

~~GK 62~~

12, 1952

31130

No. 17 of 1951.

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF CEYLON.

UNIVERSITY OF LONDON
W.C. 1.
21 JUL 1953
INSTITUTE OF ADVANCED
LEGAL STUDIES

BETWEEN—

THE ATTORNEY-GENERAL OF CEYLON
(Defendant) *Appellant*

— AND —

VALLIYAMMAI ATCHI, of 247, Sea Street,
Colombo, Executrix of the last Will and
Testament of K.M.N.S.P. Natchiappa Chettiar
(Plaintiff) *Respondent*.

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CASE FOR THE RESPONDENT.

RECORD.

1. This is an appeal from a decree of the Supreme Court of Ceylon dated the 24th June, 1949, dismissing an appeal by the Appellant from a decree of the District Court of Colombo dated the 7th May, 1947, and allowing cross objections to the said decree on the part of the Respondent. pp. 354-5. p. 342, ll. 17-22.

2. The question which arises for determination on this appeal is whether property in Ceylon in respect of which estate duty was claimed on the death of the Respondent's husband, Natchiappa Chettiar, in 1938 was immune from such duty by reason of being the property of a Hindu undivided family. 20

3. In so far as the above question is a question of fact—and it is submitted that it is simply a question of fact—the concurrent findings of the District Court of Colombo and the Supreme Court of Ceylon are in favour of the Respondent.

4. The deceased Natchiappa Chettiar was a member of a family of Nattucottai Chettiars whose home was at Sembanur in p. 324, ll. 1-17.

- p. 323, ll. 20- South India. The relevant pedigree in a very simplified form was as follows: Kumarappa Chettiar, the great grandfather, had a son Natchiappa, referred to in the proceedings as Natchiappa (1). The two sons of Natchiappa (1) were Natchiappa (2) and Suppramaniam. The deceased Natchiappa (3) was a son of Suppramaniam.
- p. 331, ll. 4-10. 5. The business books of the family, which were subjected to lengthy examination by the accountants for the Commissioner of Estate Duty went back to 1864. They showed, according to the findings of the District Judge, that a moneylending business in Ceylon under the vilasam K.M.N. had been carried on by Natchiappa (1) and that this business had been continued by his two sons Natchiappa (2) and Suppramaniam. On the 22nd January, 1912, a deed of partition (A. 8) was entered into between Natchiappa (2) and Suppramaniam for the purpose of dividing between them the undivided family property of which they were then managers, and from this time on there were two businesses in Ceylon: the one managed by Natchiappa (2) and later by four of his five sons had the vilasam N.S.R.M.S.; and the other, that with which this appeal is concerned, managed by Suppramaniam along with his son Natchiappa (3), had the vilasam K.M.N.S.P., and Natchiappa (3) carried it on alone after the death of his father. Natchiappa (3) died on the 30th December, 1938, leaving the present Respondent, his second wife, as widow and executrix of a Will which he had made on the 3rd December, 1938.
- p. 324, ll. 24-43. 10
- p. 324, l. 41-
p. 325, l. 8.
pp. 330-3. 20
- p. 329, l. 12 to
p. 330, l. 32. 20
- p. 533, ll. 21-2.
pp. 521-5. 20
- p. 568, ll. 29-30.
p. 571, l. 1. 30
- p. 346, ll. 6-12. 30
- pp. 568-570;
570-2. 40
- p. 577. 40
- pp. 18-23. 40
6. By Notice of Assessment dated the 3rd February, 1940, the Estate Duty Assessor claimed that Rs. 278,021.70, later increased by an additional Notice of Assessment dated the 7th November, 1940, to Rs. 290,784.12, was payable as estate duty on property in Ceylon of the deceased Natchiappa (3). Subsequent adjustments were made by which the amount, if any, chargeable was fixed at Rs. 285,308.48. This sum, pending the outcome of the present proceedings, the Respondent was required to and did pay.
7. The said Notices of Assessment were both challenged by the Respondent by Notices of Objection dated respectively the 23rd February, 1940, and the 26th November, 1940, but the Commissioner of Estate Duty by letter dated the 11th March, 1941, maintained the assessment.
8. Pursuant to the right of appeal conferred by Section 34 of the Estate Duty Ordinance No. 1 of 1938, Chapter 187 of the Legislative Enactments of Ceylon 1938 (the terms of which are set out in the Appendix to this Case), the Respondent thereupon filed a Petition of Appeal in the District Court of Colombo on the 2nd April, 1941. By this Petition the Respondent claimed that the deceased Natchiappa (3) was a member of a Hindu undivided

family; that the entire property assessed as liable to duty was the joint property of that Hindu undivided family; that the entire immovable property assessed as liable to duty would if it had been movable property have been the joint property of that Hindu undivided family; that no estate duty was payable by virtue of the provisions of Section 73 of the Estate Duty Ordinance as amended by the Estate Duty Amendment Ordinance No. 76 of 1938; and that no property passed on the death of Natchiappa (3) within the meaning of the Estate Duty Ordinance. She further claimed that

10 in any event certain specific sums should be deducted in assessing the value of the estate.

9. Section 73 of the Estate Duty Ordinance as amended is in the following terms:—

“When a member of a Hindu undivided family dies, no “estate duty shall be payable—

“(a) on any movable property which is found to the “satisfaction of the Commissioner to have been the joint “property of that family.

20 “(b) on any immovable property when it is proved to “the satisfaction of the Commissioner that such property “if it had been movable property would have been the joint “property of that family.”

Originally by Ordinance No. 1 of 1938 the provision had been enacted in the simpler form “When a member of a Hindu undivided “family dies, no estate duty shall be payable on any property proved “to the satisfaction of the Commissioner to be the joint property of “that Hindu undivided family”, but it was apparently thought that p. 351, ll. 10-21. difficulties might arise in relation to immovable property as the law of the country of domicile would not be applicable. Hence the expanded form of the section, in order to make it clear that in relation

30 to immovable as well as movable property, notwithstanding technicalities arising from foreign domicile, a Hindu undivided family should be immune from estate duty.

10. To this Petition, the Appellant raised certain preliminary objections, which are not in issue on this appeal, having been disposed of in the Respondent's favour as appears in paragraphs 11 and 12 hereof. They were set out in a Statement of Objections dated pp. 30-31; 32-33. the 22nd October, 1942, filed by the Appellant pursuant to an Order pp. 30-31. of the District Court of Colombo made on the 20th October, 1942. p. 30, ll. 12-15.

The substance of these objections were shortly as follows:—

40 (a) That the law applicable was the law of Ceylon, so that as regards movable property the law of the deceased's domicile was irrelevant. p. 30, ll. 19-22.

p. 30, ll. 22-24.

(b) That no appeal under Section 34 lay against a decision of the Commissioner under Section 73.

p. 30, ll. 25-29.

(c) That nothing could be ventilated in Court which had not previously been put before the Commissioner.

p. 30, ll. 30-38.

(d) That the Respondent was estopped from asserting that the property in question belonged to a Hindu undivided family by reason of representations made by Natchiappa (3) as representative of his father Suppramaniam to the effect that the latter on his death had left no property.

p. 30, ll. 39-42;
pp. 573-6.

(e) That certain findings of the Board of Review of 10 Income Tax operated as *res judicata*.

p. 31, ll. 1-6.

(f) That the Respondent had obtained probate on the representation that the deceased Natchiappa (3) had executed a valid Will, and was competent to dispose of the property referred to in that Will, and could not now assert the contrary.

pp. 54-61.

11. The District Judge gave his decision upon these preliminary objections on the 15th December, 1942. He held:—

p. 56, l. 12 to
p. 57, l. 15.

(a) that the fact of a non-Ceylon domicile did not exclude the operation of the Estate Duty Ordinance and, subject to Section 73, what constituted the passing of property on a death had to be determined according to the law of Ceylon; 20

p. 58, l. 40 to
p. 59, l. 27.

(b) that an appeal under Section 34 lay in favour of any person aggrieved by a decision on the ground of his liability to pay duty, and this language covered the appeal before the Court;

p. 57, l. 30 to
p. 58, l. 40.

(c) that the question whether there was a Hindu undivided family had been submitted to the Commissioner for his decision, and the fact that he had not ruled on the matter did not preclude it being ventilated in the Court;

p. 60, ll. 13-39.

(d) that there could be no estoppel as against the deceased Natchiappa's estate by reference to representations made by him in a different capacity, *i.e.*, as personal representative of Suppramaniam; 30

p. 59, l. 28 to
p. 60, l. 12.

(e) that no question of *res judicata* arose because the decision of the Board of Review operated only with relation to Income Tax and, in any case, the question whether the Commissioner was satisfied could not be determined by reference to whether the Board of Review was satisfied;

p. 60, l. 40 to
p. 61, l. 16.

(f) that there was no question of approbating or reprobating or of election by reason of the Respondent having applied for and received probate of the Will. 40

Accordingly the District Judge rejected the preliminary objections.

12. The Appellant appealed to the Supreme Court of Ceylon against the said decision of the District Judge on the preliminary objections. This appeal was heard on the 23rd, 24th and 30th March, 1944, and the decision of the Supreme Court (Howard, C.J. and Wijewardene, J.) was delivered on the 1st May, 1944. In short, that Court held:—

- (a) that decisions such as *Liversidge v. Anderson* (1942) A.C. 206 were no authority in the context under consideration for the view that the Commissioner's view was final and unappealable; p. 65, l. 36 to p. 69, l. 46.
- 10 (b) that the language of the Ordinance indicated an intention to confer a right of appeal against a decision under Section 73 and was adequate to carry out that intention; p. 70, l. 1 to p. 71, l. 23.
- (c) that the question was not *res judicata*, the decision of the Board of Review being confined to income tax, and to the assessable income in the year in question; p. 71, l. 24 to p. 73, l. 19.
- (d) that there was no substance in the estoppel point. p. 73, ll. 20-23.
- A decree was accordingly passed dismissing the appeal. p. 74.
- 20 13. From this decision and decree of the Supreme Court no appeal was brought, and these contentions are thus no longer in issue.
14. On the 15th November, 1944, the hearing of the case on the facts was taken up before the District Court, some of the Respondent's evidence having meanwhile been taken and recorded on the 16th December, 1942, to guard against the contingency, which in fact happened, of witnesses dying before they could give evidence. The Appellant was not for all that deterred from submitting that the evidence so recorded could not be read in the subsequent proceedings, a submission which was rejected. pp. 87-319. pp. 75-87. p. 105, ll. 14-17. pp. 161-2.
- 30 15. After two days' hearing, on the 15th November, 1944, and the 4th December, 1944, the case did not come on again until the 10th September, 1946, by which time there was a new District Judge at Colombo. The Appellant accordingly insisted on the whole trial being started afresh. pp. 87-104. p. 105.
- 40 16. In the course of the resumed proceedings, the Appellant took a further point of a preliminary nature, namely that, although it had been decided that there was a right of appeal to the District Court, the issue in such an appeal was only whether the decision of the Commissioner was right, and that accordingly no evidence could be adduced apart from what was before the Commissioner. pp. 105-319. pp. 293-6. p. 321, l. 10.
17. Apart from this preliminary point, the issues before the learned District Judge were:—
- (a) whether the deceased was a member of a Hindu undivided family;

(b) whether this family owned on the relevant date joint property in India; and

(c) whether the property in Ceylon on which duty was claimed was joint property of this family.

pp. 75-319.

p. 347, ll. 4-7.

18. All these issues were strenuously contested by the Appellant, and were the subject of a considerable body of evidence. Issues (a) and (b) can, however, in the Respondent's submission, be now regarded as disposed of, as on the appeal mentioned in paragraphs 23 to 26 below, the Attorney-General, as Gratiaen, J. put it, "frankly, and I think very properly, conceded that the evidence on "points (a) and (b) could not reasonably be challenged." 10

pp. 320-342.

p. 321, l. 10 to
p. 323, l. 7.

19. The learned District Judge gave judgment on the 7th May, 1947. He dealt first with the preliminary point mentioned in paragraph 16 hereof. He pointed out that this objection had not been taken until after the evidence of the principal witness for the Respondent had been given, and made it clear that, if the Court was to confine itself to such evidence as had been led before the Commissioner, practically all the evidence recorded in the proceedings should have been ruled out. He expressed the view that it was against all the principles of procedure and equity that a person should be debarred from leading evidence in Court which he had neither the right nor the opportunity of leading before the Commissioner, and drew attention to the evidence on record that, though it was open to the Commissioner to call for evidence, he did not call for any, nor did he ask the Respondent to satisfy him that her contention with regard to the nature of the deceased's estate was correct. The learned Judge accordingly rejected this contention. 20

p. 323, l. 8 to
p. 343, l. 3.

20. On the merits, the learned District Judge examined very carefully and fully the large body of evidence which had been adduced. On the now remaining issue (c)—whether the property in Ceylon on which duty was claimed was joint property of the family—he expressed himself as follows:— 30

p. 333, l. 43 to
p. 334, l. 6.

"The evidence establishes beyond doubt that K.M.N.S.P. "was the firm carried on by father and son. On the death of "the father, the son [Natchiappa (3)] carried on the business, "and it would be reasonable to infer that he took over the "property that was left by his father, and in his hands this "again would be ancestral. It is possible that part of the assets "of the firm K.M.N.S.P. carried on by Suppramaniam and this "son and later by Natchiappa (3) contained his individual "earnings and perhaps even their separate property although the "evidence does not justify such a conclusion being reached. "Even if they had mingled their own separate property into "the joint property of the family, according to the decisions of 40

“the Indian Courts and the Privy Council, the property so
“enlarged must be regarded as joint family property.”

21. The learned District Judge also dealt with a number of documents on which the Appellant relied, including a registration under the Registration of Business Names Ordinance of the business carried on by the deceased (R. 27), a Declaration and Statement of Property made in 1932 on the death of Suppramaniam (R. 1) and the deeds which accompanied it, and the last Will of the deceased (R. 17). The learned District Judge's view was that:—

10 “The documents produced by the Crown, had they stood
“by themselves, would certainly have created a prima facie case
“to establish the fact that the property left by Natchiappa
“Chettiar was his own separate property, but the other evidence
“in the case is, in my view, so convincing that the conclusion
“with regard to the character of the property being joint
“property of a Hindu family is irresistible.”

22. In accordance with his findings, the learned District Judge made a declaration that the property assessed by the Commissioner of Estate Duty as being liable to pay estate duty was property coming within the provisions of Section 73 of the Ordinance and that accordingly no sum was payable in respect of it as estate duty. He declined, however, to accede to the Respondent's claim for an order for repayment of the amount she had paid together with interest, on the ground that he had no jurisdiction to make such an order. He ordered, however, that the Respondent be paid her costs of the proceedings.

23. The Appellant appealed to the Supreme Court. His Petition of Appeal covered the preliminary point mentioned in paragraphs 16 and 19 hereof, but no argument appears to have been addressed to the Supreme Court upon it, and this point too is apparently gone.

24. The Supreme Court (Wijewardene, C.J., and Gratiaen, J.) dismissed the appeal. Gratiaen, J., with whose judgment the learned Chief Justice expressed his agreement, said:—

40 “The learned (District) Judge enjoys the advantage of
“professional experience of the usages of Chetty traders in
“Ceylon and after an exhaustive analysis of the oral and docu-
“mentary evidence in the case he arrived at the conclusion that
“the Ceylon assets dealt with by A. 8” (the partition agreement
between Natchiappa (2) and Suppramaniam in 1912) “were the
“joint property of a Hindu undivided family in exactly the
“same way as the Indian assets admittedly had been. I find
“the reasons for arriving at this conclusion irresistible.”

p. 334, l. 8 to
p. 341, l. 40.
pp. 385-6.
pp. 477-9.
pp. 391-420.

pp. 521-5.

p. 341, ll. 42-47.

p. 342, ll. 17-22.

p. 342, ll. 9-14.

p. 342, l. 23.

pp. 342-5.

p. 344, ll. 13-16.

pp. 345-353.

p. 353, ll. 11-12.

p. 348, ll. 37-43.

pp. 380-3.

p. 349, l. 32 to
p. 350, l. 12.

Gratiaen, J., further said:—

pp. 380-3.

“I am in complete agreement with the learned Judge that
“the evidence in the case convincingly establishes that the
“business carried on in Ceylon by Natchiappa (2) and
“Suppramaniam under the vilasam K.L.M. was the joint
“property of the undivided family of which they were both
“members, and that after the division in 1912 of the property
“by the deed A. 8. Suppramaniam continued to carry on the
“identical business under the new vilasam K.L.M.S.P. not on
“his own account but as the joint property of the new undivided 10
“family of which he was now the head. When Suppramaniam
“returned to India and later died, the business remained in the
“hands of his son, the deceased, as joint family property and
“not as separate property possessed by him for his own benefit
“to the exclusion of the family.

“It was argued by the Crown that the onus was on
“the executrix to prove affirmatively that the business of K.L.M.
“carried on by Suppramaniam and Natchiappa (2), and the
“later business of K.L.M.S.P. were in fact the joint property of
“an undivided family. Even if this be so, the burden has been 20
“amply discharged. Moreover, in the present case we have
“clear evidence that there was a Hindu undivided family
“possessed of some property at least which was admittedly
“joint. The Ceylon property was also possessed jointly by the
“male members of the undivided family, and in the absence of
“any evidence of a commercial partnership the terms of which
“were inconsistent with the incidence of joint family property,
“I think that the only reasonable inference which can be drawn
“from the proved facts is that the business was joint family
“property and not the separate asset of any individual member 30
“of the family.”

p. 350, l. 22 to
p. 351, l. 30.

pp. 342-5.

25. The Appellant raised a further point in the Supreme Court (not, it would seem, raised by his Petition of Appeal) that Section 73 of the Estate Duty Ordinance was wholly inoperative because Hindu law was no part of the law of Ceylon. This argument was rejected by the Supreme Court, it is submitted rightly, on the ground that the Legislature had shown a clear intention to recognise the Hindu undivided family as an entity capable of owning property in Ceylon, and effect should be given to that intention.

p. 351, l. 34 to
p. 353, l. 3.

26. The Supreme Court accordingly dismissed the Appellant's 40
appeal with costs. On the Respondent's cross appeal, asking for an order for repayment to the Respondent of the amount she had paid for estate duty, with interest, the Supreme Court differed from the learned District Court Judge and held that there was nothing to

preclude the entering of such a decree. A decree was accordingly entered under date the 24th June, 1949, dismissing the Appellant's appeal with costs and ordering payment to the Respondent by the Crown of Rs. 285,308.42 with interest at the rate of 5% from the date of action. pp. 354-5.

27. The Appellant duly applied for and was on the 20th July, 1949, granted conditional leave to appeal to Your Majesty in Council from the said judgment and decree of the Supreme Court dated the 24th June, 1949, and this leave was made final on the 21st September, 1949. pp. 356-360. p. 362.

10 28. The Respondent respectfully submits that this appeal should be dismissed with costs for the following amongst other

REASONS.

1. BECAUSE the evidence established that the deceased was a member of a Hindu undivided family;
2. BECAUSE the evidence established that the Hindu undivided family of which the deceased was a member was the owner in India under Hindu law of the family property;
- 20 3. BECAUSE the evidence established that the assets in Ceylon claimed to be chargeable to estate duty were the property of the Hindu undivided family of which the deceased was a member;
4. BECAUSE the foregoing matters were found as facts by both Courts in Ceylon concurrently;
5. BECAUSE on the facts found as aforesaid the said assets in Ceylon were on the true interpretation of the Estate Duty Ordinance 1938 exempt from estate duty;
- 30 6. BECAUSE there was no ground in law for refusing to the Respondent an order for repayment of the estate duty paid by her together with interest thereon;
7. BECAUSE the decision of the Supreme Court was right both on the facts and on the law and ought to be affirmed;
8. BECAUSE the decision of the District Court was right on the facts and (except on the point dealt with under Reason No. 6 above) on the law and was properly affirmed (subject to variation on the same point).

D. N. PRITT.

40

STEPHEN CHAPMAN.

APPENDIX.

RELEVANT SECTIONS OF ESTATE DUTY ORDINANCE (prior to amendment by Ordinance No. 8 of 1941, dated 26th April, 1941).

ADMINISTRATION.

2. (1) For the purposes of this Ordinance, the Governor may appoint a Commissioner of Estate Duty, Assistant Commissioners of Estate Duty and Assessors of Estate Duty.

IMPOSITION OF ESTATE DUTY.

3. In the case of every person dying on or after the first day of April, nineteen hundred and thirty-seven, there shall, save as hereinafter expressly provided, be levied and paid upon the value of his Ceylon estate, a duty called estate duty:

Provided that no estate duty shall be payable where the value of the total estate of any such person does not exceed twenty thousand rupees.

LIABILITY OF ESTATE DUTY.

24. The executor of the deceased shall pay the estate duty in respect of all property of which the deceased was competent to dispose at his death and may pay the estate duty in respect of any other property passing on such death, if the persons liable to pay the duty in respect thereof request him to make such payment; but an executor shall not be liable for any duty in excess of the assets which he has received as executor, or might but for his own neglect or default have received.

APPEALS.

34. Any person aggrieved by the amount of any assessment of estate duty made under this Ordinance, whether on the ground of the value of any property included in such assessment or the rate charged or his liability to pay such duty or otherwise, may appeal to the appropriate District Court in the manner hereinafter provided.

35. (1) Any such person who desires to appeal (hereinafter referred to as the appellant) shall, within thirty days after the date of the notice of such assessment, deliver to the Commissioner a written notice of objection which shall set out specifically the several grounds upon which it is contended that the assessment is erroneous

or that he is not liable to pay the estate duty claimed; and if he contends that the value put upon any property in the notice of assessment is excessive, he shall identify the property in his notice of objection and state the value which he contends should be put upon that property.

(2) A notice of objection may be signed by the authorised representative of the appellant.

36. A notice of objection shall not be valid unless it sets out the particulars referred to in Section 35 and is delivered to the Commissioner within the period mentioned in that section.

37. The Commissioner shall, as soon as may be after the delivery to him of a valid notice of objection, notify to the appellant whether the Commissioner has withdrawn the claim for estate duty or whether he has determined to maintain the assessment either in whole or in part.

38. (1) At any time within thirty days after the date of the notification by the Commissioner of his determination, the appellant may proceed with his appeal by filing a petition of appeal in the appropriate District Court, naming the Attorney-General as respondent to his petition. A copy of such petition shall be served on the Attorney-General through the court.

(2) Where the appellant having filed a petition of appeal fails to serve a copy thereof on the Attorney-General within thirty days of the date on which such petition was filed, the Commissioner may proceed under this Ordinance as though no such petition had been filed.

39. Save as hereinafter provided, the appellant shall not in his petition state, or at the hearing be allowed to rely upon, any ground of appeal not specifically set out in the notice of objection.

40. Upon the filing of the petition of appeal and the service of a copy thereof on the Attorney-General, the appeal shall be deemed to be and may be proceeded with as an action between the appellant as plaintiff and the Crown as defendant; and the provisions of the Civil Procedure Code, and of the Stamp Ordinance, shall, save as hereinafter provided, apply accordingly.

Provided that no pleading other than the petition of the appellant shall be filed in any action unless the court by order made in that action otherwise directs;

Provided, further, that the decree entered in any action shall specify the amount, if any, which the appellant is liable to pay as estate duty under this Ordinance.

41. The court may at any time before or at the hearing of the action allow the appellant to amend his petition of appeal upon such terms as the court may think fit;

Provided that nothing herein contained shall be deemed to affect the right of the court to permit any amendment of any pleading in any case in which the court has authorised such pleading to be filed as hereinbefore provided.

42. For the purpose of the application of the provisions of the Civil Procedure Code, and of the Stamp Ordinance, the petition of appeal shall be stamped as though it were a plaint filed for the purpose of originating an action, and if not stamped with the requisite stamps may be dealt with in the same manner as if it were a plaint which is insufficiently stamped.

43. Any party aggrieved by any decree or order of the District Court made on an appeal preferred in the manner hereinbefore provided may further appeal to the Supreme Court in accordance with the provisions of the Civil Procedure Code.

REPAYMENT.

58. If at any time within three years of the date of issue of a notice of assessment a claim is made to the Commissioner for the return of any moneys paid as estate duty and it is proved to the satisfaction of the Commissioner that such estate duty has been overpaid, it shall be lawful for the Commissioner and he is hereby required to return the amount of duty which has been overpaid:—

Provided that—

(1) where by reason of any proceeding at law, any debt due from the deceased which might be allowed as a deduction has not been ascertained, and in consequence thereof the executor was prevented from claiming refund of estate duty as aforesaid within the said term of three years, it shall be lawful for the Commissioner to allow such further time for making a claim as may appear to him to be reasonable;

(2) nothing in this section shall confer or be deemed to confer on any person—

(a) any right to prefer a claim for the return, or any right to a return, of any moneys paid as estate duty on any ground which has been or could have been raised by such person by way of appeal under this Ordinance;

(b) any right of action against the Crown for the recovery or return of any moneys overpaid as estate duty.

73. (As amended by Section 5 of Ordinance No. 76 of 1938).
Set out in paragraph 9 of above case.

In the Privy Council.

ON APPEAL
FROM THE SUPREME COURT OF CEYLON.

**THE ATTORNEY-GENERAL OF
CEYLON** (Defendant) *Appellant*

v.

VALLIYAMMAI ATCHI (Plaintiff)
Respondent.

CASE FOR THE RESPONDENT.

DARLEY, CUMBERLAND & Co.,
36, John Street,
Bedford Row,
London, W.C.1,
Respondent's Solicitors.