The 1st Respondent did not leave the house on that day. 1st Respondent supplied some of the articles required for the funeral. 1st Respondent did not accompany the corpse as far as the cemetery. I have an electric cooker and a stove to cook my meals. In those days the electric current was usually cut at 6 o'clock and sometimes at 5 o'clock. That is one of the reasons why I got up early.

9.5.46.

Intld. E. W.,  
A.D.J. 10

Evidence  
of M.  
Sethu-  
lingam.  
Examina-  
tion.

Evidence of M. SETHULINGAM.

EXAMINATION.

M. SETHULINGAM: Affirmed. Kirama Vidane, Valvettiturai.

I know the parties to this action. I know the father-in-law of the Petitioner. (Shown summons to witness (D. 16.) The fiscal's process server sought my assistance to serve D. 16. I have reported on the reverse of D. 16 on two or three occasions. (D. 16 read.) In D. 16 I have reported to say that the Petitioner's father-in-law was in India. Later I have reported to say that I inquired for his address from his home people and that he was in India. By "Home people" I mean that I inquired from 20 the Petitioner and Petitioner's mother-in-law. On another occasion also I have reported to say that the Petitioner's father-in-law is not in the village. Petitioner's father-in-law is not in the village now. I heard that he is in India now. I do not know his address in India. I know the school compound. The gate of the school compound is always locked in the nights. I do not know who keeps the key of the school gate.

Cross-exam-  
ination. CROSS-EXAMINED.

I was not asked to serve D. 16 on Selvadurai.

Q. Then why did you report on D. 16?—A. Usually when the summons are served through the fiscal the fiscal process server comes to me and 30 I used to give a report of the witness' whereabouts. I used to write my report both on the face of the summons and on the back of it also. Generally I used to make a report like this on the summons. I am an old student of the 1st Respondent. I studied up to the 8th standard in English in 1st Respondent's school. I was not a free scholar in 1st Respondent's school. I did not win any scholarship.

Re-exam-  
ination.

RE-EXAMINED.

Nil.

9.5.46.

Intld. E. W.,  
A.D.J. 40

## Evidence of G. THAIYALPAKER.

EXAMINED.

G. THAIYALPAKAR : Affirmed, 63, Manager of Sivaguru Vidyasalai and Sithambara Vidyalayam, 1st Respondent.

In the District Court of Jaffna (held at Point Pedro).

Sithambara Vidyasalai is the English School and Sivaguru Vidyasalai is the Tamil School. Iyangar is the Principal of the English School. Both schools are situated in separate places. Petitioner is a son of my first wife. The deceased is my eldest daughter by my first wife. I am now married again. I have five children by my second wife. The age of the eldest child by my second wife is 20 years. I produce a plan of the English school (D. 5). The buildings marked C and D form part of the school. The room marked C4 is the room I occupy. Room C3 was occupied by my eldest daughter and my other daughters. C2 was occupied by the Petitioner and his wife. E is the kitchen. F is not in existence now. G is the building where the principal lives. Building A is the temple where I worship. The main gate of this compound is to the north of the compound. It is not kept open in the nights. It is locked in the nights at about 6 or 6.30 p.m. and opened at about 6.30 a.m. There are two keys for the padlock of the gate. I have one key and the other key is with the caretaker of the School Sivaprakasam.

No. 17. Respondent's Evidence—*continued.*

Evidence of G. Thaiyalpakar. Examination.

*Q.* When anybody wants to get into the school between 9 p.m. and 6 a.m. how do they get in?—*A.* Generally nobody comes in the nights. But if they come they knock at the corrugated sheet door and shout out for me and I open the door. Either the watcher or I open the door. About the end of June, 1943, my daughter was ill.

*Q.* What happens if anybody wanted some ice for the patient?—*A.* I am there always and I look after all these things. In my absence the watcher will open the gate. Except at midnight I am usually awake the whole time. I generally get up from bed between 3 and 4 a.m. The deceased was occupying the room adjoining my room. Besides the deceased my other daughters also used that room. At that time my other daughters were not grown up girls. The wall between my room and the deceased's room was a half wall and it did not reach up to the roof. If anybody had gone to the deceased's room at about 3 a.m. or 4 a.m. I would have known. When I get up at about 3 a.m. my wife and children also used to get up and they prepare warm water for my bath because I am subject to catarrh troubles. Generally I go to the temple at about 5 a.m. and return from the temple at about 7 or 7.30 a.m. If anybody had come to my house between 3 a.m. and 5 a.m. I would have known. No notary came to the deceased's room a week prior to her death between 3 a.m. and 5 a.m. As the deceased acted on the advice of the Petitioner's father-in-law I was a bit worried but I treated her as my daughter. About 4 or 5 months prior to the deceased's death on instructions from Selvadurai my daughter and the Petitioner and his wife started cooking separately on the verandah. Before that we all cooked together. The ill-feeling between me and my son

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence—*continued.*

Evidence of G. Thaiyal-pakar. Examination—*continued.*

commenced about 5 or 6 months after the Petitioner's marriage. Petitioner and his father-in-law approached the principal and suggested that the management should be handed over to the Petitioner and they wanted me to retire. I replied that I knew all the difficulties I had in establishing the school and that I did not want to hand over the management of the school to anybody. I have no idea of handing over the school to anybody. At the time of my death I would give over the school to anyone who is competent enough to manage the school. I do not get any income from the school. The school is being managed from the grant. I have my own income. I will not allow the school to be sold or I will not hand over the school to my children. I want to create a trust. The verandah is to the south of my room. There are lot of things on the verandah. It is not possible to enter any room along the verandah. People who enter rooms will have to get up on the verandah just opposite the door of the room. The school furniture is just stacked up on the verandah leaving a passage for entry into the rooms. I am definite that nobody could have entered to room of the deceased on the 27th night. I know the deceased signature (shown P. 1). The signature on P. 1 is not that of the deceased. (Shown D. 9.) The signature of the deceased does not appear on D. 9. The signature of the deceased does not appear on D. 10. (Shown letter D. 1.) This letter was addressed to the Petitioner by Selvadurai. After the Petitioner left the house I went through the papers on the table in his room and I found D. 1 on his table. D. 1 was enclosed in the envelope D. 2. Petitioner left the house about a month after my daughter died. There were other papers on the table and I got D. 1 and D. 2 and D. 3 from among the papers.

(Mr. THANABALASINGHAM moves to produce D. 1, D. 2, D. 3 and D. 4.)

Mr. KULASINGHAM objects to the documents being produced unless Selvadurai is called or unless the court holds that the letters can be produced without Selvadurai being called.

Mr. THANABALASINGHAM says he produces the documents under section 32(2) (g) of the Evidence Ordinance.

Mr. KULASINGHAM cites Woodroff and Amir Ali, 8th edition, page 322, 2nd paragraph.

ORDER.

The documents have already been marked in the cross-examination of the Petitioner. The question as to whether the contents of the documents are admissible in evidence or not will be considered at the end of the case.

9.5.46.

Intld. E. W.,  
A.D.J. 40

I produce letter dated 28.6.43 signed by Selvadurai and addressed to the Petitioner (D. 1). I produce an envelope (D. 2) addressed to the

Petitioner from Vavuniya with postmark dated 28th June, 1943. I also mark a letter dated 14.6.1943 (D. 3) written by Selvadurai to one Ramalingam who was a witness to the last will P. 1. I produce two postcards dated 30th June, 1943 (D. 4) written by Selvadurai to one Samy. I also produce a postcard dated 30.6.43 (D. 7) from Vavuniya written by Selvadurai to one Thedchanamoorthy who is a teacher of my school (D. 7). I produce a certified copy of deed No. 18702 of 28th June, 1943, attested by notary V. Sabaratnam (D. 6). I produce a certified copy of deed No. 19592 of 29th October, 1944 (D. 14). I know Velupillai who is at

10 Vavuniya. I went to Velupillai after my daughter's death. I went and told him that a deed was executed and asked him to give evidence to prove that Selvadurai was in Vavuniya on the material date. I spoke to Velupillai and he told me that Selvadurai was in Vavuniya. I told Velupillai that Selvadurai was with him for week and asked him to give evidence in court. I asked him to give it in writing so that he might not forget it. He said that he would not forget it and he noted the date in a notebook. That was on the second occasion when I went to Vavuniya. I say that the last will and the deed in favour of Chelliah are forgeries.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence —continued.

Evidence of G. Thaiyal-pakar. Examination—continued.

CROSS-EXAMINED.

20 I say that my daughter left behind no estate and that there is no necessity either for a probate or administration.

Cross-examination.

Q. The 1st land described in the schedule annexed to the petition Niruvathambi was the land which your first wife transferred to you?—A. She donated to me a 1/2 share. The other 1/2 share belongs to me.

Q. It was in respect of that 1/2 share that the deceased filed case No. 1862 alleging that your late wife transferred this land in trust for the children?—A. Yes.

30 Q. The 2nd land Peethiyahmanal in extent 1½ lachams v.c. originally belonged to your deceased daughter?—A. I sold that land with her consent to meet some of her debts.

Q. You sold that land after ill-feeling started between you and your daughter?—A. One land was sold after the ill-feeling started.

Q. There was no difficulty in your daughter signing a deed of transfer? The power of attorney was given in your favour in order to enable you to institute an action and eject a Palla man from the land?—A. It is all stated in the power of attorney. The land was sold by me at her request.

Q. You sold the land after she filed cases against you?—A. Yes. She filed case No. 1780 claiming from me a sum of Rs. 5,200/-.

40 Q. In that case she claimed that she had given you her commuted pension and her jewels?—A. No.

Q. You filed answer in that case admitting the receipt of the commuted pension and the jewels.—A. No.

(Mr. KULASINGHAM marks in evidence a certified copy of the plaint and answer in case No. 1780 (P. 4).)

Q. Out of your daughter's land you sold only a divided extent after she filed action against you?—A. Yes.



In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence—continued.

Evidence of G. Thaiyal-pakar. Cross-examination—continued.

*Q.* Before she filed the action against you you sold another dividend extent to your servant Sivaprakasam?—*A.* That was after the case was filed. I deny the three items mentioned in the schedule to the plaint. I say that the deceased did not leave behind the properties described under items 1, 2, 3 and 9 to 65.

*Q.* Your son and your daughter have filed another case against you claiming a 1/2 share of the land on which the school stands?—*A.* Yes.

*Q.* You have filed a case against Petitioner and his wife?—*A.* Yes. I did not file that case against my daughter.

*Q.* There has been ill-feeling between you and your daughter by your first wife for a considerable length of time?—*A.* The ill-feeling started only after Selvadurai came on the scene: that is after the marriage of the Petitioner in 1941. Before that there was no ill-feeling. 10

*Q.* Your son the Petitioner and your daughter suspected that you were going to give all the properties and the school to your children by the second wife?—*A.* No.

*Q.* Why then did the Petitioner want to take over the school while you were alive?—*A.* Selvadurai asked him to take over the management and to send me out. Petitioner listened to Selvadurai. I married my second wife about 20 years ago. 20

*Q.* As a matter of fact your second wife was with your first wife at the time your first wife lived?—*A.* Yes.

*Q.* Your second wife was a servant in your house then?—*A.* She was with my elder sister. I deny that she was a servant in my house. I adopted my second wife's elder sister and my sister adopted my second wife. My second wife's sister is now married. At the time my wife died my second wife came and lived in my house. I married her subsequently. I married her 5 or 6 months after she came to live in my house. The school was founded by one Sithambarapillai.

*Q.* Sithambarapillai's widow transferred the school compound to you?—*A.* It was transferred to me by my father. Sithambarapillai's widow transferred to me the proprietorship of the school. 30

*Q.* Your late wife also had a share in the school compound?—*A.* She did not have any share. My first wife donated some lands to me before her death.

*Q.* That land was part of the school land?—*A.* Yes. Sithambarapillai's widow transferred the management of the school to me and my wife transferred her acquired 1/2 share of the land on which the school stands. When I married for the second time my deceased daughter was about 13 or 14 years old. Some time after my second marriage I got her married to one Kumaraguru, the son of the founder of the school. Kumaraguru did not claim an interest in the management of the school because I brought him up when he was 5 months old. Kumaraguru died in 1933. From 1933 I tried to get my second daughter married again. 40

*Q.* You were prepared to dowry her?—*A.* I was not possessed of much property to dowry her.

- Q. What about her commuted pension and P.S.M.P.A. contributions ?  
 —A. Her late husband had lot of debts and I had to meet those debts with these monies. I had to pay some of my money also to meet the debts. I did not give any dowry to Kumaraguru. Petitioner's father-in-law Selvadurai proposed a marriage for my daughter. I learned about it subsequently.
- Q. And you refused ?—A. I was prepared to consent.
- Q. Then what was the difficulty ?—A. I learnt about the proposal only after her death.
- 10 Q. Your idea was that your daughter would continue to live with you unmarried.—A. My idea was to get her married. She was drawing a monthly pension of Rs. 30.80.
- Q. Your wife and children gave her meals ?—A. We all ran one house. My income and the income of my daughter also went into the common pool. I used to draw my daughter's pension and pay her.
- Q. Why did you pay her ?—A. She should have some money for her petty expenses. It was she who drew the pension and gave it.
- Q. Gave whom ?—A. She drew the money and paid the debts. I cannot remember to whom she paid. Kumaraguru's estate was not  
 20 administered.
- Q. The relationship between you and your daughter were very much strained after the death of your son-in-law ?—A I deny that. We were living quite happily. My daughter was 23 years old when Kumaraguru died. She had no children by Kumaraguru. At one stage my daughter began to cook separately.
- Q. At that time there was ill-feeling between you and your daughter ?—  
 A. No. It was only after Selvadurai came and intervened and advised them and gave them some ideas that they started cooking separately. Though I was very much worried with my daughter after she filed cases  
 30 against me I used to talk to her.
- Q. Why did you talk to her ?—A. She was my eldest daughter and I was very much attached to her.
- Q. You were so attached that you looked after her during illness ?—  
 A. Yes.
- Q. You went for the doctor ?—A. No.
- Q. What did you do in connection with her illness ?—A. I wanted to bring in Dr. Sabapathy but the Petitioner asked me not to attend to that as he listened to his father-in-law. It was the Petitioner who looked after my daughter's illness. I used to visit my daughter now and then.
- 40 Q. You took no interest in the funeral ?—A. We had a quarrel that day because I wanted to spend for the funeral. There were several talks.
- Q. Did you attend the funeral ?—A. I was in the same compound. The dead body was in one room and I was in the adjoining room. I went to the room where the dead body was kept.
- Q. You say in your objection that a reasonable sum for medical and funeral expenses would have been about Rs. 200/- ?—A. Yes.
- Q. Then you admit the amount ?—A. Yes ; but the Petitioner has

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence — continued.

Evidence of G. Thaiyal-pakar. Cross-examination—continued.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence —continued.

Evidence of G. Thaiyal-pakar. Cross-examination—continued.

Re-examination.

her jewels. For the last one or two years I am better off than when my daughter died. I sold a land that I bought for Rs. 160/- for Rs. 3000/-. That is not my daughter's land. That land is also known as Niruvathambai. My daughter had another land called Niruvathambai. Under the power of attorney I sold one of my daughter's land and out of the proceeds I redeemed one of my daughter's debts.

*Q.* Shortly after you got the power of attorney from your daughter you filed an action against a Palla man for ejection?—*A.* Yes.

*Q.* It was after that you thought of paying off one of your daughter's numerous debtors by selling off one of her lands?—*A.* Yes; it was with her consent that I sold the land for Rs. 500/- and settled her debt for Rs. 500/-. 10

Besides the two school lands I have one or two other small lands. I get income from the small lands. There are about 150 coconut trees, mango trees, palmyrah trees, etc. These trees are in the compound where the English school is. I do not get any income from the small lands that belong to me.

*Q.* What do you do for your livelihood?—*A.* I utilise the income from these two lands. I also buy timber and make doors and window and sell. I do not take any part of the equipment grant. I do not make any levy on the teachers' salaries. I was prosecuted once for levying a tax on the teachers' salaries but I was acquitted. Originally I was charged and convicted. Then I appealed to the Supreme Court and the Supreme Court sent the case back for non-summary proceedings. 20

*Q.* And the Attorney General withdrew the charge?—*A.* After trial as there was no evidence I was acquitted.

RE-EXAMINED.

The power of attorney granted by my daughter is filed of record in this case and marked (D. 8). D. 8 is a general power of attorney and it was given to me in April, 1942. D. 8 was attested by Mr. Ratnasingham, notary. After this attorney I sold two lots of land called Peethyanmanal. Before the action was filed by my daughter I sold the first lot. There was no dispute with regard to that lot. The second lot was sold to one Sivaprakasam, my watcher. That was after my daughter filed an action against me. I sold the land to Sivaprakasam for Rs. 500/-. This sum of Rs. 500/- was utilised to settle a debt which my daughter owed to one Thedchanamoorthy on a promissory note dated 1st March, 1941 (D. 17). I say that my father sold the land to me. I produce deed No. 8074 of 4th October, 1907 (D. 18). By deed No. 2117 of 10th June, 1922 (D. 19) my wife donated her acquisition 1/2 share of the school compound to me. Saraswathy my second wife came to my house at the time of my first wife's death as she was unable to live in the place where she lived formerly. I bought a land for Rs. 160/- and sold it for Rs. 3000/- about two or three months ago. That land was bought by me recently during the subsistence of my marriage with my second wife. The Petitioner has nothing to do with that property. 40

Intld. E. W.,  
A.D.J.

9.5.46.

## Evidence of T. THEDCHANAMOORTHY.

## EXAMINATION.

T. THEDCHANAMOORTHY : Affirmed, 45, teacher, Sivaguru Vidyalayam.

The manager of the Sivaguru school is the 1st Respondent. I know Selvadurai the father-in-law of the Petitioner (Shown D. 7). D. 7 was written to me by Selvadurai. I identify the signature of Selvadurai on D. 7. D. 7 was written to me from Vavuniya on the 30th June. (Shown D. 17.) D. 17 was granted to me by the 1st Respondent's daughter. She is now  
10 dead. I lent her Rs. 500/- on D. 17. Arudchelvam returned the money due to me on D. 17. I do not know how she came by this money to pay my debt.

Q. To whom did you hand over the promissory note?—A. 1st Respondent handed the cash to me and I returned the note to him.

## CROSS-EXAMINED.

Arudchelvam paid the money to the 1st Respondent and he paid the money to me. I do not remember when the money was paid to me. The note was executed in March, 1941. I do not remember when the note was redeemed.

## 20 RE-EXAMINED.

Nil.

9.5.46.

Intld. E. W.,  
A.D.J.

Mr. THANABALASINGHAM closes his case reading in evidence D. 1 to D. 19.

Mr. KULASINGHAM puts in evidence P. 4. He cites 12 Ceylon Law Recorder page 44.

Judgment reserved.

30 9.5.46.

Intld. E. W.,

## No. 18.

## Judgment.

JUDGMENT. D.C. Jaffna Case No. 227. PT.

This is an application for Probate of the Will alleged to have been executed by the late Arudchelvam.

The 1st Respondent alleges that the Will is a forgery.

The deceased was the daughter of the 1st Respondent by his first marriage and the Petitioner is a full brother of the deceased.

The case for the Petitioner is that the Will, P. 1 was executed by the  
40 deceased between 3 and 5 a.m. on 28.6.43.

In the District Court of Jaffna (held at Point Pedro).

No. 17. Respondent's Evidence —continued.

Evidence of T. Thedchanamoorthy. Examination.

Cross-examination.

Re-examination.

No. 18. Judgment 10th December, 1946.

In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

—  
No. 18.  
Judgment.  
10th  
December,  
1946—  
*continued.*

The Petitioner's case is that after the death of the husband of the deceased, the deceased had to give the power of attorney to her father, the 1st Respondent, in order to file a case for the ejection of certain trespassers on a land belonging to her.

In the meantime feelings between the Petitioner and the deceased on the one hand and the 1st Respondent, who was their father who had contracted a second marriage and had had 5 children by the second marriage, had become very strained.

The 1st Respondent purporting to act under the Power of Attorney had sold the land Peethiyanmanal to another.

There is a case pending filed by the deceased to recover possession of that land. Further, the deceased had also filed other actions for the recovery of the commuted pension of her late husband, which she alleged that her father, the 1st Respondent, had spent.

In these circumstances the relations between the parties appear to have been very difficult, although they all lived in one building.

The deceased Arudchelvam had fallen ill in or about the month of June, 1943, and the deceased had on 27.6.43 told her brother the petitioner that she desired to make her will.

Petitioner says that on 26.6.43, the deceased had said that she wanted 20 money for her medical expenses and that she wanted to find a prospective purchaser for a portion of a land belonging to her, and that he found one, namely Chelliah.

The agreement to sell was arrived at on the 27th.

On this point, Chelliah however says that the Petitioner spoke to him, on the 25th, that is a day before the deceased is alleged to have told her brother of her desire to sell her land. But this is not a contradiction to which I attach much importance as it is quite possible that the Petitioner who was looking after his sister during her illness had realized the need for funds for her illness and had spoken to a prospective purchaser even 30 before the deceased herself realized and mentioned it.

The Petitioner says that on the night of the 27th, as the deceased became serious, she had told him, at about 1 a.m. on the 28th morning that she wanted to execute this deed, as well as her will. She had said that if she died, her father would eject the Petitioner from the premises and therefore she wanted to execute her will. And she had requested the Petitioner to fetch a Notary.

The Petitioner and his father-in-law had gone to Notary Sabaratnam and had given him instructions regarding the execution of the transfer deed.

After the transfer deed in favour of Chelliah was drafted, they had 40 brought the Notary to the deceased's room.

Ramalingam, an old friend of the family, and Chelliah had also been sent.

The transfer deed, D. 6 was executed in favour of Chelliah.

The witnesses to D. 6 were Ramalingam and Selvadurai, the father-in-law of the Petitioner.

10

After this deed was executed the deceased had asked the Notary to draft her last will by which she bequeathed everything she had to her brother the Petitioner.

The witnesses to the Will, P. 1 were Chelliah the grantee on D. 6 and Ramalingam.

The Petitioner, the deceased, the 1st Respondent his second wife and his 5 children by that second bed were all living on the premises depicted in plan P. 5.

10 The 1st Respondent is the Manager and Proprietor of the School which is also situated on these premises.

The living quarters are annexed to the School building.

The room C. 4 is occupied by the 1st Respondent, C. 3 by the deceased. There is a verandah to the south of the rooms C. 3 and C. 4.

The case for the Petitioner is that on the morning of the 28th June, when he brought the Notary at about 3 or 4 a.m. he had come along the verandah and entered the room marked C. 3.

20 The 1st Respondent states that on this verandah is stacked a large heap of furniture and that it was not possible for a group of about 5 persons to have walked along that verandah and entered the room adjoining that in which he his wife and children lived without becoming aware of it. He further says that the whole premises are enclosed by a fence and that the gate is locked during the night. He says there are only two keys to the padlock one of which is with the watcher and the other with him. He says that no one could gain admission to the premises without waking the watcher himself.

Further the 1st Respondent says that he was in the habit of getting up each morning at about 3 or 4 a.m. to prepare hot water for his bath before, going to the temple on the school premises, each morning. He says that he had to use hot water for his bath because he suffered from catarrh.

30 But I do not think that a person who suffered from catarrh would go out so early in the morning every day. He called as a witness the Principal of the School who said that he himself used to get up every morning at about 3 or 4 a.m. in order to prepare his lessons and his meals for the day.

I was not impressed with the evidence of this witness Iyangar ; who after all is an employee of the 1st Respondent or with the evidence of the 1st Respondent himself.

The case for the Petitioner was attacked on another point.

40 It was alleged that witness Selvadurai, the father-in-law of the Petitioner, who is alleged to have signed as a witness for the Deed D. 6 and been present at the execution of the Will P. 1 was really away at Vavuniya on this day.

Certain envelopes and Post Cards bearing the Vavuniya Post mark on 28.6.43, the date of the execution of the will, have been produced in evidence.

The 1st Respondent says that he found these documents in the room of the Petitioner after he left the premises a few days after the death of the deceased.

In the District Court of Jaffna (held at Point Pedro).

—  
No. 18.  
Judgment.  
10th  
December,  
1946—  
*continued.*

In the  
District  
Court of  
Jaffna (held  
at Point  
Pedro).

No. 18.  
Judgment.  
10th  
December,  
1946—  
*continued.*

The 1st Respondent says that Selvadurai who was present on the first date of the inquiry was avoiding summons and therefore he could not be called to prove these documents.

But even so, I do not consider this to be a decisive factor in the evidence.

The stamp of the post mark could easily have been obtained fraudulently with the connivance of an employee of the Vavuniya Post Office.

The evidence of the witness Velupillai sounds artificial. He is an old pupil of the 1st Respondent's school. He was called to support the 10 allegation that Selvadurai was staying with him in Vavuniya, on the day in question.

But, it appeared on the face of his own evidence that his recollection of the dates had really been inspired by the 1st Respondent himself.

I next come to the evidence of Mr. MacIntyre handwriting expert from Colombo.

He had examined the impugned document and compared them with certain admitted documents to ascertain the genuineness of the signature of Arudchelvam on P. 1 and D. 9, D. 10.

P. 1 and D. 10 are the original and protocol of the will, and D. 9 is 20 a protocol copy of the deed D. 6.

Mr. MacIntyre says that, he is of opinion, that the signature of Arudchelvam on the documents P. 1, D. 9 and D. 10 were different from the signature of the deceased, as it appears on the admitted documents D. 8, D. 11, D. 12 and D. 13.

He states that from the pen lifts and the care with which the forming has been welded, suggests a forgery in the disputed signature.

He also states that there are unaccounted for ticks in the disputed signature which are apparent on examination under a powerful lens and transmitted light. 30

I have examined the signature myself under a microscope and I frankly state that I do not see any features in the disputed signatures which lead me to conclude that they were forgeries.

Mr. MacIntyre admitted that he had received the commission with the challenged and admitted documents on the 3rd November. He appears to have examined the documents and dictated his reports that morning itself before leaving for the Courts. He admitted that he had had a consultation with the Proctor for the Respondent before he received the commission.

It appears to me that when he examined the documents he was merely 40 looking for features which would support the theory of forgery.

Whatever apparent differences there may be in the signatures, can, in my opinion be well explained by the fact that the Will and the transfer deed were signed by a woman who was seriously ill and who had, with great difficulty, sat up and signed the documents which were placed on a card board against a pillow.

There was another point referred to in the evidence of Mr. MacIntyre. He pointed out that the signatures of the 3 documents appeared in more or less similar positions of the paper, namely on the top of the right hand corner of the second page of each document.

This would have been significant if the case for the Respondent was that the Notary had obtained the signatures on blank papers and subsequently filled up the documents.

But this was not the case for the Respondent nor was the Notary questioned in these lines on the evidence led in support of the Will.

10 I hold that the Will was the act and deed of the deceased Arudchelvam and is duly proved.

The Petitioner will be entitled to the costs of this inquiry.

I order the case to be called on a date convenient to Court for the next step in these testamentary proceedings.

(Sgd.) E. WIJEYEWARDENE,

10.12.46.

*D.J.*

Delivered by me in open Court. Call case on 7.2.47 for next step.

(Sgd.) Illegibly,

17.1.47.

*A.D.J.*

In the District Court of Jaffna (held at Point Pedro).

No. 18.  
Judgment.  
10th  
December,  
1946—  
*continued.*

20

No. 19.

**Petition of Appeal of 1st Respondent.**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

Testamentary Jurisdiction No. 227/P.T.

GNANASEGARAMPILLAI THAIALPAGAR of Valvedditurai

*versus* 1st Respondent-Appellant

1. THAIALPAGAR SELVAGURU of Valvedditurai (*Petitioner-Respondent*)

2. KANDASAMY PARAMAGURU of Valvedditurai, by his Guardian *ad litem* the 1st Respondent-Appellant (*Second Respondent*)

*Respondents.*

40 Supreme Court No. 78-s/1947 (interlocutory)

To The Honourable the Chief Justice and the other Justices of the Honourable the Supreme Court of the Island of Ceylon.

On this 25th day of January, 1947.

THE HUMBLE PETITION OF APPEAL of the above-named 1st Respondent-Appellant, appearing by C. THANABALASINGHAM, his Proctor, states as follows :—

1.—The 1st Respondent-Petitioner who is a son of the Appellant sought in these proceedings to prove a document marked P. 1 purporting

In the Supreme Court of the Island of Ceylon.

No. 19.  
Petition of Appeal of 1st Respondent.  
25th  
January,  
1947.



In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 19.  
Petition of  
Appeal  
of 1st  
Respondent.  
25th  
January,  
1947—  
*continued.*

to be a Will alleged to have been executed on the 28th day of June, 1943, between 3 and 5 p.m. by the Appellant's daughter Arudchelvam widow of certain K. S. Kumaraguru of Valvedditurai, who died on the 3rd day of July 1943.

2.—The Appellant opposed the application on the ground that the document P. 1 was a forgery and was executed after the said Arudchelvam died.

3.—The learned Additional District Judge after hearing evidence on 15th February 1945, 5th April 1946 and 9th May 1946 reserved judgment. The judgment was dated 10th December 1946 and was delivered on 17th January, 1947, after a period of seven months declaring the document P. 1 to be the act and will of the deceased Arudchelvam. 10

4.—Being aggrieved with the said judgment and order the 1st Respondent-Appellant begs to appeal to Your Lordships' Court on the following among other grounds that may be urged by Counsel at the hearing of this appeal :—

- (a) The said order is contrary to law and the weight of evidence led in the case.
- (b) On the 28th day of June 1943 it was also alleged by the 1st Respondent-Petitioner that the deceased Arudchelvam executed a document marked D. 6 whereby the said Arudchelvam transferred the land belonging to her to one Chelliah who is a witness to this alleged Will for a sum of Rs. 750/-. It was the Petitioner's case that the said Arudchelvam requested him to find a notary whereupon he went to his father-in-law Selvadurai and that both he and his father-in-law went to Notary Sabaratnam of Polikandy and brought him to the house where the 1st Respondent-Appellant and the deceased were living. The two documents D. 6 and P. 1 were alleged to have been executed one after another in the said house at the same time. The witnesses to the alleged deed D. 6 are Selvadurai, the father-in-law of the Petitioner and certain Ramalingam. It was proved beyond all manner of doubt by letter marked D. 1 bearing date 28th June 1943, and signed by the said Selvadurai and the envelope D. 2 with the post mark dated 28th June 1943 that the said Selvadurai had addressed this letter from Vavuniya on 28.8.1943 the post card marked D. 7 dated 30.6.43 written by the said Selvadurai to one Thedchanamoorthy clearly proves that the said Selvadurai was never at Valvedditurai on the 28th day of June 1943, between 3 and 5 a.m. 20 30
- (c) The learned Judge has misdirected himself when he says that a post mark of Vavuniya could have been easily obtained but he has not addressed his mind to the contents of D. 1 which is admittedly in the handwriting of the said Selvadurai and which the Petitioner admits was addressed to him. 40

- (d) The alleged vendee on D. 6 states that he never got the title examined and there is no evidence that he has dispensed with the search in the Land Registry, Jaffna, and he further admits that the price was agreed upon on the 27.2.1943. He was also forced to admit that he had no money and was in receipt of a dependant's allowance from the Government as his son was in the Federated Malay States. It is a curious circumstance that this deed D. 6 and the alleged Will P. 1 should have been executed in the early hours of the morning on 28.6.1943.
- 10 (e) The witnesses alleged to have been present at the execution of the document marked P. 1 were one Ramalingam and the said Chelliah who is an interested party. The said Ramalingam lives at Udupiddi in another village about 2 miles away from Valvedditurai and no reason is given why he came on the scene between 3 and 5 a.m. on 28.6.1943. On the other hand the Appellant has proved by document marked D. 3 that the said Ramalingam and the said Selvadurai the father-in-law of the Petitioner were conspiring against the Appellant and trying to arrange a marriage to the Appellant's daughter behind the back.
- 20 (f) The plan marked D. 5 shows that the deceased was sleeping in room C. 3 and the Appellant was sleeping next to this room marked C. 4. These two rooms were connected by a door which is opened. The Appellant has also stated that the deceased was sleeping with her half sisters in the same room. The Appellant also states that he is in the habit of rising at 3 a.m. daily and that he was wide awake at the time material to this case and if four or five persons had got into the said room to execute deeds of Wills he would have known such fact. The learned Judge merely dismisses the facts by stating that an asthmatic patient like the
- 30 Appellant would not get up at 3 a.m. On the other hand it is a well-known fact that the asthmatics do get up early in the morning.
- (g) The learned Judge should have accepted the evidence of the Aiyangar who is a Brahmin graduate of the Madras University and who resides within a short distance from room marked C. 3 when he says that he too was in the habit of getting up early in the morning and on the day in question no one came into the compound between 3 and 4 a.m. on 28.6.43. This witness had no Brahmin servant and naturally had to cook his meals before
- 40 8 a.m. and he says that he cooked his meals on an electric stove as the electric supply was usually cut off at 5 in the morning. The learned Judge rejects his evidence without giving adequate reason.
- (h) It was also in evidence that there is one gate to the compound that there were only two keys, one with the watcher and the other

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 19.  
Petition of  
Appeal  
of 1st  
Respond-  
ent.  
25th  
January,  
1947—  
*continued.*

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 19.  
Petition of  
Appeal  
of 1st  
Respond-  
ent.  
25th  
January,  
1947—  
*continued.*

with the Appellant and that the said gate was always kept locked up in the night. It is submitted that it was impossible for the Petitioner to have brought the Notary and the witnesses without the knowledge of the Appellant or the watcher.

- (i) The Petitioner had to admit that the whole verandah was packed with furniture and one going through the verandah will have to pass through a small passage but Notary Sabaratnam and witness Sellia state that there was no furniture at all in the verandah.
- (j) It is also a curious circumstance of the case that the alleged witness Ramalingam was never called to give evidence in this case. And the witness to this alleged deed who is responsible for the trouble between the Appellant and the Petitioner was kept in India throughout the pendency of the case, though he was summoned by the Appellant and every possible step was taken to bring him into Court. It is submitted that the document P. 1 and D. 6 forged at the instance of the said Selvadurai who always busies himself over other people's litigation. 10
- (k) The Notary was not able to give a satisfactory explanation for the difference in the colour of the ink used in signing the documents D. 6, D. 10 and P. 1. 20
- (l) Mr. Macintyre, handwriting expert of great experience who knows Tamil scripts well, has given evidence stating that the alleged signatures of Arudchelvam on P. 1 and D. 6 are forgeries and the learned Judge does not give adequate reasons for not acting on the evidence of Mr. Macintyre.
- (m) The comparison of the alleged signatures in P. 1 and D. 6 and the admitted documents will clearly show that the alleged signatures on P. 1 and D. 6 are forgeries.
- (n) When there are suspicious circumstances it is the duty of a proponent of a Will to prove the Will beyond all reasonable doubts and it is submitted that there are ample circumstances in this case on which the learned Judge should have held that the alleged Will P. 1 and was not proved. It is submitted with respect that the learned Judge has misdirected himself in law and in not considering this aspect. 30
- (o) The learned Judge has delivered judgment after 7 months and all impressions created at the hearing would have been lost.
- (p) An examination of the signatures on D. 6, D. 10 and P. 1 shows that the signatures are almost on the corresponding identical spots on the papers on which the said Last Will and transfer were written. It will be noted that in the Last Will P. 1 and D. 10, the contents are written in larger characters, with greater space between lines and ending just above the signatures, whereas on the transfer D. 6, the contents are written in very much smaller 40

characters, with little space between the lines, and ending just above the signatures. This difference proves clearly beyond doubt that the signatures were first forged in blank paper by some person who was not familiar with the quantum of space necessary for a Last Will and a Transfer. It is proved by the evidence of the Petitioner's witnesses that the contents of P. 1 (Last Will) and D. 6 (Transfer) were written by the same clerk. These circumstances therefore clearly negative the evidence of the Petitioner Respondent and his witnesses that the documents P. 1, D. 6 and D. 10 were written and the signatures of the deceased and her witnesses obtained thereafter. It is respectfully submitted that the alleged signatures of the deceased on P. 1, D. 6 and D. 10 were forged by Selladurai (witness to D. 6), or, at his instance, and the contents of the said documents were written thereafter at the Notary's office, who may or may not have been aware that the said signatures were forgeries.

10

- (q) It is respectfully submitted that even if the Court held that the signatures on the documents P. 1, D. 6 and D. 10 were genuine and the act and deed of the Deceased, it was open to Court to declare the said Last Will null and void for want of due execution and there was ample evidence both real and circumstantial, to hold that the said Last Will was bad for want of due execution.

20

Wherefore the Appellant prays :—

- (1) that the order of the learned Judge be set aside ;
- (2) that the said Will be declared a forgery or in the alternative be declared null and void for want of due execution ;
- (3) that the Petitioner's application for probate be dismissed ;
- (4) and for costs of this Court and the Court below and
- (5) for such other and further relief as to Your Lordships' Honourable Court shall seem meet.

30

(Sgd.) C. THANABALASINGHAM,  
*Proctor for 1st Respondent-Appellant.*

**No. 20.**

**Judgment.**

S.C. 78S.

Present : SOERTSZ, S.P.J. and NAGALINGAM, J.

Argued on : 2nd December, 1947.

Counsel : N. K. CHOKSY, K.C. with H. W. THAMBIAH H. WANIGATUNGE  
for 1st Respondent-Appellant.

40

S. J. V. CHELVANAYAGAM, K.C. with C. E. S. PERERA for  
Petitioner-Respondent.

Delivered on : 10th December, 1947.

SOERTSZ, S.P.J. Counsel for the Respondent tried very hard, indeed, to support this Judgment but his was an impossible task although the

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 19.  
Petition of  
Appeal  
of 1st  
Respond-  
ent.  
25th  
January,  
1947—  
*continued.*

No. 20.  
Judgment.  
10th  
December,  
1947.

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 20.  
Judgment.  
10th  
December,  
1947—  
*continued.*

question involved was one of fact on which an Appellate Tribunal is, generally, loth to interfere. An examination of the evidence and of the Judgment of the trial Judge leads irresistibly to the conclusion that, in the unusually and undesirably long interval of seven months that elapsed between the trial and the delivering of the Judgment, the trial Judge had almost completely lost his grasp of the evidence, and I am inclined to think that when he came to write his Judgment he did not except, perhaps, very cursorily refresh his memory with it. The Judgment gives the impression of a vague recollection of only parts of the evidence. We are, therefore, left with no alternative but to examine, more carefully than we usually do in a case which involves a pure question of fact, the evidence direct and circumstantial in order to justify our disturbing the trial Judge's Findings. 10

The question was whether a document produced by the Respondent who sought to have it admitted to probate was the last Will and Testament of his sister a childless widow named Arudchelvam, the daughter of the Appellant. By this document, Arudchelvam is shown to have left all the property she died possessed of to her brother the Respondent to the complete exclusion of her father the Appellant. This by itself cannot be said to have been unreasonably unnatural for there is evidence to show that feelings were strained between the daughter and the father, but, on the other hand it must not be overlooked that it was probably this state of things that inspired the interested parties with the idea of making for Arudchelvam a Will that, in the opinion of the interested parties she ought to have or perhaps would have made herself. The burden of proving the due execution of the Will was indespensably upon the Respondent, and when we come the question whether that burden was discharged, it is most important to bear in mind the circumstances in which this Will is said to have been made. The manner of its making according to the version of the Petitioner himself, is strongly reminiscent of the burial of John Moore. It was done "darkly and in the dead of night." The time was between 2 a.m. and 3 a.m. 20  
The reason for this it is said, was a sudden spasm of pain felt by Arudchelvam and a coincident desire to dispose of her worldly goods. The Notary was an octogenerian who says he was awakened by the Petitioner and the Petitioner's father-in-law on the 28th of June, 1947 ; A journey to the house of the Notary's Clerk some quarter of a mile away, and a summoning of him ; and then a journey to the room of Arudchelvam carrying two pens and an exiguous inkpot which had to be shaken from time to time against the failure of the consistency of the dwindling drops of the ink. Before setting out, the notary says he took instructions from the Petitioner's father-in-law and drew up a deed of transfer which, he was told Arudchelvam was going to execute in the favour of one Chelliah. The last Will he was going to draft in the presence of the testatrix for that was his meticulous method in regard to testamentary documents. 30 40

Duly arrived, the testatrix was asked for her instructions, the Will was drafted ; it was signed by the testatrix and by two witnesses and attested by the Notary. The deed of transfer was also executed and the consideration for the deed namely Rs. 750/- was given to the transferer Arudchelvam.

And who were the witnesses to the Last Will ? Chelliah the transferee and a henchman of the Petitioner's father named Ramalingam. The latter preferred to avoid the witness box. It was quite an understandable reluctance for, according to the Petitioner, Ramalingam came to be a witness after the fashion of the God from the car. The spirit had moved him, at this ungodly hour, to come and sit on a culvert opposite Arudchelvam's house in the hope that the Petitioner's father-in-law would turn up. And he did ; and then Ramalingam was asked to be a attesting witness ; Chelliah of course, had to be there because he was the transferee

10 on the deed and had to pay the money.

My own view is that this deed was written in his favour by way of a reward for his services as a witness to a forged Will. From the evidence of the Notary it is reasonably clear that he did not go to Arudchelvam's house at all. He says he walked along the verandah without let or hindrance till he reached Arudchelvam's room and did not notice any furniture stacked on it, whereas all the other witnesses are argued that furniture was stacked on the verandah with only approaches to the three rooms kept free from furniture. It is difficult to resist the conclusion that this octogenerian Notary was left alone and his clerk deputised for him

20 when these documents were manufactured in some place other than Arudchelvam's room at some other time. The Petitioner's father-in-law is shown as one of the witnesses to the deed but from a sense of the fitness of things he was not a witness to the Will. Documents D. 1, D. 2, D. 3, and D. 4 taken with the evidence of Velupillai the Irrigation Clerk show beyond any reasonable doubt, that the Petitioner's father-in-law was in Vavuniya between the 23rd and 30th of June continuously and could not possibly have been at Point Pedro on the morning of the 28th of June which is the date on these documents. The only reasonable inference to be drawn from this is, in my view that the two documents were not executed on the

30 day they purport to have been executed or at the place indicated. Selladurai would not come into the witness box and evaded all the efforts of the Appellants to secure his evidence. It is the Notary's evidence that Rs. 750/- was paid to Arudchelvam by Chelliah that morning. That amount is not shown among the assets and there is not a word of explanation in regard to its disappearance.

The evidence shows that the gate leading to these premises is kept locked at night and that there were two keys to unlock it, one in the possession of the watcher and the other in that of the Appellant. The Petitioner says that he too had a key but he did not think fit to produce. These very

40 suspicious circumstances that would have thrown more than reasonable doubt on the genuineness of the Will and of the deed but, in addition, there was the evidence of a handwriting expert that tended, at least, to emphasize the doubts but it seems clear from the proceedings that the trial Judge was quite hostile to this witness. In the end, the trial Judge set himself up as the expert on the other side and arming himself with a microscope reached a conclusion opposed to that of the hand-writing expert

In the  
Supreme  
Court of  
the Island  
of Ceylon.  
—  
No. 20.  
Judgment  
10th  
December  
1947—  
*continued.*

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 20  
Judgment.  
10th  
December,  
1947—  
*continued.*

and it was figuring himself in that role that he appears to have overlooked the decisive facts in the case, *Ne sutor ultra crepidam.*

I would set aside the Judgment of the trial Judge and dismiss the petition for probate with costs in both Courts.

This appears to me to be a matter for the Criminal Investigation Department.

(Sgd.) F. J. SOERTSZ,  
*Senior Puisne Justice.*

(Sgd.) C. NAGALINGAM,  
*Puisne Justice.* 10

No. 21.  
Decree.  
10th  
December,  
1947.

No. 21.  
Decree.

Judicial—A.  
(E\*) 8/36

GEORGE THE SIXTH, by the Grace of God of Great Britain Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

D.C. (Int) 78S  
1947.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON. 20

GNANASEGARAMPILLAI THAYALPAGAR of Valvettiturai  
*against* 1st Respondent-Appellant

1. THAYALPAGAR SELVAGURU (*Petitioner-Respondent*)  
Minor 2. KANDASAMY PARAMAGURU by his Guardian *ad litem*  
the 1st Respondent-Appellant (*2nd Respondent*)  
*Respondents.*

Action No. 227PT

District Court of Point Pedro

This cause coming on for hearing and determination on the 2nd and 10th days of December, 1947, and on this day, upon an appeal preferred 30 by the 1st Respondent before the Hon. Sir F. J. Soertsz, Kt., K.C., Senior Puisne Justice, and the Hon. Mr. C. Nagalingam, K.C., Puisne Justice, of this Court in the presence of Counsel for the Appellant and Respondent.

It is considered and adjudged that the Judgment entered in this action by the District Court of Point Pedro the same is hereby set aside. The petition for probate is dismissed with costs in both Courts.

Witness the Hon. Sir John Curtois Howard, Kt., K.C., Chief Justice, at Colombo, the 10th day of December, in the year of our Lord One thousand Nine hundred and forty seven and of Our Reign the Eleventh.

(Sgd.) CALRENCE DE SILVA,  
*Registrar, S.C.*

In the  
Supreme  
Court of  
the Island  
of Ceylon.

—  
No. 21.  
Decree.  
10th  
December,  
1947—  
*continued.*

10

## No. 22.

## Application for Conditional Leave to Appeal to the Privy Council.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

G<sub>N</sub>ANASEGARAMPILLAI THYALPAGAR of Valvettiturai

*vs.* 1st Respondent-Appellant

1. THYALPAGAR SELVAGURU of Valvettiturai (*Petitioner-Respondent*)

2. KANDASAMY PARAMAGURU of Valvettiturai (Minor by his Guardian *ad litem*, the 1st Respondent-Appellant) ... 2nd Respondent-Respondent.

In the Matter of an Application for Conditional Leave to Appeal to His Majesty the King in Council.

20

THYALPAGAR SELVAGURU of Valvettiturai. Applicant for Conditional Leave to Appeal.

*vs.*

1. G<sub>N</sub>ANASEGARAMPILLAI THYALPAGAR of Valvettiturai

2. KANDASAMY PARAMAGURU of Valvettiturai (Minor by his Guardian *ad litem* G<sub>N</sub>ANASEGARAMPILLAI THYALPAGAR),

Respondents to the application for Conditional Leave to Appeal.

S.C. No.            and S.C. No. 78 Inty D.C. Jaffna 227/P. Testy.

To The Honourable the Chief Justice and the other Judges of the Honourable the Supreme Court of the Island of Ceylon.

30 On this 22nd day of December, 1947:

THE HUMBLE PETITION of the Applicant above named appearing by SUBRAMANIAM SIVASUBRAMANIAM, his Proctor, states as follows :—

No. 22.  
Application  
for con-  
ditional  
leave to  
appeal to  
the Privy  
Council.  
22nd  
December,  
1947.



In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 22.  
Application  
for con-  
ditional  
leave to  
appeal to  
the Privy  
Council.  
22nd  
December,  
1947—  
*continued.*

1.—Feeling aggrieved at the judgment and decree of this Honourable Court pronounced on the 10th day of December 1947, the above named applicant is desirous of appealing therefrom to His Majesty the King in Council.

2.—The said judgment is a final judgment and the matter in dispute in the appeal is of the value of Rs. 8618/85 and involves civil rights of the value of more than five thousand rupees.

Wherefore the Applicant prays for Conditional Leave to appeal to His Majesty the King in Council from the said judgment of this Honourable Court dated 10th December, 1947.

10

(Sgd.) S. SIVASUBRAMANIAM,  
*Proctor for Petitioner-Respondent and  
Applicant for Conditional Leave to Appeal.*

No. 23.  
Affidavit  
of the  
Petitioner.  
15th  
January,  
1948.

### No. 23.

#### Affidavit of the Petitioner.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

GNANASEGARAMPILLAI THYALPAGAR of Valvettiturai  
*vs.* *1st Respondent-Appellant*

1. THYALPAGAR SELVAGURU of Valvettiturai (*Petitioner-Respondent*)
2. KANDASMY PARAMAGURU of Valvettiturai (Minor by his Guardian *ad litem, the 1st Respondent-Appellant*) ... *2nd Respondent-Respondent.* 20

In the Matter of an Application for Conditional Leave to Appeal to His Majesty the King in Council.

THYALPAGAR SELVAGURU of Valvettiturai Applicant for Conditional  
Leave to Appeal. *vs.*

1. GNANASEGARAMPILLAI THYALPAGAR of Valvettiturai.
2. KANDASAMY PARAMAGURU of Valvettiturai (Minor by his Guardian *ad litem* GNANASEGARAMPILLAI THYALPAGAR)  
Respondents to the Application for Conditional Leave to Appeal.

S.C. No. 602 and S.C. No. 78 Inty. D.C. Jaffna 227/P Testy.

30

I, THYALPAGAR SELVAGURU of Valvettiturai, being a Hindu, do hereby solemnly, sincerely and truly declare and affirm as follows:—

- 1.—I am the applicant for conditional leave to appeal above named.

2.—The judgment of this Honourable Court in the above case was delivered on 10th December, 1947.

3.—I have given notice to the Respondents of the above application within 14 days of the date of the said judgment of my intention to apply for Conditional Leave to appeal to His Majesty the King in Council from the said judgment of this Honourable Court.

4.—I gave notice of my aforesaid application to the Respondent, Ganasegarampillai Thyalpagar, both in his personal capacity and in his capacity as Guardian *ad litem* of the said Kandasamy Paramaguru, (a) by registered letters addressed to him to Valvettiturai 16th December, 1947 and (b) by telegrams addressed to him to Valvettiturai on 18th December, 1947, which state as follows :—

(a) Please take notice that I intend to apply to the Hon'ble the Supreme Court of the Island of Ceylon for leave to appeal to the Privy Council from the judgment of the Supreme Court in D.C. Jaffna Testamentary Case No. 227/P (held at Point Pedro) dated 10th December, 1947.

(b) Take notice that I shall on or before January 7th, 1948, apply to the Supreme Court for leave to appeal to the Privy Council from the judgment of the Supreme Court dated 10th December, 1947, in S.C. 78 (Interlocutory) D.C. Jaffna Testamentary 227P.

5.—I also gave notice of my aforesaid application to the Respondent, Kandasamy Paramguru, by telegram addressed to him to the care of R. Kandasamy, Veechukara Theru, Trincomalee, on 18th December, 1947, which states as follows :—

Take notice that I shall on or before January 7th, 1948, apply to the Supreme Court for leave to appeal to the Privy Council from the judgment of the Supreme Court dated December 10th, 1947, in S.C. 78 (Interlocutory) D.C. Jaffna Testamentary 227P.

6.—I further served notices of my aforesaid application on the said Gnanasegarampillai Thyalpagar by personally handing over the same to him at Valvettiturai, Jaffna, both in his personal capacity and in his capacity as Guardian *ad litem* of the said Kandasamy Paramaguru, on 19th December, 1947, which states as follows :—

As Petitioner for Probate and intending applicant for leave to appeal to the Privy Council in the above case, I hereby give you notice that I shall on or before 7th January, 1948, apply to the Honourable the Supreme Court for Leave to appeal to His Majesty the King in Council from the judgment of the Honourable the Supreme Court dated 10th December, 1947, in D.C. Jaffna Testamentary 227/P, S.C. 78 (Interlocutory).

7.—I also served notice of my aforesaid application on the said Kandasamy Paramaguru by personally handing over the same to him at Trincomalee on 21st December, 1947, which states as follows :—

As Petitioner for Probate and intending applicant for leave to appeal to the Privy Council in the above case, I hereby give you notice that I shall

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 23.  
Affidavit  
of the  
Petitioner.  
15th  
January,  
1948—  
*continued.*

In the  
Supreme  
Court of  
the Island  
of Ceylon.

on or before 7th January, 1948, apply to the Honourable the Supreme Court for leave to appeal to His Majesty the King in Council from the judgment of the Honourable the Supreme Court dated 10th December, 1947, in D.C. Jaffna Testamentary 227/P ; S.C. 78 (Interlocutory).

(Sgd.) T. SELVAGURU.

No. 23.  
Affidavit  
of the  
Petitioner.  
15th  
January,  
1948—  
*continued.*

The foregoing affidavit having been duly read over and truly interpreted to the affirmant above named by me in Tamil his own language and he appearing fully to understand the contents hereof, the same was signed and affirmed to at Colombo on this 15th day of January, 1948.

Before me

(Sgd.) A. V. PUSHPADEVI JOSEPH,  
*Commissioner of Oaths.*

10

No. 24.  
Decree  
granting  
conditional  
leave to  
appeal to  
Privy  
Council.  
30th  
January,  
1948.

No. 24.

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

Application No. 602.

20

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

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

THYALPAGAR SELVAGURU of Valvettiturai, Applicant for Conditional Leave to Appeal  
*against*

1. GNANASEGARAMPILLAI THYALPAGAR of Valvettiturai.
2. KANDASAMY PARAMAGURU of Valvettiturai (Minor by his Guardian *ad litem* GNANASEGARAMPILLAI THYALPAGAR)  
Respondents to the Application for Conditional Leave to Appeal.

Action No. 227/P. Testamentary (S.C. No. 78).

District Court of Jaffna

30

In the matter of an application by the Applicant above named for Conditional Leave to Appeal to His Majesty the King in Council against the decree of this Court dated 10th December, 1947.

This matter coming on for hearing and determination on the 30th day of January, 1948 before the Hon. Sir John Curtois Howard, Kt., K.C., Chief Justice, and the Hon. Mr. Reginald Felix Dias, Puisne Justice of this Court in the presence of Counsel for the Applicant and Respondent.

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

(1) deposit with the Registrar of the Supreme Court a sum of Rs. 3000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7 (1) of the Appellate Procedure (Privy Council) Order shall on application made after due notice to the other side approve ;

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

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

Witness the Hon. Sir John Curtois Howard, Kt., K.C., Chief Justice, at Colombo, the 30th day of January, in the year of our Lord One thousand Nine hundred and forty eight and of Our Reign the Twelfth.

(Sgd.) CLARENCE DE SILVA,  
*Registrar, S.C.*

20

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 24.  
Decree  
granting  
conditional  
leave to  
appeal to  
Privy  
Council.  
30th  
January,  
1948—  
*continued.*

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No. 25.

Application of Petitioner for Approval of Security and for Final Leave to Appeal to Privy Council.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

THYALPAGAR SELVAGURU of Valvettiturai ... *Petitioner-Appellant*  
*vs.*

1. GNANASEGARAMPILLAI THYALPAGAR of Valvettiturai.
2. KANDASAMY PARAMAGURU of Valvettiturai (Minor by his Guardian *ad litem* GNANASEGARAMPILLAI THYALPAGAR) *Respondents. Respondents.*

S.C.602/78 Inty. D.C. Jaffna 227/P Testy.

30 To The Honourable the Chief Justice and the other Judges of the Honourable the Supreme Court of the Island of Ceylon.

On this 15th day of March, 1948.

THE HUMBLE PETITION of THYALPAGAR SELVAGURU, the Petitioner-Appellant above-named, appearing by SUBRAMANIAM SIVASUBRAMANIAM, his Proctor, states as follows :—

No. 25  
Applica-  
tion of  
Petitioner  
for approval  
of security  
and for  
final leave  
to appeal  
to Privy  
Council.  
15th March,  
1948.

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 25.  
Applica-  
tion of  
Petitioner  
for approval  
of security  
and for  
final leave  
to appeal  
to Privy  
Council.  
15th March,  
1948—  
*continued.*

1.—The Petitioner-Appellant was granted conditional leave on the usual conditions to appeal to His Majesty the King in Council on 30th January, 1948, from the judgment of this Court pronounced on the 10th day of December, 1947.

2.—The Petitioner-Appellant has, in compliance with the above conditions on which such leave was granted, entered into and given good and sufficient security in the sum of Rs. 3000/- within a period of one month from the date of the order of the Supreme Court on 28th February, 1948, as required by Rule 3(a) of the schedule to The Appeals (Privy Council) Ordinance (Cap. 85) by mortgaging and hypothecating to the Register of the Supreme Court certain immovable property by Security Bond No. 1504 dated 28th February, 1948, and attested by S. Sivasubramaniam, Notary Public. 10

3.—A motion on behalf of the Petitioner-Appellant was also filed in the Honourable the Supreme Court within the said period of one month on 28th February, 1948, tendering the said security and moving that the same be accepted. Notice of the fact of giving of security was given by the Petitioner-Appellant by telegram and by registered letter to the Respondents and to their Proctor in Jaffna, Mr. C. Thanabalasingham, who had acted for them in the District Court. No proxy had been filed at that time in connection with this application in the Registry of the Honourable the Supreme Court by any Proctor on behalf of the Respondents. 20

4.—The immovable property mortgaged and hypothecated to the said Registrar as aforesaid comprises of a piece of land and buildings including a new stone-built annexe, well, etc., called Sathiranthai within the Town Council of Valvettiturai in the Northern Province containing in extent two lachams V.C. and of the value of over Rs. 20,000/-. The valuation of Rs. 8,000/- as set out in the certificate of worth issued by the D.R.O., Vadammaradchy, it is submitted, is a very conservative estimate of the present worth of the said property. The property is free from encumbrances and is not the subject of any partition suit or other litigation. The surety, Chellappakiam, wife of M. Nadarasa, of Valvettiturai who has signed the aforesaid Security Bond No. 1504 along with the Principal, the Petitioner-Appellant, is the lawful owner of the said property by virtue of Transfer Deed No. 4351 dated 29th July, 1934, and attested by K. Muttucumaru of Point Pedro, Notary Public. The title of the said Chellappakiam to the said property is good and absolute. The certificate of worth, encumbrance sheet and the title deeds in respect of the above property have already been filed in the Honourable the Supreme Court on 28th February, 1948. 30 40

5.—The said security was accepted by the Registrar.

6.—It has been further certified by the Registrar of the Honourable the Supreme Court that the conditions referred to in the grant of conditional leave had been fulfilled.

7.—The Petitioner has duly made on the 4th of March, 1948, application to this Court for final leave to appeal to the Privy Council.

Wherefore the Petitioner-Appellant respectfully prays that Your Lordships be pleased :

- (a) to approve the said security given ;  
 (b) to make such other or further orders as to Your Lordships' Court shall seem proper in the premises ;  
 (c) to make order allowing the Petitioner's application for final leave to appeal to the Privy Council ;  
 10 (d) for costs.

(Sgd.) S. SIVASUBRAMANIAM,  
*Proctor for Petitioner-Appellant.*

In the  
 Supreme  
 Court of  
 the Island  
 of Ceylon.

No. 25.  
 Applica-  
 tion of  
 Petitioner  
 for approval  
 of security  
 and for  
 final leave  
 to appeal  
 to Privy  
 Council.  
 15th March,  
 1948—  
*continued.*

No. 26.

**Affidavit of Petitioner.**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

THYALPAGAR SELVAGURU of Valvettiturai ... *Petitioner-Appellant*  
*vs.*

1. GNANASEGARAMPILLAI THYALPAGAR of Valvettiturai  
 2. KANDASAMY PARAMAGURU of Valvettiturai (Minor by his Guardian  
 20 *ad litem* GNANASEGARAMPILLAI THYALPAGAR ... *Respondents-Respondents.*

S.C. 602/78 Inty D.C. Jaffna 227/P Testy.

I, THYALPAGAR SELVAGURU of Valvettiturai, being a Hindu, do solemnly, sincerely and truly declare and affirm as follows :—

1.—I am the Petitioner-Appellant above-named.

2.—I was granted conditional leave on the usual conditions to appeal to His Majesty the King in Council on 30th January, 1948, from the judgment of this Court pronounced on the 10th day of December, 1947.

3.—I have, in compliance with the above conditions on which such leave was granted, entered into and given good and sufficient security in the  
 30 sum of Rs. 3,000/- within a period of one month from the date of the order of the Supreme Court on 28th February, 1948, as required by Rule 3 (a) of the schedule to The Appeals (Privy Council) Ordinance (Cap. 85) by mortgaging and hypothecating to the Registrar of the Supreme Court certain immovable property by Security Bond No. 1504 dated 28th February, 1948, and attested by S. Sivasubramaniam Notary Public.

No. 26.  
 Affidavit of  
 Petitioner  
 15th March,  
 1948.

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 26.  
Affidavit of  
Petitioner.  
15th March,  
1948—  
*continued.*

4.—A motion on my behalf was also filed in the Honourable the Supreme Court within the said period of one month on 28th February, 1948, tendering the said security and moving that the same be accepted. Notice of the fact of the giving of security was given by me by telegram and registered letter to the Respondents and to their Proctor in Jaffna, Mr. C. Thanabalasingham, who had acted for them in the District Court. No proxy had been filed at that time in connection with this application in the Registry of the Honourable the Supreme Court by any Proctor on behalf of the Respondents.

5.—The immovable property mortgaged and hypothecated to the Registrar as aforesaid comprises of a piece of land and buildings including a new stone-built annexe, well, etc., called Sathiranthai within the Town Council of Valvettiturai in the Northern Province containing in extent two lachams V.C. and of the value of over Rs. 20,000/— . The valuation of Rs. 8,000/— as set out in the certificate of worth issued by the D.R.O., Vadamaradchy, it is submitted, is a very conservative estimate of the present worth of the said property. The property is free from encumbrances and is not the subject of any partition suit or other litigation. The surety, Chellappakiam wife of M. Nadarasa of Valvettiturai who has signed the aforesaid security bond No. 1504 along with myself as Principal, is the lawful owner of the said property by virtue of Transfer Deed No. 4351 dated 29th July 1934 and attested by K. Muttucumararu of Point Pedro, Notary Public. The title of the said Chellappakiam to the said property is good and absolute. The certificate of worth, encumbrance sheet and the title deeds in respect of the above property have already been filed in the Honourable the Supreme Court on 28th February, 1948.

6. The said security was accepted by the Registrar.

7.—It has been further certified by the Registrar of the Honourable the Supreme Court that the conditions referred to in the grant of conditional leave had been fulfilled.

8.—I have duly made on the 4th day of March, 1948, application to this Court for final leave to appeal to the Privy Council.

(Sgd.) T. SELVAGURU.

Read over and signed and affirmed to at Colombo on this 15th day of March, 1948.

Before me,

(Sgd.) Illegibly,

C.O.

No. 27.

## Affidavit of 1st Respondent.

In the  
Supreme  
Court of  
the Island  
of Ceylon.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

THYALPAGER SELVAGURU of Valvettiturai ... *Petitioner-Appellant*  
*vs.*

1. GNANASEGARAMPILLAI THYALPAGER of Valvettiturai.
2. KANDASAMY PARAMAGURU of Valvettiturai (minor by his Guardian *ad litem*, GNANASEGARAPILLAI THYALPAGER) ... *Respondents-Respondents*.

No. 27.  
Affidavit  
of 1st  
Respond-  
ent.  
13th April,  
1948.

I, GNANASEGARAMPILLAI THYALPAGER of Valvettiturai, being a  
10 Hindu, solemnly, sincerely and truly declare and affirm as follows:—

1.—I am the 1st Respondent-Respondents in the above case.

2.—After the conditional leave was granted the Petitioner-Appellant has not conformed to the usual conditions in that :

(a) No cash security of Rs. 3,000/- has been granted within the time prescribed by Law, or

(b) The Petitioner-Appellant has not granted such other security as the Court shall on application made after notice to the other side approve of within the time prescribed by law.

3.—After my counsel stated the above points of objection, at the request  
20 of the counsel on the other side, the Petitioner-Appellant now makes the application long after the time prescribed by law has elapsed that the security tendered by him be approved by Court.

4.—I submit that security required by law has not been granted and that the Court will refuse this application.

5.—The security tendered by the Petitioner-Appellant consist of immovable property alleged to be owned by Chellapackiam wife of Muttuchamy Nadarajah and alleged to be bought for a consideration of Rs. 1,350/- in 1934.

6.—I submit that there is no proof that the present owner of the  
30 premises described in the security bond No. 1504 is Cnellapackiam wife of Muttuchamy Nadarajah.

7.—There are no title deeds prior to 1934 attached to the said security bond No. 1504 to prove the lawful ownership of the land and premises described in the said security bond.

8.—I file herewith a valuation Report certified by Mr. V. Selvadurai, Auctioneer and Commissioner of Sales of the District Court of Jaffna and



In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 27.  
Affidavit  
of 1st  
Respond-  
ent.  
13th April,  
1948—  
*continued.*

Court of Requests Point Pedro, that the said land and premises with its appurtenances is worth only Rs. 3,500/- now.

9.—I am advised that the Court has no jurisdiction to approve of the security now.

(Sgd.) G. THYALPAGAR.

The contents of the foregoing were read over and explained unto the Affirmant who appeared perfectly to understand the same and set his hand and affirmed to the truth and correctness thereof at Point Pedro on the 13th day of April, 1948.

(Sgd.) G. THYALPAGAR.

10

Before me.

(Sgd.) (Illegible),  
*Justice of the Peace.*

No. 28.  
Valuation  
report.  
12th April,  
1948.

No. 28.

### Valuation Report.

This is to certify that I, VISUVALINGAM SELVADURAI, of Valvetty, Valvettiturai, Auctioneer and Commissioner of Sales of the District Court of Jaffna and Court of Requests of Point Pedro do hereby certify that I have made a valuation of the land situated at Valvettiturai, Udupidy Parish Vadarmaadchi Division, Jaffna District Court Northern Province called Saththiranthai in extent 2 lms V.C. is bounded on the East by the property of Sellapackiam wife of Muttusamy Nadarajah, North by the property of Annaledchymy wife of Sinnadurai, West by lane and on the south by the property of Thangamuttu wife of Kumarasamy which was hypothecated by way of security under security bond No. 1504 dated 28th February 1948 attested by S. Sivasubramaniam, Notary Public of Colombo and filed in case D. C. Jaffna Testy 227.P S.C.78/Inty./602, that the said land with the stone built house, kitchen, well, coconut trees standing thereon are worth only Rupees three thousand five hundred (Rs. 3,500/-).

(Sgd.) V. SELVADURAI,  
*Auctioneer & Commissioner of Sales.*

Valvetty,  
Valvettiturai, 12th April, 1948. .

## No. 29.

## Order of the Supreme Court refusing Final Leave to Appeal.

In the  
Supreme  
Court of  
the Island  
of Ceylon.

-----  
No. 29.  
Order of  
Supreme  
Court  
refusing  
final leave  
to appeal.  
14th May,  
1948.

Application for approval of security tendered re appeal to Privy Council in Supreme Court 602/78 (Inty.) District Court Jaffna No. 227.

Present : JAYETILEKE J. and WINDHAM J.

Counsel : S. J. V. CHELVANAYAGAM, K.C., with C. SHANMUGANAYAGAM for Petitioner-Appellant.  
H. W. THAMBIAH with H. WANIGATUNGE for Respondent.

Argued on : April 20, 1948.

10 Delivered on : 14th May, 1948.

WINDHAM, J.

The Petitioner applies for final leave to appeal to the Privy Council, and for approval of the security tendered by him to the Court on 28th February, 1948, in pursuance, or purported pursuance, of the order of the Court, dated 30th January, 1948, granting conditional leave to appeal "on the usual conditions." The Respondents have raised preliminary objections to the application, the main objection being that the applicant has failed within one month of the application for provisional leave to appeal (i.e. within one month of 30th January, 1948), to enter into good and  
20 sufficient security to the satisfaction of the Court, as required by rule 3 (a) of the Schedule to the Appeals (Privy Council) Ordinance (Cap : 85).

On 30th January, 1948, the Applicant applied for and obtained conditional leave to appeal to the Privy Council from a judgment of this Court dated 10th December, 1947. Leave to appeal was granted "on the usual conditions." The applicant did not follow the usual course of depositing with the Registrar Rs. 3000/- in cash ; but upon 28th February, 1948, he mortgaged and hypothecated to the Registrar of the Supreme Court certain immovable property by a security bond of that date, at the same time filing a motion in the Supreme Court tendering this security and  
30 moving "that it be accepted." He thereupon sent a telegram and registered letter to the Respondents informing them of what he had done.

The first point argued for the Respondents is that the only course open to the applicant which would comply with this Court's order of 30th January granting conditional leave to appeal "on the usual conditions," was for him to have deposited Rs. 3000/- security in cash. I do not agree with this contention. The relevant provisions of the law are the following :—

Rule 3 (a) provides as follows :—

" 3. Leave to appeal under Rule 1 shall only be granted by the Court  
" in the first instance—

40 " (a) upon the condition of the Appellant within a period  
" of one month, from the date of the hearing of the application

In the  
Supreme  
Court of  
the Island  
of Ceylon.

No. 29.  
Order of  
Supreme  
Court  
refusing  
final leave  
to appeal.  
14th May,  
1948—  
*continued.*

“ for leave to appeal, unless the court shall, on the ground of  
“ the absence of the Appellant from the Island or for some  
“ other special cause, on application made to it, before the  
“ expiration of such period have granted an extension thereof,  
“ entering into good and sufficient security, to the satisfaction  
“ of the court, in a sum not exceeding three thousand rupees  
“ for the due prosecution of the appeal . . . .”

Rule 7 (1) of the Appellate Procedure (Privy Council) Order, 1921, provides that the security to be given under the above rule 3 (a) of the Schedule “ shall be by deposit of a sum of Rs. 3000/- with the Registrar and 10  
“ hypothecate thereof by bond or by such other security as the Court shall,  
“ on application made after notice to the other side, approve.”

These two rules, 3 (a) and 7 (1), though embodied in separate pieces of legislation, are to be read as supplementary each to the other, since section 3 of the Appeals (Privy Council) Ordinance (Cap : 85) provides that the rights of parties seeking to appeal to the Privy Council shall be subject to and regulated by (a) the rules set out in the schedule (which include rule 3 (a) above) and (b) such general rules of court as may be made by the Judges of the Supreme Court in exercise of their powers under section 4 of the Ordinance (which include rule 7 (1) above). And the joint effect of these 20  
two rules, as I see it, is that a party seeking leave to appeal to the Privy Council has a right, upon conditional leave being granted, either to deposit Rs. 3000/- in cash as provided for in the first part of rule 7 (1), or, should he prefer to adopt the alternative and less usual procedure, to furnish such other security as the court shall, on application, made after notice to the other side, approve. The applicant was rightly given this choice in the decree to which the Court's order of 28th February was reduced by the Registrar. That this alternative course is open to an applicant was confirmed in *De Silva v. De Silva*, 28 New Law Reports 350.

But, whichever alternative course is adopted, the requirements of 30  
rule 3 (a) of the schedule still have to be satisfied, namely that the applicant must, within a period of one month from the date of application for conditional leave to appeal, enter into this security to the satisfaction of the court, unless before the expiration of that month he shall have applied for and obtained an extension of time. Now in the present case it is undisputed that, before the expiry of one month from 30th January, the applicant neither applied for nor obtained an extension of time under rule 3 (a) or at all. What the applicant contends, however, is that in tendering his security and making his application upon 28th February (i.e. within the month) he had done all that rule 3 (a) required to be done within the month. But I do not 40  
think this contention can succeed. True, I do not think that, upon a proper and reasonable construction of rule 3 (a), an applicant is required to obtain the approval of the Court to his security within the month, as has been argued for the Respondents. For the hearing of his application, or the Court's decision upon it (if reserved) might be delayed until after the expiry of the month, through no fault of his, and even a decision upon an application

for extension of the time under section 3 (a) itself might be similarly delayed. But I do hold the combined effect of rules 3 (a) and 7 (1) to be that, if an applicant chooses to tender some "other security" under rule 7 (1) as the present applicant did, then his "application made after notice to the other side" for approval of such security, which rule 7 (1) requires, must be so made within the month prescribed in rule 3 (1), unless application for extension of that month is made under section 3 (1) before the expiry of that month. That is to say, the application for approval must, within the month, have been made after notice to the other side. This the applicant failed to do. It was only on 15th March that he belatedly gave to the Respondents the notice required by section 7 (1). Nor, as I have said, did he within the month apply under section 3 (1) to extend the time so as to enable him, within the extended time, to remedy his omission by giving notice to the other side and then renewing his application for approval.

Now had rule 7 (1) been the only rule infringed by this failure to apply for approval after notifying the Respondents within the month, then the position might perhaps have been remedied by this Court in exercise of its powers of extension of time under rule 18 of the Appellate Procedure (Privy Council) Order, 1921, since rule 7 (1) is one of those Rules. But rule 18 applies only to periods of time prescribed in those Rules, and not to periods prescribed in the Rules set out in the Schedule to the Appeals (Privy Council) Ordinance, in which rule 3 (a) appears. This Court would therefore have no power under rule 18 to extend the month's time limit prescribed under rule 3 (a). The only way to extend that month would have been upon an application lodged within the month under rule 3 (a) itself, which, as I have said, was not made. For the Rules set out in the Schedule contain no other power to extend the time limit prescribed in rule 3 (a), beyond the power contained in rule 3 (a) itself. That this Court has no other power to extend this month's time limit was confirmed by a full bench in *Kadija Umma v. Mohamed Sulaiman*, 40 N.L.R. 265, where it was held at page 273 that "the period of time fixed has now expired, and no application for extension of time was made or allowed before that period expired. If we give relief now, it will be in contravention of rule 3 (a), and I am of opinion that we have no power to do so."

On these grounds I hold that the condition prescribed in rule 3 (a), read in conjunction with rule 7 (1), was not fulfilled by the applicant, and that this preliminary objection must accordingly succeed; it therefore becomes unnecessary to consider whether the security tendered was satisfactory. The application is dismissed with costs.

40

(Sgd.) R. WINDHAM,  
*Puisne Justice.*

JAYETILEKE, J.

I agree.

(Sgd.) E. G. P. JAYETILEKE,  
*Puisne Justice.*

In the  
Supreme  
Court of  
the Island  
of Ceylon.

—  
No. 29.  
Order of  
Supreme  
Court  
refusing  
final leave  
to appeal.  
14th May,  
1948—  
*continued.*

In the  
Privy  
Council.

## No. 30.

## Order in Council granting Special Leave to Appeal.

AT THE COURT OF BUCKINGHAM PALACE.

The 21st day of December, 1949.

Present

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.

MR. SECRETARY SHINWELL.

MR. SECRETARY NOEL-BAKER.

MR. STRAUSS.

No. 30.  
Order in  
Council  
granting  
special  
leave to  
appeal.  
21st  
December,  
1949.

WHEREAS there was this day read at the Board a Report from the  
Judicial Committee of the Privy Council dated the 13th day of December, 10  
1949 in the words following, viz. :—

“ WHEREAS by virtue of His late Majesty King Edward the  
Seventh's Order in Council of the 18th day of October 1909 there was  
referred unto this Committee a humble Petition of Thyalpagar Selvaguru  
of Valvettiturai in the matter of an Appeal from the Supreme Court  
of Ceylon in the matter of the last will and testament of the  
late Arudchelvam widow of Kumarakuru of Valvettiturai  
between Thyalpagar Selvagura of Valvettiturai Appellant and  
(1) Gnanasegarampillai Thyalpagar (2) Kandasamy Paramakuru  
both of Valvettiturai Respondents setting forth (amongst other 20  
matters): that the Petitioner on the 17th February 1944 filed a  
petition in the District Court of Jaffna as executor claiming probate of  
an alleged last Will dated the 28th June 1943 of one Arudchelvam  
a widow (thereinafter called “ the Testatrix ” who died on the 3rd July  
1943 by which she bequeathed her entire estate of the value of  
Rs. 8,618/85 to her brother the Petitioner who was also executor of  
the Will : that the first and second Respondents are respectively the  
father of the Testatrix and the infant son of a deceased sister of the  
Testatrix who would have been together with the Petitioner the heirs  
of the Testatrix but for the Will : that the first Respondent who had 30  
been appointed guardian *ad litem* of the second Respondent on the  
31st August 1944 filed a statement of objections alleging that the  
last will was a forgery : that the petition was heard before an Additional  
District Court which found that the Will was the act and deed of the  
Testatrix and was duly proved and entered Judgment for the Petitioner  
with costs : that the first Respondent appealed to the Supreme Court  
of Ceylon to have the Judgment set aside on the ground that it was  
against the weight of the evidence and for an order declaring the  
Will to be a forgery or in the alternative null and void for want of due  
execution : that on the 10th December 1947 the Supreme Court 40  
set aside the Judgment of the Court of the District Judge and dismissed  
the petition for probate with costs in both Courts : that on the  
30th January 1948 the Petitioner was granted conditional leave to  
appeal and on the 28th February 1948 furnished security to the  
Registrar of the Supreme Court, for the due prosecution of the appeal  
by mortgaging and hypothecating to the Registrar certain immovable  
property by Security Bond No. 1504 dated 28th February 1948 which

10 security was duly accepted by the Registrar : that the Petitioner on the 4th March 1948 applied to the Supreme Court for final leave to appeal and on the 15th March 1948 after notice to the Respondents made an application for approval of the security and for final leave to appeal : that by an order made on the 14th May 1948 the Supreme Court upheld a preliminary objection by the first Respondent and dismissed the application with costs on the grounds that the combined effect of Rule 3 (a) of the Schedule to the Appeals (Privy Council) Ordinance (Cap : 85) and Rule 7 (1) of the Appellate Procedure (Privy Council) Order 1921 was to require that where an applicant tendered some other security within the wording of Rule 7 (1) aforesaid the application to approve such security and notice of such application to the Respondent must be made and given respectively within the period of one month prescribed by Rule 3 (1) aforesaid and the Petitioner having failed to give notice to the Respondents within the time prescribed was out of time and that the power of the Court to grant an extension of time conferred by Rule 18 of the Order did not apply to a time limit prescribed by the Ordinance that the Petitioner submits that the Order dated the 14th May 1948 was wrong and that on the true construction of the relevant rules notice to the Respondent was not required to be given within the period of one month prescribed by Rule 3 (1) of the Ordinance : And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the Judgment of the Supreme Court dated the 10th December 1947 or for such other Order as to Your Majesty in Council may seem fit :

20  
30  
30 "THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Supreme Court of Ceylon dated the 10th day of December 1947 upon depositing in the Registry of the Privy Council the sum of £400 as security for costs :

40 "AND THEIR LORDSHIPS do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same."

HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

E. C. E. LEADBITTER.

In the  
Privy  
Council.  
No. 30.  
Order in  
Council  
granting  
special  
leave to  
appeal.  
21st  
December,  
1949—  
*continued.*

Exhibits.

P. 4

Plaint and  
Answer in  
District  
Court,  
Point  
Pedro,  
Case  
No. 1780.

Plaint.  
13th  
January,  
1943.

## EXHIBITS.

## P. 4.—Plaint and Answer in District Court Point Pedro Case No. 1780.

IN THE DISTRICT COURT OF JAFFNA (HELD AT POINT PEDRO).

ARULCHELVAM widow of Kumaraguru of Valvettiturai ... *Plaintiff*  
*versus*  
GNANASEKARAM THAIALPAHAR of Valvettiturai ... .. *Defendant.*

No. 1780/P.

The plaint of the above named Plaintiff appearing by M. CHELVATHAMBY her proctor states as follows :—

1.—The Defendant resides and the cause of action arose at Valvettiturai 10 within the jurisdiction of this Court.

2.—The Plaintiff is the daughter of the Defendant.

3.—The Plaintiff lost her husband in or about September 1933 at her age of 24, but she is still allowed to remain a widow.  
For a first cause of action.

4.—The Plaintiff after the death of her husband came into possession of monies by way of commuted pension, etc., to the extent of Rs. 5600/- which entire sum of the Plaintiff entrusted to the Defendant in or about November 1933 to be given out on safe and sound investments such as primary mortgage of immovable properties or other sound securities. 20

5.—The Plaintiff having come to know about two months ago that the Defendant is intending to donate to a temple the properties belonging to the Plaintiff and her younger sister and brother including the money belonging exclusively to the Plaintiff namely Rs. 5600/-. She demanded the return of the said sum of Rs. 5600/- after deducting the following amounts namely :—

A. Rs. 150/- spent by the Defendant for the illness of the Plaintiff's husband who did not survive the illness.

B. Rs. 100/- for her husband's funeral expenses.

C. Rs. 150/- being money paid to the Defendant to a creditor of the 30 deceased—Total Rs. 400/-.

6.—But the Defendant has failed and neglected to return to the Plaintiff the balance amount due to her namely Rs. 5200/-.

For a second cause of action.

7.—The Plaintiff in or about November 1933 entrusted to the Defendant for safe keeping the following articles of jewellery namely :—

- A. A gold Hair Pin set with stones worth Rs. 60/-.
  - B. A Gold Chain weighing six sovereigns worth Rs. 250/- and
  - C. One brooch weighing one sovereign worth Rs. 50/-.
- Total Rs. 360/-.

Exhibits.  
—  
P.4  
Plaint and  
Answer in  
District  
Court,  
Point  
Pedro.  
Case  
No. 1780—  
*continued.*

8.—The Plaintiff about two months ago demanded the return of the said piece of jewellery but the Defendant has failed and neglected to return the same to the Plaintiff.

10 9.—A cause of action has therefore accrued to the Plaintiff to sue the Defendant for the recovery of the said sum of Rs. 5200/- and the said pieces of jewellery or the value thereof namely Rs. 360/-.

Plaint.  
13th  
January,  
1943—  
*continued.*

Wherefore the Plaintiff prays :—

- (a) That the Defendant be ordered to pay the Plaintiff the said sum of Rs. 5200/- due on the first cause of action with legal interest thereon from date hereof ;
- (b) for the return of the said pieces of jewellery or their value namely Rs. 360/- with legal interest thereon from date hereof.
- (c) for costs and for such other and further relief as to this Court shall seem meet.

20

(Sgd.) M. CHELVATHAMBY,  
*Proctor for Plaintiff.*

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### Answer

Answer.  
18th March,  
1943.

IN THE DISTRICT COURT OF JAFFNA.

ARULCHELVAM widow of Kumarakuru of Valvettiturai ... *Plaintiff*  
*versus*  
GNANASEKERAM THAIALPAHAR of Valvettiturai ... *Defendant.*

1780/P

This 18th day of March, 1943.

30 The answer to the Defendant above-named appearing by C. THANABALASINGHAM his proctor states as follows :—

1.—Answering to paragraph 1 of the plaint the Defendant while admitting the residence of the parties denies that any cause of action has arisen to the Plaintiff to sue the Defendant.



Exhibits.  
 P. 4.  
 Plaintiff and  
 Answer in  
 District  
 Court,  
 Point  
 Pedro.  
 Case  
 No. 1780.  
*continued.*  
 —  
 Answer.  
 18th March,  
 1943—  
*continued.*

2.—Answering to paragraph 2 of the plaint the Defendant admits the correctness of the averments contained therein.

3.—Answering to paragraph 3 of the plaint the Defendant while admitting the correctness of the averments contained therein states that he is not responsible for the Plaintiff remaining a widow.

4.—Answering to paragraph 4 of the plaint the Defendant while stating that only about Rs. 1300/- (one thousand three hundred) came into the possession of the Plaintiff by way of commuted pension during the year 1933 denies all and singular the correctness of the other averments contained therein.

10

5.—Answering to paragraph 5 of the plaint the Defendant while stating that the Defendant spent at the request of the Plaintiff the sum of Rs. 450/- in connection with the illness of the Plaintiff's husband and in connection with his funeral and connected ceremonies admits the payment of Rs. 150/- by him to a creditor of the deceased but denies the correctness of the other averments made therein.

6.—Answering to paragraph 7, 8 and 9 of the plaint the Defendant denies the correctness of the averments contained therein.

7.—Further answering the Defendant states that the Plaintiff utilised the amounts received by her by way of commuted pension and Public Servants Mutual Provident Association fund, etc., amounting in all to about Rs. 4500/- (four thousand and five hundred) in the following manner.

(a) Amount paid by Plaintiff to certain Ponnar Kanapathipillai due on a promissory note granted by the Defendant for Rs. 1000/- and interest at 18% p.a. to enable the Plaintiff and her husband to pay off certain debts about ... ..	Rs. 1900.00
(b) Amount paid by Plaintiff to certain V. Ramalingam due on a promissory note granted by Plaintiff's late husband about... ..	450.00 30
(c) Amount paid by Plaintiff to certain T. Ramalingam, to whom the Plaintiff and her husband were indebted about	120.00
(d) Amount paid by Plaintiff to certain Sellamuttu widow of Mailvaganam to whom the Plaintiff and her husband were indebted about ... ..	500.00
(e) Amount paid by Plaintiff to certain Sanmugam to whom the Plaintiff's late husband was indebted about ...	450.00
(f) Amount paid by Plaintiff for value of jewellery presented by Plaintiff to her younger sister Thangamany who is now dead ... ..	300.00 40

(g)	Amount paid by Plaintiff to Defendant being amount due to the creditor referred to in paragraph 5 of the plaint ... ..	150.00	Exhibits: — P. 4. Plaint and Answer in District Court, Point Pedro. Case No. 1780.
(h)	Amount paid by Plaintiff to Defendant being money advanced by Defendant for the medical and funeral expenses including the expenses for ceremonies connected with the funeral ... ..	450.00	<i>continued.</i>

10 The above are the approximate amounts paid by the Plaintiff to the best recollection of the defendant. The Plaintiff had the balance amount with her and the Defendant cannot say what happened to the balance sum.

8.—Further the Defendant pleads that the claims of the Plaintiff if any are prescribed in law.

Wherefore the Defendant prays :—

- (i) that the action of the plaintiff be dismissed ;
- (ii) for costs and for such other and further relief as to the court shall seem meet.

(Sgd.) C. THANAGALASINGHAM,  
*Proctor for Defendant.*

P. 2.—Deed No. 18480.

20 *Translation.*

No. 18480

PARTITION.

P. 2.  
Deed No. 18480.  
1st March, 1943.

KNOW ALL MEN BY THESE PRESENTS that we GNANASEGARAMPILLAI THYIALPAKER, SAMY SELLADURAI wife VALLIAMMAL and VELUPILLAI MANIKAM of Valvettitturai declare as follows :

30 Whereas action No. 32132 of the Court of Request of Point Pedro had been proceeding in respect of the land described herein below in the schedule and whereas our shares had been allotted according to plan No. 1796 prepared by K. Velmurugu, Licensed Surveyor, on 24th June 1941 in the said case and whereas such allocation had been found to be inconvenient for us to possess and whereas Saravanamuthu Somasundram of Valvettitturai, Vyramuthu Sivaparagasam, Thambar Ponnuchamy Eliyathamby Appukuddiapillai of the same place and Vallipuram Ramalingam of Imyanan had been appointed arbitrators and these five effected a partition, and in terms of this partition, plan No. 1984 dated 26th February 1943 was prepared by K. Velmurugu, Licensed Surveyor and we get this deed of partition executed.

DESCRIPTION OF LAND TO BE PARTITIONED.

Land is being held and possessed by the first named as per donation deed dated 3rd July, 1940 and attested by Notary K. Muthukumar under

Exhibits. No. 7424 and as per transfer deed in favour of the 1st named dated 12th May 1941 and attested by Notary K. Ratnasingham under No. 97 and as per transfer deed in favour of the 3rd named dated 8th December 1942 attested by this Notary under No. 18300 and as per transfer deed in favour of the 3rd named dated 21st March 1942 and attested by this Notary under No. 17827.

—  
P. 2.  
Deed  
No. 18480.  
1st March,  
1943—  
*continued.*

A portion of the share of the said 3rd named is subject to mortgage in favour of the 4th named.

In witness whereof we have hereunto and to three others of the same tenor and date as these presents set our hands in the presence of the Notary 10  
Vyravanathan Sabaratnam and in the presence of the subscribing witnesses herein below at the house of the 1st named on the 1st day of March One thousand nine hundred and forty three.

#### SCHEDULE OF PROPERTY.

Land situated at Valvettiturai in the Parish of Udupiddy in the Division of Vadamardchy in Jaffna District of Northern Province called Anivilunthan in extent veedu  $\frac{1}{2}$  do. 10 latchams V.C. Kommanjevitkolvilaiianivilunthanukku Vadakku in extent 1 and  $\frac{1}{4}$  Latchams V.C. Kommanjevitkolvilaiianivilunthanukku Vadakkunthidal in extent 2 and  $\frac{3}{8}$  Latchams V.C. Of these  $\frac{1}{4}$  share towards the north 20  
in the middle of the first and second parcels and the whole of the 3rd and 4th parcels according to possession in extent 9 Latchams V.C. and 9 Kulies. Of this excluding the portions already partitioned and possessed by the shareholders of this land, the remainder belonging to us is 4 Latchams V.C. and 5 and  $\frac{3}{8}$  Kulies. This is bounded on the east by the property of Savunthalaiamma daughter of Veluchanay and of Vyramuthu Kandasamy, north by the property of Kathirasippillai wife of Thambirarajah and others, west by the property of the 1st named and south by the property of Sivaguru Thurausamy and others. The whole of those contained within these boundaries. 30

#### DESCRIPTION OF LOTS ALLOTTED.

(1) Of the said land lots marked 1 and 4 in the said plan No. 1984 in extent 1 Latchams V.C. and 14 and  $\frac{3}{8}$  Kulies is bounded on the east by the following second lot and front of Lane north by the following 2nd lot and property of Thangam wife of Sinnadurai, west by the property of the first named and south by the property of Sivaguru Thurausamy and others. The whole of those contained within these boundaries. But excluding the rights to drain the rain water through these lots and the right of access by owners of lot two through lot four ; these lots one and two shall belong to the first named absolutely for ever. 40

(2) Of the said land lot marked 2 in the said plan in extent 2 Latchams V.C. and  $7\frac{31}{32}$  Kulies. This and lot 3 in extent 1 and  $\frac{1}{32}$  Kulies, form the aggregate extent of 2 Latchams V.C. and 9 Kulies and is bounded on the east by the property of Savunthalai Amma daughter of Veluchamy and of Vyramuthu Kandasamy, north by the property of Kathirasippillai wife

of Thambirajah and others and of Savuthalai Amma daughter of Veluchamy, west by lot one and south by lot one and lot four allotted for the common use of both the parties. The whole of those contained within these boundaries. This shall belong to the 3rd named of us absolutely for ever.

Exhibits.  
—  
P. 2.  
Deed  
No. 18480.  
1st March,  
1943—  
*continued.*

Sgd. { G. THYIALPAKER.  
SAMY SELLADURAI.  
Mark and left thumb  
impression of  
VALLIAMMAH.  
V. MANNIKAM.

10 Witnesses :

Sgd. { S. Somasundaram.  
V. Ramalingam.  
V. Sivaperagasam.  
E. Appukuddiapillai.  
T. Ponnuchamy.

(Sgd.) V. SABARATNAM,  
*Notary.*

I, VYRANANATHAN SABARATNAM, Notary Public of Vadamaradchy in  
20 Jaffna do hereby certify and attest the foregoing instrument having been read over and explained by me to the said Gnanasegarampillai Thaiyalpaker, Samy Selladurai who signed illegibly and wife Vallaiammah who set mark and left thumb impression and Veluppillai Mannikam in the presence of Saravanamuthu Somasundaram of Valvettiturai, Vallipuram Ramalingam of Imyananm Vyramuthu Sivaperagasam of Valvettiturai Eliyathamby Appukuddaipillai of the same place and Thambar Ponnuchamy of the same place subscribing witnesses thereto, I know the executants and the witnesses and the said executants and the witnesses set their signatures in my presence and in the presence of one another at the house of the 1st named on the  
30 1st day of March 1943 and that \* \* \* \* \*  
before the instrument was read over and explained.

(Sgd.) V. SABARATNAM,  
*Notary Public.*

Date of Attestation :  
1st March, 1943.

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P. 1.—Will of Arudchelvam.

*Translation.*

No. 18703.

LAST WILL.

P. 1.  
Will of  
Arudchel-  
vam.  
28th June,  
1943.

This is the Last Will and Testament executed by Arudchelvam Widow  
40 of Kumaraguru of Valvettiturai with sound mind memory and clear understanding considering the certainty of death and uncertainty of life.

Exhibits.  
 P. 1.  
 Will of  
 Arudchel-  
 vam.  
 28th June,  
 1943—  
*continued.*

I do hereby revoke and cancel any or all Last Will or such like instrument or instruments if I had executed prior to this.

I do hereby bequeath and devise all the property goods and articles immovable and movable of any nature that shall belong to me now and that shall belong to me till my death unto my brother Thaialpakar Salvaguru of Valvettiturai.

I do hereby nominate and appoint the said Thaialpahar Salvaguru, Executor to prove this instrument in Court.

In witness whereof I have hereunto and to one another of the same tenor and date as these presents set my hand in the presence of the notary 10 Vairavanather Sabaratnam and in the presence of the subscribing witnesses thereto at my house on the twenty eight day of June one thousand nine hundred and forty three.

(Sgd.) K. ARUDCHELVAM.

Witnesses :

(Sgd.) V. Ramalingam.

(Sgd.) M. Chelliah.

(Sgd.) V. SABARATNAM,  
*Notary.*

I, VAIRAVANATHER SABARATNAM, Notary Public of Vadamarachy in 20 Jaffna do hereby certify and attest that the foregoing instrument having been read over and explained by me to the said Arudchelvam widow of Kumaraguru in the presence of Vallipuram Ramalingam of Uduppiddy Imayanankurichy and Muruguppilai Chelliah of Valvettiturai the subscribing witnesses thereto. I know the executant and the witnesses that the said executant and the witnesses set their signatures in my presence and in the presence of one another at the house of the Executant on the 28th day of June 1943.

(Sgd.) V. SABARATNAM,  
*Notary Public.* 30

Date of Attestation :  
 the 28th day of June 1943.

P. 3.  
 Letter,  
 E. T.  
 MacIntyre  
 to C.  
 Thanabala-  
 singham.  
 15th  
 October,  
 1945.

**P. 3.—Letter, E. T. MacIntyre to C. Thanabalasingham.**

C. Thanabalasingham, Esqr.,  
 Proctor, Supreme Court,  
 Point Pedro.

Munsoor Buildings,  
 Main Street.  
 Colombo, 15th October, 1945.

Dear Mr. Thanabalasingham,

With reference to your enquiry I write to quote the following :—

Opinion and Examination ... ..	Rs. 52.50	Exhibits.
Attendance and Evidence at Point Pedro ... ..	210.00	P. 3.
Train fare ... ..	40.00	Letter,
	<u>Rs.302.50</u>	E. T.
		MacIntyre
		to C.

If photographs are necessary a further charge of Rs. 86/- would be necessary.

Yours sincerely,

(Sgd.) E. T. MACINTYRE.

Thanabala-  
singham.  
15th  
October,  
1945—  
*continued.*

**D. 18.—Deed No. 8074.**

10 *Translation.*

Prior Registration, Jaffna.  
1st land A.32/123.

D. 18.  
Deed  
No. 8074.  
4th  
October,  
1907.

Duplicate of this bears one stamp to the value of Rs. 10/-

No. 8074.

KNOW ALL MEN BY THESE PRESENTS that I VINASITHAMBY GNANASEGARAMPILLAI of Valvettiturai for and in consideration of the sum of Rupees two thousand do hereby sell transfer, set over and convey unto Gnanasegarampillai Thyalpager of the same place the property described hereinbelow :—

**PROPERTIES.**

20 Land belonging to me under and by virtue of Transfer Deed No. 6687 dated 24th November, 1905 attested by this Notary in my favour.

1. Land at Thanakkarakurichy, Udupidy Parish Vadamaradchi Division, Jaffna District, Northern Province called Niruvaththampai in extent  $20 \frac{1}{4}$  Lachams V.C. is bounded on the East by land of Seganather Sinniah, North and South by land of Muttachchippillai wife of Singaravelu and others, West by the below mentioned land and by land belonging to Vellaichchy Sinnathamoy. The whole of the ground, palmyrahs, Vadalies and well herein.

30 Land belonging to me by virtue of Transfer deed No. 6740 dated 2nd December, 1905 attested by this Notary in my favour.

2.—Land at Samarapahuthevan Kurichy and Valveddy Kurichy called Niruvaththampai according to prior deed  $53 \frac{1}{8}$  Lachams V.C. and according to measurement 40 Lachams V.C. and 10 Kulies. Of this an extent of 30 Lachams V.C. and 16 Kulies towards the East by the aforesaid land and other lands. North by Road, West by the property of Annapooranam wife

Exhibits.  
 ———  
 D. 18.  
 Deed  
 No. 8074.  
 4th  
 October,  
 1907—  
*continued.*

of Nallathamby and others and on the south by property belonging to me and others. The whole of this ground, palmyrahs, coconut trees, wells mango tree, jak tree, vadalies and structures therein.

Whereas decree was obtained in the District Court of Jaffna in case No. 5395 wherein Bond No. 6689 dated 24th November, 1905 attested by this notary and granted by me in favour of Veluppillai Chelliah of Valvettiturai for Rs. 1000/- and interest at 15 per cent. per annum hypothecating the 1st land and other lands and whereas a sum of Rs. 1300/- is due under the said decree. And whereas a sum of Rs. 1240/- is due on Bond No. 6741 dated 2nd December, 1905 attested by this Notary for Rs. 1000/- and interest at 12 per cent. per annum in favour of Ponnamma widow of Ponnampalam of Valvettiturai hypothecating the 2nd land. And whereas he has agreed to pay a sum of Rs. 650/- out of the decree and the sum of Rs. 1240/- due on the bond aggregating to Rs. 1890/- and redeem. I do hereby set off the said sum against the said consideration of Rs. 2000/- received the balance sum of Rs. 110/-.

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand in the presence of the Notary Sinnathamby Subramaniam and the other subscribing witnesses Karthigesu Sabanayagam of Valveddy and Sabapathippillai Selladurai of Imayan Kurichy at the office of the Notary at Puloly East on the Fourth day of October One Thousand Nine Hundred and Seven.

(Sgd.) Illegibly.

Witnesses :

(Sgd.) K. Sabanayagam.

(Sgd.) S. Sellathurai.

(Sgd.) S. SUBRAMANIAM,

*Notary.*

I, SINNATHAMBY SUBRAMANIAM, Notary Public of Jaffna do hereby certify and attest that the foregoing instrument was read over and explained unto the said Venasithamby Gnanasegarampillai in the presence of the subscribing witnesses Karthigesu Sabanayagam of Valveddy, who has signed as "K. Sabanayagan" and Sabapathippillai Selladurai of Imayan Kuruchy who has signed as "S. Selladurai," that I know the executant and the witnesses that the said Vinasithamby Gnanasegarampillai, and the witnesses in my presence and in the presence of one another all being present at the same time set their signatures at my office at Puloly East on the 4th day of October, 1907, that the consideration of Rs. 110/- expressed to have passed now was paid in my presence, and that in the duplicate 1 stamp of the value of Rs. 10/- and the original 1 of Rs. 1/- which said stamps were supplied by me.

(Sgd.) S. SUBRAMANIAM,

*Notary Public.*

4th October, 1907.

## D. 19.—Deed No. 2117.

Exhibits.

*Translation.*

Donation  
Rs. 5000/-  
Lands 4.

Registered A.128/27 & 28,  
F.90/28, 54/319.

Jaffna, 19th June, 1922.

D. 19.  
Deed  
No. 2117.  
10th June,  
1922.

## No. 2217.

KNOW ALL MEN BY THESE PRESENTS that I SIVAHAMIPPILLAI wife of Gnanasegarampillai Thaiyalpaker of Valvettiturai, execute and grant  
10 donation deed to my husband Gnanasegarampillai Thaiyalpakar of the same place to wit :—

Land belonging to me by right of acquisition share under and by virtue of transfer deed No. 6740 dated 2nd December, 1905 and attested by S. Subramaniam, Notary

In the Parish of Uduppiddy in Vadamaradchy West Division, Jaffna District, Northern Province.

1.—Land belonging to Samarapahuthevanurichy and Valveddykurichy called Neruvaththambai, according to the prior deed in extent 53  $\frac{1}{8}$  Lachams V.C. This according to survey in extent 40 Lachams V.C.  
20 and 10 Kulies. Of this an extent of 30 Lachams V.C. and 16 Kulies on the East, is bounded on the East by the property of Casinather Culanadaivelu and others, North by road, West by the property of Annapooranam wife of Nallathamby and South by the property of Sinnathamby Kathirgaman and others. Of the ground, palmyrahs, Vadalies, coconut trees, wells, mango trees, jak trees, and buildings contained within these boundaries an undivided half share worth Rs. 4000/-.

Land belonging to me by right of acquisition share under and by virtue of deed No. 4364, dated 9th January, 1920 and attested by V. Sabaratnam, Notary Public.

30 2.—Land situated at Thanakkarakurichy called Neruvaththambai in extent 20  $\frac{1}{4}$  Lachams V.C. Of this excluding an extent of 2 Lachams V.C. on the North-East, together with the appurtenances therein, the remainder in extent 18  $\frac{1}{4}$  Lachams V.C. is bounded on the East by the property of Thangam widow of Kathiravetpillai and others, North by the property of Ponnammah widow of Kathiravelu and others, West by the property of the grantee of this donation and another land, and South by the property of Muttachehippillai wife of Singaravel. Of the ground, palmyrahs, coconuts, mango and wells contained within these boundaries,  
40 V.C. towards, in the whole of the remainder an undivided half share, worth Rs. 850/-.

Land belonging to me by right of acquisition share under and by virtue



Exhibits. of transfer deed No. 1182 dated 17th September 1918 and attested by  
 ————— Vallipuram Kanagaratnam, Notary Public.

D. 19.  
 Deed  
 No. 2117.  
 10th June,  
 1922—  
*continued.*

3.—Land situated at Manthuvil in the parish of Varany in Thenmaradchy Division do District called Matthulaikkadu according to Plan No. 171 the land No. 116 in extent 3 Acres, 1 Rood and 30 Perches. Of this an extent of 55 Lachams, V.C. is bounded on the East by the property of Sinnachchy wife of Thillaiyampalam and share holders, North by lane, West by village boundary limit street of Sarasalai and South by the property of Karuval Sinnavan and share holders. Of the ground, plantations and well contained within these boundaries an undivided half of 354/660 share, 10 that is an extent of 14 <sup>3</sup>/<sub>4</sub> Lachams V.C. together with the appurtenances, worth Rs. 50/-.

Land belonging to me by right of Thediyatheddam share under and by virtue of transfer deed No. 4729 dated 13th August, 1917 and attested by Benjamin Paul, Notary.

4.—Land situated at do called Pampary in extent 23 <sup>1</sup>/<sub>2</sub> Lachams, V.C. is bounded on the East by the property of Visuvanather Kandiah and others, North by the property of Thamer Sithamparappillai and others, West by the property of Visuvanather Kandiah and his brothers and others, and South by the property of Variar Sibramaniam and share holders. Of the 20 ground, palmyrahs, coconuts and mango trees contained within these boundaries an undivided half share worth Rs.100/-.

The total worth Rs. 5,000/-. The said lands worth Rupees Five thousand. I do hereby give, grant and convey as donation unto him.

I the said Thaiyalpaker do hereby accept the said donation with gratitude.

In witness whereof we set our signatures to this instrument at Valvettiturai the Ninth day of June, One Thousand Nine Hundred and Twenty Two.

(Sgd.) T. SIVAHAMIPPILLAI. 30  
 (Sgd.) G. THAIYALPAKER.

Witnesses :

Sgd. N. Sangarappillai.  
 Sgd. Nadarajah.

(Sgd.) K. SIVAPRAGASAM,  
*Notary Public.*

I, KATHIRAVETPILLAI SIVAPRAGASAM, Notary Public within the Judicial Division of Point Pedro in Jaffna do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the said Sivahamippillai wife of Gnanasegarampillai Thaiyalpaker and 40 Gnanasegarampillai Thaiyalpaker in the presence of Namasivayam Sangarappillai of Valvettiturai and Mailvaganam Nadarajah of the same place the subscribing witnesses hereto, that the said Sivahampillai wife of

Gnanasegarampillai Thaiyalpaker, Gnanasegarampillai Thaiyalpaker and the witnesses set their signatures to this in my presence and in the presence of one another at Valvettiturai on the 9th day of June, 1922, that the 1st named person is not known to me, that the 2nd named person and the witnesses are known to me, that the original bears one stamp of the value of Rupee one, and that the Duplicate bears 11 stamps of the value of Rs. 82/-.

Exhibits.  
D. 19.  
Deed  
No. 2117.  
10th June,  
1922—  
*continued.*

(Sgd.) K. SIVAPRAGASAM,  
*Notary Public.*

The 10th day of June, 1922.

10

True Copy

Sgd.  
Registrar Supreme Court  
Ceylon.

1.2.'51.

---

**D. 17.—Promissory Note.**

*Translation.*

Principal Rs. 500/- Five hundred rupees.

20

The 1st day of March, 1941. one demand I the undersigned Kumarakuru Arudchelvam of Valvettiturai do hereby promise to pay to Thambian Thedchanamoorthy or order the sum of Rupees Five Hundred this sum of Rupees Five Hundred being currency value borrowed and received this day with interest thereon at the rate of ten per cent. per annum

- 2 of 1918
1. Principal sum borrowed Rs. 500/-.
  2. Immediate interest or previous amount or any other amount deducted ?  
Nil
  3. Interest at the rate of ten per cent. per annum

D. 17.  
Promissory  
Note.  
1st March,  
1941.

30

Siva Kuka Press,  
Nelliady.

I tender together with this my deed No. 6793 together with the Mortgage Bond.

(Sgd.) K. ARUDCHELVAM.

*Endorsement.*

16.2.43. Received Rs. 60/- as interest for two years.

Exhibits.

## D. 11.—Deed No. 170.

D. 11.     **Transfer.**  
 Deed  
 No. 170.  
 25th  
 November,  
 1941.

Prior Registration, Jaffna.

A. 289/220.

No. 170.

Know all men by these presents that I ARUDSELVAM widow of K. C. Kumaraguru of Valvettiturai (hereinafter called the vendor) for and in consideration of the sum of Rupees two hundred (Rs. 200/-) well and truly paid to me by Vallipuram Singaram of Valvettiturai (hereinafter called the purchaser) (the receipt whereof I do hereby admit and acknowledge) do hereby grant, convey, assign, sell, transfer, set over and assure unto the said purchaser his heirs executors, administrators and assigns the land and premises fully described in the schedule hereto together with all and singular the rights, ways easements, advantages, servitudes and appurtenances, whatsoever thereto belonging or in any wise appertaining or usually held, occupied, used or enjoyed therewith, or reputed or known as part or parcel thereof and together with all the estate, right, title, interest, claim and demand whatsoever of me the said vendor in, to, out of, and upon the said premises and every part thereof. 10

The said land is being held and possessed by me under and by virtue of transfer deed No. 6793 dated 26th March 1939 and attested by K. Muttukumar, Notary Public 20

## THE SCHEDULE REFERRED TO.

Land situated at Valvettiturai, Udupididi Parish, Vadamaradchi Division, Jaffna District Northern Province called "Peethianmanal" in extent 9,  $\frac{1}{4}$  Lms V.C. of this 8,  $\frac{3}{4}$  Lms V.C. Of this an extent of 1 Lm V.C. is bounded on the East by the property of Velupillai Subramaniam and others, on the North by sea beach and on the West and South by the property belonging to me. The whole hereof.

To have and to hold the said premises hereby sold and conveyed or expressed so to be with all the rights, easements and appurtenances unto the said purchaser his heirs, executors administrators and assigns absolutely for ever. 30

And I the said vendor for myself, my heirs executors and administrators do hereby covenant with the said purchaser and his aforewritten that the said premises hereby sold and conveyed, are free from all encumbrances whatsoever that I now have good right to sell and convey the said premises in manner aforesaid that the said purchaser and his aforewritten may at all times hereafter quietly enter into hold and enjoy the said premises that I and my aforewritten shall and will at all times hereafter warrant and defend the said premises and every part thereof unto the said purchaser and his aforewritten against any person or persons whomsoever and that I and my aforewritten shall and will at all times hereafter at the request and cost of the said purchaser and his aforewritten do and execute or cause to be done and executed all such further acts, deeds assurances, matters and things 40

whatsoever for further and more perfectly assuring the said premises and every part thereof unto the said purchaser and his aforewritten as shall or may be reasonably required.

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand at Valvettiturai this twenty fifth day of November one thousand nine hundred and forty one.

(Sgd.) (In tamil).

This is the signature of K. ARUDSELVAM.

Witnesses :

10 Signed and delivered in the presence of us and we }  
 declare that we are well acquainted with the }  
 executant and we know her proper name occupa- }  
 tion and residence. }

1. (Sgd.) T. Selvaguru.

2. (Sgd.) S. Sivakumarasamy.

(Sgd.) K. RATNASINGHAM,  
*Notary Public.*

I, KULANDAIVEL RATNASINGHAM, Notary Public within the Judicial  
 Division of Point Pedro do hereby certify and attest that the foregoing  
 20 instrument having been duly read over and explained by me to the within-  
 named Arudselvam widow of K. C. Kumaraguru the vendor hereof who is  
 known to me in the presence of Thyalpagar Selvaguru and Sinnadurai  
 Sivakumarasamy both of Valvettaturai the subscribing witnesses hereto  
 who are also known to me the same was signed by the said vendor and also  
 by the said witnesses in my presence and in the presence of one another all  
 being present at the same time at Valvettiturai on the 25th day of  
 November 1941.

I further certify and attest that the consideration passed in my presence  
 and that the duplicate bears 2 stamps of the value of Rs. 4/-.

30 Date of attestation  
 25th November, 1941.

(Sgd.) K. RATNASINGHAM,  
*Notary Public.*

**D. 12.—Deed No. 183.**

Transfer.  
 Land. 1.  
 Rs. 200/-.

Prior Registration, Jaffna.  
 Entire Land : A.289/220.

D. 12.  
 Deed  
 No. 183.  
 24th  
 December,  
 1941.

No. 183.

KNOW ALL MEN BY THESE PRESENTS that I ARUDSELVAM widow of  
 K. C. Kumaraguru of Valvettiturai (hereinafter called the Vendor) for and  
 40 in consideration of the sum of Rupees Two Hundred (Rs. 200/-) well and

Exhibits.  
 ———  
 D. 11.  
 Deed  
 No. 170.  
 25th  
 November,  
 1941—  
*continued.*

Exhibits.  
 ———  
 D. 12.  
 Deed  
 No. 183.  
 24th  
 December  
 1941—  
*continued.*

truly paid to me by Kandiah Iyamuttu and wife Amminippillai both of Valvettiturai (hereinafter called the Purchasers) (the receipt whereof I do hereby admit and acknowledge) do hereby grant, convey, assign, sell, transfer, set over and assure unto the said purchasers their heirs executors, administrators and assigns the land and premises fully described in the Schedule hereto together with all and singular the rights, ways easements, advantages, servitudes and appurtenances, whatsoever thereto belonging or in any wise appertaining or usually held, occupied, used, or enjoyed therewith, or reputed or known as part or parcel thereof, and together with all the estate, right, title, interest, claim and demand whatsoever of me the said vendor in, to, out of, and upon the said premises and every part thereof. 10

The said land is being held and possessed by me under and by virtue of Deed No. 6793 dated 26th March, 1939 and attested by K. Muttukumar, N.P.

THE SCHEDULE REFERRED TO.

Land situated at Valvettiturai, Udupiddi Parish, Vadamamaradchi Division, Jaffna District Northern Province called "Peethianmanal" in extent 9,  $\frac{1}{4}$  Lms. V.C. of this 4 Lachams V.C. and 2,  $\frac{1}{2}$  Kulies to the South east. Of this  $\frac{7}{8}$  share in extent 3 Lachams V.C. and 11  $\frac{18}{40}$  Kulies. Of this  $\frac{1}{2}$  Lachams V.C. to the north is bounded on the East by the property of Kathiripillai Sabapathippillai and others North by the Property of the purchasers, West by the property of the vendor and South by the property Karthigesar Subramaniam and others. The whole of the ground, coconut tree and half share of the well contained within these boundaries. 20

To have and to hold the said premises hereby sold and conveyed or expressed so to be with all the rights, easements and appurtenances unto the said purchasers their heirs executors administrators and assigns absolutely for ever.

And I the said vendor for myself, my heirs, executors, and administrators do hereby covenant, with the said purchasers and their aforewritten that the said premises hereby sold and conveyed, are free from all encumbrances whatsoever that I now have good right to sell and convey the said premises in manner aforesaid that the said purchasers and their aforewritten may at all times hereafter quietly enter into hold and enjoy the said premises that I and my aforewritten shall and will at all times hereafter warrant and defend the said premises and every part thereof unto the said purchasers and their aforewritten against any person or persons whomsoever and that I and my aforewritten shall and will at all times hereafter at the request and cost of the said purchasers and their aforewritten do and execute or cause to be done and executed all such further acts, deeds assurances, matters and things whatsoever for further and more perfectly assuring the said premises and every part thereof unto the said purchasers and their aforewritten as shall or may be reasonably required. 30 40

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand at Valvettiturai this Twenty Fourth day of December One Thousand Nine Hundred and Forty One.

(Sgd.) In Tamil,

This is the signature of K. ARUDSELVAM.

Witnesses :

1. (Sgd.) G. Thyalpager.
2. (Sgd.) V. Sivapragasam.

(Sgd.) K. RATNASINGHAM,

*N.P.*

10

I, KULANDAIVEL RATNASINGHAM, Notary Public within the Judicial Division of Point Pedro do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the within-named Arudselvam widow of K. C. Kumaraguru the vendor hereof who is known to me in the presence of Gnanasegarampillai Thyalpager and Vallipuram Sivapragasam both of Valvettiturai the subscribing witnesses hereto who are also known to me the same was signed by the said vendor and also by the said witnesses in my presence and in the presence of one another all being present at the same time at Valvettiturai on the 24th day of December, 1941.

20

I further certify and attest that the said consideration passed in my presence, and that the duplicate bears 2 stamps of the value of Rs. 4/-.

(Sgd.) K. RATNASINGHAM,

*Notary Public.*

Date of attestation :

24th December, 1941.

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D. 13.—Deed No. 184.

30 Transfer.  
Land 1.  
Rs. 1000/-.

Prior Registration, Jaffna.

Entire land A.289

220.

No. 184.

D. 13.  
Deed  
No. 184.  
24th  
December,  
1941.

KNOW ALL MEN BY THESE PRESENTS that I ARUDSELVAM widow of K. C. Kumaraguru of Valvettiturai (hereinafter called the Vendor) for and in consideration of the sum of Rupees One thousand (Rs. 1000/-) well and truly paid to me by Thuraisamy Nadarajah of Valvettiturai (hereinafter called the Purchaser) (the receipt whereof I do hereby admit and

Exhibits. acknowledge) do hereby grant, convey, assign, sell, transfer, set over and assure unto the said purchaser his heirs, executors, administrators and assigns the land and premises fully described in the Schedule hereto together with all and singular the rights, ways easements, advantages, servitudes and appurtenances, whatsoever thereto belonging or in any wise appertaining or usually held, occupied used, or enjoyed therewith, or reputed or known as part or parcel thereof, and together with all the estate, right, title, interest, claim and demand whatsoever of me the said vendor in, to, out of, and upon the said premises and every part thereof.

D. 13.  
Deed  
No. 184.  
24th  
December,  
1941—  
*continued.*

The said land is being held and possessed by me under and by 10  
virtue of Transfer Deed No. 6793 dated 26th March, 1939 and attested by  
K. Muttukumar, N.P.

THE SCHEDULE REFERRED TO.

Lands situated at Valvettiturai, Udupiddi Parish, Vadamaradchi Division, Jaffna District, Northern Province called "Peethianmanal" in extent  $9 \frac{1}{4}$  Lachams V.C. Of this 4 Lachams V.C. and  $2 \frac{1}{2}$  Kulies to the South East. Of this  $\frac{7}{8}$  share is in extent 3 Lachams V.C. and  $11 \frac{18}{40}$  Kulies. Of this excluding  $\frac{1}{2}$  Lacham in the north the remainder is in extent 3 Lachams V.C. and  $2 \frac{18}{40}$  Kulies and bounded on the East by the property of Kathiripillai Sabapathippillai and others, North by the property of 20  
Kandiah Iyamuttu, West by the property of the Vendor and South by the property of Karthigesar Subramaniam and others. The whole of the ground and coconut trees and half share of the well contained within these boundaries.

To have and to hold the said premises hereby sold and conveyed or expressed so to be with all the rights, easements and appurtenances unto the said purchaser his heirs executors administrators and assigns absolutely for ever.

And I the said vendor for myself my heirs executors and administrators do hereby covenant, with the said purchaser and his aforewritten that the 30  
said premises hereby sold and conveyed, are free from all encumbrances whatsoever that I now have good right to sell and convey the said premises in manner aforesaid that the said purchaser and his aforewritten may at all times hereafter quietly enter into hold and enjoy the said premises that I and my aforewritten shall and will at all times hereafter warrant and defend the said premises and every part thereof unto the said purchaser and his aforewritten against any person or persons whomsoever and that I and my aforewritten shall and will at all times hereafter at the request and cost of the said purchaser and his aforewritten do and execute or cause to be done and executed all such further acts, deeds, assurances, matters 40  
and things whatsoever for further and more perfectly assuring the said premises and every part thereof unto the said purchaser and his aforewritten as shall or may be reasonably required.

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand at Valvettiturai this Twenty Fourth day of December One Thousand Nine Hundred and Forty One.

Sgd. In tamil

This is the signature of K. ARUDSELVAM

Witnesses :

1. Sgd. G. Thyalpager.
2. Sgd. V. Sivapragasem.

10

(Sgd.) K. RATNASINGHAM,  
N.P.

Exhibits.  
—  
D. 13.  
Deed  
No. 184.  
24th  
December,  
1941—  
*continued.*

I, KULANDAIVEL RATNASINGHAM, Notary Public within the Judicial Division of Point Pedro do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the within-named Arudselvam widow of K. C. Kumaraguru the vendor hereof who is known to me in the presence of Gnanasegarampillai Thyalpager and Vallipuram Sivapragasam both of Valvettiturai the subscribing witnesses hereto who are also known to me the same was signed by the said vendor and also by the said witnesses in my presence and in the presence of one another all being present at the same time at Valvettiturai on the 24th day of December, 1941.

20

I further certify and attest that the said consideration passed in my presence and that in both the duplicate and the original page 2 line 3 "Pethth" was scored off. Line 6 "11" and line 8 "3" and "2" were typed over erasure before the foregoing instrument was read over and explained as aforesaid and that the duplicate bears 2 stamps of the value of Rs.15/- and the original 1 of Rs.1/-.

(Sgd.) K. RATNASINGHAM,  
*Notary Public.*

Date of Attestation  
30 24th December, 1941.

---

**D. 8.—Power of Attorney.**

**SPECIAL POWER OF ATTORNEY.**

No. 220.

KNOW ALL MEN BY THESE PRESENTS that I, ARUDSELVAM widow of the late K. Chithamparappillai Kumaraguru of Valvettiturai, do hereby nominate constitute and appoint my father Gnanasegarampillai Thyalpagar of Valvettiturai to be my true and lawful attorney for me and in my name or otherwise to sell at such time or times as my said attorney shall think

D. 8.  
Power of  
Attorney.  
1st April,  
1942.



Exhibits.  
 D. 8.  
 Power of  
 Attorney.  
 1st April,  
 1942—  
*continued.*

fit all that land called "Peethianmanal" situated at Valvettiturai to which I am entitled to by virtue of deed No. 6793 dated 26th March 1939 and attested by K. Muttukumaru Notary Public either together or in lots and either by public auction or by private contract and either with or without special conditions as to title or otherwise with liberty to buy in at any sale by auction, to rescind or vary contracts for sale and to resell without being answerable for any loss arising thereby.

And also to execute such deeds or deed for conveying the said premises to any purchasers or purchaser thereof and also to give effectual receipts and discharges for the purchase moneys of the said land as my attorney 10 shall think fit.

And also in the meantime and until such sale to receive in rents and profits of the said land and premises and to recover the same when in arrears by action or otherwise and generally to manage the said land and premises.

And also to appear for me before any Court or Courts of Justice in the Island of Ceylon either as Plaintiff or Defendant or intervenient and to sign and grant all necessary Proxy or Proxies to any Proctor or Proctors of the said Courts and the same from time to time to recall and revoke and to prosecute and defend any suit or suits or other proceedings now or hereafter be brought by or against me and to proceed to judgment therein 20 or to suffer judgment as my said attorney shall think fit in respect of the aforesaid land and premises.

And whatsoever my said attorney shall lawfully do in the premises I hereby agree to ratify, allow and confirm.

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand at Valvettiturai on this first day of April one thousand nine hundred and forty two.

(Sgd.) (In tamil),

This is the signature of K. ARUDSELVAM.

Witnesses :

1. T. Selvaguru.
2. V. Subramaniam.

30

(Sgd.) K. RATNASINGHAM,  
*Notary Public.*

I, KULANDAIVEL RATNASINGHAM, Notary Public within the Judicial Divisions of Point Pedro, Jaffna, do hereby certify and attest that the foregoing instrument was read over and explained unto the said Arudselvam widow of K. C. Kumaraguru, the grantor who is known to me in the presence of Thyalpager Selvaguru of Valvettiturai and Vyramuttu Subramaniam of Karanavai North, the subscribing witnesses hereto who are also known 40 to me, the same was signed by the said grantor and also by the witnesses in my presence and in the presence of one another all being present at the same time at Valvettiturai on the 1st day of April 1942.

I further certify and attest that no consideration passed in my presence, that in both the duplicate and the original page 1 line 3 "Constitute"

interpolated, line 23 "aas" scored off and page 2 line 5 "March" scored off and "April" was overwritten before the foregoing instrument was read over and explained as aforesaid and that the duplicated bears Rs. 1/- stamp of the value of Rs. 5/-.

(Sgd.) K. RATNASINGHAM,  
Notary Public.

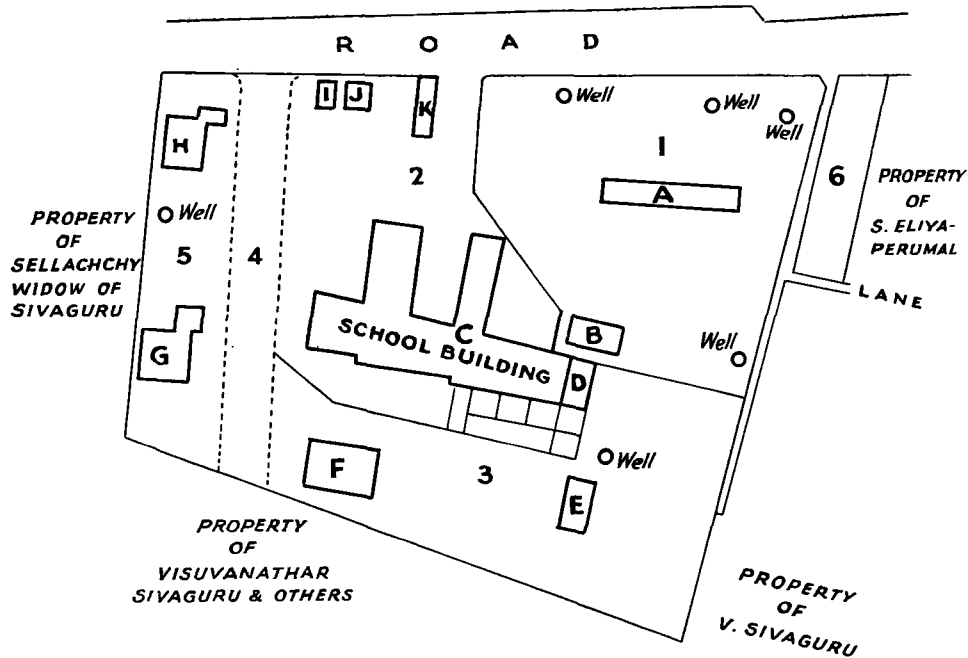
Exhibits.  
—  
D. 8.  
Power of Attorney,  
1st April, 1942—  
*continued.*

Date of attestation:  
1st April, 1942.

D. 5.—Plan No. 1840.

Plan No. 1840.

10



D. 5.  
Plan No. 1840.  
1st June, 1942.

Plan of a piece of land called Niruvathampai situate at the village of Valveddy Samarapakuthevankurichchy in Uduppiddy Parish Vadamaradchy division in the District of Jaffna Northern Province bounded as above containing in extent:

20	Lot 1.	8 Lms. V.C. and 10 1/2 Kls. ...	Land reserved for Sundara Perumar Koil.
	Lot 2.	8 ,, ,, 5 1/2 ,, ...	Land reserved for Chithambara Vidhyalayam.
	Lot 3.	7 ,, ,, 10 1/2 ,, ...	Private use of the owner.
	Lot 4.	2 ,, ,, 4 1/2 ,, ...	do.

Exhibits.	Lot 5. 3 Lms. V.C. and 5 1/2 Kls. ...	Private use of the owner.
D. 5	Lot 6. 1 ,, ,, 0 ,, ...	Land reserved for Sundara Peruman Koil.
Plan No. 1840 1st June, 1942— <i>continued.</i>	Total 31 Lms. V.C. and 0 1/2 Kls.	

Lot 1-6 belong to Mr. B. Thaiyalpagar of Valvettiturai.

Surveyed and drawn by

(Sgd.) (Illegible),  
*Licensed Surveyor.*

Point Pedro, 1st June, 1942.

10

D. 3.  
Letter,  
M. K. Sena  
to Muthu-  
thamby.  
14th June,  
1943.

**D. 3.—Letter, M. K. Sena to Muthuthamby**

*Translation.*

Puliyanthevu, 14.6.43.

Greetings and respect to dear Ena Upayasemam.

All well. Hope you got my telegram. My natural desire is that the contents of this letter should not be known to any body except the Heronine (Kathanakey), Sri Mathy Arudselvam, Sri Secretary and his wife. Teach Nadarajah and his wife, son-in-law and daughter.

I discussed matters at night with Inspector who came home on Saturday night. Early next morning Mr. Kathiravel went by bus with the photo 20 to Chengaladdy 12 1/2 miles away. At 12, old time. I reached the heros (Kathanayakan) house. I discussed the matters with him and his sister's husband Visuvalaingam (Ranger) who was also present. I stayed there that night and reached this place early this morning.

Born in 1903 and Vellala by caste, he is a decent and first class match. He is the manager of an estate of 600 acres in extent, belonging to a white man. Only 450 acres are yielding—He was a C.I.D. Inspector and resigned his job. He is a man after niece's heart and he will support maintain and treat her in a very decent manner. Niece bears the palm for her fair complexion. But this gentleman, bears the palm for 30 the darkness of his complexion. He is a man of prepossessing appearance (a sudden thought. Suppose he asks "where is the saree you were wearing when the photo was taken," do you think it will be in the owner's wardrobe ?)

I left behind the photo and received the horoscope a copy of which is enclosed. Both of you yourself and son-in-law kindly take the two horoscopes to "Sivasaranam" and consult him on all the particulars. Don't send it here.

This match will be very profitable in all respects. (Like cotton-plant yielding ready made sarees) My son-in-law will be helped to get a job. The two families can live together. (A single man without dependants), 40

he has no worries. Even the Mahanabavar who says that Sri Suntharaperuman pat his feet, when he looks at him will come to the purchase price. To the last he will be source of a profit to us as curd is useful to yield butter with churning.

He has about Rs. 1000/- for marriage expenses. You can have his photo there in a week's time. After a week's time he will be there with two or three or four people to see the bride. If all goes well, notice of marriage may be issued and registration be made. Subsequently, in a few days, we can take him over there and perform the wedding. After wedding he may stay there a fortnight. But if the bride wishes, and if it is convenient we may start at once, or we can take them after 10 or twenty days. I have given you all the facts, they are on our side. I have promised to give the bridge jewels work. Not less than 20 sovereigns. He would not mind if it is one or two sovereigns less. I shall tell you the real in person. Then you can clear any doubts you have.

10 All the persons mentioned in this letter will please jointly and separately think over the details and particulars given here and will arrive at a good solution. We shall decide when I arrive there.

I am one of the mine. If the heroine (Kathanakey) and the others were to ask my opinion, I shall certainly recommend this match as good in all respects.

Yours etc.

(Sgd.) MANA KANA SENA

Elayathamby Muthuthamby,  
Pilacholai Thollam,  
20 Vanthariamollai,  
Chengallady Post.

Exhibits.  
—  
D. 3.  
Letter,  
M. K. Sena  
to Muthu-  
thamby.  
14th June,  
1943—  
*continued.*

D. 1.—Letter, M. K. Sena to Son-in-law.

*Translation.*

Vavuniya 28.6.

Many blessings to Son-in-law.

We arrived here last night at 4. I shall bring the available oranges with me, when I come. I need not tell you that it is your duty to be very careful in attending on your sister by noting every movement of hers.

30 Give the enclosed letter to elder brother and get from him the medicine. If he has not got it, he will get it easily from anywhere.

Let not matter be spoiled for want of money; Pawn something and get sagu, 4 or 5 oranges from Jaffna through Thangavelu, Tomatoes, Bread etc. and other things needed for her. Do not wait till the next injection for informing the doctor, but go to Point Pedro and acquaint him with all the facts.

Let mother-in-law Thiaraviam stay there till she takes full bath.

D. 1.  
Letter,  
M. K. Sena  
to Son-in-  
Law.  
28th June,  
1943.

Exhibits.  
D. 1  
Letter,  
M. K. Sena  
to Son-in-  
Law.  
28th June,  
1943—  
*continued.*

I met Monakuru, ask from him if he could get Nageswaram the post of Temporary Clerk early in a good place other than Colombo. Be careful to keep drinking water for the night—under lock and key. The sinner will even poison the water, Mahalingam reminded me. I shall bring ghee when I come I met Palan Velan at Parith. Please send the flour, which I asked put in a bag to my house. When Kandasamy arrives, press him and get money. Get that deed from the proctor and keep that.

Did you get the photo? Let me know whether you wrote letter or chit to Mr. Namasivayam. Talk to Aiyengar and when he is good mood, get from him Rs. 100/- before my arrival.

10

My address is :

c/o K. R. Sivapragasam,  
D.R.O's Clerk,  
Vavuniya.

To RASA.

You will take your mid-day meal at your sister and manage other meals with bread. Be on the look out for Kandasamy. Gnani Cousin would have come.

(Sgd.) M. K. S.

D. 2.  
Envelope  
to T.  
Selvaguru.  
28th June,  
1943.

D. 2.—Envelope to T. Selvaguru.

20

*Address on the envelope.*

Mr. T. Selvaguru,  
Oorikadu,  
Valvettiturai.

D. 6.  
Deed  
No. 18702.  
28th June,  
1943.

D. 6.—Deed No. 18702.

*Translation.*

Instrument : Transfer  
Land : 1  
Worth : Rs. 780/-

No. 18702.

Know all men by these presents that I, ARUDSELVAM widow of 50 Kumaraguru of Valvettiturai for and in consideration of the sum of Rupees seven hundred and eighty well and truly paid to me by Muruguppillai Chelliah of the same place do hereby sell, transfer, set over and convey unto the said Chelliah the property described in the schedule hereto.

The land in the schedule hereto is being held and possessed by me under and by virtue of transfer deed in my favour No. 6793 dated 26th March 1939 attested by K. Muttukmaru, Notary Public.

As the said deed is not in hand, I shall obtain a true copy and endorse. I do hereby declare that I have full right and power to transfer the said land that I shall at all times warrant and defend any dispute or objections arising therefrom that in the event of this instrument becoming invalid or worthless under any circumstances and in the event of the transferee hereof requiring any other instrument or writing in lieu of this, I shall do the same at my expense.

Exhibits.  
—  
D. 6.  
Deed  
No. 18702.  
28th June,  
1943—  
*continued.*

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand in the presence of the Notary  
10 Vairavanather Sabaratnam and the subscribing witnesses at my house on the twenty eighth day of June one thousand nine hundred and forty three.

#### THE SCHEDULE OF PROPERTY.

Land situated at Valvettiturai, Udipiddy Parish Vadamaradchi Division Jaffna District Northern Province called Puthianmanal in extent 9  $\frac{1}{4}$  Latchams V.C. Of this the extend in possession for a partition of portion of 2 Latchams V.C. and 12/40 kulies is 3 Latchams V.C. Of this an extent of 2 Latchams V.C. towards the south is bounded on the east by the property of Thuraisamy Nadarayah and others north by the property belonging to me. West by the property of Arunasalem Mailvaganasunderam  
20 and others and on the south by the property of Karthigesar Subramaniam. The whole of the ground and coconut trees contained herein.

(Sgd.) K. ARUDSELVAM.

Witnesses :

1. (Sgd.) V. Ramalingam.
2. (Sgd.) M. K. Selvaduraipillai.

(Sgd.) V. SABARATNAM,  
*Notary.*

I, VAIRAVANATHER SABARATNAM, Notary Public of Vadamaradchi Jaffna do hereby certify and attest that the foregoing instrument was read  
30 over and explained unto the said Arudselvam widow of Kumaraguru in the presence of the subscribing witnesses Vallipuram Ramalingam of Udipiddy Imayanan Kurichy and M. Kanagaratnam Selvaduraipillai of Valvettiturai who has signed illegibly, that I know the executant and the witnesses and that the said executant and the witnesses in my presence and in the presence of one another all being present at the same time set their signatures at the house of the executant on the 28th day of June 1943, that the full consideration expressed in the instrument was paid in my presence that in the duplicate stamps to the value of Rs. 15/- and in the original stamp to the value of Rs. 1/- were affixed which said stamps were supplied by me. . . .

40 Date of attestation } Seal (Sgd.) V. SABARATNAM,  
28th June 1943. } *Notary Public.*

Exhibits.

**D. 9.—Protocol of Deed No. 18702.**

D. 9.  
Protocol of  
Deed  
No. 18702.  
28th June,  
1943.

*Translation.*

Instrument : Transfer.  
Land : 1  
Worth : Rs. 780/-.

No. 18702.

Know all men by these presents that I, ARUDSELVAM, widow of Kumaraguru of Valvettiturai for and in consideration of the sum of Rupees seven hundred and eighty well and truly paid by Murugappillai Chelliah of the same place do hereby sell transfer set over and convey unto the said Chelliah the property described in the schedule hereto. 10

The land described in the schedule hereinbelow is being held and possessed by me under and by virtue of transfer deed in my favour No. 6793 dated 26th March 1939 and attested by K. Muthukumar, Notary Public.

As the said deed is not in my possession I shall make endorsement on obtaining a certified copy.

I do hereby declare that I have full right and power to transfer the said land, that I shall at all times warrant and defend any disputes and claims arising therein, and that I shall and will at my expense do or cause to be done and executed any instrument or writing in lieu thereof in the event of this instrument becoming invalid or null and void under any circumstances. 20

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand in the presence of the Notary Vairavanather Sabaratnam and the subscribing witnesses at my house on the twenty eight day of June one thousand nine hundred and forty three.

**THE SCHEDULE OF PROPERTY.**

Land situated at Valvettiturai Udipiddy Parish Vadamaradchy Division Jaffna District Northern Province called Puthianmanal in extent  $9 \frac{1}{4}$  Lachams V.C. Of this a partitioned extent of 2 Lachams V.C. and  $1 \frac{12}{40}$  Kulies which is 3 Lachams V.C. in possession. Of this an extent of 2 Lachams V.C. towards the south is bounded on the east by the property of Thuraisamy Nadarasa and others. North by the property belonging to me, West by the property of Arunasalam Mailvaganasuntharam and others and on the south by the property of Karthigesar Subramaniam. The whole of the ground and coconut trees contained within these boundaries. 30

(Sgd.) K. ARUDSELVAM.

Witnesses :

(Sgd.) V. Ramalingam.

(Sgd.) M. K. Selvathuraipillai.

(Sgd.) V. SABARATNAM, 40

Notary.

I, VAIRAVANATHER SABARATNAM, Notary Public of Vadamaradchi Jaffna do hereby certify and attest that the foregoing instrument was read over and explained unto the said Arudselvam widow of Kumaraguru in the presence of the subscribing witnesses Vallipuram Ramalingam of Udupidy Imayanankurichy and M. Kanagaratnam Selvathuraipillai of Valvettiturai who signed illegibly, that I know the executant and the witnesses, that the said instrument was signed by the said executant, by the witnesses and by me the said notary in my presence and in the presence of one another all being present at the same time at the house of the executant on the 28th day of June 1943, that the full consideration expressed in the instrument was paid in my presence, that in the duplicate stamps to the value of Rs. 15/- and in the original stamp to the value of Rs. 1/- were affixed. . . .

Exhibits.  
—  
D. 9.  
Protocol of  
Deed  
No. 18702.  
28th June,  
1943—  
*continued.*

\* \* \* \*

(Sgd.) V. SABARATNAM,  
*Notary Public.*

Date of attestation  
28th June, 1943.

**D. 10.—Protocol of Last Will.**

*Translation.*

**LAST WILL.**

No. 18703.

D. 10.  
Protocol of  
Last Will.  
28th June,  
1943.

20

This is the Last Will and Testament of me ARUDSELVAM widow of Kumaraguru of Valvettiturai executed with sound mind, memory and understanding considering the certainty of death and uncertainty of life :

I do hereby revoke and cancel any or all Last Will or the like instrument or instruments if I had executed prior to this.

I do hereby bequeath and devise all the property movable and immovable, goods and articles of whatsoever nature belonging to me now and that shall belong to me till my death unto my brother Thyalpager Selvaguru of Valvettiturai.

30 I do hereby nominate and appoint the said Thyalpager Selvaguru, executor to prove this instrument in Court.

In witness whereof I have hereunto and to one another of the same tenor and date as these presents set my hand in the presence of the Notary Vairavanather Sabaratnam and in the presence of the subscribing witnesses thereto at my house on the twenty eighth day of June one thousand nine hundred and forth three.

(Sgd.) K. ARUDSELVAM.

Witnesses :

(Sgd.) V. Ramalingam.

40 (Sgd.) M. Chelliah.

(Sgd.) V. SABARATNAM,  
*Notary.*



Exhibits.  
 ———  
 D. 10  
 Protocol of  
 Last Will,  
 28th June,  
 1943—  
*continued.*

I, VAIRAVANATHER SABARATNAM, Notary Public of Vadamaradchi Jaffna do hereby certify and attest that the foregoing instrument was read over and explained unto the said Arudselvam widow of Kumaraguru in the presence of the subscribing witnesses Vallipuram Ramalingam of Udupidy Imayan Kurichy and Muruguppilai Chelliah of Valvettituari that I know the executant and the witnesses that the said executant and the witnesses in my presence and in the presence of one another all being present at the same time set their hands at the house of the executant on the 28th day of June, 1943.

(Sgd.) V. SABARATNAM, 10  
*Notary Public.*

Date of attestation  
 28th June, 1943.

D. 4.  
 Post Card,  
 M. K. Sena  
 to Kanda-  
 samy.  
 30th June,  
 1943.

D. 4.—Post Card, M. K. Sena to Kandasamy.

*Translation.*

Vavuniya, 30.6.43.

To  
 Brother Kandasamy,  
 From M. K. S.

You did not turn up either on Wednesday or on 26.6. according to your promise, nor have I received any communication from you. What does this mean? Do you treat this as a piece of charity to me? No; How many times shall I write, and inform you that all this is your duty. It looks as if you are deceiving yourself. Kanmany is also ill. Today I received Selvaguru's letter. What mischief you are doing. It seems that you are torturing man by your acceptions. Send 250/- which you promised, by T.M.O. on receipt of this letter. Failing, renounce by writing your son's claims to the property, pay the expenses of maintaining and take your son with you. I am writing this as my final letter of request in my capacity as one empowered by Power of Attorney, as one related, as an elderly person and as one respected in our place for truth and fair play, also treat this request as one from Mr. Sami. 30

Do not mistake this to be an order. I write this for your own benefit. So, without delay send by telegraph money order to reach on Friday 27 or Saturday.

Ponder, think well and come forward to do what is right. If you delay, you will have to spend more money.

Yours etc.

(Sgd.) M. K. S.  
 Seal—Vavuniya  
 30 June 43.

Mr. P. E. K.,  
 c/o A. Sami Muthaly,  
 Kaly Medu, Thamabalakamam.

40

## D. 7.—Post Card, M. K. Selvathuraipillai to Upayasemam.

Exhibits.

*Translation.*

Vavuniya 30.6.43.

Pirama Sri. To Thena Sena writes Upayasemam.

I arrived here on a certain business and I expect to return home in two or three days.

If possible please help me by lending my son-in-law Selvaguru Rs. 50/-, if necessary will pay the interest. I shall return this amount within a month's time with the interest.

Please treat this as an urgent matter.

Yours etc.,

(Sgd.) M. K. SELVATHURAIPIILLAI.

Seal  
Vavuniya  
30 June 43Sri,  
Thedchanamoorthy Iyer,  
"Sivakru Vidyalayam,"  
Valvettiturai.D. 7.  
Post Card,  
M. K. Selva  
thuraipillai  
to Upayase-  
mam.  
30th June,  
1943.

10

## D. 14.—Deed No. 19592.

*Translation.*

Transfer.

20 Land 1  
Worth Rs. 830/-.Prior Registration, Jaffna.  
A.328/142.D. 14.  
Deed  
No. 19592.  
29th  
October,  
1944.

No. 19592.

KNOW ALL MEN BY THESE PRESENTS that I MURUGUPPILLAI SELLIAH of Valvettiturai for and in consideration of the sum of Rupees Eight hundred and Thirty (Rs. 830/-) received from Murugupillai Ramalingam of the same place do hereby sell transfer and set over unto the said Ramalingam the property mentioned in the following schedule.

The property mentioned in the following schedule is in possession as per transfer deed in my favour dated the 28th day of June, 1943 and attested by this Notary under No. 18702 I deliver herewith the said deed.

30

In witness whereof I set my hand to this and to two others of the same tenor in the presence of Vyravanathar Sabaratnam Notary and in the presence of the undersigned witnesses at the Office of the said Notary at Polikandy on the 29th day of October, 1944.

## SCHEDULE OF PROPERTY.

Land situated at Valvettiturai in the Parish of Udupidy in the division of Vadamaradchy in the District of Jaffna of the Northern Province called Peethiyammanal is in extent  $5 \frac{1}{4}$  Lachams V.C. do 4 Lachams V.C. Of this a divided extent of 2 Lachams V.C. and  $1 \frac{12}{40}$  Lachams V.C. is in extent 3 Lachams V.C. according to possession. Of this an extent of 2 Lachams

40

Exhibits. V.C. on the South is bounded on the east by the property of Thuraiamy  
 ----- Nadarajah and others, North by the property of Thaiyalpakar Selvakuru,  
 D. 14. Deed No. 19592. 29th October, 1944--  
 continued. West by the property of the wife of Arunasalam Mailvaganasundram and  
 on the South by the property of Karthigasar Subramaniam. The whole  
 of the ground, cocoanut trees and houses contained within these boundaries.  
 (Sgd.) M. SELLIAH.

Witnesses :

1. V. Subramaniam. (Sgd.)
2. K. Arunasalam. (Sgd.)
- (Sgd.) V. SABARATNAM, 10  
*Notary.*

I, VYRAVANATHAR SABARATNAM, Notary Public of Vadammaradchy in Jaffna do hereby certify and attest that the foregoing instrument was read over and explained by me to the said Muruvuppillai Selliah who signed in English in the presence of the subscribing witnesses Veluppillai Subramaniam of Valvettiturai and Kanagaratnam Arunasalam of the same place who signed in English and that I know the grantor and the witnesses and that the said executant and the witnesses set their hands in my presence and in the presence of one another at my Office at Polikandy on the 29th day of October, 1944 and that the whole consideration mentioned in the instrument acknowledged to have received by the grantor on many occasions previously and that the duplicate bears two stamps of the value of Rs. 15/- and the original one stamp of the value of Rs. 1/- and that the said stamps were supplied by me. 20

(Sgd.) V. SABARATNAM,  
*Notary Public.*

Date of attestation  
 29th October, 1944. \_\_\_\_\_

D. 15.  
 Report  
 of T.  
 MacIntyre.  
 3rd October  
 1945.

D. 15.—Report of T. MacIntyre.

The District Judge.  
 Jaffna.  
 Point Pedro.

30

Sir,

Re D.C. Jaffna (Point Pedro) 227/P.T.

I have the honour to acknowledge receipt of your commission dated 1st November which reached me today. I beg leave to submit below my findings on the documents sent to me.

QUESTIONED DOCUMENTS.

1. Document marked P. 1 bearing the signature " K. Arudchelvam."
2. Document marked D. 9 bearing the signature " K. Arudchelvam." 40
3. Document marked D. 10 bearing the signature " K. Arudchelvam."

## MATTER FOR DETERMINATION.

Whether the signatures of K. Arudchelvam appearing on the documents marked P. 1, D. 9, D. 10 are genuine, and set by one hand.

Exhibits.

D. 15.

Report  
of T.  
MacIntyre.  
3rd October  
1945--  
*continued.*

## COMPARISON MATERIAL.

1. Document marked D. 8 bearing the signature of K. Arudchelvam.
2. Document marked D. 11 bearing the signature of K. Arudchelvam.
3. Document marked D. 12 bearing the signature of K. Arudchelvam.
4. Document marked D. 13 bearing the signature of K. Arudchelvam.

## OPINION.

10 The signatures described under the caption Questioned Documents have been written with very great deliberation and with several pen lifts.

In document D. 10 the writer has even forgotten the spelling of her name and has subsequently rectified it. The construction of various letters indicate that somebody unfamiliar to the writer of the signatures in the documents described under the caption Comparison Material, has executed them. Further more the signatures on P. 1, D. 9 and D. 10 irresistibly point to common authorship.

20 On very careful examination of the signatures admitted and questioned, I am of opinion that the three disputed signatures are forgeries and have not been set by the hand that signed as K. Arudchelvam in D. 8, D. 11, D. 12 and D. 13.

(Sgd.) E. T. MACINTYRE,  
*Examiner of Questioned Documents,  
Handwriting, Finger-print and  
Poroscopy Expert.*

3.10.45.

## D. 16.—Report on Summons to Selladuraipillai.

*Translation.*

(on the back of summons to witness).

30 The within-named is presently in India.

(Sgd.) M. SETHULINGAM.

22.6.

The within-named is presently in India. We inquired of his address from the occupants of the house. They say they do not know.

(Sgd.) M. SETHULINGAM,  
K.V. 125.  
11.10.45.

The within named is not in the village.

Intld. M. S.  
15.3.46.

40

D. 16.  
Report on  
Summons  
to Sella-  
duraipillai.  
1st April,  
1946.

# In the Privy Council.

No. 14 of 1951.

ON AN APPEAL FROM THE SUPREME COURT  
OF CEYLON.

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THAIALPARGAR SELVAGURU of  
Valvettiturai *Petitioner-Appellant*

*versus*

1. GNANASEGARAMPILLAI  
THAIALPAGAR of Valvettiturai
2. KANDASAMY PARAMAKURU of  
Valvettiturai *Respondents-Respondents.*

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RECORD OF PROCEEDINGS

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KIMBERS, WILLIAMS, SWEETLAND & STINSON,  
34 Nicholas Lane,  
Lombard Street, E.C.4,

*Solicitors for the Appellant.*

WALTERS & HART,  
16-18 Mansfield Street,  
Portland Place, W.1,

*Solicitors for the Respondents.*