

Judgment 12, 1968

12

7 OF 1967

No.

Supreme Court of Ceylon,
No. 247 (Final) of 1964.

District Court of Colombo,
Case No. 9377/L.

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

BETWEEN

A. M. SHERIFF of No. 9, Manthri Road, Havelock Town,
Colombo.

2nd Defendant-Appellant.
APPELLANT

And

(DEAD) 1. M. ABDUL,

2. AMINA UMMA widow of M. ABDUL,

3. NONA KATHIJA wife of T. A. HALALDFEN,

4. MOHAMED HALEEL, and

5. MOHAMED JUNAIDEEN all of No. 9, Manthri Road, Havelock Town,
Colombo.

(3rd, 4th, 5th, & 6th Defendants all substituted in place of the 1st Defendant who
is dead.)

Defendants-Respondents.

6. MOHAMED NONA LAILA wife of ABDUL MAJEED AHAMED LAMEER
of "VILLA D'OR" No. 609, Baseline Road, Colombo. ∴

Plaintiff-Respondent
RESPONDENTS

RECORD OF PROCEEDINGS

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
16 JAN 1969
25 RUSSELL SQUARE
LONDON, W.C.1.

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No. 1.
Journal Entries

No. 1
Journal Entries
11. 1. 61 to
17.3.66

IN THE DISTRICT COURT OF COLOMBO.

No. 9377/L
Class V
Amount: Rs. 17,500/-
Nature: Land.
Procedure: Regular.

N. N. Laila
Plaintiff
vs.
M. Abdul and another
Defendants.

10 JOURNAL

(1) The 11th day of January, 1960 Mr. M. U. M. Saleem, Proctor, files:
(a) Appointment and (b) Plaintiff. Plaintiff accepted and summons
ordered for 22. 3. 61.

(Sgd)
Additional District Judge.

(2) 3. 2. 61.

Summons issued with precept returnable the 19th day of March,
1961.

Intd

20(3) 22. 3. 61.

Mr. M. U. M. Saleem, for plaintiff - vide Journal Entry (1)
(1) Summons served on M. Abdul-1st defendant-Absent.
(2) Summons not served on 2nd defendant. Proxy of 1 & 2 defend-
ants filed.

Proctor for plaintiff to file of record the plan referred to his plaintiff
for 24/5.

Answer to await this step.

(Sgd)

(4) 24. 5. 61.

30 to Vide Journal entry (3) Proctor for plaintiff to file plan referred
in his plaintiff.

Copy of Plan No. 785 filed.

Answer on 12. 7. 61.

(Sgd)

Additional District Judge.

(5) 12. 7. 61.

Mr. M. U. M. Saleem for plaintiff. Vide Journal Entry (4).
Answer due Answer of 4 defendant filed. Trial on 19. 2. 62.

(Sgd).....

Additional District Judge.

No. 1
Journal Entries
11.1.61 to
17.3.66
--Continued

(6) 12/14. 2. 62.

The plaintiff understands that the 1st defendant is dead. Proctor for plaintiff therefore moves that the Court be pleased to take this case fixed for trial on 19th February, 1962, off the trial roll and to allow the plaintiff two months time to take steps for substitution. Proctor for 2nd defendant receives notice for 15/2/62. Call on 15. 2. 62

Additional District Judge.

(7) 15. 2. 62.

Vide Journal Entry (6) case called-steps re 1st defendant dead on.....Take case off trial roll from 19.2.62. 10

Steps re 1st defendant. for 17. 5. 62.

(Sgd)

(8) 13/17.2.62.

Proctor for 2nd defendant with notice to Proctor for plaintiff files list of witnesses and moves for Summons.

(1) File-the case has been taken off the trial roll.

(Sgd).....

Additional District Judge.

(9) 17. 5. 62.

Mr. M. U. M. Saleem for plaintiff 20

Mr. Q. M. R. Jayamanne for defendants.

Steps re 1st defendant deceased due-not substituted.

-for 25.6.62.

(Sgd.)

(10) 19/20. 6. 62.

As the plaintiff has not been able to obtain the names of the heirs of the 1st defendant (deceased) for the substitution in the latter's place Proctor for the plaintiff moves that Court be pleased to grant the plaintiff further six weeks time to take steps for substitution.

Mention on 25. 6. 62. 30

(Sgd.)

(11) 25. 6. 62.

Mr. M. U. M. Saleem, for plaintiff.

Mr. Q. M. R. Jayamanne for Defendant. *Vide* Journal Entry (9) *-Continued*

Steps re 1st defendant (deceased) due. *Vide* Journal Entry (10)

Proctor for Plaintiff moves for further time to take steps for substitution

-for 30. 8. 62.

(Sgd)

(12) 30. 8. 62.

10 Mr. M. U. M. Saleem, for Plaintiff.

Mr. Q. M. R. Jayamanne, for Defendants.

Vide Journal Entry (11) Steps re 1st defendant (deceased) due.

Papers filed for substitution. Issue notice returnable 24. 9. 62.

(Sgd)

(13) 8. 9. 62.

Notice issued on 1-4 respondents.

Intld

(14) 24. 9. 62.

Mr. M. U. M. Saleem, for plaintiff.

20 Mr. Q. M. R. Jayamanne, for defendants.

Notice served on 2nd Respondent.

2-Nona Kathija - absent.

Issue summons on her returnable 26. 11. 62.

Not served on 1, 3 & 4 Respondents.

Re issue for 26. 11. 62.

(Sgd)

(15) 25. 9. 62.

Notice reissued on 1, 3 & 5 Respondents.-W. P.

Intld

30 (16) 26. 11. 62.

Notice not served on 1, 3, and 4 Respondents.

Re issue now for 21. 1. 63.

(Sgd)

Aditonal District Judge.

(17) 26. 11. 62.

Proctor for plaintiff-petitioner files affidavit and for the reasons stated therein moves for substituted service of notice on 1, 3 and 4 respondents.

40 Issue notice on 1, 3 and 4 respondents, by way of substituted service and respondents to appear within 7 days of such service and returnable 21. 1. 63.

(Sgd.)

Additional District Judge.

No. 1
Journal Entries
11.1.61 to
17.3.66.
-Continued

(18) 27. 11. 62.
Notice issued for substituted service on 1, 3 & 4 respondents-W.P.
Intd.

(19) 21. 1. 63.
Mr. M. U. M. Saleem, for plaintiff.
No return to notice on 1, 3 and 4 respondents.
Call for and reissue for 4. 3. 63.
(Sgd.).....

(20) 21. 1. 63.
Return to notices called for
Intd. 10

(21) 4. 3. 63.
Notice served on 1, 3 & 4 respondents for the last date.
1. Amina Umma)
3. Mohamed Haleel) (absent)
4. Mohamed Junaideen)
Substitution allowed. Amend caption.
Trial 20. 6. 63.
(Sgd.).....
Additional District Judge. 20

(22) 5. 6. 63.
Proctor for 2nd defendant refers to Journal Entry (8) and moves
for summons on witnesses as the case is now fixed for trial.
Cite.
(Sgd.).....
Additional District Judge.

(23) 5. 6. 63.
2 Subpoenas issued by 2nd defendant. W. P.
Intd.

(24) 15/18. 6. 63. 30
Proctor for plaintiff with notice to proctor for 2nd defendant files
list of witnesses and documents.
File.
(Sgd.).....
Additional District Judge.

(25) 20. 6. 63.
Mr. M. U. M. Saleem, for plaintiff.
Mr. Q. M. R. Jayamanne, for defendant.
Vide Journal Entry (21).
Trial 40
I am not well enough to take up this trial today.
Trial refixed for 21. 11. 63.
(Sgd.).....
Additional District Judge.

(26) 2/5. 8. 63.

Proctor for Plaintiff moves that a Commission be issued to Mr. S. Kumaraswamy, Surveyor.

Proctor for 2nd defendant receives notice subject to amendment of pleadings if necessary.

Allowed for 21. 11. 63.

No. 1
Journal Entries
11. 1. 61 to
17. 3. 66
-Continued

(Sgd.).....

Additional District Judge.

6. 8. 63

(27) 25. 9. 63.

10 Proctor for plaintiff refers to an order of Court dated 10. 8. 63. and tenders Commission papers together with a receipt for fees paid to Mr. S. Kumaraswamy, Licenced Surveyor.

Issue Commission returnable 21. 11. 63.

(Sgd.).....

Additional District Judge.

28. 9. 63

(28) 1. 10. 63.

Commission issued to Mr. S. Kumaraswamy, Licenced, Surveyor.

Intd.

20 (29) 29/31. 10. 63.

Proctor for plaintiff with notice to Proctor for 2nd defendant files additional list of witnesses and moves for summons.

1. File.
2. Issue Summons.

(Sgd.).....

Additional District Judge.

31. 10. 63

(30) 29/31. 10. 63.

Commissioner files return to Commission with Plan No. 446 and Report.

30 Mention on 21. 11. 63.

(Sgd.).....

Additional District Judge.

31. 10. 63

(31) 8. 11. 63.

1 Subpoena issued by plaintiff. W. P.

Intd.

(32) 21. 11. 63.

Mr. M. U. M. Saleem, for plaintiff.

Mr. Q. M. R. Jayamanne, for defendants.

40 (1) *Vide* Journal Entry (25).
Trial

(2) Return to Commission filed.

Vide proceedings. Further hearing on 15. 1. 64.

(Sgd.).....

(32a) Proxy filed.

Intd.

(33) 20/25. 11. 63.

Proctor for 2nd defendant with notice to Proctor for plaintiff files additional list of witnesses and moves for summons. Cite.

(Sgd.).....

Additional District Judge.

25. 11. 63

(34) 21. 12. 63.

1. Subpoena issued by 2nd defendant - W. P.

Intd.

(35) 15. 1. 64.

Further hearing no time. Appearances as on last date. Further 10 hearing-27. 2. 64.

Intd.

(36) 22/24. 1. 64.

Proctor for 2nd defendant files additional list of witnesses and moves for summons. Cite.

(Sgd.).....

Additional District Judge.

24. 1. 64

(37) 7. 2. 64.

1. Subpoena tendered stamps short not issued.

(38) 10. 2. 64.

Intd.

20

1. Subpoena issued by 2nd defendant-W. P.

(39) 27. 2. 64

Intd.

Mr, M. U. M. Saleem, for plaintiff.

Mr. Q. M. R. Jayamanne, for defendants.

Vide Journal Entry (35).

Trial-further hearing.

Vide proceedings. Documents on 18. 3. 64.

(Sgd.).....

Additional District Judge.

(39a) Proceeding filed

Intd.

30

(40) 18. 3. 64.

Documents due. Plaintiff's documents tendered. 2nd defendants documents tendered.

File,-

Judgment on 28. 4. 64,

(Sgd.).....

(40a) Documents P 1 to P 6 filed.

(40b) Documents 2 D 1 to 2 D 45 and 2 D 50 to 2 D 52 filed,

Intd.

40

18. 3. 64

(41) 28. 4. 64.

Judgment delivered in Open Court in the presence of:

Mr. M. U. M. Saleem for plaintiff present.

Mr. Q. M. R. Jayamanne for 2nd defendant present.

No. 1
Journal Entries
11. 1. 61 to
17. 3. 66
-Continued

(Sgd.).....

Additional District Judge.

(42) 5. 5. 64.

Proctor for 2nd Defendant moves to revoke the proxy granted to him by the 2nd defendant who consents.

10 Revocation allowed.

(Sgd.).....

Additional District Judge.

(43) 5. 5. 64.

Mr. A. H. T. Dayananda, files proxy as proctor for 2nd defendant together with formal revocation (43a).

Proxy granted to Mr. A. H. T. Dayananda

Accepted.

(Sgd.).....

Additional District Judge.

20 (44) 5. 5. 64.

Mr. A. H. T. Dayananda, files petition of appeal of the 2nd Defendant-Appellant against the Judgment of this Court dated 28th April 1964, and moves to accept same.

He also tenders uncanceled stamps to the value of Rs. 38/- for Supreme Court Judgment and Rs. 18/- for Secretary's certificate in appeal and also an application for typewritten copy of the record and moves for a paying in voucher for Rs. 20/- and to issue notice of tendering security on the plaintiff-respondent and her proctor Stamps to the value of Rs. 38/- cancelled and kept in safe
30 Stamps for Rs 18/- affixed to the Secretary's certificate and cancelled

Intd.

1. Accept petition of appeal

2. Issue paying in voucher for Rs. 20/-

3. Issue notice of tendering security returnable 21. 5. 64.

(Sgd.).....

Additional District Judge.

No. 1
Journal Entries
11. 1. 61 to
17. 3. 66
-Continued

(45) 6. 5. 64

Notices of tendering security issued to Fiscal, W. P.
precept returnable 20. 5. 64

Intld

(46) 12/13. 5. 64

The 3rd, 4th, 5th and 6th defendants - respondents file consent motion to waive security for costs in appeal and notice of appeal.

Mention on 21. 5. 64

(Sgd.)..... 10

Additional District Judge.

(47) 21. 5. 64

Mr. A. H. T. Dayananda, for 2nd defendant - appellant.

1. Notice of tendering security served on plaintiff - respondent and her proctor Mr. M. U. M. Saleem

They accept security in Rs. 400/- to be furnished.

2. *Vide* Journal Entry (46) to be mentioned.

Issue notice of appeal for 18. 6. 64

(48) 8/9. 6. 64

Intld

Proctor for 2nd defendant appellant tenders Bond duly perfected 20 with Kachcheri Receipt 2842 of 27. 5. 64 being costs of appeal and No. 530 of 7. 5. 64. being fees for typewritten copy of brief and notice of appeal and moves that the notice be issued to the Fiscal for service.

1. Bond and Kachcheri receipt filed.

2. Issue notice of appeal returnable 18. 6. 64.

Intld.

Additional District Judge.

(49) 11. 6. 64.

Notice of appeal issued to Fiscal, W. P. (precept returnable 30 16. 6. 64.)

Intld.

(50) 18. 6. 64.

Mr. A. H. T. Dayananda, for 2nd defendant-appellant.

1. Notice of appeal served on proctor for plaintiff-respondent-absent.

2. Not served on plaintiff-respondent (for want of time).

Re issue now for 23. 9. 64.

Intld

Additional District Judge. 40

(51) Notice of appeal re issued to Fiscal, W. P. (precept returnable 21. 9. 64.)

Intld.

18. 6. 64

(52) 16/19. 6. 64.

Proctor for Plaintiff files decree for signature.
Decree entered,

No. 1
Journal Entries
11. 1. 61 to
17. 3. 66
-Continued

(Sgd.)

Additional District Judge.

(53) 3/4. 7. 64.

Proctor for Respondent files application for typewritten copies of record and moves for a paying in voucher for Rs. 20/-

1. File.

10 2. Issue paying in voucher for Rs. 20/-

(Sgd.)

Additional District Judge.

(54) 3/10. 8. 64.

Proctor, for Plaintiff - Respondent files Kachcheri Receipt No. 2572 of 17. 7. 64 for Rs. 20/- being charges for typewritten copy of the record.

Note and file

(Sgd)

Additional District Judge.

20 (55) 1. 9. 64.

Record forwarded to the Registrar, Supreme Court, together with cancelled stamps to the value of Rs. 38/- for Supreme Court Judgment.

(Sgd.)

Assistant Secretary

(56) 29. 9. 65.

Registrar Supreme Court returns record with Supreme Court decree. Appeal dismissed with costs.

Proctors to note.

30

(Sgd.).

Additional District Judge.

(57) 14. 10. 65.

Registrar Supreme Court by his letter No. APN/393/65 dated 14.10.65. informs of Supreme Court order dated 13. 10 65 as minuted of record as follows:

“Notice to issue and further proceedings to be stayed till the disposal of this application. Inform the D. C.”

Registrar Supreme Court requests to take notice of this direction.

Note.

40

(Sgd.)

Additional District Judge.

No. 1
Journal Entries
11. 1. 61 to
17-3-66
-Continued

(58) 25. 11. 65.

With reference to his letter under Journal Entry (57) Registrar of the Supreme Court forwards a copy of Supreme Court order dated 17. 11. 65 made in Supreme Court application No. 393 of 1965 for information of this court.

Note.

(Sgd)
Additional District Judge.

(59) 21. 12. 65

Registrar Supreme Court informs that the petitioner deposited 10 a sum of Rs. 1000/- in addition to the sum of Rs. 3000/- mentioned in Supreme Court order dated 17. 11. 65 and that the full sum has been hypothecated by bond (His letter No. APN/393/65 dated 20. 12. 65 refers-Vide Journal Entry (58)

Note and file

(Sgd)
Additional District Judge.

(60) 15. 3. 66

As an appeal has been preferred to the Privy Council, the Registrar, Supreme Court requests to forward the original record to the Supreme 20 Court.

Forward record to Supreme Court after opening a sub - file.

(Sgd)
Additional District Judge.

(61) 17. 3. 66

Record forwarded to the Registrar, Supreme Court.

(Sgd)
Assistant Secretary

No. 2
Plaint of the
Plaintiff
11.1.61

No. 2.

Plaint of the Plaintiff

30

IN THE DISTRICT COURT OF COLOMBO.

Mohamed Nona Laila wife of Abdul Majeed Ahamed Lameer of "Villa D 'or" 609, Baseline Road, in Colombo. *Plaintiff*

No. 9377/L.
Nat: Land.
Class: V

vs

- dead 1. M. Abdul and
- 2. A. M. Sheriff, both of 9, Manthri Road, Havelock Town in Colombo.

- 3. Amina Umma
- 4. Nona Kathija
- 5. Mohamed Haleel
- 6. Mohamed Junaideen all of No. 9 Manthri Road, Havelock Town.

No. 2
 Plaintiff
 11. 1. 61
 -Continued

.....*Defendants*

On this 11th day of January, 1961.

The plaint of the plaintiff abovenamed appearing by her Proctor,

MOHAMED USOOF MOHAMMED SALEEM states as follows:-

10 1. The land forming the subject matter of this action is described in shedule B hereto and it is situated at Colombo within the jurisdiction of this Court.

2. Upon deed No. 466 dated 30th January, 1930, and attested by A. R. M. Razeen of Colombo, Notary Public, one M. I. Mohamed was the owner of the premises described in schedule A hereto.

3. The said M. I. Mohamed had the land described in schedule A divided into three lots A, B and C according to Plans Nos. 784 785 and 786 all dated 7th October, 1931 and made by M. I. L. Marikar, Licensed Surveyor.

20 4. The land described in schedule B hereto and referred to in paragraph 1 of this plaint is lot B in the said Plan No. 785 referred to in paragraph 3 above.

5. By deed No. 599 dated 13th October, 1931 and attested by the said A. R. M. Razeen, Notary Public, the said M. I. Mohamed donated the land described in schedule B hereto to his daughter the plaintiff, subject to the reservation of an usufruct in favour of the donor, and subject to a right to sell the said premises by the donor, in his life time and further subject to a fidei commissum in favour of the donee's heirs, and subject to a power of appointment
 30 by the fiduciary donee in respect of the fidei commissaries.

6. By deed No. 752 dated 28th July, 1933, attested by the said A. R. M. Razeen, Notary Public, the said M. I. Mohamed renounced in favour of the said donee the power to sell reserved by him under the said deed No. 599.

7. The said M. I. Mohamed died on or about the 12th day of March, 1955.

8. The 1st defendant is the uncle of the plaintiff's father and the 2nd defendant is the 1st defentant's step-son.

No. 2
 Plaint of the
 Plaintiff
 11. 1. 61
 -Continued

9. The 1st defendant was a tenant of the said premises described in schedule B hereto under the plaintiff's father the said M. I. Mohamed, but the said tenancy was determined.

10. The 1st and 2nd defendants are now acting jointly and in concert unlawfully denying the plaintiff's title to the said premises described in schedule B and are in unlawful possession thereof, denying the plaintiff's title thereto.

11. The plaintiff and her predecessors in title have been in prescriptive possession of the premises described in schedule B and have acquired a prescriptive title thereto. 10

12. The plaintiff assesses damages up to date of action at Rs. 388.80 and continuing damages at Rs. 16.20 per mensem from date hereof until possession is delivered to the plaintiff.

13. The land described in schedule "B" is reasonably worth Rs. 17,500/-.

WHEREFORE the plaintiff prays:

- (a) That she be declared entitled to the land described in schedule B.
- (b) that the defendants be ejected therefrom.
- (c) for damages in the said sum of Rs 388/80 up to date of 20 action and at the rate of Rs. 16/20 per mensem until the plaintiff is placed in possession and
- (d) for costs and all such other relief as to the Court may seem meet.

(Sgd.) M. U. M. Saleem

Proctor for Plaintiff.

THE SCHEDULE "A" ABOVE REFERRED TO

1. All that allotment of land marked Lot 4 in Plan No. 2252 dated the 26th September, 1928, made by A. R. Savundranayagam, Licensed Surveyor and Leveller (bearing a sub - division of a defined 30 and divided portion of premises bearing assessment No. 631/4, Greenlands Road and No. 742/22 Fife Road), Situated at Timbirigasyaya in Wellawatte Ward within the Municipality and District of Colombo Western Province and bounded on the

- North: by lot 2.
- East: by Roadway 40 feet wide.
- South: by lot 6 and
- West: by Roadway 20 feet wide

containing in extent thirty three decimal three five perches (AO. RO. P 33. 35) including reservation according to Plan No. 2498 dated the 26th day of September, 1928 made by the said A. R. Savundranayagam, Licensed Surveyor and Leveller together with the right of way in and over the said Roadway 20 feet wide running along the western boundary and other roadways depicted in the aforesaid Plan No. 2252 and

No. 2
Plaintiff
11.61
-Continued

(2) All that allotment of land marked Lot 6 in Plan No. 2252 dated 26th September, 1928, made by A. R. Savundranayagam Licensed Surveyor and Leveller (being a sub - division of a defined and divided portion of premises bearing assessment No. 631/4, Greenlands Road and No. 742/22, Fife Road) situated at Timbirigasyaya in Wellawatte Ward aforesaid and bounded on the

North: by lot 4.
East: by Roadway 40 feet wide.
South: by lot 8 and
West: by Roadway 20 feet wide

containing in extent: Thirty six perches (AO. RO. P. 36) including reservation according to Plan No. 2500 dated 26th September, 1928 made by the said A. R. Savundranayagam, Licensed Surveyor and Leveller, with the right of way in and over the said Roadway 20 feet wide running along the western boundary and other roadways depicted in the aforesaid Plan No. 2252.

THE SCHEDULE "B" ABOVE REFERRED TO

All that allotment of land and premises coloured pink in the plan and marked letter "B" (being a divided and defined portion of all those two contiguous allotments of land and premises marked lots 4 and 6 in Plan No. 2252 dated 26th September, 1928 and made by A. R. Savundranayagam, Licensed Surveyor and Leveller and bearing assesment Nos. 5, 7 and 9) with the buildings thereon bearing assessment No. 9 (formerly No. 7) situated at Manthri Road, formerly called 89th lane in Timbrigasyaya, formerly Wellawatte Ward, within the Municipality and District of Colombo, Western Province and bounded on the

North: by lot A part of the same land bearing assessment No. 5 on the

East: by road (now called Fife Road)

South: by lot C part of the same land bearing assessment No. 9 (presently No. 11) Manthri Road and 148 Fife Road) and on the

West: by Road 89th Lane (now called Manthri Road)

No. 2
Plaint of the
Plaintiff
11.1.61
-Continued

containing in extent twenty one and thirty hundredths perches (AO. RO. P 21. 30) according to the figure of survey bearing No. 785 dated 7th October, 1931 and made by M. I. L. Marikar, Licensed Surveyor and Leveller and registered under title A 209/133.

(Sgd)M. U. M. SALEEM
Proctor for Plaintiff.

Settled by
Kingsley Herat.
Advocate.

(For Plan No. 785 Dated 8. 10. 1931 See P.2)

10

No. 3.

Answer of the 1st & 2nd Defendants.

No. 3
Answer of the
1st and 2nd
Defendants
12.7.61

IN THE DISTRICT COURT OF COLOMBO.

No. 9377/L. Mohamed Nona Laila wife of Abdul Majeed Ahamed Lameer of Villa D'or, 609, Baseline Road, in Colombo.....*Plaintiff.*

vs.

- 1. M. Abdul and
- 2. A. M. Sheriff both of 9, Manthri Road, Havelock Town in Colombo.

20

Defendants.

On this 12th day of July, 1961.

The answer of the 1st and 2nd defendants abovenamed appearing by Q. M. R. Jayamanna, their Proctor, states as follows:

1. These defendants deny all and singular the averments of the plaint inconsistent with this answer.

2. Further answering these defendants state:

(a) The 1st defendant is the father of the 2nd defendant and the 1st defendant is living with the 2nd defendant.

(b) the 2nd defendant has been in prescriptive possession of the 30 land described in the schedule to the plaint for well over 15 years and he claims the benefit of such prescriptive possession.

WHEREFORE these defendants pray:

(a) that the Plaintiff's action be dismissed with costs.

(b) that the 2nd defendant be declared entitled to the said property.

(c) For cost, and

(d) for such other and further relief in the premises as to this Court shall seem meet.

No. 3
Answer of the
1st and 2nd
Defendants
12.7.61
-Continued

(Sgd.) Q. M. R. Jayamanne
Proctor for Defendants.

Settled by
D. M. Weerasinghe.
Advocate.

No 4.

Petition of the Plaintiff for Substitution of Parties.

No. 4
Petition of the
Plaintiff for
Substitution of
Parties
28.8.62

10 IN THE DISTRICT COURT OF COLOMBO.

No. 9377/L. Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa" D' or" 609,
Baseline Road in Colombo. *Plaintiff.*

vs.

1. M. Abdul and
 2. A. M. Sheriff, both of Manthri Road,
Havelock Town in Colomb.
- Defendants.*

20 Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa D' or" 609, Baseline
Road, in Colombo. *Plaintiff-Petitioner.*

AND

1. Amina Umma widow of M. Abdul
2. Nona Kathija wife of T. A. Halaldeen.
3. Mohamed Haleel and
4. Mohamed Junaideen all of 9, Manthri Road,
Havelock Town, in Colombo *Respondents.*

On this 28th day of August, 1962.

30 The petition of the Plaintiff-Petitioner abovenamed appearing by
MOHAMMED USOOF MOHAMMED SALEEM, her Proctor states as
follows:

1. The Plaintiff-Petitioner instituted this action against the
defendants abovenamed for a declaration that she is entitled to the
land described in the schedule B to the plaint, to have the defen-
dants ejected therefrom and for the recovery of damages until she is
placed in possession thereof.

No. 4
Petition of the
Plaintiff for
Substitution of
Parties
28.8.62
-Continued

2. The defendants filed answer and the case was fixed for trial on the 19th February 1962. But before the trial date the 1st defendant departed this life intestate at Colombo on or about the 7th day of January, 1962, leaving an estate below the value of Rs. 2,500/- and him surviving as his next of kin and heirs his widow, the 1st respondent and his children the 2nd 3rd and 4th respondents abovenamed.

3. It has now become necessary to have the respondents abovenamed substituted as defendants in place of the 1st defendant deceased for the purpose of enabling the Court to proceed with this action. Wherefore the Plaintiff-Petitioner prays: 10

- (a) that the Court be pleased to substitute the respondents abovenamed as defendants in place of the 1st defendant deceased.
- (b) that the case be refixed for trial.
- (c) for costs, and
- (d) for such other and further relief as to this Court shall seem meet.

(Sgd.) M. U. M. Saleem
Proctor for Plaintiff-Petitioner.

No. 5
Affidavit of the
Plaintiff
28.8.62

No. 5.
Affidavit of the Plaintiff.

20

IN THE DISTRICT COURT OF COLOMBO.

No. 9377/L.

Mohamed Nona Laila wife of Abdul Majeed Ahamed Lameer of "Villa D' or" 609, Baseline Road in Colombo..... *Plaintiff.*

vs.

- 1. M. Abdul and
- 2. A. M. Sheriff, both of 9, Manthri Road Havelcek Town, in Colombo. *Defendants.*

Mohamed Nona Laila wife of Abdul Majeed Ahamed Lameer of "Villa D' or" 609, Baseline Road, in Colombo..... *Plaintiff-Petitioner*

AND

- 1. Amina Umma widow of M. Abdul.
- 2. Nona Kathija wife of T. A. Halaldeen.
- 3. Mohamed Haleel and
- 4. Mohamed Junaideen all of 9. Manthri Road, Havelock Town in Colombo.

Respondants.

I, Mohamed Nona Laila wife of Abdul Majeed Ahamed Lameer of "Villa D' or" 609, Baseline Road, in Colombo, being a Muslim, do hereby solemnly, sincerely and truly declare and affirm as follows:

No. 5
Affidavit
of the Plaintiff-
28 8.62.
-Continued

1. I am the Plaintiff - Petitioner Abovenamed.
2. I instituted this action against the defendants abovenamed for a declaration that I am entitled to the land described in schedule B to the plaint, to have the defendants ejected therefrom and for the recovery of damages until I am placed in possession thereof.

3. The defendants filed answer and the case was fixed for trial on the 19th day of February, 1962. But before the trial date the 1st defendant departed his life intestate at Colombo on or about the 7th day of January, 1962, leaving an estate below the value of Rs. 2,500/- and him surviving as his next of kin and heirs his widow, the 1st respondent and his children the 2nd, 3rd and 4th respondents abovenamed.

4. It has now become necessary to have the respondents abovenamed substituted as defendants in place of the 1st defendant deceased for the purpose of enabling the Court to proceed with this action.

The foregoing affidavit having been duly read over and truly interpreted to the affirmant abovenamed by me in Tamil her own language and she appearing fully to understand the contents thereof signed the same and was affirmed to at Colombo on this 28th day of August, 1962.

N. LAILA LAMEER.

Before Me.

(Sgd.) A. V. P. JOSEPH,
Commissioner for Oaths.

30

No. 6

Affidavit of the Plaintiff.

No. 6
Affidavit of the
Plaintiff-
27.11.62

IN THE DISTRICT COURT OF COLOMBO.

No. 9377/L

Mohamed Nona Laila wife of Abdul Majeed Ahamed Lameer of "Villa D' or" 609, Baseline Road, in Colombo. *Plaintiff*

vs.

No6
Affidavit of the
Plaintiff-
27.11.62
-Continued

1. M. Abdul and
 2. A. M. Sheriff both of 9, Manthri Road,
Havelock Town in Colombo.
- Defendants.*

BETWEEN

Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa D'or" 609, Baseline
Road, in Colombo. *Plaintiff-Petitioner*
and

1. Amina Umma widow of M. Abdul. 10
2. Nona Kathija wife of T. A. Halaldeen.
3. Mohamed Haleel and
4. Mohamed Junaideen.
all of 9, Manthri Road, Havelock Town, in
Colombo. *Respondents*

I, Mohamed Nona Laila wife of Abdul Majeed Ahamed Lameer of "Villa D'or" 609, Baseline Road in Colombo, being a Muslim, do hereby solemnly, sincerely and truly declare and affirm as follows:-

1. I am the plaintiff-petitioner abovenamed. 20

2. The notices in this case were issued and re-issued on the 1st, 3rd and 4th respondents but the same were returned to Court unserved, as the Fiscal was not able after every reasonable exertion to effect personal service thereof on the 1st, 3rd and 4th respondents abovenamed.

3. I am credibly informed and verily believe that the said 1st, 3rd and 4th respondents are at present residing at No. 9, Manthri Road, Havelock Town in Colombo within this Island, and that they are evading service of the said notices and if substituted service thereof by affixing copies of the said notices and copies of the 30 petition to the outer door of the last known place of abode of the said respondents at No. 9, Manthri Road, Havelock Town in Colombo as an equivalent for personal service of the said notices is prescribed by the Court the same could be effected.

The foregoing affidavit having been read over and truly interpreted to the affirmant abovenamed by me in Tamil her own language and she appearing fully to understand the contents thereof signed the same and was affirmed to at Colombo on this 27th day of November 1962.

N. LAILA LAMEER. 40

Before me.

(Sgd.) J. B. Edirimanasinghe
Commissioner for Oaths.

No. 7

Commission issued to S. Kumaraswamy,
Licensed Surveyor

No. 7
Commission
issued to
S. Kumaraswamy
Licensed
Surveyor
I. 10. 63

M. U. M. SALEEM
Proctor for Plaintiff

COMMISSION

IN THE DISTRICT COURT OF COLOMBO

Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa D'or", 609, Baseline
Road, in Colombo*Plaintiff*

10

No. 9377/L.

vs.

(dead)

1. M. Abdul
2. A. M. Sheriff.
3. Amina Umma widow of M. Abdul.
4. Nona Kathija wife of T. A. Halaldeen.
5. Mohamed Haleel and
6. Mohamed Junaideen-all of No. 9, Manthri
Road, Havelock Town in Colombo...*Defendants*

20 To:

S. KUMARASWAMY,
Licensed Surveyor,
9, Harischandra Mawata.
Pamankada,
Colombo 6.

WHEREAS the plaintiff abovenamed instituted the above styled
action for a declaration that she was entitled to the land in schedule
"B" to the plaint (a copy whereof is annexed hereto) and in the
schedule hereto fully described, for ejection and for the recovery
30 of damages and costs.

AND WHEREAS the plaintiff on 1st August, 1963, made
an application to issue a commission in this case to you, to
survey the said land described in schedule "B" to the plaint and
in the schedule hereto fully described and to make a plan thereof.

AND WHEREAS the Court by its order dated 10th August,
1963, allowed the said application.

NOW THESE PRESENTS WITNESS that you are hereby
directed to survey the said land described in schedule "B" to the
plaint and in the schedule hereto fully described and to make a
40 plan thereof and make your report to Court on or before the
7th day of November, 1963.

No. 7
Commission
Issued to
S. Kumaraswamy
Licensed
Surveyor
I. 10. 63.
Continued

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land and premises coloured pink in the plan and marked letter "B" (being a divided and defined portion of all those two contiguous allotments of land and premises marked lots 4 and 6 in Plan No. 2252 dated 26th September, 1928 and made by A. R. Savundranayagam, Licensed Surveyor and Leveller and bearing assessment Nos. 5, 7, and 9) with the buildings thereon bearing assessment No. 9 (formerly No. 7) situated at Manthri Road formerly called 89th lane in Thimbirigasyaya (formerly Wellawatte Ward) within the Municipality and District of Colombo, Western Province, and bounded on the North by lot A part of the same land bearing assessment No: 5 on the East by road (now called Fife Road) and on the South by Lot C part of the same land bearing assessment No. 9 (presently No. 11) Manthri Road and 148 Fife Road) and on the West by Road 89th Lane (now called Manthri Road) containing in extent twenty one and thirty hundredths perches (AO. RO. P 21. 30) according to the figure of survey bearing No. 785 dated the 7th October, 1931, and made by M. I. L. Marikar, Licensed Surveyor and Leveller. and registered under title A 209/133

By order of Court

10

(Sgd.) J. Ranatunga
Secretary.

The 1st day of October, 1963.

Drawn by me.
(Sgd) M. U. M. Saleem
Proctor for Plaintiff

No. 8 Plan No. 446 made by S. Kumaraswamy, Licensed Surveyor. (See P1)

No. 9 Return to Commission by S.Kumaraswamy, Licensed Surveyor. (See P1A)

No. 10 Issues Framed.

30

No. 10
Issues Framed

21. 11. 63.

Mr. Advocate Jayamanne duly instructed for plaintiff.

Mr. Advocate Kottegoda duly instructed for defendants.

Mr. Adv. Jayamanne raises-

1. Is the plaintiff entitled to the land described in the schedule to the plaint and depicted as lot B in plan No. 446 filed of record of 7th October, 1931 upon the title pleaded in the plaint.

2. Is the plaintiff entitled to lot B in the said plan in the schedule by right of prescription.

40

Adv. Mr. Kottegoda raises—

3. Has the defendant been in prescriptive possession of the land described in the schedule B to the plaint.
 4. If so has he obtained a prescriptive right thereto.
 5. Has the defendant been in wrongful possession of the said lot B.
 6. If so what damages.
- Damages agreed at Rs. 7/50 per month.

No. 10
Issues Framed
-Continued

No. 11

Plaintiff's Evidence

10 Mr. Jayamanne calls

Sinnathamby Coomarasamy-affirmed, Licensed Surveyor, Colombo.

A commission was issued to me in this case. On that I made plan No. 446 filed of record marked P1 and I also forward to court my Report P1A. I surveyed the land and the survey is shown on that plan. I have surveyed 3 lots A, B and C and in my survey I superimposed plan 785 of 1931 made by M. I. L. Marikar-P2.

The superimposition is shown in red line. Superimposition shows lot B is identical with lot B in P2. The said lot is No. 9. I verified the assessment number of the premises at the Municipal office and I found it to be assessment number 9 Manthri Road.

Cross-examination

Q. What is the assessment No. of the lot above lot B ?

A. Assessment No. 5.

Q. Below No. 9 what is the number ?

A. Assessment No. 11, 13 along Manthri Road and No. 148 along Fife Road.

Q. Where is No. 7 ?

A. I could not trace assessment No. 7, although I tried to verify that number in the Municipal office.

30 Q. On the north to No. 9 further away there is a house and there is some vacant space between that house and No. 9 ?

A. There is a house in lot 5:

Q. Between the house assessment number 5 and assessment No. 9 there is a vacant space ?

No. 11
Plaintiff's
Evidence
—
Evidence of
S. Coomarasamy-
Examination

Evidence of
S. Coomarasamy-
Cross-
examination

No. 11
Plaintiff's
Evidence

Evidence of
S. Coomasamy-
Cross-examina-
tion
-Continued

Evidence of
Nona Laila
Ameer-
Examination

A. They are attached houses. Premises No 5 is a fairly old building. Assessment No. 9 is also a fairly old building. The defendant was in residence when I went to No. 9.

(Sgd)

Additional District Judge.

Mrs. Nona Laila Ameer-affirmed, wife of Mohamed Lafir-affirmed 45 years, Baseline Road, Colombo.

I am the plaintiff in this case. Upon deed No. 446 of 1933 P3 my father M. I. Mohamed became the owner of two portions of the land described in the shedule A to the plaint. 10

My father divided these two portions into three lots as shown in plan P 2 and he by deed No. 599 of 1931 P4 gifted lot B of P2 to me subject to certain conditions stated in the deed and by deed No. 752 of 1933 P5 my father cancelled the conditions that are mentioned in P4.

The 1st defendant Abdul now dead was my uncle, he was my mother's brother. He was residing in my portion.

Q. How did he come there ?

A. My father brought Abdul to look after certain building materials that had been brought to build certain houses. That 20 was to build a house in block A in plan P2. He came there as a watcher and also as a milkman.

In addition to what was built in lot A, a portion of a building was also put in lot B. Abdul went into occupation after the building was put up in lot B. At the time that building was put up in lot A another building was put up in lot B adjoining lot A. Abdul was placed in that building in lot B Abdul paid rent to my father.

My father field action No. 30115 in the Court of Request against Abdul. I mark P6 plaint answer and terms of settlement in 30 that case. In that case Abdul agreed to leave this place by 31st December, 1951. Abdul did not leave after the case. He obtained time to leave. My father gave time, then my father died. He died in March, 1954. Then my mother filed action against the 1st defendant.

Cross examination.

Q. You were the owner all along from 1933 after P5 ?

A. Yes.

Q. And this was not a portion of your father's estate ?

A. No. This was gifted to me.

Evidence of
Nona Laila
Ameer
Cross-
examination

Q. Your mother filed this action against your uncle Abdul?

A. Yes.

No. 11
Plaintiff's
Evidence

Counsel produce the plaint of 28. 1. 59 marked 2D1. Answer filed by Abdul of 10. 7. 59, 2D2, The issues framed on the 28th July, 1959 2D3. Answer to the issues marked 2D4. Decree entered in C. R. dated 28th July, 1959 marked as 2D5.

Evidence of
Nona Laila
Ameer-
Cross-examina-
tion
-Continued

I am not aware whether there was an appeal to the Supreme Court by my mother. Counsel marks the Decree of the Supreme Court 2D6. Faleel is my brother. He gave evidence in that case.
10 He is also come here to give evidence.

Q. And up to now you do not know that there was an appeal in that case?

A. I do not know. I never discussed this matter with my brother. I know the present defendant's wife.

Q. Was she an adopted daughter of your father?

A. No, she was my mother's sister's daughter. She lived with my father. My uncle's son the defendant married my other cousin. The marriage took place at my house.

Counsel produce marked certified copy of marriage with Nona 20 Rahi, 2D7, translation 2D7A. The marriage took place about 20 years ago.

Q. And at the marriage Kaikuli was given?

A. I do not know.

Q. The property in Skinner's Road North 11, 11/1, and 11/2 and 11/3 were given as dowry?

A. No.

Q. If that is written in the Marriage certificate you say it is wrong?

A. Yes.

30 Q. Your father was entitled to 11, 11/1 and 11/3 Skinner's Road?

A. No.

Q. Do you deny Skinner's Road, 11, 11/1 and 11/3 belonged to your father?

A. I deny.

My father did not promise to give a dowry. Mohamed Ibrahim Mohamed is my father.

Q. The 2nd defendant and wife came into residence of this property about 20 years ago?

40 A. Yes.

Q. Was a property given to the 2nd defendant when he married your cousin?

No. 11
Plaintiff's
Evidence
—
Evidence of
Nona Laila
Ameer
Cross-
examination
-Continued

A. No.

Q. If it is entered by the Registrar in the marriage certificate?

A. I do not know.

Q. No cash was given to him?

A. Only household furniture and jewellery were given at the marriage of the 2nd defendant.

Q. Your position is that no property was given?

A. No.

Q. According to you you were the owner of the property from 1933 without any restrictions? 10

A. Yes.

Q. You never recovered rent from the 2nd defendant?

A. My father used to recover rent.

Q. You never paid any rates and taxes?

A. No, my father paid the rates and taxes.

Q. I put it to you that your father never paid any taxes for this property?

A. He has paid.

Q. I put it to you for the last 20 years the defendant paid rates and taxes for this property? 20

A. That is not correct.

Q. Do you know that the property was under seizure a number of times?

A. I do not know.

I am not producing any tax receipts.

Q. You have no receipts of any payment made by the 2nd defendant?

A. No.

Q. Your mother had no right to bring this action after your father died? 30

A. Because my father had recovered rents for the houses the lawyers had advised her that she should file action.

Q. Are you aware that the 1st defendant said in C. R. Case Sheriff was entitled to the property?

A. No.

Q. What is the portion that your father sold to Albert?

A. That is lot C.

Q. And the northern property was also sold?

A. A portion also had been sold. C portion was sold in 1946, A portion was sold in 1937 or 1938. 40

Q. You said your cousin was in residence there from 1942?

A. Yes.

Q. Have you got any receipts of payments by anybody?

A. No.

Father of 2nd defendant's wife died recently.

Q. The wife died how long ago, Sheriff's wife?

A. Sheriff's wife is very much alive.

Q. You had not been to the premises at all?

A. No.

Q. From 1933 up to date you have not been to the premises?

10 A. No.

(Sgd).....

Additional District Judge.

Re-examination

The 2nd defendant is the 1st defendant's son.

Q. How did he come to the premises?

A. He remained where his father was.

(Sgd).....

Additional District Judge

Mr. Jayamanne closes his case reading in evidence P 1 to P 6.

No. 11
Plaintiff's
Evidence

Evidence of
Nona Laila
Ameer-
Cross-examina-
tion
-Continued

Evidence of
Nona Laila
Ameer
Re-examination

20

No 12.

Defendants' Evidence

Defence calls-

A. M. SHFRIF-affirmed, 49 years, Mason, Havelock Town.

I am the 2nd defendant in this case. The 1st defendant who died is my father. I am married to M. I. Mohamed's wife's sister's daughter. M. I. Mohamed is my father's elder sister's son. I married M. I. Mohamed's wife's sister's child, and the marriage took place at M. I. Mohamed's house. 2D7 is a certified copy of my marriage certificate.

30 At my marriage a dowry was promised. M. I. Mohamed promised the dowry- the elder uncle of the bride. Rs. 500/- cash, house utensils Rs. 200/- and property situated at Skinner's Road 11, 11/1 and 11/3, Rs. 500/- and gold jewellery was given at the time, and the rest to be given when demanded.

Q. Was that Skinner's Road property Transferred to you by M. I. Mohamed?

A. I was not given. That property was sold.

Q. Then what were you given?

A. I was given the land where I reside now

No. 12
Defendants'
Evidence

Evidence of
A. M. Sherif
Examination

No. 12
Defendant's
Evidence
—
Evidence of
A. M. Sheriff-
Examination
Continued—

Lot B in the plan P 2 along with the house. In 1942 I went there. I have been in residence in that property from 1942. I had not paid rent to anybody. My father did not pay rent to anybody. I was not aware of any transfer to the plaintiff until this action was filed.

The northern property was also sold by M. I. Mohamed long years ago. That is lot A. And the southern was also sold. I produce marked 1D9 deed 1390 of the 20th September, 1946 with regard to portion C. I cannot say when A was sold, it was sold about the same time. 10

Q. You remember the action filed against your father by Balkis Umma?

A. I do not know about that.

Q. In any case you gave evidence?

A. That was a case which was filed against me.

Q. Was there a case filed against your father Abdul?

A. There was a case. I produce the plaint in action No. 72121 Court of Requests dated 28th January, 1959, marked 2D1, that was filed by Balkis Umma who is the wife of M. I. Mohamed. She is also related to me and related to my wife. 20

Q. Did your father take on rent a premises from M. I. Mohamed at any time?

A. No.

I produce the answer filed in that action 2D2, issues marked 2D3.

Q. Are you aware what your father's answer in that case?

A. I do not know.

My father lived in the adjoining land. He came to live with me in 1959 or so. In that action my cousin Faleel gave evidence. I also gave evidence. That action against my father was dismissed. 30 I produce the issues in that case marked 2D3 and answer to the issues 2D4 and Court of Requests decree 2D5 of 28th July, 1959 and the Supreme Court decree 2D6.

Q. Was the plaintiff aware of that action?

A. I cannot say. Faleel knew. Faleel is plaintiff's brother.

Q. Municipal taxes for this property from the time you went into residence was paid by whom?

A. I who paid. From 1942 I paid taxes.

Q. What happened to the old receipts?

A. They are lost. 40

I produce subject to proof.

I produce marked 2D9 receipt dated 26th July, 1950. This property under seizure at this time. I produce 2D10 seizure notice dated 24th of July, 1950.

I produce marked 2D11 receipt for the payment of the 2nd quarter 1950 - payment by me in my name. I produce 2D12 payment for the 3rd quarter 1950. I produce marked 2D13 payment for the 4th quarter 1950.

I produce marked 2D14 payment for the the 1st quarter 1951
 10 I produce marked 2D15 payment for 3rd quarter, 1951.
 I produce marked 2D16 payment for the 4th quarter, 1951.
 All these receipts are in my name.

I produce marked 2D17 receipt for the payment of the 1st quarter 1952.

I produce 2D18 for the 2nd quarter, 1952.

I produce 2D19 for the 3rd and 4th quarters, 1952.

I produce marked 2D20 for the 1st and 2nd quarters, 1953.

I produce 2D21 receipt for the 3rd and 4th quarters,
 1953.

20 I produce marked 2D22 payment for the 4th quarter, 1954.

I produce 2D23 payment for 1st and 2nd quarters, 1954.

I produce 2D24 for the 3rd quarter, 1954.

I produce 2D25 payment for the 1st quarter, 1955.

I produce 2D26 for the 2nd quarter, 1955.

I have also paid warrant charges because I got delayed.

I produce 2D27 for 3rd quarter, 1955.

I produce 2D28 for the 4th quarter, 1955.

I produce 2D29 payment for 1st quarter, 1956.

I produce 2D30 for the 2nd quarter 1956.

30 I could not pay the 2nd quarter in time and there was a warrant issued.

I produce 2D31 demand notice from Municipal Council.

I produce marked 2D32 payment of taxes for the Municipality for 3rd quarter, 1956.

I produce 2D33 for the 4th quarter, 1956.

I was not able to pay in time and I had to pay warrant costs -/67 cents.

I produce 2D34 payment for 1st quarter 1957 with warrant charges of -/67 cents.

40 I produce marked 2D35 payment for 2nd, 3rd and 4th quarters, 1957.

No. 12
 Defendants'
 Evidence
 —
 Evidence of
 A. M. Sheriff
 examination
 tion
 -Continued

No. 12
Defendants'
Evidence
—
Evidence of
A. M. Sheriff-
Examination
—Continued

I produce 2D36 payment for the 1st and 2nd quarters, 1958.

I produce 2D37 payment for 3rd quarter, 1958.

I produce marked 2D38 for the 4th quarter, 1958.

I produce marked 2D39 for the 1st quarter, 1959.

I produce 2D40 for the 1st and 2nd quarters, 1959.

I have paid with warrant charges 2/76.

I produce 2D41 payment for the 3rd and 4th quarters, 1959.

I produce marked 2D42 payment for the 1st quarter, 1960.

I produce 2D43 payment for the 2nd quarter, 1960.

I produce marked 2D44 payment for the 4th quarter, 1960.

I produce 2D45 payment for 1st and 2nd quarters, 1961. 10

I produce marked 2D50 payment for 3rd and 4th quarters 1961

I produce marked 2D51 payment of the 4 quarters, 1962.

I produce marked 2D52 payment for 1st and 2nd quarters, 1963.

Originally the rates and taxes was 6/75 a quarter, then after that from about 1959 it was something like 13/85 and thereafter it was 20/60 per quarter.

Q. Have you made any improvements to the house?

A. I have taken an additional two rooms and built a well.

Q. Did your uncle at any time demanded any rent from 20 your father?

A. No.

Q. Was he aware that your father was living with you?

A. My father came later, he was aware.

Q. So that when the first Court of Requests Case was filed where was your father living?

A. He was in the C block where there were sheds put up for storing materials.

Cross-Examination.

Evidence of
A. M. Sheriff
Cross-
examination

Q. Do you know that action was filed by M. I. Mohamed 30 against your father?

A. I do not know.

Q. Was your father living in Mantri Road?

A. Yes.

Q. And he lived with you?

A. No, not with me. Before I got married I lived with him.

Q. Your father never spoke to you about a case filed against him by Mohamed?

A. No.

I took this extensions in 1950.

Q. I put it to you those extensions were made by Mohamed? 40

A. Mohamed did not come even to the side.

Q. I put it to you that you and your father lived in this house under Mohamed?

No. 12
Defendants'
Evidence

A. I deny that.

Evidence of
A. M. Sheriff-
Cross-examina-
tion
Continued—

Re-Examination

Q. Your father came to live with you in the portion in which you are?

A. Yes.

Q. From what portion did he come?

A. From C portion he went to the B portion.

Evidence of
A. M. Sheriff
Re-Examination

10

(Sgd)
Additional District Judge.
21. 11. 63

Further evidence on 15. 1. 64.

27th February, 1964

Appearances as on last date. Corrections made in the record.
D. Simon affirmed, 49 years, watcher, Port (Cargo) Corporation Colombo.

Evidence of
D. Simon
Examination

20 About 15 years ago some people had come from the Municipality to the premises in question to seize the articles. At that time I spoke to Sheriff the 2nd defendant. He told me that as he had failed to pay the taxes, the Municipality had come to remove the things. Thereafter I have seen the 2nd defendant in possession of the property. He is still there.

Cross-examination

All I can say is that Sheriff was living in that house. I am speaking about this incident that happened about 15 years from memory.

Evidence of
D. Simon
Cross-
examination

Re-examination-Nil.

30

(Sgd)
Additional District Judge.

H. B. J. PERERA affirmed, Clerk, Treasury Department Colombo Municipality.

Evidence of
H. B. J. Perera
Examination

2D9 to 2D30 are receipts issued by the Colombo Municipality in respect of the premises in suit.

2D32 to 2D52 are payment receipts in respect of the premises in suit issued by the Colombo Municipality.

Cross examination

40 I am working in the Department dealing with payment of rates and taxes in respect of premises. I came to that department in 1963. The Municipal Treasurer is one Attigale. I cannot say who signed the receipts but somebody had signed on behalf of the Municipal Treasurer. I cannot identify the signature on

Evidence of
H. B. J. Perera-
Cross-examina-
tion

No. 12
 Defendants'
 Evidence
 —
 Evidence of
 H. B. J. Perera
 Cross-examina-
 tion.
 -Continued

2D10. The person who collects the taxes issues the receipts after signing them. I cannot identify the persons who signed the documents 2D11 to 2D50. If the payment is made in office, the clerk in the office issues the receipt. In all these receipts the Treasurer's name is rubber stamped.

Re-examination

Evidence of
 H. B. J. Perera
 Re-examination

The Municipal Treasurer has asked me to identify the receipts in Court. In all these receipts two persons have signed. I cannot identify their signature.

In 2D9 I identify the Municipal Treasurer's rubber stamp, the 10 collector's signature and another officer's signature.

(Sgd)

Additional District Judge

27. 2. 64

No. 13

Addresses to Court

No 13
 Addresses to
 Court

Advocate Mr. Kottegoda Addresses Court:

and cites 15 N. L. R. 132 and 52 N. L. R. 49. He submits the plaintiff has failed to prove possession. The defendant has proved that he has been in possession from 1942 and paid all 20 rates and taxes from 1950 up to now.

He admits title in the plaintiff. There is no evidence to show that the 2nd defendant came under anybody. Counsel refers to pages 5 and 9 of the proceedings.

(Sgd)

Additional District Judge.

27. 2. 1964

Advocate Mr. Jayamanne submits that the document P 6 is an action by Mohamed against the 1st defendant on the footing that he is a tenant. He refers to the answer and statements in P 6. The 30 1st defendant took up the position that Abdul was the plaintiff's tenant and therefore he wanted time to leave. Counsel refers to page 7 of the proceedings. Counsel submits that he had proved that Abdul came into occupation as a tenant of Mohamed and he was in occupation until 1951. His son was living on the land with Abdul.

The evidence on page 9 which he has given in order to establish the effect of the plaint, answer and the decree in P 6 is utterly false.

(Sgd)

Additional District Judge 40

DOCUMENTS on 18. 3. 1964.

(Sgd)
Additional District Judge.
 27. 2. 64.

No. 14

Judgment of the District Court

JUDGMENT

No. 14
 Judgment of
 the District
 Court-
 28.4.64

This is an action by the plaintiff against the defendants for:

- 10 (a) a declaration of title to the land described in schedule B to the plaint;
 (b) for ejectment of the defendants from the said land;
 (c) for damages agreed upon at the trial at Rs. 7/50 per month;
 (d) for costs.

This action was filed against the 1st and 2nd defendants. The 1st defendant died after the institution of this action and the 3rd to 6th defendants have been substituted in place of the deceased 1st defendant.

The plaintiff claims title to the land described in schedule B on the deeds P 3, P 4 and P 5. This land is referred to in 20 deed P 5 as coloured in pink in Plan No. 785 of 7.10.1931 - P 2 and marked with the letter B. Surveyor Cumarasamy has made plan No. 446 of 17.10.63- P 1 and has identified lot B in plan P 2 as lot B in plan P 1. The plaintiff's case is that the 1st defendant is the uncle of her father who on P 3 was entitled to the entirety of the corpus shown in plan P 2 and the 2nd defendant is the stepson of the 1st defendant. The 1st defendant had been her father's tenant of the building shown in Lot B in plan P 1 and the tenancy was determined. The 1st and 2nd defendants were jointly and in concert unlawfully denying plaintiff's title 30 to the land in dispute. The plaintiff claimed title also by prescriptive possession.

In the answer of the 1st and 2nd Defendants they aver that the 1st and 2nd defendants are father and son respectively and the 1st defendant lives with the 2nd defendant. The 2nd defendant claimed the land in dispute by prescriptive possession.

On the deeds P 3, P 4 and P 5 and the evidence of the plan P 1 and P 2 it is clear that the plaintiff has title to the land

No. 14
Judgment of
the District
Court-
28.4.64
-Continued

in dispute in this case. The plaintiff's evidence is that her late father had brought building materials to put up a house in lot A in plan P 2 and the deceased 1st defendant has been engaged to look after the materials. Her father had put up a house in lot A and in lot B and the 1st defendant had been permitted to occupy the house in lot B and the 1st defendant paid rent to her father for the house in lot B. The 1st defendant had failed to pay the rent and action was filed by her father against the 1st defendant. The plaint in this action No. 30115 Court of Requests, Colombo and the answer filed by the 1st defendant in the instant 10 case and who was the defendant in that case is and the terms of settlement filed in the case are marked P 6.

In that action Mohamed the plaintiff's father sued the defendant Abdul for damages, for ejection of the defendant and costs. Mohamed averred that he has let to the defendant on rent premises bearing assessment No. 9 on a rental of Rs. 15/- per month. The defendant had paid rent upto October, 1949 but not thereafter. The Plaintiff has given due notice to quit the said premises but the defendant has continued to be in wrongful occupation. 20

The defendant filed answer denying contract of tenancy with the plaintiff. He averred that the plaintiff had agreed to give the premises to the defendant's son by way of dowry in consideration of the latter marrying an adopted daughter of the plaintiff and the plaintiff had placed the married parties in possession of these premises undertaking to give them a deed of gift in respect of these premises.

The defendant averred that as there was no contract of tenancy between him and the plaintiff the latter could not maintain this action and he prays for the dismissal of the Plaintiff's 50 action.

On 15.2.61 the plaintiff and the defendant settled the action and the terms are as follows:

"The defendant admits that he had been in arrears of rent for a month after it became due. The plaintiff waives all rents and damages up to 31.1.51 and will waive all subsequent damages if vacant possession is given. Of consent judgment for plaintiff in ejection and damages at Rs. 5/- per month from 1.2.51. Writ of ejection not to issue till 31.12.51. At the expiry of this period if the defendant has not found alternative accommodation 40

application for extension of time for another six months will be considered provided the Municipality does not force the plaintiff's hands in the matter of providing sanitary conveniences. The defendant undertakes to keep the premises clean so as not to become a nuisance within the meaning of the law. Enter decree"

No. 14
Judgment of
the District
Court-
28-4-64
-Continued

That the premises in dispute in Court of Requests, Colombo No. 30015 are the same as in this case is clear. The plaintiff relied on this case to show that on 15. 2. 51 when the terms of settlement were
10 entered the deceased 1st defendant in the instant case, who was the defendant in that case admitted that he was in occupation of the premises as a tenant, notwithstanding the defence taken up by him in his answer that the plaintiff's father, the plaintiff in that case, had placed the 2nd defendant and his wife in possession of these premises with an undertaking to gift it to them by deed.

The plaintiff's father had died in 1954 and her mother had filed action No. 72121, Court of Requests, Colombo, against Abdul the same defendant as in C. R. Colombo 30015. The plaintiff in C. R. Colombo 72121 was Balgis Umma who sued as
20 executrix of the last will of Mohamed the plaintiff's father. The plaint is 2D1. The amended answer 2D2. The issue 2D3. The answer to the issue 2D4, the decree 2D5 and the decree of the Supreme Court 2D6.

In this action, the plaintiff sued the defendant avering that he has not paid rent from February, 1951 and due notice to quit had been given and prays for an order for ejection of the defendant from the premises (which are the same as in the earlier case C.R. Colombo 30015) and for damages. In his answer the defendant took up the position that there was no rent due from him as he
30 was living in the premises with his son Sheriff who had prescribed to the said premises. The issues framed were:

(1) Did the late Mohamed let the premises in suit No. 9, Manthri Road, Havelock Town to the defendant.

(2) If so, is the plaintiff entitled to a decree for ejection

(3) What rent and damages.

the answer to the issues are:

(1) Yes, but the defendant ceases to be a tenant after the decree in P1 and he is a trespasser.

(2) No. in view of the answer I wish to give to No.3.

40 (3) Nil. The Plaintiff's action was dismissed with costs.

The plaintiff appealed from the judgment of the learned Commissioner and the Supreme Court dismissed the appeal and the Supreme Court decree is 2D6.

No. 14
 Judgment of
 the District
 Court-
 28-4-64
 -Continued

The plaintiff states she was unaware of the appeal. In the case filed by her, her brother Faleel too gave evidence and it is not likely she was unaware of the progress of the case. The Marriage Certificate containing the entries of the marriage of Sheriff the 2nd defendant is 2D7. The cage relating to "Stridanam" shows that the plaintiff's father had undertaken to transfer certain immovable properties and certain other articles. The plaintiff denied that any immovable was given at the marriage. According to her her father had received rent from the 2nd defendant and it was her father who had paid the assesment rates. He was however ¹⁰ unable to produce any receipts for payment of taxes, nor for rent paid by the 2nd defendant and she admitted she had not been to the premises from 1933. To question by her counsel in examination, her answer is that the 2nd defendant came to the present premises as his father the 1st defendant-lived there.

The 2nd defendant referred to the undertaking given by Mohamed the Plaintiff's father to transfer certain immovable property on the occasion of his marriage with Mohamed's niece and this undertaking was recorded in the marriage certificate 2D7 and as the land referred in 2D7 has been sold out he was ²⁰ given the land in dispute in lieu of the other land. He has been residing in that land from 1942. Neither he nor his father has paid rent to any one and until this action was filed he was unaware that the plaintiff claimed title to the land. He refers to the action in C. R. 72121, Colombo. He stated he could not say whether the plaintiff was aware of this action in the Court of Requests but her brother Faleel was aware of it.

From 1942 he had paid the taxes for the premises and in proof he produced 2D9 and 2D11 to 2D30 and 2D32 to 2D52, showing payment of taxes from 1950 to 1963. 2D10 is a seizure notice and ³⁰ 2D31 is a demand notice.

These receipts show that the name of the 2nd defendant appears as the person from whom payment was received and the payments are for the premises in dispute. He denied knowledge of the action No. C. R. 30015 Colombo filed by the plaintiff's father against his (2nd defendant's) father. He denied that the 1st defendant his father lived with him. According to him until he married he lived with his father. He has made improvements to the building on the land in dispute in 1950 and denied they were made by the plaintiff's father. In re-examination by his Counsel he states ⁴⁰ that his father who was living in the portion "C" (in plan P1 or P2) came to reside with him in the portion marked "B".

The evidence in the case shows that the Plaintiff has on the deeds P3, P4 and P5 title to the land shown as "B" and the building thereon as depicted in plan P1 or P2. The 1st and 2nd defendants who were the original defendants do not in their answer or in their evidence claim title to the land in dispute on any deeds. Their claim is based on prescriptive possession by the 2nd defendant. The 1st defendant's case was that he lived with her and the 2nd defendant and he claimed no title to the land in dispute.

No. 14
Judgment of
the District
Court-
28-4-64
-Continued

According to the action C. R. 30015 Colombo filed on 16. 10. 50
10 P 6, the plaintiff Mohamed sued Abdul the 2nd defendant's father on a contract of tenancy. In the action (also P6) Abdul took up the identical position taken up by the 2nd defendant in his answer in the instant case. Viz that the 2nd defendant and his wife were given possession of the land in dispute after their marriage by Mohamed the plaintiff's father as he had sold out the land he has undertaken to transfer as shown in the marriage certificate 2D7. Abdul the defendant in that case denied that he was a tenant of Mohamed. Thereafter that case was settled. In the settlement Abdul agrees that he is the tenant of the plaintiff's father the
20 plaintiff in this case. He admits that he has been in arrears. He consents to judgment being entered against him in ejectment and damages at Rs. 5/-per month from 1. 2. 1951. He agrees to writ of ejectment not being issued till 31. 12. 51 and a further extension if he is unable to find alternative accommodation. He undertakes to give vacant possession on the plaintiff waiving all rents and damages upto 31. 1. 51. These terms of settlement were arrived at on 15. 2. 51 and decree was to be entered accordingly.

Reference was made by the 2nd defendant to a later case filed by Mohamed's widow as executrix of Mohamed's estate viz. C. R. 3072121 Colombo. The answer to the issues show that Mohamed's contract of tenancy with Abdul the deceased 1st defendant who was the defendant in C.R. 30015 Colombo was accepted but that Abdul had ceased to be the contractual tenant after the decree in that case P6 and that he was a trespasser and there was no contract of tenancy between the plaintiff and the defendant Abdul in C.R.72121 Colombo and no question of rent or damages as the issue (3) arose and consequently the plaintiff was not entitled to a decree in ejectment, which is the answer to issue (2).

It cannot be denied that in accordance with the settlement reached
40 in C.R. 30015 Colombo P6 on 15.2.51, Abdul the 1st defendant in the instant case was the contractual tenant until decree was entered. He continued to remain in occupation by reason of the leave

No. 14
 Judgment of
 the District
 Court-
 28-4-64
 -Continued

granted to him by the plaintiff in that case and embodied in the settlement. At the settlement he gave up the position he took up in his answer that the 2nd defendant in the instant case was the person in occupation at the time of the institution of the action. According to the terms of the settlement of 15. 2. 51 the defendant in that case made no reference to his son Sheriff as having any rights or claims to the land in dispute at the time. The 2nd defendant in the instant case claims to have been in possession from the time of his marriage in 1941 and that his father lived with him and not that he lived with his father. The 1st 10 defendant himself does not claim to have prescribed to the land in dispute. The 2nd defendant stated that the 1st defendant lived in lot C and then came to lot B to reside with him. The lots appear in Plan P 1 and P 2. There is no building in lot C where the 1st defendant could have resided. The 2nd defendant produced tax receipts from 1950 up to 1963. He stated he had lost the receipts prior to 1950. The Plaintiff has not been able to produce any receipts for the payment of taxes for any period of time. Notwithstanding this the 1st defendant admitted in 1951 that he was a tenant 20 of Mohamed the plaintiff's father. It is difficult for the Court to accept the 2nd defendant's evidence that the 1st defendant who lived elsewhere in lot C came to lot B to reside with him when the evidence of P 6 shows that in 1951 it was the 1st defendant who was the tenant of the land in dispute and the 2nd defendant's evidence is that after his marriage which was in 1941, he was placed in possession by Mohamed the plaintiff's father. On 15. 2. 51 according to the settlement P 6 the 1st defendant was in possession whether with the leave of the plaintiff or as trespasser, and if as a trespasser the 1st defendant makes no claim to prescriptive possession. It is highly 30 improbable that about this same time the 2nd defendant who according to the probabilities, was living with the 1st defendant, was in independent possession so as to prescribe to the land in dispute. If the date 15. 2. 51 is accepted as the date when the 1st defendant was in terms of the settlement in possession of the land in dispute, the 2nd defendant did not have ten years of possession before action in the instant case was filed on 11. 1. 61 to enable him to prescribe to the subject matter of this action.

I answer the issues as follows:

1. Yes
2. Yes.
3. No. The defendant used in the singular, is taken to mean the 2nd defendant.
4. No.
5. Yes.

6. Damages at Rs. 7/50 viz damages as claimed up to date of action and thereafter at Rs. 7/50 per month till plaintiff is restored to possession.

I enter judgment for plaintiff as prayed for in para (a) of the prayer of the plaint, para (b) of the prayer of the plaint with damages in Rs. 388/80 up to date of action and Rs. 7/50 per month until plaintiff is restored to possession and costs.

Sgd
Additional District Judge.
 28. 4. 64

No. 14
 Judgment of
 the District
 Court-
 28-4-64
 - Continued

No. 15

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

20

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Petition of Appeal tendered
 on 5. 5. 64 at 1. 35 p.m.

Sgd
Assistant Secretary District Court.
Colombo.

A. M. Sheriff of No. 9, Manthri Road, Havelock
 Town, Colombo. *2nd Defendant-Appellant.*

vs.

Mohamed Nona Laila wife of Abdul Majeed
 Ahamed Lameer of Villa D'or 609, Baseline Road,
 Colombo. *Plaintiff-Respondent.*

and

1. M. Abdul.
3. Amina Umma widow of M. Abdul.
4. Nona Kathija wife of T. A. Halaldeen.
5. Mohamed Haleel and
6. Mohamed Junaideen all of No. 9, Manthri
 Road, Havelock Town.

..... *Defendant-Respondants.*

30 No. 9377/L.
 S. C. 247(F)
 1964

40

No. 15
 Petition of
 Appeal to the
 Supreme Court
 5-5-64

No. 15
 Petition of
 Appeal to the
 Supreme Court
 5-5-64
 -Continued

To,

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

On this 5th day of May, 1964.

The petition of appeal of the abovenamed 2nd Defendant-Appellant appearing by his Proctor A. H. T. Dayananda states as follows:-

1. The Plaintiff-Respondent who had never been in possession of the land and premises depicted in Plan P1 filed this action for 10 declaration of title on the 11th of January, 1961 on the title pleaded by deeds P3 and P5 of 1935.

2. The 2nd Defendant-Appellant stated that on his marriage the uncle of his wife promised to give certain properties as evidenced by 2D7 to him which was later sold and in lieu of same this 2nd Defendant-Appellant and his wife entered into possession of this property in 1942 and since then has been in exclusive possession of same without any payment of rent or acknowledging anybody else as owners.

3. That the 2nd Defendant-Appellant and his wife were in 20 possession from 1942 was admitted in cross-examination by the Plaintiff-Respondent.

4. It was also in evidence that some action was filed by some person who had no title against this 2nd defendant-Appellant's father earlier and in 1959 also which was dismissed.

5. The proceedings of the latter action was produced 2D1 to 2D6 when the 2nd Defendant-Appellant's father filed answer 2D2 stating that the property was that of the 2nd Defendant-Appellant by uninterrupted adverse and independent and exclusive possession 30 from 1942.

6. At the trial the 2nd Defendant Appellant produced Tax receipts, seizure notices etc., from 1950 up to trial day marked 2D9 to 2D51 to show possession ut dominus for over 40 years.

7. The Plaintiff-Respondent did not adduce any evidence of possession oral or documentary other than the deeds of 1935.

8. The learned Additional District Judge by his judgment and order delivered on the 28th of April, 1964, entered judgment and order in favour of the Plaintiff-Respondent with costs of suit.

9. Feeling greatly aggrieved by the said judgment and decree the 2nd Defendant-Appellant begs to appeal to Your Lordships' 40 Court on the following and other grounds:-

- (a) The said judgment is contrary to law and against the weight of the evidence led at the trial.
- (b) The learned Judge has misdirected himself on the law applicable to the proved facts of this case.
- (c) Documents 2D7, 2D1 to 2D6 and 2D9 to 2D51 clearly prove that the 2nd Defendant-Appellant has prescribed to the property from 1942,
- 10 (d) The possession of the 2nd Defendant-Appellant and his wife was admitted by the Plaintiff-Respondent for over 20 years before action;
- (e) No rent counterfoil receipts or other oral or documentary evidence in support of her possession or the alleged landlord was led by the Plaintiff-Respondent;
- (f) There is no evidence of the exercise of ownership by the Plaintiff-Respondent or anybody on her behalf from 1942 and as no attempt was made to prove any possession by leave and licence or as tenant by the appellant;
- 20 (g) A half hearted attempt to prove some agreement in action No. 30155 in the Court of Requests-(P6) was attempted but this does not bind the Appellant who did not come into the property under his father;
- (h) Action of the deceased 1st Defendant cannot bind the 2nd Defendant-Appellant specially when 2D2 negativates this contention.

Wherefore the 2nd Defendant-Appellant prays that your Lordships' Honourable Court be pleased to:

- (1) set aside the said judgment and decree;
- (2) dismiss Plaintiff-Respondent's action;
- (3) declare the 2nd Defendant-Appellant had prescribed to the
30 property;
- (4) Award costs; and
- (5) for such other and further relief as to Your Lordships' Court shall seem fit.

Sgd

Proctor for 2nd Defendant-Appellant.

No. 16

Decree of the District Court.

IN THE DISTRICT COURT OF COLOMBO.

Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa D'or" 609, Baseline
Road, in Colombo.....*Plaintiff.*

No. 9377/L

vs.

- (dead) 1. M. Abdul and
2. A. M. Sheriff, both of 9, Manthri Road,
Havelock Town, Colombo and 10
3. Amina Umma widow of M. Abdul.
4. Nona Kathija wife of T. A. Halaldeen.
5. Mohamed Haleel and
6. Mohamed Junaideen all also of No. 9,
Manthri Road. Havelock Town, Colombo.
(substituted in place of the 1st defendant,
deceased).....*Defendants.*

This action coming on for final disposal before N. M. J. Rajendram Esquire, Additional District Judge of Colombo, on the 28th day of April, 1964, in the presence of Mr. Advocate J. M. 20 Jayamanne instructed by Mr. M. U. M. Saleem, Proctor on the part of the plaintiff and of Mr. Advocate H. H. Kottegoda, instructed by Mr. Q. M. R. Jayamanna, Proctor, on the part of the 2nd defendant:

It is ordered and decreed that the plaintiff be and she is hereby declared entitled to the land and premises described in the schedule hereto.

It is hereby further ordered and decreed that the defendants be ejected from the said land and premises described in the schedule hereto and the plaintiff be placed in possession thereof.

It is hereby also ordered and decreed that the 2nd defendant 30 do pay to the plaintiff the sum of Rs. 388/80, being damages up to 11th January, 1961 and further damages at Rs. 7/50 per month from 12th January, 1961 till the plaintiff is restored to and placed in possession of the said land and premises.

It is hereby lastly ordered and decreed that the 2nd defendant do pay to the plaintiff the costs of this action.

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land and premises coloured pink in the plan and marked letter "B" (being a divided and defined portion of all those two contiguous allotments of land and premises marked 40

lots 4 and 6 in Plan No. 2252 dated 26th September, 1928 and made by A. R. Savundranayagam, Licensed Surveyor and Leveller, and bearing assessment Nos. 5, 7 and 9) with the buildings thereon bearing assessment No. 9 (formerly No. 7) situated at Manthri Road, (formerly called 89th lane) in Thimbirigasyaya (formerly Wellawatte Ward) within the Municipality and District of Colombo, Western Province and bounded on the

No. 16
Decree of the
District Court
19-6-64
-Continued

North: by lot A part of the same land bearing assessment No. 5 on the East: by Road (now called Fife Road.)

10 on the South: by lot C part of the same land bearing assessment No. 9 (presently No. 11) Manthri Road and No. 148 Fife Road, and on the

West: by Road, 89th Lane (now called Manthri Road)

containing in extent twenty one and thirty hundredths perches (AO.RO.P21.30) according to the figure of survey bearing No. 785 dated 7th October, 1931 and made by M. I. L. Marikar, Licensed Surveyor and Leveller, and registered under title A209/133.

(Sgd.)

Additional District Judge.
19.6.64.

20

The day of June, 1964.
Drawn by me.

(Sgd.) M. U. M. Saleem
Proctor for Plaintiff.

No. 17

Decree of the Supreme Court

S. C. 247/'64(F)

Dismissing Appeal

No. 17
Decree of the
Supreme Court
dismissing
Appeal-
13-9-65

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

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa D'or" of 609, Baseline
Road in Colombo..... *Plaintiff.*

vs.

(Dead) M. Abdul of 9, Manthri Road, Havelock Town
in Colombo.

A. M. Sheriff of No. 9, Manthri Road, Havelock
Town in Colombo and others..... *Defendants.*

No. 17
Decree of the
Supreme Court
dismissing
Appeal-
13-9-65
-Continued

A. M. Sheriff of No. 9, Manthri Road, Havelock
Town in Colombo. . . . *2nd Defendant-Appellant*
Against

Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa D'or" of 609, Baseline
Road in Colombo. . . . *Plaintiff-Respondent*
Amina Umma and others all of No. 9, Manthri
Road, Havelock Town *Defendants-Respondent*

Action No. 9377/Land. District Court of Colombo.

This cause coming on for hearing and determination on the 13th 10
day of September, 1965 and on this day, upon an appeal preferred
by the 2nd Defendant-Appellant before the Honourable Hugh
Norman Gregory Fernando, Senior Puisne Justice and the Honourable
Anthony Christopher Augustus Alles, Puisne Justice of this Court,
in the presence of counsel for the 2nd Defendant-Appellant and
the Plaintiff-Respondent.

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

It is ordered and decreed that the 2nd defendant-Appellant
do pay to the plaintiff-respondent the taxed costs of this appeal.

Witness the Honourable Miliani Claude Sansoni, Chief Justice, 20
at Colombo, the 28th day of September, in the year One thousand
nine hundred and Sixty five and of our Reign the Fourteenth.

Sgd: B. F. Perera
Deputy Registrar, Supreme Court

No. 18

Application for Conditional Leave to Appeal to the Privy Council

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No. 18
Application for
Conditional
Leave to
Appeal to the
Privy Council
11-10-65

S.C.(Appln)

No.393/65

S.C.(Appeal)

247(F)/64

D.C.Colombo.9377/L

In the matter of an application for Condi-
tional Leave to Appeal To Her Majesty 30
The Queen in Council under the provisions
of the Privy Council (Appeals) Ordinance
Vol. IV, Chap. 100 of the Legislative Enactments
of Ceylon (1956 revised Edition)

A. M. Sheriff of No. 9, Manthri Road, Havelok
Town, Colombo 5

2nd Defendant-Appellant-Petitioner.
(Hereinafter referred to as The Petitioner)

vs.

Mohamed Nona Laila of "Villa D'or" No. 609,
Baseline Road, Colombo.....

..... *Plaintiff-Respondent - Respondent*
(Hereinafter referred to as the Respondent)

No. 18
Application for
Conditional
Leave to
Appeal to the
Privy Council
11-10-65
—Continued

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

On this 11th day of October 1965.

10 The PETITION of the PETITIONER abovenamed appearing by
A. R. M. KALEEL his proctor, states as follows:-

1. (a) The Respondent by his Plaint dated 11. 1. 1961 instituted
action No. 9377/L of the District Court of Colombo
against one M. Abdul and the Petitioner (1st and 2nd
Defendants respectively) and sought to have the Respondent
declared entitled to the land and premises described in
Schedule B to the plaint, to have the said M. Abdul and
the petitioner ejected from the said premises and for
damages at Rs. 16/20 per mensem from date of plaint
20 until the Respondent was placed in possession.
- (b) 1st Defendant and the petitioner by their answer dated
12.7.1961 disputed the title of the Respondent and claimed
the said premises in their own right.
- (c) Thereafter the 1st Defendant died on 7. 1. 1962 and
Ameena Umma (wife of the deceased 1st Defendant)
Nona Kathija, Mohamed Haleel and Mohamed Junaideen
were substituted as 3rd, 4th, 5th and 6th Defendants to
the said action.
- (d) The Added Defendants did not file answer nor did they
30 take part in the said action.
- (e) The Respondent valued the subject matter of the said
action at Rs. 17,500/-.
2. (a) After Trial, the learned District Judge by his judgment
dated 28. 4. 64 entered judgment for the Respondent as
follows: "I enter judgment for Plaintiff as prayed for in
para (a) of the prayer of the plaint, para (b) of the plaint
with damages in Rs. 388/80 up to date of action and Rs.
7. 50 per month until plaintiff is restored to possession
and costs".
- 40 (b) (1) Being aggrieved by the said judgment and decree, the
Petitioner appealed therefrom to your Lordships' Court in
S. C. (Appeal) No. 247(F)/64.

- (2) The said appeal was heard by Your Lordships' Court on 13.9.65 and Your Lordships' Court dismissed the Petitioner's Appeal with costs. The Petitioner and the Respondent were represented at the hearing of the said appeal.
3. (i) Being aggrieved by the judgment and Decree of Your Lordships' Court, the Petitioner is desirous of appealing to Her Majesty The Queen in Council under the provisions of the Privy Council (Appeals) Ordinance.
- (ii) The said Judgment is a final Judgment and the matter in dispute on the said appeal amounts to or is of the value ¹⁰ of Rupees Five Thousand or upwards and the said appeal involves directly or indirectly some claim or question to or respecting property amounting to or of the value of Rs. 5000/- or upwards in and under the provisions of Rule 1 (a) of the rules in the Schedule to the said Ordinance.
- (iii) (1) The Petitioner has given to the Respondent due notice of the Petitioner's intention to appeal to Her Majesty in terms of the Provisions of Rules of the Schedule to the said Ordinance within 14 days from the date of Your ²⁰ Lordships' Court Judgment.
- (2) The Petitioner has given to the Respondent the notice referred to above.
- (a) by sending an urgent telegram dated 27. 9. 65 addressed to the Respondent from the Hulftsdorp Post Office. The contents of the said telegram are as follows:-

URGENT

To Mohamed Nona Laila
Villa D'or,
609, Baseline Road,
Colombo.

30

Notice is hereby given to you as Plaintiff-Respondent in S. C. 247/F/64/D.C. Colombo 9377/L of my intention to appeal to Her Majesty the Queen in Council under Privy Council appeals ordinance from Judgment of Supreme Court pronounced on 13. 9. 1965. I shall file application for conditional leave within one month from 13. 9. 1965-A.M. Sheriff, 9, Manthri Road, Havelock Town, Colombo 5.

From: A. M. SHERIFF

- 2.(b) by sending the notice referred to above under Registered Express Post on 27. 9. 65. The Petitioner is in possession ⁴⁰ of Registered Postal Article Receipt No. 237 dated 27.9.65 issued by the Hulftsdorp Post Office.

The contents of the said Notice are as follows:-

Sent Registered Express

A. M. Sheriff
No. 9, Manthri Road,
Havelock Town,
Colombo.

27th September, 1965

No. 18
Application for
Conditional
Leave to
Appeal to the
Privy Council
11-10-65
—Continued

Mohamed Nona Laila,
"Villa D or",
609, Baseline Road,
Colombo.

10

Dear Madam,

S.C. 247/F/64/D.C. Colombo 9377/L

Take Notice and Notice is hereby given to you as Plaintiff-Respondent in the above Appeal, of my intention to Appeal to Her Majesty The Queen in Council under the Provisions of The Privy Council Appeal Ordinance from the Judgment and Decree of The Supreme Court pronounced on 13. 9. 1965. I shall file application for Conditional leave to Appeal to Privy Council within one month from 13. 9. 1965.

20

Sgd. A. M. Sheriff
2nd Defendant-Appellant

- (c) By sending the notice referred to above under Certificate of Posting dated 27. 9. 65. issued by the Hulftsdorf Post Office. The Contents of the said notice are similar and identical with the contents of the notice referred to in para 3 (iii) (2b) above.
- (d) The Petitioner has sent the Urgent Telegram and the letters sent under Registered Express Post and Certificate of Posting referred to above to the Respondent addressed "Villa D'er", 609, Baseliene Road, Colombo.
- (e) The Petitioner states that the said telegram and letters were not returned to the Petitioner by the Postal Authorities for non-delivery up to date.

30

4. The petitioner respectfully submits that:

- (i) The petitioner is the father of 9 children of whom six are females and 3 are males namely Sithy Naseeha (22Yrs) Sithy Masacema (11Yrs) Sithy Naseera (18Yrs) Fathuma (10Yrs) Sithy Habeeba (4Yrs) Nascema (5Yrs) Nagoor Pitche (12Yrs) Mohamed Nazeer (1Yr) and Nilam (3Yrs).

40

- (ii) The petitioner, the petitioner's wife mother and the 9 children reside in the said premises.
 - (iii) The petitioner is a mason earning an average monthly income of about Rs. 300/- and is the sole bread winner of the petitioner's family,
 - (vi) The petitioner is not possessed of any property besides the said premises,
 - (v) The petitioner has no place to go with the petitioner's family if he is ejected from the said premises.
5. The Petitioner respectfully submits that great loss and ¹⁰ damage will accrue to the petitioner and his family if the Judgment of Your Lordships' Court is carried into execution.
6. The Petitioner is prepared-
- (a) To give good and sufficient security to the satisfaction of Your Lordships' Court for the due performance of such order as Her Majesty The Queen in Council shall think fit to make on the petitioner's Appeal to Her Majesty.
 - (b) To bring to Court all damages due on the said decree in this case and deposit all damages accruing in the said ²⁰ decree thereafter.
 - (c) To pay up all rates and taxes on the said premises without default.
7. The Petitioner undertakes to maintain the said premises in good condition till the final determination of the petitioners' Appeal to Her Majesty.
8. The Petitioner respectfully submits that the real and substantial justice requires that Your Lordships' Court be pleased to direct that Execution of the said Judgment and Decree be stayed pending final determination of the ³⁰ Petitioner's Appeal to her Majesty The Queen in Council subject to any conditions and terms as to Your Lordships' Court shall deem fit.
9. By reason of the aforesaid averments the Petitioner is entitled to from Your Lordship's Court an order-
- (a) directing the stay of all proceedings pending the determination of this application,
 - (b) granting conditional leave to appeal to Her Majesty The Queen in Council subject to the usual conditions and terms.
 - (c) directing the stay of Execution of Your Lordships' Court ⁴⁰ Judgment and Decree pending the final determination of

the Petitioners's Appeal to Her Majesty The Queen in Council subject to such terms and conditions as to Your Lordship's Court may deem fit,

- (d) for costs, and
 (e) for such other and further relief as to Your Lordship's Court shall think fit.

WHEREFORE the Petitioner Prays that Your Lordship's Court be pleased to-

- 10 (i) direct the stay of all proceedings pending the determination of this application,
 (ii) grant Conditional Leave to Appeal to Her Majesty The Queen in Council subject to the usual conditions and terms.
 (iii) direct the stay of Execution of Your Lordship's Court Judgment and Decree pending the final determination of the Petitioner's Appeal to Her Majesty The Queen in Council subject to such terms and conditions as to Your Lordships' Court may deem fit,
 (iv) for costs, and
 20 (v) for such other and further relief as to Your Lordships' Court shall think fit.

Sgd. A. R. M. KALEEL

Proctor for 2nd Defendant-Appellant-Petitioner.

No. 18
 Application for
 Conditional
 Leave to
 Appeal to the
 Privy Council
 11-10-65
 —Continued

No. 19.

**Judgment of the Supreme Court
 Granting Conditional Leave to Appeal
 to the Privy Council.**

S. C. APPLICATION No 393/65.

In the matter of an application for Conditional Leave to Appeal to Privy Council in District Court Colombo. Case No. 9377/L-S. C. 247/64(F)

30

Present:

Tambiah, J. and Sirimane, J

Counsel:

M. T. M. Sivardeen for the
2nd Defendant-Appellant-Petitioner.

S. Sharvananda for the *Plaintiff-Respondent.*

Argued and decided on: 17th November, 1965.

No. 19
 Judgment of
 the Supreme
 Court granting
 Conditional
 Leave to Appeal
 to the Privy
 Council-
 17-11-65

No. 19
Judgment of
the Supreme
Court granting
Conditional
Leave to Appeal
to the Privy
Council-
17-11-65
-Continued

TAMBIAH, J.

Leave to Appeal is granted on usual terms. If the petitioner deposits a sum of Rs. 1,000/- in addition to the Rs. 3,000/- which he has to deposit as security and secures the same within a month from today, the Writ will be stayed pending the decision of the Privy Council.

If the sum of Rs. 3,000/- only is given by way of security and not the other Rs. 1,000/-, then leave will be allowed on usual terms but the writ will not be stayed.

Sgd: H. W. TAMBIAH
Puisne Justice. 10

SIRIMANE, J

I agree.

Sgd: A. L. S. SIRIMANE
Puisne Justice.

No. 20
Minute of Order
granting
Conditional
Leave to
Appeal to the
Privy Council-
17-11-65

No. 20

**Minute of Order granting Conditional
Leave to appeal to the Privy Council**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of Land application for Conditional leave to appeal to the Privy Council 20 under the Rules sent out in the Schedule to the Appeals (Privy Council) Ordinance.

Abdul Mohamed Sheriff of No. 9, Manthri Road, Havelock Town, Colombo 5

*2nd Defendant-Appellant
Petitioner*

S. C. Application
No. 393 of 1965

Vs

S. C. No. 247(Final) of 1964 Mohamed Nona Laila of "Villa Dor" No 609, Baseline Road, Colombo. 30

*Plaintiff-Respondent
Respondent*

District Court of
Colombo Case No.
9377/Land

The application of Abdul Mohamed Sheriff of No. 9, Manthri Road, Havelock Town, Colombo 5, for Conditional Leave to appeal to Her Majesty the Queen in Council from the judgment and

decree of the Supreme Court of the Island of Ceylon pronounced on the 13th day of September, 1965 in S.C. 247 (Final) of 1964 District Court Colombo Case No. 9377/L having been listed for hearing and determination before the Honourable (Dr.) Henry Wijayakone Tambiah, Q. C., Puisne Justice and the Honourable Albert Lionel Stanley Sirimane, Puisne Justice, in the presence of M. T. M. Sivardeen Esquire, Advocate for the 2nd Defendant-Appellant-Petitioner and S. Sharvananda Esquire, Advocate for the Plaintiff-Respondent the following order has been made by Their Lordships on the 17th day of November 1965.

“Leave to appeal is granted on usual terms. If the petitioner deposits a sum of Rs. 1000/- in addition to the Rs. 3000/- which he has to deposit as security and secures the same within a month from today, the writ will be stayed pending the decision of the Privy Council.

If the sum of Rs. 3000/- only is given by way of Security and not the other Rs. 1000/- then leave will be allowed on usual terms but the writ will not be stayed.”

Sgd: N. Navaratnam
Registrar of the Supreme Court.

20

No. 20
Minute of Order
granting
Conditional
Leave to
Appeal to the
Privy Council-
17-11-65
-Continued

No. 21

Application for Final Leave to Appeal to the Privy Council IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for Final leave to appeal to Her Majesty the Queen in Council under the Provisions of the Privy Council (Appeals) Ordinance Vol. 1V Chap. 100 of 1956-Revised edition)

A. M. Sheriff of No. 9, Manthri Road, Havelock Town, Colombo 5.

2nd Defendant-Appellant-Petitioner

Supreme Court
Application No. 393
of 1965

(hereinafter referred to as the Petitioner)

Supreme Court
Appeal No. 247/'64
(Final)

Vs

Mohamed Nona Laila of "Villa Dor" No. 609
Baseline Road, Colombo.

District Court
Colombo Case

Plaintiff-Respondent-Respondent

(hereinafter referred to as the Respondent)

40 No. 9377/L

No. 21
Application for
Final Leave to
Appeal to the
Privy Council
16. 12. 65.

No. 21
Application for
Final Leave to
Appeal to the
Privy Council
16. 12. 65.
-Continued

To:

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

On this 16th day of December, 1965.

The Petition of the petitioner abovenamed appearing by A. R. M. Kaleel his Proctor states as follows:

1. On 17. 11. 65 Your Lordship's Court allowed the petitioner's application (S.C. No. 393/65) for Conditional leave to appeal to Her Majesty the Queen in Council as follows:-

"Leave to appeal is granted on usual terms. If the ¹⁰ petitioner deposits a sum of Rs. 1000/- in addition to Rs. 3000/- which he has to deposit as security and secures the same within a month from today, the Writ will be stayed pending the decision of the Privy Council.

If the sum of Rs. 3000/- only is given by way of security and not the other Rs. 1000/- then leave will be allowed on usual terms but the Writ will not be stayed."

2. (a) The petitioner has duly complied in full with Your Lordships' Court decision.
 - (b) The Petitioner has deposited the aforesaid sums on 12. 12. 65. ²⁰
 - (c) The Petitioner has duly hypothecated the aforesaid sums by bond with the Registrar of Your Lordships' Court on 15. 12. 1965.
 - (d) The Petitioner has also deposited with the Registrar a sum of Rs. 300/- for a certified copy of the brief in the said case in terms of the provisions of the Rules framed under the said ordinance.
3. By reasons of the aforesaid averments the petitioner is entitled to an order granting the petitioner's application for Final Leave to appeal to Her Majesty the Queen in Council under the Provisions ³⁰ of the said ordinance.

WHEREFORE the Petitioner prays that Your Lordships' Court be pleased to:-

- (i) Grant Final leave to appeal to Her Majesty the Queen in Council.
- (ii) for costs, and
- (iii) for such other and further relief as to Your Lordships' Court shall seem meet.

Sgd: A. R. M. Kaleel
Proctor for Petitioner ⁴⁰

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

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

No. 22
Minute of order
granting Final
Leave to Appeal
to the
Privy Council-
3. 3. 66.

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

<p>S.C. Application 10 No. 493 of 1965 (Final Leave) S.C. Application No. 393 of 1965 (Conditional Leave) S. C. 247 (Final) of 1964. District Court Colombo Case No. 9377/L</p>	<p>A. M. Sheriff of No. 9, Manthri Road, Havelock Town, Colombo 5.</p>	<p style="text-align: right;"><i>2nd Defendant-Appellant Petitioner</i></p>
<i>Vs.</i>		
<p>S. C. 247 (Final) of 1964. District Court Colombo Case No. 9377/L</p>	<p>Mohamed Nona Laila of "Villa Dor" No. 609, Baseline Road, Colombo.</p>	<p style="text-align: right;"><i>Plaintiff-Respondent. Respondent</i></p>

20 The application of A. M. Sheriff of No. 9, Manthri Road, Havelock Town, Colombo 5, for Final Leave to appeal to Her Majesty the Queen in Council from the judgment and decree of the Supreme Court of the Island of Ceylon pronounced on the 13th day of September, 1965 in S. C. 247 (Final) of 1964 District Court of Colombo Case No. 9377/L, having been listed for hearing and determination before the Honourable Asoka Windra Hemantha Abeyesundere, Q. C., Puisne Justice and the Honourable Gardiye Punchihewage Amaraseela Silva, Puisne Justice, in the presence of M. T. M. Sivardeen Esquire, Advocate for the 2nd Defendant-Appellant-Petitioner and

30 S. Sharvananda Esquire, Advocate for the Plaintiff-Respondent, order has been made by Their Lordships on the Third day of March, 1966 allowing the aforementioned application for Final Leave to Appeal to Her Majesty the Queen in Council.

Sgd: N. Navaratnam
Registrar of the Supreme Court

PART II - EXHIBITS

52

P 3
Deed No. 446
Attested by
A. R. M. Razeen
Notary Public-
30. I. 30.

P 3

Deed No. 466 attested by A. R. M. Razeen,
Notary Public

Prior Registration A 175/265.

Registered A 197/43 and 44
Colombo.

6th February, 1930.

Sgd: Illegibly.

Registrar.

No. 466

10

To All To whom These Presents shall come Arthur Edward Ephraums and Esther Beatrice Goonetilleke both of Colombo (the said Esther Beatrice Goonetilleke acting herein with the consent and concurrence of her husband Oliver Ernest Goonetilleke as is testified thereto by his being a party to and executing these presents) (herein after called and referred to as the said vendors) send Greeting:

Whereas under and by virtue of deed No. 876 dated 5th October, 1926 and attested by P. G. Cooke of Colombo, Notary Public, the said Vendors are seized and possessed of or otherwise well and sufficiently entitled to the land and premises in the schedule A 20 hereto fully described.

And whereas the said vendors caused a portion of the entire land to be divided into 19 allotments of land marked Nos. 1 to 19 as depicted in Plan No. 2252 dated 26th September, 1928 made by A. R. Savundranayagam, Licensed Surveyor and Leveller.

And whereas the said vendors have agreed with Mohamed Ibrahim Mohamed of Paranawadiya Road in Colombo (hereinafter called the said vendee) for the absolute sale and assignment to him out of the said lots Nos. 1 to 19 the lots Nos. 4 and 6 and in the schedule B hereto fully described at or for the price or sum of 30 rupees twelve thousand five hundred (Rs. 12,500/00).

Now know Ye and These Presents witness that the said vendors in pursuance of the said agreement and in consideration of the said sum of rupees twelve thousand five hundred (Rs. 12,500/00) well and truly paid to the said vendors by the said vendee (the receipt whereof the said vendors do hereby acknowledge) do hereby sell, assign, convey, transfer set over and assure unto the said vendee his heirs, executors, administrators and assigns the said lots marked lots Nos. 4 and 6 in the said Plan and in the schedule B hereto fully described together with all rights, privi-40

leges, easements, servitudes, advantages and appurtenances whatsoever to the said premises belonging or appertaining or usually held occupied possessed or enjoyed therewith or reputed to belong or be appurtenant thereto together with all the estate right title interest property claim and demand whatsoever of the said vendors into out of or upon the said premises and every part thereof.

P 3
Deed No. 466
Attested by
A. R. M. Razeen
Notary Public-
30. 1. 30.
—Continued

To have and to hold the said premises hereby conveyed or expressed to be unto the said vendee his heirs, executors administrators and assigns for ever.

10 And the said vendors do hereby covenant and declare with and to the said vendee his heirs, executors administrators and assigns that the said premises hereby conveyed are free from any encumbrance or charges whatsoever and that they have good and legal right and full power and authority to sell and convey the same in manner aforesaid and that the said premises are free from any encumbrances whatsoever and that the said vendors and their
20
20 vendors and their
aforewritten shall and will always warrant and defend the same and every part thereof unto the said vendee and his aforewritten against any person or persons whomsoever and that the said
20 vendors and their
aforewritten shall and will at all times hereafter at the request but at the cost and charges of the said vendee and his aforewritten do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things which may be necessary or expedient for the better or more perfectly assuring the same or any part thereof unto the said vendee and his aforewritten as by him or his aforewritten shall or may be reasonably required.

In witness whereof the said Arthur Edward Ephraums, Esther Beatrice Goonetilleke and Oliver Ernest Goonetilleke do hereunto
30 and to two others of the same tenor and date as these presents set their hands at Colombo on this thirtieth day of January, One Thousand Nine Hundred and Thirty.

THE SCHEDULE ABOVE REFERRED TO

All that land and premises bearing assessment No. 631/4, Greenlands Road and No. 742/22, Fife Road, situated at Thimbirigasyaya in Wellawatte Ward within the Municipality and District of Colombo Western Province and bounded on the

North: by the part of the land described in title plan No. 49066 of Mr. Peter de Abrew and others Greenlands Road, a
40 dewata Road and the Cinnamon Garden on the

P 3
Deed No. 466
Attested by
A. R. M. Razeen
Notary Public-
30. 1. 30.
—Continued

East: by a dewata Road and the property belonging to the estate of the late Mr. A. M. Wickremasinghe on the
South: by the Kirilapone Canal and a reservation on the
South West: by the property of Mr. H. Bastian Fernando and Crown land and on the
West: by the parts of the land described in title plan No. 49066 of Mr. H. J. Peeris and Mr. Peter de Abrew and others

containing in extent twenty nine acres one rood and ten perches as per plan No. 1510 dated 3rd January, 1914 made by H. G. Dias, Licensed Surveyor. 10

The Schedule B above referred to

(1) All that allotment of land marked lot 4 in plan No. 2252 dated the 26th September, 1928, made by A. R. Savundranayagam Licensed Surveyor and Leveller (being a sub division of a defined and divided portion of premises bearing assessment No. 631/4, Greenlands Road and No. 742/22, Fife Road) situated at Timbiri-gasyaya in Wellawatta Ward aforesaid and bounded on the

North by lot 2.

East by roadway 40 feet wide

South by lot 6 and

West by roadway 20 feet wide

containing in extent thirty three decimal three five perches (AO.RO. P33.35) including reservation according to plan No. 2498 dated 26th September, 1928 made by the said A. R. Savundranayagam, Licensed Surveyor and Leveller together with the right of way in and over the said roadway 20 feet wide running along the western boundary and other roadways depicted in the aforesaid Plan No. 2252 and

(2) all that allotment of land marked lot 6 in plan No. 2252 dated 26th September, 1928 made by A. R. Savundranayagam, 30 Licensed Surveyor and Leveller (being a sub division of a defined and divided portion of premises bearing assessment No. 631/4, Greenlands Road and No. 742/22, Fife Road) situated at Timbirigasyaya, in Wellawatta Ward aforesaid and bounded on the

North: by lot 4

East: by roadway 40 feet wide

South: by lot 8 and

West: by roadway 20 feet wide

containing in extent thirty six perches (AO. RO. P36) including reservation according to plan No. 2500 dated 26th September, 40

1928 made by the said A. R. Savundranayagam, Licensed Surveyor and Leveller with the right of way in and over the said roadway 20 feet wide running along the western boundary and other roadways depicted in the aforesaid Plan No. 2252.

P 3
Deed No. 466
Attested by
A. R. M. Razeen
Notary Public.
30. 1. 30
-Continued

Signed and delivered in the presence)
of us and we declare that we are well
acquainted with the said executants)
and know their proper names occupa-)
tions and residences (

Sgd. Edward Ephraums
Sgd. Esther Goonetilleke
Sgd. O. E. Goonetilleke

10 Sgd. P. G. Cooke
Sgd. G. S. John.

(Sgd.) A. R. Mohammed Razeen.
Notary Public.

I Abdul Raheman Mohammed Razeen of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over by the within named Arthur Edward Ephraums who is known to me and who signed illegibly in English and Esther Beatrice Goonetilleke who is not known to me and who signed as "Esther Goonetilleke"
20 and Oliver Ernest Goonetilleke who is known to me in the presence of Percy Grey Cooke of Colombo who signed illegibly in English and Gnanathickan Samuel John of No. 2, Ferry Street, Colombo, the subscribing witnesses thereto both of whom are known to me and who declared that they were well acquainted with the said executants.

The same was signed by the said executants and by the said witnesses and by me the said Notary in the presence of one another all being present at the same time at Colombo aforesaid, on this thirtieth day of January, One Thousand Nine Hundred and
30 Thirty.

And I do hereby further certify and attest that in the duplicate in page 3 line 33 the figures 742/22 were written over an erasure and in page 4 line 22 the word "signed" was corrected before the same was read over as aforesaid and that out of the sum of Rs. 12,500/- being the consideration within mentioned a sum of Rs. 11,250/- was paid at the request of the said vendors by cheque bearing No. E640250 dated this day and drawn by

P 3
Deed No. 466
Attested by
A. R. M. Razeen
Notary Public
30. 1. 30
-Continued

the said vendee on the Imperial Bank of India Colombo in favour of P. G. Cooke the balance Rs. 1250/- was acknowledged by the said vendors to have been previously received by them and that the two stamps of the value of Rs. 200/- and one stamp of Re. 1/- supplied by me have been affixed to the duplicate and original respectively of this Instrument.

Date of attestation
30th January, 1930.

Sgd. A. R. M. Razeen.
Notary Public. 10

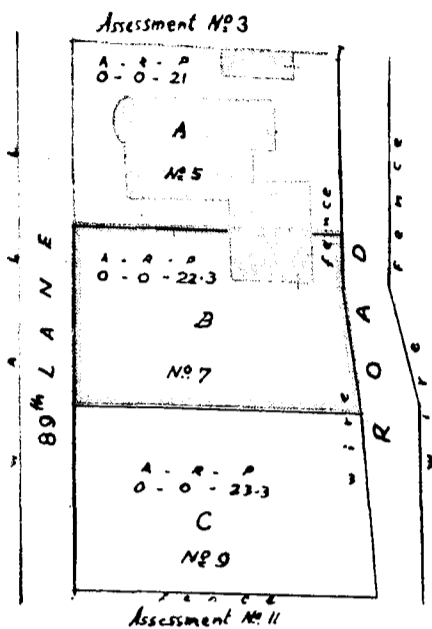
Plan No. 785 made by M. I. L. Marikar, Licensed Surveyor.

"TRUE COPY" by

S. Lokanathan
Licensed Surveyor,
51, Belmont Street,
Colombo. 12.

No. 785

P 2
Plan No. 785
made by
M. I. L. Marikar,
Licensed Surveyor-
8. 10. 31.



Scale of 1 Chain to an Inch

P L A N

of all that allotment of land marked Lots 4 & 6 in Mr. A. R. Savundranayagam's Plan No. 2252 dated 25th September 1928 partitioned into three Lots marked A, B, C, bearing Assessment Nos. 5, 7 & 9 situated along 89th Lane at Timbirigasyaya in Wellawatte Ward, within the Municipal Limits & District of Colombo.

WESTERN PROVINCE

Lot B Bounded on the
North by Lot A part of the same land bearing Assessment No. 5
East by Road
South by Lot C, part of the same land bearing Assessment No. 9
West by Road 89th Lane.

	A - R - P
Lot A Containing in Extent:	0 - 0 - 21
Lot B " " "	0 - 0 - 21.3
Lot C " " "	0 - 0 - 23.3
<u>Total</u>	<u>0 - 1 - 25.6</u>

Surveyed on the 7th day of October 1931

by Sgd. M. I. L. Marikar.

Special Licensed Surveyor & Leveller

Colombo. 8th October 1931

TRUE COPY

sgd. A. I. Sameer

Licensed Surveyor & Leveller

Colombo. 23rd May 1961

"TRUE COPY" by

(Handwritten Signature)

Licensed Surveyor. 16-x-1966

57 A

P 4

P 4
Deed No. 599
attested by
A. R. M. Razeen
Notary Public.
13. 10. 31

Deed No. 599 Attested
By A. R. M. Razeen, Notary Public.

PRIOR REGISTRATION.

A 197/43 & 44.

Regd. A 209
133

Colombo.
7th November, 1931

(Sgd.)..... 10
Registrar.

No: 599.

TO ALL TO WHOM THESE PRESENTS SHALL COME
Mohamed Ibrahim Mohamed of "Villa D'or" Dean's Road, Maradana
in Colombo (hereinafter sometimes called and referred to as the
donor)

SENDS GREETING:-

WHEREAS the said donor is under and by virtue of deed
No. 466 dated 30th January, 1930 and attested by the Notary
attesting these presents seized and possessed of or otherwise well 20
and sufficiently entitled to the two contiguous allotments of
land and premises marked lots 4 and 6 and in the schedule
A hereto fully described:

AND WHEREAS the said donor caused the said two allot-
ments of land and premises marked lots 4 and 6 to be divided

into three allotments marked Lots A, B and C and depicted in plans Nos. 784, 785 and 786 all dated 7th October, 1931 and made by M. I. L. Marikar, Special Licensed Surveyor and Leveller.

P 4
Deed No. 599
attested by
A. R. M. Razeen,
Notary Public-
13. 10. 31.
Continued

And whereas the said donor is desirous of gifting the said divided allotment of land and premises marked letter "B" and in the schedule B hereto fully described unto his daughter Mohamed Nona Laila also of "Villa D'or" Dean's Road, Maradana in Colombo, subject to the conditions hereinafter contained.

NOW KNOW YE AND THESE PRESENTS WITNESS that
10 the said donor in consideration of the love and affection which he has and bears unto the said Mohamed Nona Laila (hereinafter sometimes called and referred to as the donee) and for diverse other good causes and considerations him hereunto specially moving doth hereby give grant, convey, assign, transfer set over and assure unto the said donee as a gift subject to the conditions hereinafter contained all that land and premises in the schedule "B" hereto fully described together with all easements servitudes, rights and advantages whatsoever appertaining or reputed to
20 appertain thereto or to any part thereof or occupied or enjoyed with or reputed or known as part thereof and all the estate right title interest claim and demand whatsoever of the said donor in to upon or out of the said premises.

TO HAVE AND TO HOLD the said land and premises hereby conveyed which are of the value of rupees three thousand (Rs. 3,000/00) unto the said donee subject to the conditions:

- (1) that the said donor shall be at liberty and the right is hereby reserved to him to take receive and enjoy the rents profits and income of the said premises during the life time of the said donor;
- 30 (2) that the said donor shall have the right to sell and dispose of the said land and premises during his life time as if these presents had not been executed;
- (3) that the said donee shall not sell mortgage alienate (save as is provided in condition 5 hereof) or in any manner encumber the same and the same shall not be liable to be seized or sold for any of her debts or liabilities;
- (4) that the said donee shall not lease the same for a period exceeding three years at a time and shall not during the existence of one lease enter into another lease;
- 40 (5) that the said donee shall be at liberty to gift the same or any part thereof to any or all of her lawful children with or without any restrictions against alienation or encumbrance or subject to the bond of fidei commissum or otherwise and

P 4
Deed No. 599
attested by
A. R. M. Razeen,
Notary Public-
13. 10. 31.
-Continued

(6) that on the death of the said donee the said premises (unless the same shall have been gifted in terms of condition 5 hereof) or any part thereof not gifted (as aforesaid) shall devolve upon her heirs according to the Mohammedan Law of intestate succession.

AND that the said donor doth hereby for himself his heirs executors and administrators covenant promise and agree with the said donee that the said premises are free from encumbrance and that he and his aforesaid shall and will always warrant and defend the title to the same unto the said donee against **10** every and any person or persons whomsoever.

AND THESE PRESENTS FURTHER WITNESS that Mohamed Ismail Balgis Umma of "Villa D'or" Dean's Road aforesaid the mother of the said donee who is a minor do hereby on behalf of the said minor thankfully accept the gift hereby made subject to the conditions hereinbefore contained.

IN WITNESSES WHEREOF the said Mohamed Ibrahim Mohamed and Mohamed Ismail Balgis Umma have set their respective hands to these presents and to two others of the same tenor and date at Colombo on this Thirteenth day of October **20** One Thousand Nine Hundred and Thirty One.

THE SCHEDULE A ABOVE REFERRED TO

1. All that allotment of land marked lot 4 in plan No. 2252 dated the 26th September, 1928 made by A. R. Savundranayagam Licensed Surveyor and Leveller (being a sub - division of a defined and divided portion of premises bearing assessment No. 631/4, Greenlands Road and No. 742/22, Fife Road) situated at Timbiri-gasyaya in Wellawatta Ward within the Municipality and District of Colombo, Western Province, and bounded on the

North: by lot 2. **30**
East: by roadway 40 feet wide.
South: by lot 6 and
West: by roadway 20 feet wide

containing in extent thirty three decimal three five perches (AO. RO. P33. 35) including reservation according to plan No. 2498 dated the 26th day of September, 1928 and made by the said A. R. Savundranayagam, Licensed Surveyor and Leveller together with the right of way in and over the said roadways 20 feet wide running along the western boundary and other roadways depicted in the aforesaid plan No. 2252 and **40**

2. All that allotment of land marked lot 6 in plan No. 2252 dated 26th September, 1928 and made by A. R. Savundranayagam Licensed Surveyor and Leveller (being a sub-division of a defined and divided portion of premises bearing assessment No. 631/4, Greenlands Road and No. 742/22, Fife Road) situated at Timbiri-gasyaya in Wellawatta Ward aforesaid and bounded on the

North: by lot 4.
East: by roadway 40 feet wide.
South: by lot 8 and

10 West: by roadway 20 feet wide

containing in extent thirty six perches (AO. RO. P36) including reservation according to plan No. 2500 dated 26th September, 1928 and made by the said A. R. Savundranayagam, Licensed Surveyor and Leveller with the right of way in and over the said roadway 20 feet wide running along the western boundary and other roadways depicted in the aforesaid plan No. 2252.

THE SCHEDULE B ABOVE REFERRED TO

All that allotment of land and premises coloured pink in the plan and marked letter "B" (being a divided and defined portion
20 of all those two contiguous allotments of land and premises marked lots 4 and 6 in plan No. 2252 dated 26th September, 1928 and made by A. R. Savundranayagam, Licensed Surveyor and Leveller and bearing assessment Nos. 5, 7 and 9) situated along 89th Lane of Timbirigasyaya in Wellawatte Ward aforesaid bearing assessment No. 7 and bounded on the

North: by lot A part of the same land bearing assessment No. 5 on the

East: by road, on the

South by lot C part of the same land bearing assessment No. 9.
30 and on the

West: by road 89th Lane

containing in extent twenty one and thirty hundredths perches (AO RO P21. 3) according to the figure of survey bearing No. 785 dated 7th October, 1931, and made by M. I. L. Marikar Special Licensed Surveyor and Leveller.

Signed by the abovenamed Mohamed) Sgd: in English. Illegible Ibrahim Mohamed and Mohamed Ismail) Balgis Umma in the presence of us and we) Sgd: in Arabic characters declare that we are well acquainted with)

40 them and know their proper names and) occupations and residences

) (*This is the signature of
Mohamed Ismail
Balgis Umma*)

Sgd. Illegibly

Sgd. Illegibly

P 4
Deed No. 599
attested by
A. R. M. Razeen,
Notary Public-
13. 10. 31.
-Continued

P 4
Deed No. 599
attested by
A. R. M. Razeen,
Notary Public-
13. 10. 31.
-Continued

(Sgd.) A. R. M. RAZEEN
Notary Public.

No. 599.

I, Abdul Raheman Mohamed Razeen of Colombo of the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the withinnamed Mohamed Ibrahim Mohamed who signed illegibly in English who is known to me and Mohamed Ismail Balgis Umma who is not known to me and who signed in Arabic characters in the presence of Thamby Ali Mohamed Cassim of No. 97, Temple 10 Road, in Colombo and Pitche Thamby Samsudeen of No. 16, Clifton Lane, in Colombo, both of whom signed illegibly in English the subscribing witnesses thereto both of whom are known to me and who declared that they were well acquainted with the said Mohamed Ibrahim Mohamed and Mohamed Ismail Balgis Umma the same was signed by the said Mohamed Ibrahim Mohamed and Mohamed Ismail Balgis Umma and by the said witnesses and by me the said Notary in the presence of one another all being present at the same time at Colombo aforesaid on this thirteenth day of October One Thousand Nine Hundred and Thirty One. 20

AND I do hereby further certify and attest that in the original in page 1 line 7 the word "and" was typed over erasure and in line 18 the superfluous letter "s" in the word "allotment" was struck off; in line 26 the word "sometimes" was typed over erasure; in line 27 the word "him" was corrected in page 2 line 7 the word "demand" in line 23 the word "existence"; in line 33 the word "and" in line 35 the word "with" and in line 37 the word "to" were corrected and in page 3 line 15 the word "division" in line 16 the word "bearing" were typed over erasure in line 18 the word "municipality"; in line 37 the word "according" and in page 4 line 30 3 the word "right" in line 29 the word "occupations" were corrected and in the same page line 18 the word "one" was struck off and in the duplicate in page 1 line 2 the word "deans" in line 9 the word "well" in line 12 the word "allotments" in line 27 the word "hereunto" were corrected and in the same page line 19 the word "son" was struck off and in page 2 line 3 the word "appertain" in line 5 the word "claim" and "demand" were corrected; in line 19 the word "seized" was corrected in line 20 the word "said" was interpolated in line 26 the word "fidei" in line 31 the word "succession" in line 33 the word "heirs" and in page 3 line 40 the word "said" in line 24 the word "leveller" in line 26 the word "in" in line 34 the word "roadway" in line 37 the word "Savundranayagam" and in page 4 line 1 the word "leveller"

in line 9 the word "plan" were corrected and in line 17 the word "one" was struck off before the same was read over and explained as aforesaid and that three stamps of the value of Rs. 107/- and one stamp of Re. 1/- supplied by me have been affixed. to the duplicate and original respectively of this instrument

P 4
Deed No. 599
attested by
A. R. M. Razeen,
Notary Public-
13. 10. 31.

(Sgd.) A. R. M. RAZEEN
Notary Public.

Date of attestation
10 13th October, 1931.

P 5

**Deed No. 752 attested by
A. R. M. Razeen, Notary Public.**

P 5
Deed No. 752
Attested by
A. R. M. Razeen
Notary Public-
28. 7. 33

Prior Registration A 209
133

Regd. A 209
133

Colombo.

Aug. 15, 1933.

20 Sgd.....
Registrar.

No. 752

TO ALL TO WHOM THESE PRESENTS SHALL COME
Mohamed Ibrahim Mohamed Hadjar of "Villa D'or" Dean's Road
in Colombo.

SENDS GREETINGS:-

Whereas the said Mohamed Ibrahim Mohamed Hadjar by
Deed No. 599 dated 13th October, 1931, and attested by the Notary
attesting these presents gifted the land and premises in the schedule
30 hereto fully described unto his daughter Mohamed Nona Laila
but subject inter alia to the following condition namely:-

P 5
Deed No. 752
Attested by
A. R.M. Razeen
Notary Public-
28. 7. 33.
-Continued

that the said Mohamed Ibrahim Mohamed Hadjar shall have the right to sell and dispose of the said land and premises during his life time.

And whereas the said Mohamed Ibrahim Mohamed Hadjar is now desirous of renouncing to and in favour of the said Mohamed Nona Laila the said right to sell and dispose of the said land and premises during his life time.

NOW KNOW YE AND THESE PRESENTS WITNESS that the said Mohamed Ibrahim Mohamed Hadjar in consideration of the love and affection which he has and bears unto the said Mohamed Nona Laila and in consideration of the marriage shortly to be held and solemnized between the said Mohamed Nona Laila and Abdul Majeed Ahamed Lameer of Clifton Lane in Colombo and for diverse other good causes and considerations him hereunto specially moving doth hereby renounce to and in favour of the said Mohamed Nona Laila the said right to sell and dispose of the said premises during the life time of the said Mohamed Ibrahim Mohamed Hadjar to the intent and purpose that the said Mohamed Nona Laila shall hold possess and dispose of the said premises in terms of the other conditions then remaining in force the said deed No. 599. 10 20

IN WITNESS WHEREOF the said Mohamed Ibrahim Mohamed Hadjar do hereunto and to two others of the same tenor and date as these presents set his hand at Colombo on this twenty eighth day of July, One thousand nine hundred and thirty three.

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land and premises coloured pink in the plan and marked letter "B" (being a divided and defined portion of all those two contiguous allotments of land and premises marked lots 4 and 6 in plan No. 2252 dated 26th September, 1928 and made by A. R. Savundranayagam, Licensed Surveyor and Leveller and bearing assessment Nos. 5, 7 and 9) situated along 89th lane of Timbirigasyaya in Wellawatte Ward within the Municipality and District of Colombo, Western Province, bearing assessment No. 7 and bounded on the

North by lot A part of the same land bearing assessment No. 5, on the

East by road on the

South by lot C part of the same land bearing assessment No. 9 and on the

West by Road 89th Lane

containing in extent twenty one and thirty hundredths perches (AO. RO. P. 21.3) according to the figure of survey bearing No. 785 dated 7th October, 1931 and made by M. I. L. Marikar, Special Licensed Surveyor and Leveller.

P 5
Deed No 752
Attested by
A. R. M. Razeen
Notary Public-
28. 7. 33.
—Continued

(Sgd.) ILLEGIBLE

WITNESSES

(Sgd.) Illegible

(Sgd.) Illegible

(Sgd.) A. R. M. RAZEEN.

Notary Public.

10

I, Abdul Raheman Mohamed Razeen of Colombo in the Island of Ceylon, Notary Public do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the within-named Mohamed Ibrahim Mohamed Hadjar who is known to me and who signed illegibly in English in the presence of Mohamedo Haniffa Mohamed Razie Hadjar of No. 19, Clifton Lane, in Colombo and Samsi Lebbe Hadjar Mohamed Yoosoof Hadjar of Colpetty in Colombo both of whom signed illegibly in English the subscribing witnesses thereto the same was
20 signed by the said Mohamed Ibrahim Mohamed Hadjar and by the said witnesses and by me the said Notary in the presence of one another all being present at the same time at Colombo aforesaid on this twenty eighth day of July, one thousand nine hundred and thirty three.

And I do hereby further certify and attest that in the original in page 2 line 3 the word "other" and in line 4 the word "then" were interpolated and in the duplicate in page 1 line 27 the word "Ibrahim" was struck off and in page 2 line 1 the words "other" and "then" were interpolated before the same was
30 read over and explained as aforesaid and that one stamp of Rs. 10/- and one stamp of Re. 1/- supplied by me have been affixed to the duplicate and the original respectively of this instrument.

(Sgd.) A. R. M. RAZEEN
Notary Public.

Date of attestation
28th July, 1933.

A. R. MOHAMED RAZEEN,
Proctor S. C.,
and
Notary Public.

40

2D7A
Certificate of
Marriage-
18. 5. 41.

2 D 7 A
Certificate of Marriage

No. 473

TRANSLATION

Ceylon

Certificate of Marriage

Ordinance relating to Muslims' Marriage and Divorce (Chap. 99)

District Division	Colombo District	
The area of the Priest conducting the business	Colombo Mudaliyar's Area.	
Name of the Priest Conducting the Registration of the Marriage	Kathul A. R. Mohamed Saied.	10

- | | | |
|--|---|----|
| 1. Full Name: | | |
| Bridegroom- | Abdul Rahuman Muhamed Saribe:
27 years | |
| Bride- | Muhamado Nona Rahil 19 years | |
| 2 Whether married
or divorced before this | | |
| Bridegroom | No. | |
| Bride | No. | 20 |
| 3 If divorced proof
of such divorce: | | |
| Bridegroom- | No. | |
| Bride- | No. | |
| 4 Residence: | | |
| Bridegroom- | No. 131, Stafford Place. | |
| Bride- | No. 217, Dean's Road. | |
| 5 Name of the father
or other Guardian | | |
| Bridegroom- | Omar Mustan Abdul Rahaman. | 30 |
| Bride- | Muhamado Kichchilan. | |
| 6 Relationship of the
guardian: | | |
| Bridegroom- | Father. | |
| Bride- | Father. | |

- 7 Amount of Mahr whether that was paid or not: Mahr Rs. 300/- not paid
- 8 Stridaman *
- 9 Amount of Kaikuli: No.
- 10 Place of celebrating the marriage: No. 131, Stafford Place.
- 11 The date and hour of celebrating the marriage: 18th May, 1941, at 6 P. M.
- 12 Date of Registration- 18th May, 1941.
- 10 13 Name and address of the 1st witness: Kunji Ahumado No. 33, Maliga-watta Road.
- 14 Name and address of the 2nd witness: Muhamado Haniffa
Muhamadu Raju No. 33, Clifton Lane.
- 15 The name of the Priest officiated at the marriage ceremony: Kathil Abdul Rahaman
Kathil Muhamado Saied
- 20 16 Signatures:
(1) Bridegroom Abdul Rahaman
(2) "Woli" of Bride: Sgd. Illegibly Muhamadu Sharief
(3) First Witness: Sgd/Illegibly Muhamado Kachchon
(4) Second Witness: Sgd/Illegibly Kunji Ahumado.
Sgd/Illegibly Mahamado
Haniffa Muhamado Raju.
- 30 (5) The Priest Officiating the wedding Ceremony: Sgd/Illegibly.
(6) Priest conducting the business:

2D7A
Certificate of
Marriage-
18. 5. 41.
-Continued

(Vide Certificate of the Assistant Registrar General) English

* Muhamado Ibrahim Muhamado Elda uncle of this Bride promised to give stridaman dowry cash Rs. 500/- brass utensils

2D7A
Certificate of
Marriage-
18-5-41
-Continued

Rs. 200/-the property situated at Skinner's Road South, Colombo No. 11, the Lands No. 11/1 and 11/3 out of the Dowry stated above exclusive of cash Rs. 500/- Gold Silver Jewels.

Rs. 500/- the remainder of the Dowry would be given whenever this Bride and Bridegroom demand for same.

Sgd. Muhamad Ibrahim
Muhamado 10

Sgd. Illegibly
Sgd. Illegibly.
Registrar General's Office.
Colombo. 30. 1. 51

True Copy.
Sgd
Asst. Registrar General

Translated by.
Sgd
Sworn Translator. 20
District Court, Colombo.

2D 8
Deed No. 1390
attasted by
N. H. Samara-
singhe
Notary Public-
20-9-46

2 D 8
Deed No. 1390 attested by
N. H. Samarasinghe, Notary Public.

Appln. No. D 2670
5. 5. 59
Prior Registration: A 277/95.

No: 1390 30

To all to Whom These Presents shall come Mohamed Ibrahim Mohamed of "Villa D'or" Deans Road in Colombo (hereinafter sometimes called and referred to as the Vendor)

SENDS GREETING:

Whereas under and by virtue of Deed No. 466 dated 30th January, 1930 and attested by A. R. Mohamed Razeen of Colombo Notary Public, the said vendor is inter alia seized and possessed of or otherwise well and sufficiently entitled to the land and premises in the schedule hereto fully described.

2D 8
Deed No. 1390
attested by
N. H. Samara-
singhe
Notary Public-
20-9-46.
-Continued

And whereas the said vendor has agreed with Alagakone Kahaduwaaratchige Albert of No. 126, Link Road, Havelock Town (hereinafter called and referred to as the Vendee) for the sale to
10 him of the said land and premises at or for the price or sum of rupees nine thousand five hundred (Rs. 9,500/-).

Now Know Ye and These Presents Witness that the said vendor in pursuance of the said agreement and in consideration of the said sum of Rupees nine thousand five hundred (Rs. 9,500/-) well and truly paid to the said vendor by the said vendee (the receipt whereof the said vendor doth hereby acknowledge) doth hereby sell assign, convey, transfer, set over and assure unto the said vendee,
20 his heirs, executors, administrators and assigns the said land and premises together with all rights, privileges, easements, servitudes, advantages and appurtenances whatsoever to the said land and premises belonging or appertaining or usually held, occupied, possessed or enjoyed therewith or reputed to belong or be appurtenant thereto together with all the estate right title interest, property, claim and demand whatsoever of the said vendor in, to, upon, or out of the said land and premises and every part thereof.

To Have and to hold the said land and premises hereby conveyed or expressed so to be unto the said vendee his heirs, executors, administrators and assigns for ever.

And the said vendor doth hereby for himself his heirs, executors
30 and administrators covenant and declare with and to the said vendee his heirs executors, administrators and assigns that the said land and premises hereby conveyed are free from any encumbrance or charge whatsoever and that he has good and legal right and full power and authority to sell and convey the same in manner aforesaid and that the land and premisses are free from any encumbrance whatsoever and that he the said vendor and his aforewritten shall and will always warrant and defend the same and every part thereof unto the said vendee and his aforewritten against any person or persons whomsoever and that
40 he the said vendor and his aforewritten shall and will at all

2 D 8
Deed No. 1390
attested by
N. H. Samara-
singhe
Notary Public-
20-9-46
-Continued

times hereafter at the request but at the cost and charges of the said vendee and his aforewritten do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things which may be necessary or expedient for the better or more perfectly assuring the same or any part thereof unto the said vendee and his aforewritten as by him or his aforewritten shall or may be reasonably required.

In witness whereof the said Mohamed Ibrahim Mohamed doth set his hand to these presents and to two others of the same tenor and date at Colombo on this twentieth day of September, one 10 thousand nine hundred and forty six.

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land and premises coloured pink in the plan and marked letter "C" (being a divided and defined portion of all those two contiguous allotments of land and premises marked Lots 4 and 6 in plan No. 2252 dated 26th September, 1928 and made by A. R. Savundranayagam, Licensed Surveyor and Leveller and bearing assessment Nos. 5, 7 and 9) situated along 89th Lane of Thimbrigasyaya in Wellawatte Ward within the Municipality and District of Colombo Western Province and bearing assessment 20 No. 9 and bounded on the

- North: by lot B part of the same land bearing assessment No. 7 on the
- East: by Road on the
- South: by property belonging to M. I. Mohamed bearing assessment No. 11 and on the
- West: by 89th Lane

containing in extent twenty three and thirty hundreth perches (AO. RO. P 23. 30) according to the figure of survey bearing No. 786 dated 7th October, 1931 made by M. I. L. Marikar, Special 30 Licensed Surveyor and Leveller.

Sgd
(Illegibly)

Witnesses

Sgd.....
(Illegibly)

Sgd.....
(Illegibly)

Sgd. N. H. Samarasinghe 40
Notary Public.

I, Nicol Henry Samarasinghe of Colombo, in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the therein-named executant Mohamed Ibrahim Mohamed in the presence of Hettiaratchie Andrew Fernando and Simon Abeywickreme both of Hultsdorf in Colombo the subscribing witnesses thereto all of whom are known to me the same was signed by the said executant illegibly in English and by the said witnesses and also by me the said Notary, in my presence and in
 10 the presence of one another all being present together at the same time at Colombo aforesaid on this 20th day of September, one thousand nine hundred and forty six.

And I further certify and attest that before the foregoing instrument was read over and signed as aforesaid in the duplicate in page 2 line 20 the letter "a" in "and" was typed over and that of the consideration rupees five thousand was paid by cheque No. C. 169368 drawn on the Chartered Bank of India Ltd. and the balance rupees four thousand five hundred was paid in
 20 cash in my presence and that the duplicate bears three stamps of the value of rupees one hundred and fifty one and the original one of rupee one.

Date of attestation

20th September, 1946.

(Sgd.) N. H. Samarasinghe
Notary Public.

I, K. E. Silva, Additional Registrar of Lands, Colombo, do hereby certify that the foregoing is a true copy by mechanical process of duplicate of Deed No. 1390, dated 20th September, 1946, attested by Notary, N. H. Samarasinghe, filed in this Office and is issued on the application of Mr. Q. M. B. Jayamanna of Colombo.

30

(Sgd.) K. E. SILVA
Additional Registrar.
 12th May, 1959.

2 D 9

Tax Receipt for 1st Quarter, 1950

Colombo Municipal Council,
 Treasurer's Department.

2 D 9
 Tax Receipt
 for 1st Quarter,
 1950-
 26-7-50

No. 7537.

Date: 26. 7. 1950.

Received from Mr. A. M. Sheriff Rs. 7 and cents 42 being rates and costs due on the annual value of Premises No. 9, Manthri Road.
 40 under the Municipal Council's Ordinance, made up as follows:-

2 D 9
Tax Receipt
for 1st Quarter, 1st quarter, 1950 Rates
1950-
26-7-50
-Continued

	Amount
Warrant costs	6. 75
	67
Total Rs.	7. 42

L. L. Attygalle.
Municipal Treasurer.

Sgd.....
Sign. of collector.

2 D 10
Seizure Notice-
24. 7. 50.

2 D 10.
Seizure Notice.

10

Municipal Council of Colombo.
Treasurer's Department
No. 308

SEIZURE NOTICE

Notice is hereby given that as the sum of Rs. 7.42 being rates and warrant cost for 1st quarter, 1950, on property bearing No. 9, situated at Manthri Road, Colombo has not been paid, the movable property of the owner/occupier will be seized and removed on or after 31.7.50. on the authority of the Warrant issued to me in terms of section 252 of the Municipal Councils 20 Ordinance.

(Sgd.)

Rate Collector, Municipal Council.

The Municipal Office.
Colombo.
24. 7. 50.

2 D 11
Tax Receipt for
2nd Quarter,
1950-
26-7-50

2 D 11
Tax Receipt for 2nd Quarter, 1950

Colombo Municipal Council
Treasurer's Department

No. 18029. 30

Date: 26. 7. 50.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Council's Ordinance for 2nd quarter, 1950

P 6
 Plaint, answer
 and Terms of
 Settlement in
 C. R. Colombo
 case
 No. 30115
 -Continued

5. The said premises are bounded on the
 North: by Manthri Road.
 South: by Fife Road.
 East: by No. 5 Manthri Road and
 West: by No. 15 Manthri Road.

6. Notwithstanding the determination of the tenancy as aforesaid the defendant is in wrongful and unlawful occupation of the said premises to the plaintiff's loss and damage of Rs. 15/- per month from the 1st January, 1950.

7. There is now due and owing from the defendant to the 10
 Plaintiff the sum of Rs. 165/- being arrears of rent due for the months of November, and December, 1949 and January, February, March, April, May, June, July, August and September, 1950 which said sum or any part thereof the defendant has failed and neglected to pay though thereto often demanded.

8. The plaintiff specially avers that the rent for the months of November and December, 1949 and January, February, March, April, May, June, July, August and September, 1950, as aforesaid have been in arrears for over a month after they had become due within meaning of section 13 (1) (a) of the Rent Restriction 20
 Act No. 29 of 1948.

Wherefore the plaintiff prays:

- (a) for judgment against the defendant in the sum of Rs. 165/- with legal interest thereon from date hereof till payment in full.
- (b) that the defendant his servants and agents and all persons holding under him be ejected from the said premises No. 9, Manthri Road, Havelock Town, Colombo and the plaintiff be restored to possession thereof.
- (c) for damages at the rate of Rs. 15/- per month from 1st 30
 October, 1950, till the defendant is ejected from the said premises and the plaintiff is restored to possession thereof.
- (d) for costs of suit, and
- (e) for such other and further relief as to this Court shall seem meet.

(Sgd.) Samarasinghe & De Silva.
Proctors for Plaintiff.

In the District Court of Colombo.

M. I. Mohamed of Baseline Road, Colombo

Plaintiff

No. 30115

Vs.

M, Abdul of No. 9, Manthri Road, Colombo.

Defendant

On this 28th November, 1950.

The answer of the defendant abovenamed appearing by his Proctor K. Rasanathan, states as follows:

P 6
Plaint, answer
and Terms of
Settlement in
C. R. Colombo
case
No: 30115.
-Continued

1. Save and except as hereinafter admitted the defendant denies all and singular the averments in the plaint.
2. The defendant denies that he entered into any contract of tenancy with the plaintiff in respect of the premises in question.
3. The plaintiff agreed to give the premises to the defendant's son as dowry in consideration of the defendant's son marrying the adopted daughter of the plaintiff. Accordingly the defendant's son married the adopted daughter of the plaintiff and the plaintiff put the husband and wife (newly married couple) in possession of the premises undertaking to give them a deed of gift in respect of the said premises which are the subject matter of this action.
4. The defendant entered into no contract with the plaintiff and as such the plaintiff cannot have and maintain this action.
5. Wherefore the defendant prays that the plaintiff's action be dismissed with costs and for such other and further relief as to this Court shall seem meet.

Sgd: K. Rasanathan.
Proctor for Defendant.

15. 2. 51

Trial.

Messrs. Samarasinghe and De Silva for the plaintiff instructing Paramasothy.

Mr. K. Rasanathan for Defendant-instructing Thillainathan

Case settled

The defendant admits that he had been in arrears of rent for a month after it became due.

The plaintiff waives all rents and damages up to 31. 1. 51 and will waive the subsequent damages if the vacant possession is given. Of consent judgment for Plaintiff in ejectment and damages at Rs. 5/- a month from 1. 2. 51.

Writ of ejectment not to issue till 31. 12. 51. At the expiry of this period, if the defendant has not secured alternative accommodation, an application for extension of time for another six months will be considered, provided the Municipality does not force the plaintiff's hands in the matter of providing sanitary conveniences.

P 6
 Plaintiff, answer
 and Terms of
 Settlement in
 C. R. Colombo
 case
 No: 30115.
 -Continued

The defendant undertakes to keep the premises clean so as not to become a nuisance within the meaning of the law.

Enter Decree.

Intd. M. M. I. K.
Commissioner of Requests.

Sgd. Illegibly.

Sgd. Illegibly.

The foregoing is a true copy of the Plaintiff Answer and Proceedings in C. R. Colombo Case No. 30115 (pages 1 to 4).

Sgd. 10
Chief Clerk.

Court of Requests.
 5th February, 1959

2 D 12

2 D 12
 Tax Receipt for
 3rd Quarter,
 1950-
 21-11-50

Tax Receipt for 3rd Quarter, 1950.

Colombo Municipal Council

Treasurer's Department

No. 23909

Date: 21. 11. 1950

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42 being rates and costs due on the annual value of premises No. 9, Manthri Road under the Municipal Council's Ordinance, 20 made up as follows:

		Amount	
		Rs.	cts.
3rd quarter, 1950	Rates	6	75
	Warrant costs		67
	Total	7	42

(Sgd.)
 Signature of Collector.

L. L. ATTYGALLE.
Municipal Treasurer.

2 D 13

2 D 13
 Tax Receipt for
 4th Quarter,
 1950-
 21-11-50

Tax Receipt for 4th Quarter 1950

30

Colombo Municipal Council.

Treasurer's Department

No. 30564

Date: 21. 11. 1950

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Council's Ordinance, for 4th quarter, 1950.

Premises No.	Street	Amount Rs. cts.	2 D 13 Tax Receipt for 3rd Quarter, 1950- 21-11-50 -Continued
9	Manthri Road	6. 75	
		Total Rs.	
		Sgd	
		Shroff.	
21. 11. 50		<i>Municipal Treasurer.</i>	

2 D 14

Tax Receipt for 1st and 2nd Quarters, 1951

10 Colombo Municipal Council
Treasurer's Department

No. 42460
Date: 11. 4. 1951

2 D 14
Tax Receipt for
1st & 2nd
Quarters, 1951-
11-4-51

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Council's Ordinance for 1st quarter, 1951.

Premises No.	Street	Amount Rs. cts.
9	Manthri Road	
20	1: 1951	6. 75
	2: 1951	6. 75
	Total Rs.	13. 50
		Sgd
		Shroff.
April 11, 1951.		<i>for Municipal Treasurer.</i>

2 D 15

Tax Receipt for 3rd Quarter, 1951

Colombo Municipal Council.
Treasurer's Department

No. 66830.
Date: 30. 11. 1951.

2 D 15
Tax Receipt for
3rd Quarter,
1951-
30-11-51

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42 being the rates and costs due on the annual value of premises No. 9, Manthri Road, under the Municipal Council's Ordinance

2 D 15
Tax Receipt for
3rd Quarter,
1951-
30-11-51
-Continued

made up as follows:-

	Amount
	Rs. cts.
3rd quarter, 1951	6. 75
Warrant costs	67
Total Rs.	7. 42

L. L. Attygalle.
Municipal Treasurer.

Sgd
Signature of Collector
November, 30, 1951.

10

2 D 16
Tax Receipt for
4th Quarter,
1951-
30-11-51.

2 D 16

Tax Receipt for 4th Quarter, 1951.

Colombo Municipal Council.
Treasurer's Department

No. 66620.

Date: 30. 11. 1951.

Received from Mr. A. M. Sheriff the undermentioned amount being rates due on the annual value of premises shown below, under the Municipal Council's Ordinance for the 4th quarter, 1951. 20

Premises No.	Street	Amount
		Rs. cts.
9,	Manthri Road	6 . 75
	Total Rs.	

(Sgd.)

Shroff.

for Municipal Treasurer.

November 30, 1951.

2 D 17
Tax Receipt for
1st Quarter,
1952-
21-4-52.

2 D 17

Tax Receipt for 1st Quarter, 1952

Colombo Municipal Council.
Treasurer's Department

33

No. 79895

Date: 21. 4. 1952.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below under the Municipal Council's Ordinance for 1st quarter, 1952.

Premises No.	Street	Amount	2 D 17
		Rs. cts.	Tax Receipt for
9,	Manthri Road	6. 75	1st Quarter,
	Total Rs.		1952-
		Sgd	21-4-52
		Shroff.	-Continued
April, 21, 1952.		<i>for Municipal Treasurer.</i>	

2 D 18**Tax Receipts for 2nd Quarter, 1952**

10 Colombo Municipal Council.
Treasurer's Department

2 D 18
Tax Receipt for
2nd Quarter,
1952-
19.6-52-

No. 85787.

Date: 19. 6. 1952.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Council's Ordinance, for 2nd quarter 1952.

Premises No.	Street	Amount	
		Rs. cts.	
9,	Manthri Road	6. 75	
20	Total Rs.		Sgd.....
			Shroff
June 19, 1952.		<i>for Municipal Treasurer</i>	

2 D 19**Tax Receipt for 3rd & 4th Quarters, 1952.**

Colombo Municipal Council.
Treasurer's Department

No. 96666

Date: 4. 9. 1952

2 D 19
Tax Receipt for
3rd&4th
Quarters, 1952
4-9-52

30 Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance, for 3rd and 4th quarters, 1952.

Premises No.	Street	Amount	
		Rs. cts.	
9,	Manthri Road	13 . 50	
	Total Rs.		(Sgd.).....
			Shroff.
Rs. 13. 50		<i>for Municipal Treasurer.</i>	
4. 9. 52.			

2 D 20
Tax Receipt for
1st & 2nd
Quarters, 1953
11-4-53

2 D 20

Tax Receipt for 1st & 2nd Quarters, 1953

Colombo Municipal Council.
Treasurer's Department

No. 17521.

Date: 11. 4, 1953

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance for 1st and 2nd quarters, 1953.

Premises	No.	Street	Amount	
			Rs.	cts.
	9,	Manthri Road	1: '53	6. 75
			2: '53	6. 75
				13. 50
			Total Rs.	

Sgd

Shroff

for Municipal Treasurer

April 11, '53.

2 D 21

2 D 21
Tax Receipt for
3rd & 4th
Quarters, 1953
8-9-53

Tax Receipt for 3rd & 4th Quarters, 1953

20

Colombo Municipal Council
Treasurer's Department

No. 34911

Date: 8. 9. 1953.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance for 3rd and 4th quarters, 1953

Premises	No.	Street	Amount	
			Rs.	cts.
	9,	Manthri Road,	3: 1953	6. 75
			4: 1953	6. 75
				13. 50

Sgd

Shroff

for Municipal Treasurer

September 8. '53.

2 D 23**Tax Receipt for 1st & 2nd Quarters, 1954.**

2 D 23
Tax Receipt for
1st & 2nd
Quarters, 1954
7-4-54

Colombo Municipal Council.
Treasurer's Department.

No. 56129.

Date: 7. 4. 1954.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Council's Ordinance for 1st and 2nd 10 quarters. 1954.

Premises No.	Street	Amount
		Rs. cts
9,	Manthri Road	1st qr. '54 6. 75
		2nd qr. '54 6. 75
		13. 50

Total Rs.

(Sgd.)

Shroff.

for Municipal Treasurer.

Rs. 13. 50
20 April 7, '1954.

2 D 24**Tax Receipt for 3rd Quarter, 1954**

2 D 24
Tax Receipt for
3rd Quarter,
1954
28-10-54

Colombo Municipal Council.
Treasurer's Department

No. 77582.

Date: 28. 10. 1954

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below under the Municipal Council's Ordinance for 3rd quarter, 1954.

30 Premises No.	Street	Amount
		Rs. cts.
9	Manthri Road	6. 75
		Total Rs. 6. 75

Sgd

Shroff.

for Municipal Treasurer

Rs. 6. 75
28. 10. '54

2 D 22
Tax Receipt for
4th
Quarter, 1954
28-10-54

2 D 22

Tax Receipt for 4th Quarter, 1954

Colombo Municipal Council.
Treasurer's Department

No. 77583

Date: 28. 10. 1954

Received from A. M. Sheriff the undermentioned amount being the rates due on the annual value for the premises shown below, under the Municipal Councils Ordinance for 4th quarter, 1954.

Premises No.	Street	Amount.	10
		Rs. cts.	
9	Manthri Road	6. 75	
		Total Rs.	

Sgd.....

Shroff.

for Municipal Treasurer.

Rs. 6. 75
28. 10. '54

2 D 25
Tax Receipt for
1st Quarter, 1955
29-4-55

2 D25

Tax Receipt for 1st Quarter, 1955.

Colombo Municipal Council
Treasurer's Department

20

No. 96718

Date: 29. 4. 1955.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance for 1st quarter, 1955.

Premises No.	Street	Amount	30
		Rs cts	
9,	Manthri Road	6 . 75	
		Total Rs.	

(Sgd)

Shroff.

for Municipal Treasurer.

29. 4. 1955.

2 D 26

Tax Receipt for 2nd Quarter, 1955

Colombo Municipal Council
Treasurer's Department

No. 17682

Date: 11. 8. 1955

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42 being rates and costs due on the annual value of premises No. 9 Manthri Road under the Municipal Councils Ordinance, made up as follows:-

10	Amount
	Rs. Cts.
2nd quarter, '55 Rates	6. 75
Warrant costs	67
Total	<u>7. 42</u>

L. L. Attygalle.
Municipal Treasurer

Sgd
Signature of Collector.

2 D 27

Tax Receipt for 3rd Quarter, 1955

20 Colombo Municipal Council.
Treasurer's Department

No. 11934.

Date: 11. 8. 1955.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance for 3rd quarter, 1955.

30	Premises No. Street	Amount
		Rs. cts.
9,	Manthri Road	6. 75
	Total Rs.	

Sgd
Shroff.

for Municipal Treasurer

Rs. 6. 75
11. 8. 1955

2 D 26
Tax Receipt for
2nd Quarter,
1955-
11-8-55

2 D 27
Tax Receipt for
3rd Quarter,
1955-
11-8-55

2 D 28**Tax Receipt for 4th Quarter, 1955**

2 D 28
Tax Receipt for
4th Quarter,
1955-
2-2-56

Colombo Municipal Council.
Treasurer's Department

No. 41102

Date: 2. 2. 1956

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42 being rates and costs due on the annual value of premises No. 9, Manthri Road. under the Municipal Councils Ordinance, made up as follows:

		Amount	
		Rs.	cts.
	4th quarter, 1955 Rates	6.	75
	Warrant costs		67
	Total Rs.	<u>7.</u>	<u>42</u>

L. L. Attygalle,
Municipal Treasurer.

Sgd
Signature of Collector.
2. 2. 1956

10

20

2 D 29**Tax Receipt for 1st Quarter 1956**

2 D 29
Tax Receipt for
1st Quarter,
1956
21. 5. 56.

Colombo Municipal Council.
Treasurer's Department

No. 52911

Date: 21. 5. 1956

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42 being rates and costs due on the annual value of premises No. 9, Manthri Road, under the Municipal Councils Ordinance, made up as follows.

		Amount	
		Rs.	cts.
	1st quarter, 1956 Rates:	6.	75
	Warrant costs.		67
	Total Rs.	<u>7.</u>	<u>42</u>

L. L. Attygalle,
Municipal Treasurer

Sgd
Signature of Collector.

30

2 D 30**Tax Receipt for 2nd Quarter, 1956**

2 D 30
Tax Receipt for
2nd Quarter,
1956
13. 9. 56

Colombo Municipal Council.
Treasurer's Department

No. 62085

Date: 13. 9. 1956

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42
being rates and costs due on the annual value of premises No.
9, Manthri Road, under the Municipal Councils Ordinance, made
10 up as follows:

		Amount	
		Rs.	cts.
2nd quarter, 1956 Rates		6.	75
	Warrant costs		67
	Total Rs.	<u>7.</u>	<u>42</u>

L. L. Attygalle.
Municipal Treasurer.

Sgd.....
Signature of Collector.

20

2 D 31**Demand Notice**

2 D 31
Demand Notice-
11-9-56

Municipal Council of Colombo.
Treasurer's Department
Demand Notice

No. 32280

Notice is hereby given that if the sum of Rs. 7. 42 due as rates
and warrant costs for 2nd quarter 1956 on property bearing No. 9
situated at Manthri Road, Colombo, is not paid on or before
September 17, 1956 the moveable property of the owner (wherever
the same may be found) or occupier is liable to be seized in the
30 first instance on the authority of a warrant issued to me in
terms of section 252 of the Municipal Councils Ordinance.

Sgd.....

Rate Collector M.C.

The Municipal Office.
Colombo.
September 11. 1956.

Thimbirigasyaya Ward.

2 D 32
Tax Receipt for
3rd Quarter,
1956
31. 9. 56

2 D 32

Tax Receipt for 3rd Quarter, 1956

Colombo Municipal Council
Treasurer's Department

No. 53718

Date: 13. 9. 56

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Councils Ordinance for the 3rd quarter, 1956.

Premises No.	Street	Amount.	10
		Rs. cts.	
9,	Manthri Road	6. 75	

Total Rs.

Sgd.....

Shroff.

for Municipal Treasurer.

2 D 33
Tax Receipt for
4th Quarter,
1956-
5-3-57

2 D 33

Tax Receipt for 4th Quarter, 1956.

Colombo Municipal Council.
Treasurer's Department

No. 79918.

Date 5. 3. 1957

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42 being rates and costs due on the annual value of premises No. 9, Manthri Road, under the Municipal Councils Ordinance, made up as follows.

	Amount.	20
4th quarter, 1956 Rates	6 . 75	
Warrant costs	67	
Total Rs.	7 . 42	30

L. L. Attygalle
Municipal Treasurer.

Sgd.....
Signature of Collector.

2 D 34**Tax Receipt for 1st Quarter, 1957.**

2 D 34
Tax Receipt for
1st Quarter,
1957
13-7-57

Colombo Municipal Council
Treasurer's Department

No. 99493
Date: 13. 7. 1957.

Received from Mr. A. M. Sheriff the sum of Rs. 7 and cents 42 being rates and costs on the annual value of premises No. 9, Manthri Road, under the Municipal Councils Ordinance, made up **10** as follows.

	Amount.
	Rs. cts.
1st quarter, 1957 rates	6 . 75
warrant costs	67
	<u>7 . 42</u>

Sgd.....
Signature of Collector.

L. L. Attygalle
Municipal Treasurer.

2 D 35**Tax Receipt for 2-4 Quarters, 1957**

2 D 35
Tax Receipt for
2-4 Quarters
1957
13-7-57.

20 Colombo Municipal Council
Treasurer's Department

No. 84835
Date: 13. 7. 1957

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance for 2-4 quarters, 1957.

Premises No.	Street	Amount
		Rs. cts.
9,	Manthri Road	2: 57
		6. 75
		3: 57
		6. 75
		4: 57
		6. 75
	Total Rs.	<u>20. 25</u>

30

Sgd.....
Shroff.

for Municipal Treasurer

2 D 36
Tax Receipt for
1st & 2nd
Quarters, 1958-
7-3-58.

2 D 36

Tax Receipt for 1st & 2nd Quarters, 1958.

Colombo Municipal Council
Treasurer's Department

No. 12814.

Date: 7. 3. 1958

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below under the Municipal Councils Ordinance, for 1st and 2nd quarters, 1958. 10

Premises No. Street

Amount

Rs. cts.

9, Manthri Road

13 . 50

Total 13 . 50

Sgd.....

Shroff.

for Municipal Treasurer.

2 D 37
Tax Receipt for
3rd Quarter,
1958-
10-9-58.

2 D 37

Tax Receipt for 3rd Quarter, 1958. 20

Colombo Municipal Council
Treasurer's Department

No. 32619

Date: 10. 9. 1958.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Councils Ordinance for 3rd quarter, 1958.

Premises No. Street

Amount

Rs. cts.

9, Manthri Road

6 . 75

Total 6 . 75

Sgd

Shroff.

for Municipal Treasurer.

2 D 38
Tax Receipt for 4th Quarter 1958

2 D 38
 Tax Receipt for
 4th Quarter,
 1958-
 16. 10. 58.

Colombo Municipal Council
 Treasurer's Department

No. 38813

Date: 16. 10. 1958

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below under the Municipal Councils Ordinance for the 4th quarter, 1958

10 Premises No.	Street	Amount
		Rs. cts.
9,	Manthri Road	6. 75
Total Rs.		<u>6. 75</u>

Sgd

Shroff

for Municipal Treasurer.

2 D 1
Plaint in C. R. Colombo
Case No. 72121

2 D 1
 Plaint in C. R.
 Colombo Case
 No. 72121-
 28. 1. 59.

20 IN THE COURT OF REQUESTS OF COLOMBO.

M. I. Balgis Umma, Executrix of the last will
 of the late Al Haj M. I. Mohamed of "Villa D'or",
 609, Baseline Road, Colombo.....

Plaintiff.

No. 72121

Nat: Rent &
 Ejectment

Amt: Rs. 180/-

Vs.

30 M. Abdul of No. 9, Manthri Road, Havelock
 Town, Colombo.

Defendant

On this 28th day of January, 1959.

The plaint of the plaintiff abovenamed, appearing by M. U. M. Saleem, her Proctor, states as follows:

1. The parties to this action reside and the cause of action hereinafter set out arose at Colombo within the jurisdiction of this Court.

2 D 1
 Plaintiff in C. R.
 Colombo Case
 No. 72121-
 28. 1 59
 -Continued

2. Prior to the dates material to this action at Colombo aforesaid Al Haj M. I. Mohamed let to the defendant and the defendant took from the said Al Haj Mohamed on a monthly tenancy all that and those premises No. 9, situated at Manthri Road, Havelock Town in Colombo and bounded on the North by premises No. 7, Manthri Road on the East by Fife Road on the South by premises No. 11, Manthri Road and on the West by Manthri Road at a monthly rental of Rs. 5/- payable on or before the 10th day of each and every month.

3. The said Al Haj M. I. Mohamed departed this life at 10 Colombo on or about the 12th day of March, 1955, leaving a Last Will bearing No. 1102 dated 20th November, 1937 and attested by A. R. M. Razeen of Colombo, Notary Public whereby he appointed the plaintiff abovenamed the Executrix of his said Last Will.

4. The said Last Will was duly proved in the District Court of Colombo in its Testamentary Proceedings No. 17273 and Probate thereof was on the 7th day of June, 1957, duly granted to the plaintiff abovenamed as Executrix as aforesaid

5. The defendant has not paid the rents due from 1st 20 February, 1951.

6. By written notice dated the 23rd day of September, 1958 the plaintiff requested the defendant to quit and deliver over peaceful possession of the said premises to her on the 31st day of October, 1958, but notwithstanding the determination of the said tenancy on the 31st day of October, 1958, the defendant has been and is still withholding possession of the said premises to the plaintiff's loss and damage of Rs. 5/- per mensem from the 1st day of November, 1958.

7. There is now due and owing from the defendant to the 30 plaintiff the sum of Rs. 475/- to wit Rs. 465/- being rent from 1st February, 1951 to 31st October, 1958 and Rs. 10/- being damages for the months of November and December, 1958, which sum or any part thereof the defendant has failed and neglected to pay though thereto often demanded.

8. The plaintiff specially avers that the rent and/or damages from 1st February, 1951, to 31st December, 1958, have been in arrears for over a month after the same had become due within the meaning of section 13(1) (a) of the Rent Restriction Act No. 29 of 1948.

9. The plaintiff restricts the said claim to Rs. 180/- being rent and damages for three years ended 31st December, 1958.

2 D 1
Plaint in C. R.
Colombo Case
No. 72121-
28-1-59
Continued

Wherefore the plaintiff prays:-

- (a) for an order to eject the defendant from the said premises and to have the plaintiff placed in quiet possession thereof;
- (b) for judgment against the defendant for the said sum of Rs. 180/- with further damages at Rs. 5/- per month from the 1st day of January, 1959, till the defendant is ejected from the said premises and the plaintiff is placed in quiet possession thereof;
- 10 (c) for costs of suit and
- (d) for such other and further relief as to this Court shall seem meet.

Sgd. M. U. M. Saleem.
Proctor for Plaintiff

DOCUMENTS RELIED ON BY THE PLAINTIFF

- 1. Notice to Quit No. 91 dated 23rd September, 1958, and referred to in the plaint.
- 2. All correspondence, writings and documents relating to the subject matter of this Action.

20

Sgd. M. U. M. Saleem
Proctor for Plaintiff

2 D 2

**Amended Answer in C. R. Colombo
Case No. 72121**

2 D 2
Amended
Answer in C. R.
Colombo Case
No. 72121-
10-7-59

IN THE COURT OF REQUESTS OF COLOMBO.

M. I. Balgis Umma, Executrix of the Last Will of late Al Haj M. I. Mohamed of "Villa D'or", 609, Baseline Road in Colombo... *Plaintiff*

No. 72121

Vs-

30

M. Abdul of No. 9 Manthri Road, Havelock Town in Colombo... *Defendant*

On this 10th day of July, 1959.

The amended answer of the defendant above-named appearing by Q. M. R. Jayamanne his Proctor states as follows:-

- 1. The defendant admits the averments in paragraph 1 of the plaint save and except that a cause of action has accrued to the plaintiff to sue the defendant.

2 D 2
Amended
Answer in C. R.
Colombo Case
No. 72121-
10-7-59.

2. Answering paragraph 2 of the plaint the defendant admits the correctness of the boundaries of the premises No. 9, Manthri Road, Havelock Town as set out therein but denies the other averments therein contained.

3. Answering paragraph 3 of the plaint the defendant admits that the said M. I. Mohamed died on or about 12th March, 1955, but not aware of the other averments therein contained.

4. The defendant is not aware of the averments contained in paragraph 4 of the plaint.

5. The defendant denies the averments in paragraph 5, 7 and 8 of the plaint.

6. The defendant admits the receipt of the notice to quit pleaded in paragraph 6 of the plaint but denies the other averments therein contained. The defendant further states that the plaintiff is not entitled to send a notice to quit to the defendant.

7. Answering paragraph 9 of the plaint the defendant states that the defendant is not liable to pay any rent to the plaintiff.

8. Further answering the defendant states:-

- (a) That the defendant is living in the premises morefully described in the schedule hereto with his son A. M. Sheriff. 20
- (b) That the said A. M. Sheriff has been in undisturbed and uninterrupted possession of the said premises adverse to and independant of all others for a period of over 10 years and has acquired a title thereto by prescription.
- (c) That in the circumstances mentioned in sub-paragraph (a) and (b) above this Court has no jurisdiction to hear and determine this action and the plaintiff cannot have and maintain this action.

Wherefore the defendant prays:-

- (a) that the plaintiff's action be dismissed and 30
- (b) For costs and for such other and further relief in the premises as to this Court shall seem meet.

(Sgd.) Q. M. R. Jayamanne.
Proctor for Defendant.

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land and premises bearing assessment No. 7, situated at 89th Lane, presently Manthri Road, Thimbirigasyaya in Wellawatta Ward, within the Municipality and District of Colombo, Western Province, bounded on the

North by lot A part of the same land bearing assessment No. 5, on the
 East by Road.
 South by lot C part of the same land bearing assessment No. 9 and on the
 West by Road 89th Lane
 containing in extent 21.3 perches.

2 D 2
 Amended
 Answer in C. R.
 Colombo Case
 No. 72121-
 10-7-59.
 —Continued

Sgd. Q. M. R. Jayamanne,
Proctor for Defendant

2 D 3

10

**Issues in C. R. Colombo
 Case No. 72121**

2 D 3
 Issues in C. R.
 Colombo Case
 No. 72121-
 28-7-59.

C. R. 72121
 28. 7. 59

Mr. Paramsothy for plaintiff instructed.
 Mr. Premadasa for defendant instructed.

Receipt of the notice to quit is admitted,
 Issues by Paramsothy.

1. Did the late M. I. Mohamed let the premises in suit No. 9, Manthri Road, Havelock Town to the defendant.
- 20 2. If so is the plaintiff entitled to a decree in ejectment.
3. What rent and damages.

Mr. Premadasa has no issues to suggest.

I accept all the issues.

Sgd.....

Mr. Paramsothy calls—

M. M. Faleel— affirmed — 44 years — building contractor — residing at No. 609, Baseline Road, Colombo.

I am the eldest son of the late M. I. Mohamed.

30 The plaintiff is my mother. I know the premises in respect of which this action is filed. Presently it is No. 9, Manthri Road, but it was formerly known as No. 7, 89th Lane earlier. That was several years ago.

2 D 3
Document
containing
Issues in C. R.
Colombo Case
No. 72121
28-7-59.
-Continued

To my knowledge my father gave these premises to the defendant. The defendant fell into arrears of rent in my father's time and he filed action No. 30115 of this Court against the defendant in respect of these very premises No. 9, Manthri Road.

In that case the defendant filed answer and on the trial date the case was settled. According to that settlement the defendant agreed to vacate these premises after a certain time.

I produce marked P1 a certified copy of the plaint, answer and terms of the settlement in that case. That settlement was effected on the 15th February, 1951. My father died on the 12th 10 March, 1955. Between the date of that decree and the time of my father's death the defendant never paid any rent. There is no lavatory to these premises. This is an area where compulsory drainage is being imposed.

The Municipality wrote to my father in connection with this compulsory drainage. But after my father's death the Municipality did not pursue with the matter and the defendant continued in occupation.

After my father's death the rent for these premises was reduced but the defendant did not pay anything. The plaintiff in 20 this case is the executrix of the last will of my father. I produce marked P 2 a certified copy of the Probate in No. 17273 Testametary of the District Court of Colombo.

My mother gave notice to quit to the defendant through her proctor which I produce marked P. 3. To that notice to quit through his proctor the defendant sent a reply which I produce marked P 4 dated 27th October, 1957 in respect of the premises No. 9, Manthri Road. I say that the premises in suit No. 9, Manthri Road and No. 7, 89th Lane are one and the same premises and that it is the premises still occupied by the defendant. Although 30 my father obtained a decree in that case the defendant came and begged of my father that he allowed to stay on these premises and my father allowed him to do so. I was there at that time.

XXD

I knew that according to that decree entered the defendant in this case had to give vacant possession of these premises on 31st January, 1951 and I knew that on that condition all rents and damages would be waived.

We have not waived the rents and damages as yet. No application was made by the defendant for any extention of time 40 in writing. My father had not disposed of the premises No. 9 Manthri Road. He gifted it reserving his life interest to Nona Laila Mohamed my sister that is before my father's death.

By deed No. 755 the premises gifted to my sister was No. 7, 89th Lane Thimbirigasyaya Road, Havelock Town. There are two premises adjoining the premises in suit. Premises No. 5 is on the northern boundary of the premises in suit and premises No. 9, is on the southern boundary. Premises No. 9, 89th Lane was sold to Mr. Albert. Shown deed No. 1390 marked D2 dated 20th September, 1946, 89th Lane is now Manthri Road, but the numbers are also changed.

2 D 3
Document
Containing
Issues in C. R.
Colombo Case
No. 72121-
28-7-59.
—Continued

To Court:

- 10 The defendant is living in the very same premises which is the subject matter of this action. He has not shifted to any other premises.

Premises No. 7, 89th Lane, Havelock Town is now known as No. 9, Manthri Road, Havelock Town. Until his death my father was the owner of these premises. According to the earlier action I do not know if the boundaries are different.

RE EXD

- 20 I was shown a deed No. 753 marked as D 1 by which my father has gifted the premises in suit to my sister Nona Laila Mohamed in 1953 and that was before my father died. In that deed the premises are referred to as No. 7, 89th Lane.

Apart from that being executed in my sister's favour my father never gave possession of the premises to my sister. Till my father's death he was in possession of these premises. After his death possession has not yet been given to my sister.

My mother has filed this case in order to eject the defendant and give possession of these premises to my sister. The tenant has not attorned to my sister yet.

Intd: V. S. G
C. R.

30

2 D 4

Judgment in C. R. Colombo Case No. 72121
IN THE COURT OF REQUESTS OF COLOMBO.

2 D 4
Judgment in
C. R. Colombo
Case No. 72121-
28-7-59.

M. I. Balgis Umma Executrix of the Last
Will of the late Al Haj M. I. Mohamed of

2 D 4
 Judgment in
 C. R. Colombo
 Case No. 72121
 28. 7. 59.
 -Continued

No. 72121

“Villa D’or”, 609, Baseline Road, Colombo.
 *Plaintiff.*

vs.

M. Abdul of 9, Manthri Road, Havelock Town
 in Colombo..... *Defendant.*

JUDGMENT

The plaintiff sues the defendant one M. Abdul for ejection in respect of the premises No. 9 Manthri Road, Havelock Town, Colombo, on the ground that he is the tenant of the premises at a monthly rental of Rs. 15/-. The plaintiff sues this defendant in her capacity as executrix of the last will of the late M. I. Mohamed.

According to the evidence of her son Faleel an action was filed in this Court in case No. 30115 by his father against the very same defendant in respect of the same premises. The plaint, answer and the decree and the agreement between the parties are filed in this case as P 1.

Faleel says that after this decree the defendant did not leave the premises and did not pay rents to his father but his father allowed the defendant to remain there. It is clear according to P 1 in paragraph 4 of the plaint, the late M. I. Mohamed terminated the tenancy between him and the defendant on the 30th November 1949 by a notice and deliver vacant possession to the plaintiff on the 31st day of December, 1949.

So then if there was any tenancy between Mohamed and the defendants that tenancy ceased on the 31st December, 1949. Mohamed according to the evidence died in 1955. According to this settlement, ejection was to take place on 31st January 1951 and according to this consent order the plaintiff has undertaken to waive all rents if vacant possession is given. The mere fact that Mohamed allowed the defendant to remain in the premises in my opinion, does not create a new tenancy, especially when this tenancy had been terminated by a process of the Law.

The answer filed shows that there was an undertaking by Mohamed to give this property as a marriage settlement to the defendant's son as his daughter-in-law happened to be the adopted daughter of Mohamed. That the wife of Sheriff is not an adopted daughter of Mohamed is not denied by Mohamed's own son who gave evidence in this case. This accounts for the reason why Mohamed without entering into any fresh tenancy allowed the father to remain in the premises up to his death.

So then in my opinion no tenancy had been created whatever after the death of Mohamed. Abdul Cader if at all cannot be a tenant but a trespasser and it is left for the plaintiff to take action in that respect in any form he desires.

Much time had been spent on the question whether the premises where today the defendant lives is identical with the premises which forms the subject matter of this action. I do not think it is necessary for me to go into this question in this case.

2 D 4
Judgment in
C. R. Colombo
Case No. 7-121
8. 7. 59.
-Continued

Although the two complaints P 1 and the complaint filed in this case the boundaries are different and the number is the same. I am not prepared to accept the uncorroborated evidence of the plaintiff's son who gave evidence in this case. Mohamed is dead, nor can I place too much reliance on the evidence of the defendant's son who
10 according to the evidence had worked up this case.

Neither the dead man nor the aged and deaf man the defendant are able to tell me any tale about this creation of a new tenancy. The burden of proving the fresh tenancy lies on the plaintiff himself. Even the executrix who happens to be the plaintiff had not had the courage to get into the witness box and swear before me that a fresh tenancy had been created between the parties.

It appears to me that the two sons are fighting this case and both in my opinion had perjured themselves very badly in the witness box. I am not prepared to accept the evidence of either
20 of them. I hold that the plaintiff has failed to prove a fresh tenancy in this case.

I THEREFORE ANSWER THE ISSUES AS FOLLOWS:

1. Yes. but the defendant ceased to be the tenant after the decree in P 1, and he is a trespasser
2. No, in view of the answer I wish to give to No. 3.
3. Nil.

I dismiss the plaintiff's action with costs.

(Sgd.) V. S. Gunawardena.
Commissioner of Requests.

30 The above judgement was pronounced in open Court.

(Sgd.) V. S. Gunawardena.
Commissioner of Requests.

2 D 5

Decree in C. R. Colombo Case No. 72121

DECREE

No. 72121.

IN THE COURT OF REQUESTS OF COLOMBO.

M. I. Balgis Umma, Executrix of the last will of the late Al Haj M. I. Mohamed of "Villa D'or" 609, Basline Road..... Plaintiff.
40
against

2 D 5
Decree in C. R.
Colombo Case
No. 72121
28-7-59

2 D 5
Decree in C. R.
Colombo Case
No. 72121-
28-7-59
-Continued

M. Abdul of 9, Manthri, Havelock Town, in
Colombo *Defendant.*

This action coming on for final disposal before V. S. Gunawardene Esquire, Acting Commissioner of Requests, Colombo, on the 28th day of July, 1959, in the presence of Mr. Advocate Paramsothy instructed by Mr. M. U. M. Saleem, Proctor, on the part of the plaintiff and of Mr. Advocate Premadasa instructed by Mr. Q. M. R. Jayamanne, Proctor on the part of the defendant, it is ordered and decreed that the plaintiff's action for ejection and damages in respect of premises No. 7, situated at 89th Lane 10 presently Manthri Road, Thimbirigasyaya in Wellawatta Ward be and the same is hereby dismissed with costs.

(Sgd.) Illegibly.
Commissioner.

This 28th day of July, 1959.

2 D 6

Decree of the Supreme Court in C. R. Colombo Case No. 72121

2 D 6
Decree of the
Supreme Court
in C. R.
Colombo Case
No. 72121-
20-10-60.

S. C. 11/60.

ELIZABETH THE SECOND, QUEEN OF
CEYLON AND OF HER OTHER REALMS AND
TERRITORIES, HEAD OF THE COMMON- 20
WEALTH.

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

M. I. Balgis Umma, Executrix of the Last
Will of the late Al Haj M. I. Mohamed of
"Villa D'or" No. 609, Baseline, Road, Colombo.
Plaintiff.

vs.

M. Abdul of No. 9, Manthri Road, Havelock Town,
Colombo... *Defendant.*

M. I. Balgis Umma, Executrix of the Last Will 30
of the late Al Haj M. I. Mohamed of "Villa D'or"
No 609, Baseline Road, Colombo
Plaintiff-Appellant.
against-

M. Abdul of No. 9, Manthri Road, Havelock
Town, in Colombo *Defendant - Respondent*

2 D 6
Decree of the
Supreme Court
in C. R.
Colombo Case
No. 7211-
20,10,60
—Continued

Action No. 72121

COURT OF REQUESTS OF COLOMBO

This cause coming on for hearing and determination on the 20th day of October, 1960, and on this day, upon an appeal preferred by the Plaintiff-Appellant before the Honourable Miliani Claude Sansoni, Puisne Justice of this Court, in the presence of Counsel for the Plaintiff-Appellant and Defendant-Respondent.

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

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

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 25th day of October, in the year one thousand nine hundred and sixty and of our Reign the Ninth.

Sgd. B. F. Perera.
Deputy Registrar, S.C.

2 D 39

20 **Tax Receipt for 1st Quarter, 1959**
Colombo Municipal Council
Treasurer's Department

2 D 39
Tax Receipt for
1st Quarter
1959-
24-2-59.

No. 53934

Date: 24. 2. 1959.

Received from Mr. A. M. Sheriff the under-mentioned amount being the rates due on the annual value on the premises shown below under the Municipal Councils Ordinance, for the 1st quarter, 1959

Premises No.	Street	Amount
		Rs. cts.
30 9,	Manthri Road,	6. 75
	Total	6. 75

Sgd.....

Shroff.

for Municipal Treasurer

2 D 43
Tax Receipt for
2nd Quarter,
1959-
16-7-59.

2 D 43

Tax Receipt for 2nd Quarter, 1959.

Colombo Municipal Council
Treasurer's Department

No. 71476

Date: 16. 7. 1959

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below under the Municipal Councils Ordinance for the 2nd quarter, 1959.

Premises No.	Street	Amount	10
		Rs. cts.	
9,	Manthri Road	6 . 75	

Sgd.....
Shroff.

for Municipal Treasurer.

2 D 40
Tax Receipt for
1st&2nd
Quarters 1959-
21-8-59.

2 D 40

Tax Receipt for 1st & 2nd Quarters, 1959.

Colombo Municipal Council
Treasurer's Department

No. 93498 20

Date: 21. 8. 1959

Received from Mr. A. M. Sheriff the sum of Rs. 30 and cents 46 being the rates and costs due on the annual value of premises No. 9, Manthri Road, under the Municipal Councils Ordinance, made up as follows:

	Amount,	
	Rs. cts.	
1 & 2 quarters, 1959 rates	27 . 70	
warrant costs	2 . 76	
	<u>30 . 46</u>	30

L. L. Attygalle.

Municipal Treasurer.

Sgd.
Signature of Collector

2 D 41**Tax Receipt for 3rd & 4th Quarters, 1959.**

2 D 41
Tax Receipt for
3rd&4th
Quarters, 1959-
21-8-59.

Colombo Municipal Council

Treasurer's Department

No. 74970

Date: 21. 8. 1959

Received from Mr. A. M. Sheriff the under-mentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance, for the 3rd and 4th quarters, 1959.

10 Premises No.	Street		Amount	
			Rs.	cts.
9,	Manthri Road	3qr. '59	20.	60
.....		4qr. '59	20.	60
			<u>41.</u>	<u>20</u>
Rs. 41. 20				

Sgd

Shroff.

*for Municipal Treasurer.***2 D 42****20 Tax Receipt for 1st Quarter 1960**

2 D 42
Tax Receipt for
1st Quarter,
1960-
15-3-60

Colombo Municipal Council.

Treasurer's Department

No. 98629

Date: 15. 3. 1960

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance, for 1st quarter, 1960.

Premises No.	Street		Amount	
			Rs.	Cts.
9	Manthri Road		20.	60

30

Sgd

Shroff

for Municipal Treasurer

2 D 44
Tax Receipt for
4th Quarter,
1960-
16-12-60,

2 D 44**Tax Receipt for 4th Quarter, 1960**

Colombo Municipal Council.
Treasurer's Department

No. 34500.

Date: 16. 12. 1960

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below under the Municipal Councils Ordinance for the 4th quarter, 1960.

Premises No.	Street	Amount		10
		Rs.	cts.	
9	Manthri Road	20.	60	
Total Rs.		<u>20.</u>	<u>60</u>	

Sgd.....

Shroff.

for Municipal Treasurer

2 D 45
Tax Receipt for
1st&2nd
Quartes, 1961-
30-3-61.

2 D 45**Tax Receipt for 1st & 2nd Quarters, 1961.**

Colombo Municipal Council.
Treasurer's Department.

20

No. 49961.

Date: 30. 3. 1961.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Councils Ordinance for 1st and 2nd quarters. 1961.

Premises No.	Street	Amount		30
		Rs.	cts.	
9,	Manthri Road	1st qr. '61	20. 60	
		2nd qr. '61	20. 60	
Total Rs.		<u>41.</u>	<u>20</u>	

Sgd.

Shroff.

for Municipal Treasurer.

2 D 50**Tax Receipt for 3rd & 4th Quarters, 1961.**

Colombo Municipal Council.
Treasurer's Department

2 D 50
Tax Receipt for
3rd&4th
Quarters, 1961
4-9-61

No. 70565.

Date: 4. 9. 1961.

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Councils Ordinance, for the 3rd and 4th 10 quarters 1961.

Premises No.	Street	Amount Rs. cts.
9,	Manthri Road	
	3rd '61	20 . 60
	4th '61	20 . 60
		<u>41 . 20</u>

Sgd.....

Shroff

for Municipal Treasurer

20

2 D 51**Tax Receipt for 1 - 4 Quarters, 1962.**

Colombo Municipal Council.
Treasurer's Department

2 D 51
Tax Receipt for
1-4 Quarters,
1962-
21-3-62.

No. 97880

Date: 21. 3. 1962

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Councils Ordinance, for 1 - 4 quarters, 1962.

30 Premises No.	Street	Amount Rs. cts.
9,	Manthri Road	
	1:62	20 . 60
	2:62	20 . 60
	3:62	20 . 60
	4:62	20 . 60
		<u>82 . 40</u>

Sgd.....

Shroff.

for Municipal Treasurer.

2 D 52
Tax Receipt for
1st & 2nd
Quarters,
1963-
10-4-63.

2 D 52**Tax Receipt for 1st & 2nd Quarters, 1963**

Colombo Municipal Council,
Treasurer's Department

No. 50970.

Date: 10. 4, 1963

Received from Mr. A. M. Sheriff the undermentioned amount being the rates due on the annual value of premises shown below, under the Municipal Councils Ordinance for 1st and 2nd quarters, 1963.

Premises No.	Street		Amount		10
			Rs.	cts.	
9,	Manthri Road	1.	63	20.	60
		2.	63	20.	60
Total Rs.			<u>41.</u>	<u>20</u>	

Sgd

Shroff

for Municipal Treasurer

P I A
Report of S.
Kumaraswamy,
Licenced
Surveyor
(Return to
Commission)
29-10-63.

P 1 A

**Report of S. Kumaraswamy, Licenced Surveyor
(Return to Commission)**

20

**RETURN TO COMMISSION IN DISTRICT COURT,
COLOMBO.**

Mohamed Nona Laila wife of Abdul Majeed
Ahamed Lameer of "Villa D'or" 609, Baseline
Road, in Colombo *Plaintiff*

No. 9377/L

Vs-

1. M. Abdul
2. A. M. Sheriff.
3. Amina Umma, widow of M. Abdul. 30
4. Nona Kathija wife of T. A. Halaldeen.
5. Mohamed Haleel and
6. Mohamed Junaideen.

All of No. 9, Manthri Road, Havelock Town
Colombo 5 *Defendants.*

I, Sinnathamby Kumaraswamy, Licensed Surveyor, do hereby solemnly, sincerely and truly declare affirm and state as follows:

I am the Commissioner appointed in the above case.

On receipt of the commission I fixed the date of survey for the 17th October, 1963, and sent notices to both the Plaintiff and the Defendants by registered post informing them the date of survey and requesting them to be present at the time of survey to state their claims if any which should be mentioned by me in my report.

10 I proceeded to the land on the 17th October, 1963, and was met by the Plaintiff and the Defendants. I carried out the survey according to the boundaries pointed out by the parties.

The plan marked No. 446 dated 28th October, 1963, is a true and accurate survey of the land pointed out to me; and true copy of my field notes are also annexed.

I superimposed the corpus of lot B bearing Assessment No. 7, depicted on plan No. 785 dated 8th October, 1963, made by M. I. L. Marikar, Licensed Surveyor, on my Plan No. 446 annexed herewith and it is noticed that it coincides exactly with the corpus
20 of lot B bearing assessment No. 9 depicted on my plan No. 446.

Hence I certify that lot described as B bearing assessment No. 7 on Plan No. 785 dated 8th October, 1963, made by Mr. M. I. L. Marikar, Licensed Surveyor, is identical to the lot described as B bearing assessment No. 9, in my Plan No. 446 annexed herewith.

Sgd. S. Kumaraswamy
Court Commissioner

Signed and affirmed
to at Colombo on this
30 29th day of October,
1963.

Before me.

Sgd. T. Nadarajah
Commissioner for Oaths.

PIA
Report of S.
Kumaraswamy,
Licenced
Surveyor
(Return to
Commission)
29-10-63
-Continued

P 1

Plan No. 446 made by S. Kumaraswamy, Licensed Surveyor.

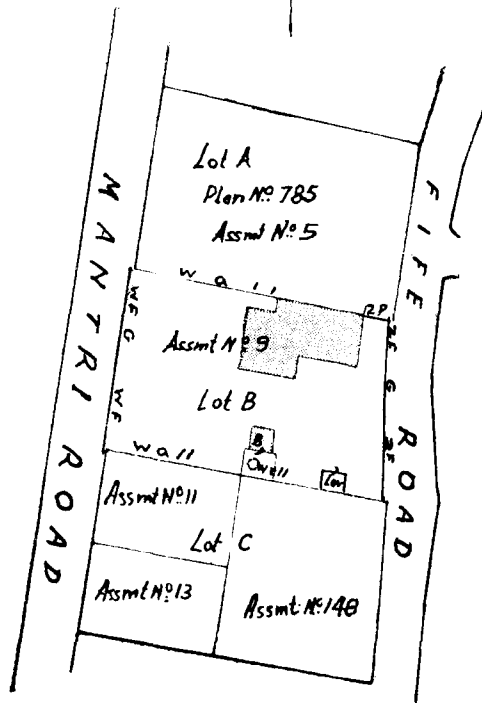
"TRUE COPY" by

S. Lokanathan
 Licensed Surveyor,
 51. Belmont Street,
 Colombo. 12.

Return to Commission in D.C. Colombo
 Case No. 9377/L

No. 446

P 1
 Plan No. 446
 made by
 S. Kumaraswamy,
 Licensed Surveyor-
 28. 10. 63.



Scale of One Chain to an Inch

P L A N

of 3 allotments of land with the buildings and plantations standing thereon depicted as Lots A, B & C on Plan No. 785 dated 8th October 1931 made by Mr. M. I. L. Marikar Licensed Surveyor & Leveller, now Lot A bearing Assmt No. 5, Lot B bearing Assmt. No. 9 & Lot C bearing Assmt Nos 11 & 13 (Mantri Road) & 148 (Fife Road) situated at Timbirigasyaya within the Municipality and District of Colombo.

W E S T E R N P R O V I N C E

Lot B which is under dispute is bounded as follows:

On the North by Lot A now bearing Assmt. No. 5 (Mantri Road)

On the East by Fife Road

On the South by Lot C now bearing Assmt. Nos 11 & 13 (Mantri Road) & 148 (Fife Road)

On the West by Mantri Road formerly known as 89th Lane

Containing in Extent: oA - oR - 21.3P

I certify that that the superimposition of Lots A, B & C depicted on Plan No. 785 dated 8th October 1931 on my Plan shown above is precise and as such the corpus of Lot B now bearing Assmt. No. 9 Mantri Road is identical with the Lot B bearing Assmt. No. 7 depicted on Plan No. 785 dated 8th October 1931 made by Mr. M. I. L. Marikar Licensed Surveyor.

Surveyed on the 17th day of October 1963

Sgd. S. Kumarasamy

Licensed Surveyor & Leveller

No. 130. Hultsdorf Street, Colombo.

28 - 10 - 1963

"True Copy" by

S. Lokanathan

Licensed Surveyor.
 16-x-1966.

Printed by Mercantile Stationers.
No. 11, Bailie Lane, Fort, Colombo 1.
Telephone 6251

INDEX - PART II*Exhibits***2ND DEFENDANT'S DOCUMENTS (Continued)**

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2 D 41	Tax Receipt for 3rd & 4th Quarters, 1959	21. 8. 59.	99
2 D 42	Tax Receipt for 1st Quarter, 1960	15. 3. 60.	99
2 D 43	Tax Receipt for 2nd Quarter, 1959	16. 7. 59.	98
2 D 44	Tax Receipt for 4th Quarter, 1960	16. 12. 60.	100
2 D 45	Tax Receipt for 1st and 2nd Quarters, 1961	30. 3. 61.	100
2 D 46			
to	Not produced		
2 D 49			
2 D 50	Tax Receipt for 3rd & 4th Quarters, 1961	4. 9. 61.	101
2 D 51	Tax Receipt for 1st-4th Quarters, 1962	21. 3. 62.	101
2 D 52	Tax Receipt for 1st & 2nd Quarters, 1963	10. 4. 63.	102

No. 1.
Journal Entries

No. 1
Journal Entries
11. 1. 61 to
17.3.66

IN THE DISTRICT COURT OF COLOMBO.

No. 9377/L

Class V

Amount: Rs. 17,500/-

Nature: Land.

Procedure: Regular.

N. N. Laila

Plaintiff

vs.

M. Abdul and another

Defendants.

10

JOURNAL

(1)

The 11th day of January, 1960 Mr. M. U. M. Saleem, Proctor, files:
(a) Appointment and (b) *Plaint*. *Plaint* accepted and summons ordered for 22. 3. 61.

(Sgd)

Additional District Judge.

(2) 3. 2. 61.

Summons issued with precept returnable the 19th day of March, 1961.

Intd

20(3) 22. 3. 61.

Mr. M. U. M. Saleem, for plaintiff - vide Journal Entry (1)

(1) Summons served on M. Abdul-1st defendant-Absent.

(2) Summons not served on 2nd defendant. Proxy of 1 & 2 defendants filed.

Proctor for plaintiff to file of record the plan referred to his *plaint* for 24/5.

Answer to await this step.

(Sgd)

(4) 24. 5. 61.

30 to Vide Journal entry (3) Proctor for plaintiff to file plan referred in his *plaint*.

Copy of Plan No. 785 filed.

Answer on 12. 7. 61.

(Sgd)

Additional District Judge.

(5) 12. 7. 61.

Mr. M. U. M. Saleem for plaintiff. Vide Journal Entry (4).

Answer due Answer of 4 defendant filed. Trial on 19. 2. 62.

(Sgd).....

Additional District Judge.

40

No. 11
Plaintiff's
Evidence

Evidence of
S. Coomarasamy-
Cross-examina-
tion
-Continued

Evidence of
Nona Laila
Ameer-
Examination

A. They are attached houses. Premises No 5 is a fairly old building. Assessment No. 9 is also a fairly old building. The defendant was in residence when I went to No. 9.

(Sgd)

Additional District Judge.

Mrs. Nona Laila Ameer-affirmed, wife of Mohamed Lafir-affirmed 45 years, Baseline Road, Colombo.

I am the plaintiff in this case. Upon deed No. 446 of 1933 P3 my father M. I. Mohamed became the owner of two portions of the land described in the shedule A to the plaint. 10

My father divided these two portions into three lots as shown in plan P 2 and he by deed No. 599 of 1931 P4 gifted lot B of P2 to me subject to certain conditions stated in the deed and by deed No. 752 of 1933 P5 my father cancelled the conditions that are mentioned in P4.

The 1st defendant Abdul now dead was my uncle, he was my mother's brother. He was residing in my portion.

Q. How did he come there ?

A. My father brought Abdul to look after certain building materials that had been brought to build certain houses. That 20 was to build a house in block A in plan P2. He came there as a watcher and also as a milkman.

In addition to what was built in lot A, a portion of a building was also put in lot B. Abdul went into occupation after the building was put up in lot B. At the time that building was put up in lot A another building was put up in lot B adjoining lot A. Abdul was placed in that building in lot B Abdul paid rent to my father.

My father field action No. 30115 in the Court of Request against Abdul. I mark P6 plaint answer and terms of settlement in 30 that case. In that case Abdul agreed to leave this place by 31st December, 1951. Abdul did not leave after the case. He obtained time to leave. My father gave time, then my father died. He died in March, 1954. Then my mother filed action against the 1st defendant.

Cross examination.

Q. You were the owner all along from 1933 after P5 ?

A. Yes.

Q. And this was not a portion of your father's estate ?

A. No. This was gifted to me.

Evidence of
Nona Laila
Ameer
Cross-
examination

Q. Your mother filed this action against your uncle Abdul?

A. Yes.

No. 11
Plaintiff's
Evidence

Counsel produce the plaint of 28. 1. 59 marked 2D1. Answer filed by Abdul of 10. 7. 59, 2D2, The issues framed on the 28th July, 1959 2D3. Answer to the issues marked 2D4. Decree entered in C. R. dated 28th July, 1959 marked as 2D5.

Evidence of
Nona Laila
Ameer,
Cross-examina-
tion
-Continued

I am not aware whether there was an appeal to the Supreme Court by my mother. Counsel marks the Decree of the Supreme Court 2D6. Faleel is my brother. He gave evidence in that case.
10 He is also come here to give evidence.

Q. And up to now you do not know that there was an appeal in that case?

A. I do not know. I never discussed this matter with my brother. I know the present defendant's wife.

Q. Was she an adopted daughter of your father?

A. No. she was my mother's sister's daughter. She lived with my father. My uncle's son the defendant married my other cousin. The marriage took place at my house.

Counsel produce marked certified copy of marriage with Nona 20 Rahi, 2D7, translation 2D7A. The marriage took place about 20 years ago.

Q. And at the marriage Kaikuli was given?

A. I do not know.

Q. The property in Skinner's Road North 11, 11/1, and 11/2 and 11/3 were given as dowry?

A. No.

Q. If that is written in the Marriage certificate you say it is wrong?

A. Yes.

30 Q. Your father was entitled to 11, 11/1 and 11/3 Skinner's Road?

A. No.

Q. Do you deny Skinner's Road, 11, 11/1 and 11/3 belonged to your father?

A. I deny.

My father did not promise to give a dowry. Mohamed Ibrahim Mohamed is my father.

Q. The 2nd defendant and wife came into residence of this property about 20 years ago?

40 A. Yes.

Q. Was a property given to the 2nd defendant when he married your cousin?

No. 12
Defendant's
Evidence
—
Evidence of
A. M. Sheriff-
Examination
Continued—

Lot B in the plan P 2 along with the house. In 1942 I went there. I have been in residence in that property from 1942. I had not paid rent to anybody. My father did not pay rent to anybody. I was not aware of any transfer to the plaintiff until this action was filed.

The northern property was also sold by M. I. Mohamed long years ago. That is lot A. And the southern was also sold. I produce marked 1D9 deed 1390 of the 20th September, 1946 with regard to portion C. I cannot say when A was sold, it was sold about the same time. 10

Q. You remember the action filed against your father by Balkis Umma?

A. I do not know about that.

Q. In any case you gave evidence?

A. That was a case which was filed against me.

Q. Was there a case filed against your father Abdul?

A. There was a case. I produce the plaint in action No. 72121 Court of Requests dated 28th January, 1959, marked 2D1, that was filed by Balkis Umma who is the wife of M. I. Mohamed. She is also related to me and related to my wife. 20

Q. Did your father take on rent a premises from M. I. Mohamed at any time?

A. No.

I produce the answer filed in that action 2D2, issues marked 2D3.

Q. Are you aware what your father's answer in that case?

A. I do not know.

My father lived in the adjoining land. He came to live with me in 1959 or so. In that action my cousin Faleel gave evidence. I also gave evidence. That action against my father was dismissed. 30 I produce the issues in that case marked 2D3 and answer to the issues 2D4 and Court of Requests decree 2D5 of 28th July, 1959 and the Supreme Court decree 2D6.

Q. Was the plaintiff aware of that action?

A. I cannot say. Faleel knew. Faleel is plaintiff's brother.

Q. Municipal taxes for this property from the time you went into residence was paid by whom?

A. I who paid. From 1942 I paid taxes.

Q. What happened to the old receipts?

A. They are lost. 40