

GNT. C2

27 1952

No. 24 1951

Supreme Court of Ceylon  
Nos. 1-2 of 1948 (Final).

District Court, Point Pedro  
No. 2198

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

IN THE PRIVY COUNCIL  
ON AN APPEAL FROM THE SUPREME  
COURT OF CEYLON

A. NAGALINGAM OF POLIKANDY,  
Valvettiturai,.....*Plaintiff-Appellant.*

VERSUS

1. ARUMUGAM THANABALASINGHAM  
2. KANDAVANAM VADIVELU  
3. KANDAVANAM CHELLIAH  
4. KANDAVANAM KANDASAMY, all of Polikandy,  
Valvettiturai,.....*Defendants-Respondents.*

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RECORD  
OF PROCEEDINGS

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INSTITUTE OF ADVANCED  
LEGAL STUDIES,  
25, RUSSELL SQUARE,  
LONDON,  
W.C.11.  
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UNIVERSITY OF LONDON  
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21 JUL 1953

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**Supreme Court of Ceylon**  
**Nos. 1-2 of 1948 (Final).**

**District Court, Point Pedro**  
**No. 2198**

**IN THE PRIVY COUNCIL**  
**ON AN APPEAL FROM THE SUPREME**  
**COURT OF CEYLON**

**A. NAGALINGAM OF POLIKANDY,**  
**Valvettiturai,.....Plaintiff-Appellant.**

VERSUS

**1. ARUMUGAM THANABALASINGHAM**  
**2. KANDAVANAM VADIVELU**  
**3. KANDAVANAM CHELLIAH**  
**4. KANDAVANAM KANDASAMY, all of Polikandy,**  
**Valvettiturai,.....Defendants-Respondents.**

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**RECORD OF PROCEEDINGS**

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**PART I**

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**PART I.****No. 1**

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47

**Journal Entries**

IN THE DISTRICT COURT OF JAFFNA HELD AT POINT PEDRO

A. NAGALINGAM of Polikandy ..... *Plaintiff.*

*Vs.*

A. THANABALASINGHAM of Polikandy ..... *Defendant.*

No. 2198/P.

Class : I.

10 Amount : Rs. 750.

Nature : Partition.

Procedure : Regular.

**Journal.**

The 23rd day of August, 1944.

Mr. K. Subramaniam, Proctor files appointment and plaint together with pedigree and abstract of title.

Plaint accepted and summons and commission to issue on proof of Lispendens being filed. Lispendens, SS. & Commn. for 15-9-44.

Intld. L. W. DE S.,  
A. D. J.

20

15-9-44. Case called Lispendens SS & Commn. due-Lispendens filed.  
Issue SS & Commn. for 20-10-44.

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

21-9-44. Surveyor's receipt for Rs. 25/- filed.  
Commn. issued to Mr. K. Valemuruku.  
SS. issued on defendant.

Intld.

16-10-44. Return to SS. on defendant recd. and filed.

30

20-10-44. Mr. K. Subramaniam for plaintiff.

1. SS. served on defendant. He is absent.
2. Return to Commn. due from Mr. K. Valemuruku filed with plan No. 2201, report and field notes.
3. Messrs. Rajaratnam and Nadarajasundaram file proxy of Kandavanam Vadivelu, K. Chelliah and K. Kandasamy of Polikandy and move that they be added as defendants as they claim the land sought to be partitioned. Add them and their statement of claim for 10-11-44.

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

40

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

- 10-11-44. Mr. K. Subramaniam for plaintiff.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and  
4th defendants. Statement of claim due—filed.  
Notice of trial for 30-11-44.  
Intld. E. W.
- 30-11-44. Case called. Notice of trial not issued.  
Issue now for 22-12-44.  
Intld. E. W.
- 22-12-44. Case called. Notice of trial not issued.  
Issue now for 26-1-45. 10  
Consent paper of 1st defendant filed.  
Trial for 8-6-45.  
Intld.
- 31- 5-45. Mr. K. Subramaniam for plaintiff files list of witnesses and  
cites 4 witnesses as per list filed. Rs. 10/- deposited being  
batta to witness R. L. Jaffna.
- 4- 6-45. K. R. No. 58 of 1-6-45 for Rs. 10/- being batta for plaintiff's  
witnesses.
- 8- 6-45. Trial (1)  
Mr. K. Subramaniam for plaintiff. 20  
Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and  
4th defendants.  
Mr. T. Balakrishnan files proxy and statement of claim with  
pedigree of K. Thambiah, K. Sithamparapillai, K. Ponniah  
and K. Velupillai, all of Polikandy and moves that the  
statement be accepted and they be added as defendants.  
They are added as defendants. Number them.  
Proctor for plaintiff and 2nd-4th defendants take notice.  
The 1st defendant is present and takes notice.  
Trial 11-10-45. 30  
Intld. E. W.
- 8- 6-45. Mr. K. Sathasivam, Land Registry, Jaffna, requests to issue  
him a requisition for Rs. 10/- being the cost of his attendance  
to produce a duplicate of deed in this case.  
Issue requisition for Rs. 10/-.
- 9- 6-45. Requisition for Rs. 10/- issued in favour of Mr. K. Sathasivam  
L. R. Jaffna.
- 11- 6-45. Requisition for Rs. 10/- posted by registered post.
- 27- 9-45. Proctor for plaintiff files additional list of witnesses and docu-  
ments. 40
- 27- 9-45. Proctor for plaintiff cites 3 witnesses as per list filed.

- 4-10-45. Proctors for 2nd-4th defendants files additional list of witnesses and documents and cites 4 witnesses as per list filed. Intld. V. S.
- No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.
- 9-10-45. The plaintiff's Proctor files list of documents  
*Eodie.* Mr. Balakrishnan files the 5th defendants list of witnesses and documents.
- 11-10-45. Trial (2)  
Mr. K. Subramaniam for plaintiff.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants.  
Mr. T. Balakrishnan for 5th-8th defendants.  
Being 4.20 p.m. Trial is postponed for 15-2-46.  
Intld. E. W.
- 1- 2-46. Mr. C. Kulaveerasingham, Proctor files proxy of the 1st defendant in this case and moves that he be allowed to watch 1st defendant's interest.  
Accept.  
Intld. E. W.
- 4- 2-46. Paying in voucher for Rs. 10/- issued being batta to the R. L. Jaffna.  
6- 2-46. K. R. No. 8 for Rs. 10/- being batta to witness received filed.  
6- 2-46. Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants files additional list of witnesses and cites 4 witnesses as per list filed.  
Intld. V. A.
- 7- 2-46. Paying in voucher for Rs. 7.50 issued to Proctor for plaintiffs being batta to witnesses.  
Intld. D. S.
- 7- 2-46. K. R. No. 25 of 7-2-46 for Rs. 7.50 received and filed.  
7- 2-46. Mr. K. Subramaniam for plaintiff files additional list of witnesses and documents and cites one witness as per list filed.  
Intld. V. A.
- Trial (3). 15-2-46 is a public holiday.
- 14- 2-46. Mr. K. Subramaniam for plaintiff.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants.  
Mr. T. Balakrishnan for 5th-8th defendants.  
Case called. Trial refixed for 6-6-46.  
Intld. M. K. S,



No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

- 29- 5-46. Messrs. Rajaratnam and Nadarajasundaram for 2nd defendant move with the consent of the Proctor for plaintiff and the Proctor for the other defendants that the trial fixed for 6th June, 1946, be postponed for another date as the 2nd defendant is seriously ill and bed-ridden and unable to move about. File medical certificate.
- Intld. E. W.,  
A. D. J.
- 3- 6-46. Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants file medical certificates of the 2nd defendant and move that their application dated 29-5-46 be now allowed. Mention on 6-6-46. 10
- A. D. J.
- Trial 4.
- 6- 6-46. Mr. K. Subramaniam for plaintiff.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants.  
Mr. T. Balakrishnan for 5th-8th defendants.  
Case called *vide* J. E. of 3-6-46 and 29-5-46.  
Trial postponed for 27-9-46. 20
- Intld. E. W.
- 8- 6-46. Mr. K. Subramaniam for plaintiff moves with the consent of the Proctors for the other side that as the 27th day of September, 1946, for which date the case stands postponed will not suit his counsel Mr. Kulasingham, the case be postponed for any of the 5, 6, 12, 13 and 20 days of September, 1946 or for the 11th day of October, 1946.  
Mention on 20-6-46.
- Intld. E. W.
- 20- 6-46. Mr. K. Subramaniam for plaintiff.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants Mr. T. Balakrishnan for 5th-8th defendants.  
Case mentioned—*vide* J. E. of 8-6-46.  
Trial refixed for 11/10. 30
- Intld. E. W.
- 5-10-46. Proctors for 2nd-4th defendants cite 3 witnesses as per list filed.  
Trial (5).
- 11-10-46. Mr. K. Subramaniam for plaintiff.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants. 40  
Mr. C. Kulaveerasingham for 1st defendant.  
Mr. T. Balakrishnan for 5th-8th defendants.

As the 2nd defendant's wife died on 7th instant and he is unable to attend Court on the 11th instant, in view of the religious observations, Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th defendants move with the consent of the Proctors for plaintiff, 1st defendant and other defendants, that the Court be pleased to grant a date to refix the trial on some other date convenient to Court.

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued

Trial refixed 15-11-46.

Intld. M. M. I. K.,  
A. D. J.

10

15-10-46. Return to SS. on witnesses R. L. Jaffna filed. Reported served on him.

15-10-46. Mr. K. Sathasivam of Land Registry, Jaffna requests to send him a requisition for Rs. 10/- being his batta for attending Court on 11-10-46 as per annexed. R. L. requests to return the annexed SS. to him.

Issue requisition for Rs. 10/-.

Intld. M. M. I. K.

15-10-46. Requisition issued.  
Requisition forwarded by post.

20

6-11-46. Proctor for plaintiff cites 2 witnesses as per list filed.

7-11-46. Paying in voucher for Rs. 10/- issued to Mr. Rajaratnam, Proctor.

8-11-46. K. R. No. 16 of 7-11-46 for Rs. 10/- being batta to witness filed.

*Eodie.* Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th defendants cite 3 witnesses as per list filed.

12-11-46. *Vide* Letter of 11-11-46 from the Registrar of Lands, Jaffna, filed of record intimating that the batta deposited by Proctors for 2nd-4th defendants for the production of deeds, viz., Rs. 7.50 is not sufficient and the Assistant Record-Keeper who is to produce the documents is entitled to Rs. 10.40 and that he is however causing the documents, to be produced on the due date.

30

Proctor for plaintiff to deposit balance amount.

Intld. M. M. I. K.,  
A. D. J.

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

Trial (6).

- 15-11-46. Mr. K. Subramaniam for plaintiff.  
Mr. C. Kulaveerasingham for 1st defendant.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th  
defendants.  
Mr. T. Balakrishnan for 5th-8th defendants.  
Further hearing on 5/12.

Intld. M. M. I. K.

- 19-11-46. Mr. K. Sathasivam from Land Registry, Jaffna requests to  
send him a requisition for Rs. 10/- deposited in Court on 10  
15-11-46 being the cost of his attendance in Court producing  
documents in this case, SS. annexed. R. L. requests to  
return the SS. annexed to him.

Issue requisition for Rs. 10/-.

Intld. M. M. I. K.,  
A. D. J.

- 22-11-46. Requisition for Rs. 10/- issued.

Intld.

- 25-11-46. Mr. K. Subramaniam, Proctor for plaintiff is issued paying in  
voucher for Rs. 2.50 as additional batta of witness for 20  
production of Land Registry records.

Intld.

- 25-11-46. Mr. T. Balakrishnan for 5th-8th defendants files list of witnesses  
and documents.

Intld. V. S.

- 25-11-46. K. R. 71 of 25-11-46 for Rs. 2.50 filed.

*Eodie.* Proctor for plaintiff cites one witness Registrar of Lands, Jaffna.

- 29-11-46. Proctor for 2nd-4th defendants cites 2 witnesses as per list filed  
(one to R. L., Jaffna).

Intld. V. A. 30

Trial (7).

- 5-12-46. Mr. K. Subramaniam for plaintiff.  
Mr. C. Kulaveerasingham for 1st defendant.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th  
defendants.  
Mr. T. Balakrishnan for 5th-8th defendants. *Vide* proceedings  
separately.  
Documents 2D 7 filed of record.  
Trial Postponed 14-12-46.

Intld, M. M. I. K,

- 6-12-46. Paying in voucher for Rs. 10/- issued to Mr. K. Subramaniam, Proctor to deposit batta for production of Land Registry records.  
Intld.
- 6-12-46. K. R. 18 of 6-12-46 for Rs. 10/- filed. Proctor for plaintiff cites one witness, R. L., Jaffna.  
Intld. V. S.
- 10 7- 6-46. Mr. K. Sathasivam, Land Registry, Jaffna requests to send to him a requisition for Rs. 10/- deposited in Court being the costs of his attendance in Court to produce documents in this case. SS. annexed. R. L. requests to return to him the SS. annexed.  
Issue requisition.  
Intld. M. M. I. K.,  
A. D. J.
- 9-12-46. Requisition for Rs. 10/- issued.  
Trial (8)  
Intld. M. M. I. K.,  
A. D. J.
- 20 14-12-46. Mr. K. Subramaniam for plaintiff.  
Mr. C. Kulaveerasingham for 1st defendant.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th defendants.  
Mr. T. Balakrishnan for 5th-8th defendants.  
Same appearance as before.  
Vide proceedings separately.  
Trial refixed for 7th February, 1947,  
as I am under order of transfer and cannot finish the case today.  
Intld. M. M. I. K.,  
A. D. J.
- 30 8-12-46. Mr. K. Sathasivam, R. L. Office, Jaffna, requests to send him a requisition for Rs. 10/- deposited in Court in respect of his attendance in Court on 14-12-46 to produce documents in this case.  
SS. is annexed.  
Issue requisition.  
Intld. M. M. I. K.,  
A. D. J.
- 40 Requisition submitted for signature and issued.  
Intld. K. V. S.

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

29- 1-47. Paying in voucher for Rs. 10/- issued to Mr. Subramaniam,  
Proctor for attendance of Land Registry witness.

Intld. K. V. S.

30- 1-47. T. O. No. 108 of 29-1-47 for Rs. 10/- filed, being batta to  
witness.

30- 1-47. Proctor for plaintiff cites one witness R. L., Jaffna as per list  
filed.

Trial (9) (specially fixed).

6- 2-47. Mr. K. Subramaniam for plaintiff.  
Mr. C. Kulaveerasingham for 1st defendant. 10  
Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th  
defendants.  
Mr. T. Balakrishnan for 5th-8th defendants.  
*Vide* proceedings. Further hearing 7/2.

Intld. G. C. T. A. DE S.,  
A. D. J.

Trial (10) Mr. K. Subramaniam for plaintiff.

7- 2-47. Mr. C. Kulaveerasingham for 1st defendant.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th  
defendants. 20  
Mr. T. Balakrishnan for 5th-8th defendants.  
Further hearing  
*Vide* proceedings.  
Documents and addresses on 15/2.

Intld. G. C. T. A. DE S.

Trial (11)

15- 2-47. Appearances as on 7-2-47.  
For documents and addresses.  
*Vide* proceedings—Judgment on 7-3-47.  
Plaintiff's documents: P 1, P 4, P 6, P 9, P 10, P 11, P 22 P 24, 30  
and P 25 filed.  
2nd-4th defendant's documents 2D1, 2D 31 filed.  
5th-8th defendant's documents 5D 1 filed.  
Documents IDI—ID 3 Filed

Intld.

Statements of shares filed.

- 7- 3-47. Mr. K. Subramaniam for plaintiff.  
 Mr. C. Kulaveerasingham for 1st defendant.  
 Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th  
 defendants.  
 Mr. T. Balakirshnan for 5th-8th defendants.  
 Judgment delivered in open Court in the presence of the Proctor  
 for plaintiff and Proctors for 2nd-4th defendants.

No. 1  
 Journal Entries  
 23-8-44  
 to  
 7-8-47  
 —Continued.

Issue Commn. Returnable 24/4.

10

Intld. G. C. T. A. DE S.,  
*A. D. J.*

- 8- 3-47. K. Sathasivani of the Land Registry, Jaffna, requests to send  
 him a requisition for Rs. 10/- being his costs of attendance to  
 produce the documents in this case.

Issue requisition.

Intld. G. C. T. A. DE S.,  
*A. D. J.*

- 8- 3-47. Requisition for Rs. 10/- issued.

Intld.

20

- 17- 3-47. Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th  
 defendants-appellants file petition of appeal and notices of  
 tendering security and move that the petition of appeal be  
 accepted and notice of tender in security be ordered to issue  
 on the plaintiff, 1st defendant and 5th to 8th defendants and  
 their Proctors, Messrs. K. Subramaniam, C. Kulaveera-  
 singham and T. Balakrishnan. Returnable 27-3-47.

Issue notice of tendering security for 27-3-47.

Intld. G. C. T. A. DE S.,  
*A. D. J.*

30

- 19- 3-47. Mr. K. Subramaniam for plaintiff files petition of appeal with  
 notices of tendering security and moves that the petition of  
 appeal be accepted and that notice of tendering security be  
 issued.

Issue notice of tendering security for 27-3-47.

Intld. G. C. T. A. DE S.,  
*A. D. J.*

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

- 20- 3-47. Notice of tendering security (Messrs. Rajaratnam and Nadarajasundaram for 2nd, 3rd and 4th defendants-appellants) issued on plaintiffs 1st, 5th, 6th, 7th and 8th defendants and Messrs. K. Subramaniam, C. Kulaveerasingham and T. Balakrishnan, Proctors.

Intld. V. A.

- Eodie.* Notice of tendering security (Mr. K. Subramaniam for plaintiff) issued on 1st, 2nd, 3rd and 4th defendants and Messrs. C. Kulaveerasingham and Rajaratnam and Nadarajasundaram, Proctors.

10

Intld. V. A.

- 27- 3-47. Mr. K. Subramaniam for plaintiff.  
Mr. C. Kulaveerasingham for 1st defendant.  
Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th defendants.

Mr. T. Balakrishnan for 5th-8th defendants.

- (1) Notice of tendering security issued by (Messrs. R. & N.) served on plaintiff, 1st, 5th, 6th, 7th and 8th defendants and Messrs. K. Subramaniam, C. Kulaveerasingham and T. Balakrishnan, Proctors. They are absent. Proctor 20 present.

- (2) Notice of tendering security issued by Mr. K. Subramaniam served on 1st, 2nd and 3rd defendants and on Messrs. C. Kulaveerasingham and Rajaratnam and Nadarajasundaram, Proctors. They are absent.  
Not served on 4th defendant. R. I. for 17-4-47 if necessary.  
Messrs. R. & N. notice of tendering security on 4th defendant their client. No R. I. necessary.

*A. D. J.*

5th-8th defendants file motion waiving security for costs of 30 appeal from 2nd-4th defendants-appellants.  
Security fixed of consent at Rs. 100/- cash for plaintiff and 1st defendant-respondent each.  
1D waiving security for costs of appeal from plaintiff-appellant.  
Of consent security fixed at Rs. 100/- cash for 2nd-4th defendants-respondents.

Intld. G. C. T. A. DE S.,  
*A. D. J.*

- 27- 3-47. Paying in voucher for Rs. 100/- issued to Mr. K. Subramaniam Proctor for plaintiff being costs of appeal.

- 27- 3-47. Paying in voucher for Rs. 200/- issued to Mr. N. A. Rajaratnam, Proctor for 2nd-4th defendants.
- 28- 3-47. Mr. K. Subramaniam for plaintiff-appellant files security bond with Treasury receipt for Rs. 100/- and application for type-written copies with Rs. 12/- and moves that notice of appeal do issue on the 1st-4th defendants-respondents' Proctors. He tenders the necessary papers for issuing notice of appeal. Issue notice returnable 18-4-47.

No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

Intld.

10

Cash Rs. 12/- deposited  
T.R. No. 165 of 28-3-47  
For Rs. 12/-

- 31- 3-47. Messrs. Rajaratnam and Nadarajasundaram for 2nd-4th defendants-appellants file security bond with treasury receipt for Rs. 200/- and notices of appeal with copies of petition of appeal, application for type-written copy and tenders cash Rs. 12/- and move that security bond be accepted and notices of appeal be ordered to issue on the plaintiff, 1st, 5th-8th defendants-respondents.

20

Cash Rs. 12/- deposited.  
T. R. No. 1 of 1-4-47 for Rs. 12/- filed.  
Issue notice returnable 8-5-47.

Intld. G. C. T. A. DE S.

- 18- 4-47. Case called. Notice of appeal not issued.  
Issue now for 8-5-47 of 2nd-4th defendants.

Intld. G. C. T. A. DE S.

- 18- 4-47. Notice of appeal (Mr. K. Subramaniam) issued on Messrs. C. Kulaveerasingham and Rajaratnam and Nadarajasundaram, Proctors.

30

Intld. V. A.

- 18- 4-47. Notice of appeal (Messrs. Rajaratnam and Nadarajasundaram) issued on plaintiff, 1st, 5th-8th defendants.

Intld. V. A.

- 24- 4-47. Mr. K. Subramaniam for plaintiff.  
Commn. not issued. Appeal has been already lodged.  
Await decision of the appeal from the Supreme Court.

Intld. G. C. T. A. DE S.,  
A. D. J.



No. 1  
Journal Entries  
23-8-44  
to  
7-8-47  
—Continued.

- 24- 4-47. Return to notice of appeal (Mr. K. Subramaniam) on Messrs. C. Kulaveerasingham and Rajaratnam and Nadarajasundaram, Proctors, filed.  
Intld. V. A.
- 28- 4-47. Return to notice of appeal (Messrs. R. & N.) on plaintiff, 1st, 5th-8th defendants filed.  
Intld. V. A.
- 30- 4-47. Interlocutory partition decree entered.  
Intld. V. A.
- 8- 5-47. Case called. No return to notice of appeal issued by Mr. K. Subramaniam and Messrs. Rajaratnam and Nadarajasundaram. Await report and R. I. for 29-5-47. They are absent.  
Intld. G. C. T. A. DE S.,  
A. D. J.
- 29- 5-47. Mr. K. Subramaniam for plaintiff.  
Notice of appeal served on plaintiff, 1st and 5th-8th defendants  
They were absent on the last date.  
Forward record to the Supreme Court in due course.  
Intld. G. C. T. A. DE S.,  
A. D. J. 20
- 7- 8-47. The R. L., Jaffna informs that the bound volumes containing the duplicates deeds No. 5232 of Notary C. Subramaniam, No. 13085 of Notary C. Subramaniam and No. 805 of Notary G. Kandavanam which were produced in Court in this case on 6-2-47 and detained by Court have not been returned to him yet and requests to return the volumes early if the adjudication is over.  
Inform R. L. that the case is in appeal and that productions should remain in Court pending the decision in appeal. If the documents are urgently required they will be sent 30 provided they are returned within a reasonable time.  
Intld. G. C. T. A. DE S.,  
A. D. J.
- 23-12-47. Record forwarded to Supreme Court.

**PLAINT OF THE PLAINTIFF**

IN THE DISTRICT COURT OF JAFFNA HELD AT POINT PEDRO

ARUMUGAM NAGALINGAM of Polikandy ..... *Plaintiff*.

No. 2198/P.

*Vs.*

1. ARUMUGAM THANABALASINGHAM,
2. KANDAVANAM VADIVELU,
3. K. CHELLIAH and
4. K. KANDASAMY of Polikandy,
- 10 5. KATHIRKAMAR THAMBIAH,
6. Do SITHAMPARAPILLAI,
7. Do PONNIAH
8. Do VELUPILLAI, all of Polikandy ..... *Defendants*.

The 23rd day of August, 1944.

The plaint of the abovenamed plaintiff appearing by K. Subramaniam his Proctor states as follows :—

20 1. That the plaintiff seeks to partition the land situated at Polikandy within the jurisdiction of this Court called Mungodai and Mavattai in extent 14 lachams varagu culture and 3, 3/4 kullies and described in the schedule below.

2. That certain Vairattai, widow of Velupillai was by right of purchase on deed No. 3,859, dated 12th October, 1853, and attested by Kathiramar Sithamparanathar, Notary Public, the owner and proprietor of the whole land who having held and possessed the said land sold the same to Koolayar Arumugam on deed No. 1,457 dated 25th October, 1882 and attested by Sithamparanathar Kathirgamathamby, Notary Public.

30 3. That the said Kooliyar Arumugam along with his wife Walliammai having held and possessed the said land, donated the same to his son Arumugam Kandavanam on deed No. 5,825 dated 1st April, 1896 and attested by R. Arumugam, Notary Public.

4. That subsequently the said Koolayar Arumugam and his wife Walliammai revoked the said donation deed No. 5,825 on deed No. 799 dated 6th July, 1908, and attested by G. Ganadavanam, Notary Public and donated the same to the said Arumugam Kandavanam on deed No. 800 dated 6th July, 1908 and attested by G. Gandavanam, Notary Public subject to a *fidei commissum* in their favour and in case they pre-deceased the donee in favour of their sons the plaintiff and the defendant and Arumugam Poopalasingham, who died issueless about 25 years ago.

No. 2  
 Plaintiff of the  
 Plaintiff  
 23-8-44  
 —Continued.

5. That the said Arumugam Kandavanam having held and possessed the said land died about 13 years ago leaving behind the plaintiff and the defendant as *fidei commisseries* under the said deed No. 800 who succeeded to the said land in equal shares.

6. That the plaintiff has by his own undisturbed and uninterrupted possession and by the like possession of those from whom he claims the said land by a title adverse to and independent of that of the defendant and all others whomsoever for a period of ten years and upwards next immediately preceding the date of this action acquired a prescriptive right and title thereto in terms of the 3rd clause of Chapter 35 of the Legislative Enactments of 1938. 10

7. That the possession in common as hereto for is found to be inconvenient and it is therefore expedient that the said land should be partitioned or sold under the provisions of Chapter 56 of the Ceylon Legislative Enactments.

8. That no persons other than those mentioned in the plaint have any share or interest in the land sought to be partitioned.

9. That the said land with its appurtenances is reasonably worth Rs. 750/-

Wherefore the plaintiff prays :

20

- (a) that the land more fully described in the schedule below be declared the common property of the plaintiff and the defendant.
- (b) that the said land be ordered to be partitioned and divided shares thereof be allotted and given to the parties as aforesaid and if such partition be found impracticable then the land be sold and the proceeds of sale be divided *pro rata*.
- (c) that the costs of this action and of partition or sale as the case may be, be borne by the parties in proportion to their shares.
- (d) and for such other and further relief as to this Court shall seem 30 meet.

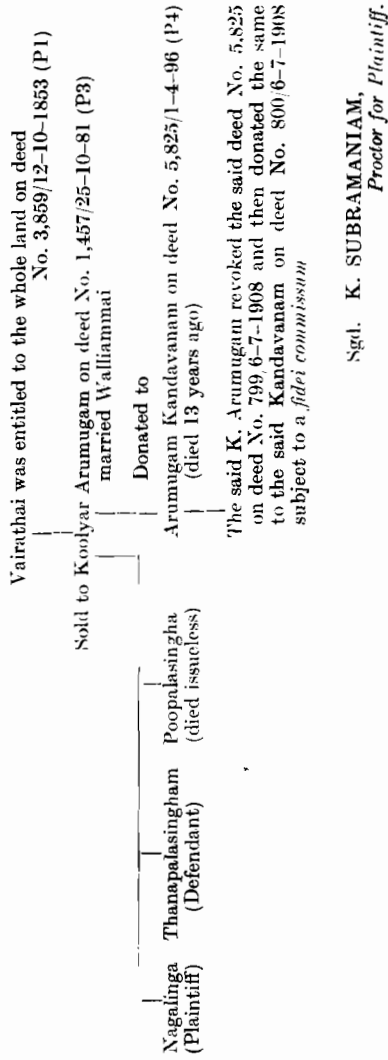
Sgd. K. SUBRAMANIAM,  
*Proctor for Plaintiff.*

Memo of documents filed :

1. An abstract of Title.
2. A Pedigree.

Sgd. K. SUBRAMANIAM,  
*Proctor for Plaintiff.*

## PEDIGREE FILED BY PLAINTIFF



### ABSTRACT OF TITLE

Nature of Document.	From whom to whom	Area or fraction of land dealt with	Boundaries	When registered	Consideration	Original or Duplicate	Remarks
Transfer No. 1,457 of 25th Oct. 1882	From Vairattai, widow of Velupillai and her son Ayam pillai of Valvedditurai to Koolayar Arumugam of Polikandy	Of the lands called Mungodai, in extent 12, $\frac{1}{4}$ lachams v.c. and Mavattai, in extent 4 lachams v.c., both situated at Polikandy, excluding $\frac{1}{6}$ th share on the north-east of the first parcel the whole of the remaining extent of 14 lachams v.c. and $3, \frac{3}{4}$ kulies	East, Sinniah and Theivanai and others; North and West, Notary Kathirgamattamy and others; South, Samarapaguthravankurichy and Vairavar and others	—	200	Original	—
Donation Deed No. 800 of 6-7-1906	From Koolayar Arumugam and wife Valiammai of Polikandy	The above mentioned land and 9 other lands	East, Koolayar Arumugam and others; north, Sundaram Arumugam and others; west, Vallipuram Sinnathamby and others; and south, Koolayar Arumugam and others and lane	—	Whole consideration, Rs. 1,500	Copy	—

The 23rd day of August, 1944.

Sgd. K. SUBRAMANIAM,  
*Proctor for Plaintiff.*

No. 2  
Plaintiff of the  
23-8-44  
*Continued.*

No. 2  
Plaint of the  
Plaintiff  
23-8-44  
—Continued.

SCHEDULE REFERRED TO :

Of the land situated at Polikandy called Mungodai in extent  $12\frac{1}{4}$  lachams varagu culture and Mavattai in extent 4 lachams varagu culture excluding  $\frac{1}{6}$ th share on the north-east of the first parcel, the remaining extent of 14 lachams varagu culture and  $3\frac{3}{4}$  kullies with vadalies and well is bounded on the east by the property of the plaintiff, north and south by the property of the plaintiff and others and west by the property of Sinnathambiar Kandavanam and others. The whole of this.

Sgd. K. SUBRAMANIAM,  
*Proctor for Plaintiff.* 10

No. 3  
Answer of the  
2nd to 4th  
Defendants  
10-11-44

No. 3.

**ANSWER OF THE 2nd TO 4th DEFENDANTS**

IN THE DISTRICT COURT OF JAFFNA HELD AT POINT PEDRO  
ARUMUGAM NAGALINGAM of Polikandy.....*Plaintiff.*

No. 2,198/P.

*Vs.*

1. ARUMUGAM THANABALASINGHAM,
2. KANDAVANAM VADIVELU,
3. KANDAVANAM CHELLIAH,
4. KANDAVANAM KANDASAMY, all of Polikandy.....*Defendants.*

The 10th day of November, 1944.

20

The answer of the abovenamed 2nd to 4th defendants appearing by Messrs. Rajaratnam and Nadarajasundaram, Proctors carrying on business in partnership states as follows :—

1. Answering to paragraphs 1 and 7 of the plaint these defendants state that neither the plaintiff nor the 1st defendant is entitled to any right or interest in the said land sought to be partitioned and that the land sought to be partitioned is represented by lot 1 in plan No. 2,201 filed of record in this case.

2. Answering to paragraphs 2 and 3 of the plaint these defendants admit the correctness of the averments contained therein.

30

3. Answering to paragraph 4 of the plaint these defendants state that they are unaware of the correctness of the averments contained therein, that the said Koolayar Arumugam and wife Walliammai, could

not in law revoke the said donation deed No. 5,825, that the said deed No. 799 could have any effect in law and that the said deed No. 800 has no effect in law as the same was neither accepted nor signed by the said Arumugam Kandavanam.

No. 3  
Answer of the  
2nd to 4th  
Defendants  
10.11.44  
—Continued

4. Answering to paragraph 5 of the plaint these defendants while stating that the said Kandavanam having held and possessed the said land by virtue of the said deed No. 5,825 died in 1931 leaving behind as his heirs these defendants his children, who entered into possession of the said land, deny, the correctness of the other averments contained therein.

10 5. Answering to paragraphs 6 and 8 of the plaint these defendants deny all and singular the averments contained therein.

6. Answering to paragraph 9 of the plaint these defendants state that the land is now reasonably worth Rs. 600/-

7. Further answering these defendants state that on the death of Arumugam Kandavanam these defendants his children, became entitled to the entirety of the said land in equal shares.

20 8. These defendants have by their own undisturbed and uninterrupted possession and by the like possession of their predecessors in title for a period of 10 years and upwards next immediately preceding the date of this action by a title adverse to and independent of the plaintiff, 1st defendant and all others whomsoever acquired a prescriptive right and title thereto in terms of clause 3 of Chapter 55 of the Ceylon Legislative Enactments of Ceylon.

Wherefore these defendants pray :

- (i) that the plaintiff's action be dismissed,
- (ii) that the land described in the schedule to the plaint be declared their property,
- (iii) for costs and for such other and further relief as to this Court shall seem meet.

## No. 4.

## STATEMENT OF CLAIM OF THE INTERVENIENTS

IN THE DISTRICT COURT OF JAFFNA HELD AT POINT PEDRO

ARUMUGAM NAGALINGAM of Polikandy . . . . . *Plaintiff.*

No. 2,198/P.

*Vs.*

1. ARUMUGAM THANABALASINGHAM,
2. KANDAVANAM VADIVELU,
3. KANDAVANAM CHELLIAH,
4. KANDAVANAM KANDASAMY, all of Polikandy . . . . . *Defendants.*

10

1. KADIRGAMAR THAMBIAH,
2. KADIRGAMAR SIDAMPARAPILLAI,
3. KADIRGAMAR PONNIAH,
4. KADIRGAMAR VELUPILLAI, all of Polikandy . . . . . *Intervenients.*

This 8th day of June, 1945.

The statement of claim of the abovenamed intervenients appearing by T. Balakrishnan, their Proctor states as follows :—

1. These intervenients claim that lot No. 2 in the plan No. 2,251 dated 19th October 1944 and filed of record as forming the divided one-sixth share on the north-east out of the land situated at Polikandy called Mukodai in extent  $12\frac{1}{4}$  latchams varagu culture and morefully described 20 in the schedule hereto annexed.

2. The plaintiff and the defendants have wrongfully pointed out the said lot No. 2 as forming part of the land sought to be partitioned in this case.

3. Certain Nachan, wife of Sangariar was one of the Thompu holders and was entitled to an undivided one-third of the land situated at Polikandy called Mukodai in extent  $12\frac{1}{4}$  latchams varagu culture and she having held and possessed the said share died leaving behind property worth under Rs. 2,500 and leaving behind Moothar and Vethar as her heirs, who became entitled to an undivided one-sixth share each. (*Vide Pedigree* 30 filed herewith).

4. The said Moothar having held and possessed his one-sixth share died leaving behind his sons Koolayar and Sinnavar as his heirs.

5. The said Sinnavar having held and possessed his one-twelfth share died leaving behind property worth under Rs. 2,500 and leaving behind his children Kandar and Theivanai as his heirs. Of whom Theivanai died intestate and issueless leaving her brother the said Kandar as her sole heir.

6. The aforesaid Vethar having held and possessed his one-sixth share died leaving behind property worth under Rs. 2,500 and leaving behind his children Nachchan and Periyanchchan *alias* Perial as his heirs.

No. 4  
Statement of  
claim of the  
Intervenients  
8.6.45  
—Continued

7. The said Nachchan having held and possessed her one-twelfth share died leaving behind her children Seethevan, Kandiah, Kalathai and Sinnathai as her heirs, of whom the last three persons did not possess and Seethevan alone possessed the one-twelfth share.

10 8. The said Seethevan married Kandar referred to in paragraph 4 above and they jointly possessed for their one-sixth share the land more-fully described in the schedule hereto and represented by the said lot No. 2.

9. The said Kandar and wife Seethevan having held and possessed the said lot No. 2 died leaving behind property worth under Rs. 2,500 and leaving behind Kathirgamar, Murugar and Parupathy as their heirs of whom the last two persons died intestate and issueless leaving behind their brother Kathirgamar as their heir.

10. The said Kathirgamar having held and possessed the said lot No. 2 died leaving behind property worth under Rs. 2,500 and leaving behind these intervenients as his heirs.

20 11. These intervenients have by their own undisturbed and uninterrupted possession and by the like possession of their previous owners for a period of ten years upwards next immediately preceding the date of this action by a title adverse and independent of the plaintiff. the defendant and all others whomsoever acquired a prescriptive right and title to the said lot No. 2 in terms of section 3 of Chapter 55 of the Ceylon Legislative Enactments of Ceylon.

Therefore these intervenients pray :

- (i) That they be declared entitled to the said lot No. 2.
- (ii) That the said lot No. 2 be excluded from the land sought to be partitioned.
- 30 (iii) For costs, and for such other and further relief as to this Court shall seem meet.

Sgd. T. BALAKRISHNAN,  
*Proctor for Intervenients.*

Memo of documents annexed :

1. Pedigree.

Sgd. T. BALAKRISHNAN,  
*Proctor for Intervenients.*

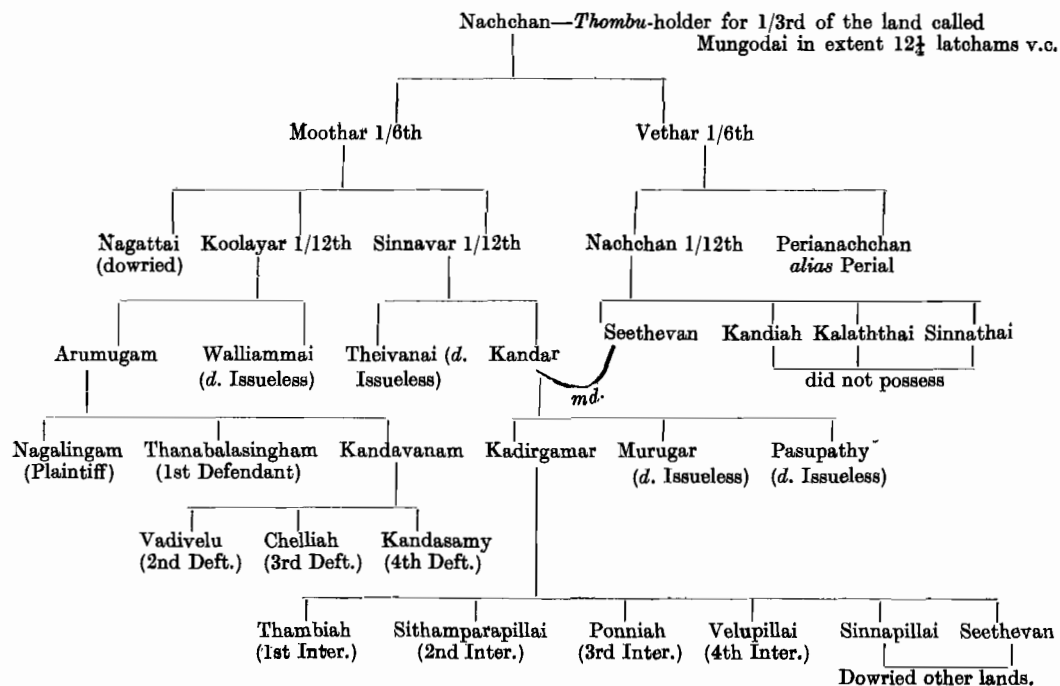


SCHEDULE REFERRED TO ABOVE :

The divided one-sixth share on the north-east out of the land situated at Polikandy called Mukodai in extent  $12\frac{1}{2}$  latchams varagu culture. The said divided one-sixth share in extent 2 latchams varagu culture and  $14\frac{1}{2}$  kullies according to survey is bounded on the east by the property of Arumugam Nagalingam, north by the property of Chinniah Kandavanam and others, west by the property of Kandavanam Vadivelu and others and south by the property of Kathirkamar Ponniah and others and front of lane.

Sgd. T. BALAKRISHNAN, 10  
*Proctor for Intervenients.*

PEDIGREE



The 8th of June, 1945.

T. BALAKRISHNAN,  
*Proctor for Intervenients.*

## REPORT OF THE COMMISSIONER

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

ARUMUGAM NAGALINGAM of Polikandy . . . . . *Plaintiff.*

No. 2,198/P.

*Vs.*ARUMUGAM THANABALASINGHAM of Polikandy . . . . . *Defendant.*

SIR,

10 In obedience to the commission issued to me in this case I beg to report that after due notice to the parties and the necessary publication I proceeded to the land situated at Polikandy called Mungodai and Mavattai in extent 14 lachams varagu culture and  $3\frac{3}{4}$  kullies referred to in the Commission and made a survey of the same on the 6th October, 1944 in the presence of the plaintiff and the defendant. The said land on measurement contains 16 lachams varagu culture and 9 kullies and is marked in the annexed survey plan No. 2,201 with lots 1 and 2.

The plaintiff pointed out to me lots 1 and 2 as the land called Mungodai and Mavattai in extent 14 lachams varagu culture and  $3\frac{3}{4}$  kullies sought to be partitioned in this case.

20 The plaintiff claims an undivided half share of the said land (lots 1 and 2) and the remaining half share is claimed by the defendant. The plaintiff and the defendant state that they have possessed the said land during the last 13 years or so without any interruption whatever.

One Kandavanam Vadivelu of Polikandy pointed out to me lot 1 as the land called Mungodai and Mavattai in extent 14 lachams varagu culture and  $3\frac{3}{4}$  kullies belonging to him and his brothers by paternal inheritance.

But the plaintiff states that the said Kandavanam Vadivelu and his brothers are not entitled to the said land (lot 1) either by inheritance or possession.

30 The plaintiff further states that he is using his well lying in the southern land called Mavattai to irrigate his plantations in lot 1 through the water-course A-B. The well in lot 1 is said to be used by the plaintiff and the defendant for minor irrigation and watering of the plantations, whereas the well in the southern land is used for taking out water by the chain and bucket system of lifting and irrigating plantations.

### Plantations and Improvements

(a) Lot 1 contains 1 male palmyrah age about 75 years old

Do	50 vadalties	„	5-10	„
Do	1 pomegranate tree	„	10	„
Do	3 murunga trees	„	5-10	„

and about 50 tapioca bushes about 10 months old.

All the above plantations are claimed exclusively by the plaintiff and the defendant and counter claimed by the said Kandavanam Vadivelu.

(b) Lot 1 contains 1 well claimed exclusively by the plaintiff and the defendant and counter claimed by Kandavanam Vadivelu. 10

(c) There are at present 3 manure heaps in lot 1 claimed by the plaintiff only.

Lot 2 contains 1 mango tree about 50 years old

Do	2 female palmyrahs	25-30	„
Do	2 male palmyrahs	25-30	„

all claimed exclusively by the plaintiff and the defendant.

The firm lines on the plan are live fences and ridges. There are no boundary marks along the dotted lines on the plan.

Point Pedro,  
19th October, 1944.

Sgd. K. VALEMURUKU,  
*Licensed Surveyor.* 20

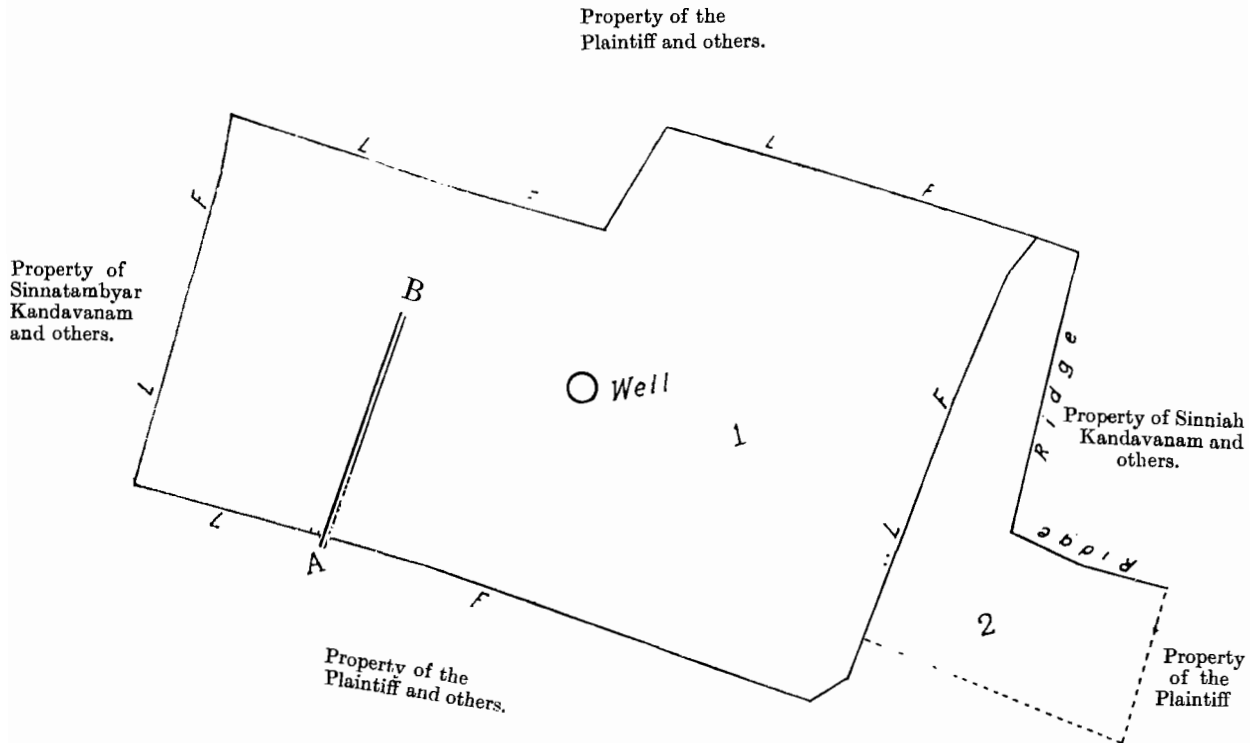
No. 6

Plan No. 2201

No. 6  
Plan No. 2201  
19-10-44

K. VALEMURUKU,  
*Licensed Surveyor & Leveller.*

Plan No. 2201  
Case No. 2,198/P., D.C. Jaffna.



Scale of one Chain to an Inch.

PLAN

of a piece of land called Mungodai and Mavattai, situated at the Village of Polikandy in Udupidy Parish, Vadamarachy Division in the District of Jaffna, Northern Province; bounded as above containing in extent:

10

			A.	R.	P.
Lot 1.	13 lachams v.c. & 12 $\frac{1}{2}$ lachams	..	0	3	19.22
2.	2 ,, 14 $\frac{1}{2}$ ,,	..	0	0	28.52
	16 lachams v.c. 9 kullies		1	0	07.74

Surveyed and drawn by:

19th October, 1944, K. VALEMURUKU,  
*Licensed Surveyor & Leveller,*

## Plaintiff's Evidence

15-11-46.

MR. KULASINGHAM instructed by MR. SUBRAMANIAM for plaintiffs

MR. C. KULAVEERASINGHAM for the 1st defendant.

MR. RAMALINGAM with MR. SOORASANGARAN for 2nd-4th  
instructed by MESSRS. RAJARATNAM and NADARAJA-  
SUNDARAM.

MR. BALAKRISHNAN for 5th to 8th defendants.

Clients represented by Messrs. Rajaratnam and Nadarajasundaram 10  
and Mr. Balakrishnan want lot 2 to be excluded from the corpus sought  
to be partitioned. The clients of the latter claim lot 2 exclusively as their  
property.

It is admitted that the original owner was Kooliar Arumugam. The  
plaintiffs challenge the validity of deed No. 5,825 of 1896. The plaintiffs  
also state that even if that deed was valid it was revoked by the consent  
of the donee in 1908. The plaintiffs also state that a *fidei commissum*  
was created by deed No. 800 of 6-7-1908 in favour of the donors and in  
favour of their sons so that no interests passed from Kanthavanam. It  
is admitted that Kanthavanam died in July, 1931. 20

Mr. Ramalingam's clients state that deed No. 5,825 of 1896 has not  
been validly revoked, that the subsequent deed No. 800 of 6-7-1908 was  
not accepted by Kanthavanam the donee and was not signed.

It is now 3.45 p.m. Trial on 5-12-1946.

Intld. M. M. I. K.,  
A. D. J.

5-12-46.

Trial resumed. Same appearance as before.

Mr. Kulasingham states that the plaintiffs and the 1st defendant and  
claim this land by right of prescriptive possession since the death of 30  
Kanthavanam in 1931. Mr. Ramalingam states that his clients defend-  
ants 2nd to 4th have been in possession of lot 1 and claim prescriptive  
rights to lot 1 since 1931.

**Plaintiff's Case.**

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Examination

Mr. Kulasingham calls.

10 A. NAGALINGAM, affirmed, 58, cultivator, Polikandy, plaintiff. The land sought to be partitioned is represented by lots 1 and 2 on plan No. 2,201 of 19th October, 1944, marked Z. The original owner of these 2 lots was one Vyrathai, widow of Velupillai. She became entitled to it by deed No. 3,859 of 1853 (P 1). Vyrathai mortgaged this share by deed No. 245 of 1873 (P 2). By deed No. 1,457 of 1882 (P 3) Vyrathai sold this land to Kooliar Arumugam who was married to Walliammai. Arumugam and wife Walliammai executed a deed of donation No. 5,825 of 1896 (P 4) in favour of Arumugam Kanthavanam. The land in question was one of the lands included in P 4 but the donation was not accepted by Kanthavanam himself but it was accepted by one Kanthar Sinnathamby who called himself an uncle of Kanthavanam. Subsequently by deed No. 799 of 1908 (P 5) the earlier donation P 4 was revoked with the consent of Kanthavanam and deed No. 800 of 1908 was executed.

(Mr. Ramalingam objects to the production of deed No. 800 of 1908 as it is a certified copy and not the original).

20 Mr. Kulasingham cites section 90 of the Evidence Ordinance and states that this deed was executed over 30 years ago and that in the absence of the original he is entitled to produce a certified copy.

**Order**

30 The document that is sought to be produced appears to be a certified copy of a duplicate which is with the Registrar of Lands. Irrespective of the provisions of Section 90 and the meaning that may be attached to the word "document" appearing therein, whether it also includes a certified copy or not. I will admit this document on the undertaking given by counsel for the plaintiff that he will cite the Registrar of Lands to produce the duplicate of this document. I mark the document as P 6 and admit it subject to proof.

5-12-46.

Intld. M. M. I. K.,  
A. D. J.

40 The original of P 6 has been lost. The original of P 6 was in my possession. One Headman Chelliah broke open the box and took away my deeds when he was in a state of insanity. P 6 shows that my brother Kanthavanam has signed P 6 accepting the fresh gift of the property (shown the duplicate of P 6 (P 6A) ), which comes from the custody of the Registrar of Lands. P 6A is the duplicate of P 6. I identify the signature of my father Kooliar Arumugam. I also identify the mark of my mother Walliammai, I also identify the signature of my elder brother Arumugam

Kanthavanam. I am familiar with his signature and his writing. At the time of the execution of P 6 I was a student. I was not present when P 6A was executed. By deed P 6 certain lands including the land sought to be partitioned in this case were donated to Kanthavanam subject to the following conditions : that in the event of the death of Kanthavanam the properties were to devolve on the donors themselves and that if the donors predeceased, then the properties should go to their sons—myself and the 1st defendant and Poopalasingham, another of my brother who died issueless. By P 6 Kanthavanam renounced his rights to any inheritance from his father. By P 6 the properties donated were not to devolve on the children of Kanthavanam. 10

Q.—Why ?

A.—On account of the conduct of his wife. At the time of the deed P 6 my brother Kanthavanam was married. Kanthavanam's wife's behaviour was not approved by my parents. Kanthavanam died in July, 1931. Poopalasingham predeceased Kanthavanam. Poopalasingham did not leave behind any children. On the death of Kanthavanam I and the 1st defendant entered into possession of the land conveyed by P 6. My mother died in 1929 and my father died in 1920. We have been in possession of this land from the time of my brother Kanthavanam's death. 2nd to 4th defendants are the children of Kanthavanam. Kanthavanam himself during his life time acquiesced in the revocation and the execution of P 6. I produce a certified copy of the amended plaint and abstract of title and answer filed by my father and mother and myself and Poopalasingham and the 2nd defendant in this case in case No. 17,101 (P 7) C. R., Point Pedro against Kanthar Kathirgamar, Kathirgamar Thambiah, Thamar Saravanai and Arumugam Kanthavanam. 4th defendant in that case was my brother. The plaintiffs in that case relied on the deed P 6. Kanthavanam is made a party as he is a co-owner and as he was unwilling to join in that action, Kanthavanam did not file answer but answer was filed by the 1st, 2nd and 3rd defendants. I produce the journal entries in case No. 17,101 C. R., Point Pedro (P 8). Case No. 17,917 of this Court was filed by Velauthar Sinnapillai. Arumugam Kanthavanam and I were among the defendants in that case. I filed answer through Proctor V. Kanapathipillai. In the answer I relied on the deed P 6. I produce certified copy of the plaint, my answer and the proxy given by me and by Kanthavanam. Kanthavanam filed proxy in case No. 17,917 through Mr. Kanapathypillai, Proctor. I also filed answer through Mr. Kanapathypillai. I produce the proxies given by me and Kanthavanam along with the connected papers (P 9). When Kanthavanam died there was some unpleasantness between me and Kanthavanam's children as they were not allowed to perform the last rites of his father. I was arrested on a warrant and I had to set fire to the funeral pyre. Kanthavanam died at my house and I conducted the funeral ceremony. I produce a certified copy of an extract from the Magistrate's register of cases (P 10) showing that Vādivelu, Chelliah and 20 30 40

Thuraisamy filed case No. 1,196 against me. I do not know how old defendants 2nd to 4th were at the time of their father's death. They were majors and were married. I produce a certified copy of the declaration of property filed with the Commissioner of Estate Duty in which deed No. 800 (P 6) is shown in testamentary case No. 4,514 D. C., Jaffna (P 11). In that case my father's estate was administered.

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Examination  
—Continued

Q.—Why were the lands dealt with in P 6 shown in P 10 ?

10 A.—My father had life interest in that land and duty was payable under the Estate Duty Ordinance. I was the executor of the last will of my father.

Kanthavanam was a party to that case. I produce a certified copy of the final account, notices and precept to Fiscal showing that notice was served on Kanthavanam (P 12). Lot 2 forms part of the land sought to be partitioned. I and the 1st defendant have been in possession of both these lots since the death of Kanthavanam. I produce deed No. 5,020 of 1903 (P 13) for the land to the east of lot 2. In P 13 the land in question is called Mungodai in extent  $4\frac{1}{2}$  lachams. (Shown plan Z). The land dealt with in P 13 is to the east of lot 2. A portion of it is also to the north of lot 2. In P 13 the western boundary is described as the property of Kooliar Arumugam and others and the southern boundary is also described as the property of Kooliar Arumugam. I produce deed No. 680 of 1907 (P 14) for the eastern land. The western boundary in P 14 is the same as the western boundary in P 13. I produce deed No. 1,543 of 1934 (P 15).

20

Q.—P 15 was executed by Kanthavanam for the land to the north of the land sought to be partitioned ?

30 A.—That was not my brother. That was another Kanthavanam. The northern land is land No. 2 in P 15. The southern boundary is given as my property and the property of others. I produce deed No. 2,003 of 1942 (P 16) for the northern land which is the second land in P 16. In P 16 the southern boundary is described as that of myself. I produce deed No. 13,098 of 1934 (P 17) for the northern land which is the 3rd land mentioned in the deed P 17. The southern boundary is described as the property of Arumugam Nagalingam and others. I produce deed No. 2,537 of 1910 (P 18). Deed P 18 is for the land to the south of lot 2. The land in question is the 5th land in P 18. The northern and southern boundaries are described as the property of Kooliar Arumugam. I produce deed No. 13,578 of 1934 (P 19). The land dealt with by P 19 is to the south of lot 1 and not to the south of lots 1 and 2. The northern boundary is given as the property of Arumugam Nagalingam and others. 5th to 8th defendants trace their title to one Nachchan, wife of Sangariar and they say that one of the children of Nachchan was one Moothar who had two sons Kooliar and Sinnavar. Moothar Kooliar was my grand-father. I produce the death certificate of Kanthavanam by brother (P 20) which

40



No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Examination  
—Continued.  
A. Nagalingam  
Cross  
Examination

shows that it was my brother the 1st defendant who gave the information of death.

Cross-examined by Mr. Kulaveerasingham : Nil.

Cross-examined by Mr. Soorasangaran : I have a sister called Sivakolunthu. She has two children Annapillai and Alagamma. They were donated lands by my parents in 1907. I accepted that deed of donation on their behalf as they were minors. In 1907 I was about 18 years old. To the east of lot 2 are the lands called Tikathai and Mungodai in extent 4 latchams. The land called Tikathai is to the south of lot 2.

Q.—What are the lands that lie to the east of lot 2 and adjoining it ? 10

A.—Mungodai in extent  $4\frac{1}{2}$  latchams.

Q.—There are no other lands which touch the eastern boundary of lot 2 ?

A.—A portion of Tikathai also touch the eastern boundary. The northern land is also called Mungodai in extent  $2\frac{1}{2}$  latchams. The land to the west of lot 1 is called Mavathai. It is a big land and I do not know its extent. The land to the south of lots 1 and 2 are lands called Mavathai and Tikathai. There is a fence between lots 1 and 2. That fence has been in existence from the time I have known this land. It was I who instructed my Proctor to draft the plaint in this case. According to the 20  
plaint I seek to partition a divided  $\frac{5}{6}$ th share after excluding  $\frac{1}{6}$ th share on the north-east of the entire land. The  $\frac{5}{6}$ th share is represented in the plan Z by lots 1 and 2. The  $\frac{1}{6}$ th share which I have excluded is represented outside lot 2 on the north-east. That is the property of Sinniah Kanthavanam.

Q.—That is the land called Tikathai ?

A.—No, it is called Mungodai in extent  $2\frac{1}{2}$  latchams. There was a water channel at the place where the fence is and my father erected the fence separating the two lots so that the water could flow. The water channel was on the east of the fence. The water channel is in existence 30  
even now and I pointed it out to the surveyor. All the deeds that I have produced exclude a  $\frac{1}{6}$ th share out of the entire land. (Shown P 3). I cannot read clearly (Shown P 4).

Q.—On the same day that P 4 was executed donation deeds were executed by your parents in favour of yourself, 1st defendant and your deceased brother Poopalasingham.

A.—Yes. All the four of us were minors at that time. It was Kanthar Sinnathamby who accepted the donation P 4 and the donations in favour of the others. Kanthar Sinnathamby has signed P 4. Kanthar Sinnathamby was my mother's brother. My father also joined in the 40  
donation P 4 and in the other donations.

Q.—A half share of the first item in P 4 and the second item was free from any life interest.

A.—The second item was subject to life interest (P 4 read). The first item in P 4 is the land sought to be partitioned.

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued

Q.—In 1899 your father and brother Kanthavanam instituted a partition action for the land called Kodaitharai ?

A.—There was an action but I was aware of it then. I now know that there is a partition action. That land is the 5th item in P 4. The title pleaded in the plaint in that case was the deed P 4. The land was partitioned and divided lots are being possessed now (shown P 6).

10

Q.—The land called Kodaitharai is item No. 9 in P 6 ?

A.—I cannot read without glasses.

(Shown item 10 in P 6).

Q.—The title recited for land No. 10 in P 6 is the transfer in favour of Kanthavanam ?

A.—I cannot read. My brother Kanthavanam bought a land called Mavathai. The land was bought in my brother's name with the money given by my father. That is what I was told. (Shown deed No. 8,281 of 22-7-1898 (2D 1). 2D 1 is a copy of the deed of transfer in favour of my brother Kanthavanam. My brother Kanthavanam married in 1903 or 1904.

20

Q.—Kanthavanam's wife was related to Kanthavanam before marriage ?

A.—Not a close relation.

(Shown pedigree filed by witness, his parents and Poopalasingham in case No. 17,101 C. R., Point Pedro (2D 2). 2D 2 being a certified copy, it must be correct. I have referred to deed P 6 and two other deeds in the plaint filed in 2D 2.

Q.—Why was your brother Kanthavanam made a defendant in that case ?

30

A.—He had a share in the land called Konavalai. His share was not denied by me and the other plaintiffs in that case. My brother Kanthavanam did not appear in that case. Kanthavanam's wife had two brothers called Arumugam and Velupillai. Arumugam married after Kanthavanam's marriage but I cannot say when. At the time of Arumugam's marriage my sister's daughter Annapillai was not married.

Q.—Your parents and you wanted Arumugam to marry Annapillai ?

A.—I deny that.

Q.—Ill-feeling between your parents and yourself on the one side and your brother Kanthavanam on the other side started about the time Arumugam got married ?

A.—No. The ill-feeling started in 1907. (No, the ill-feeling started in 1897.) No, the ill-feeling started in 1907. My brother Kanthavanam bolted away from the house and came to our house. He did not run away from his house as his brother-in-law did not marry my niece. He fell off with his wife and came to our house. I cannot remember the month when this ill-feeling arose. Then he continued to live with us till his death.

10

Q.—From 1907 till he died in 1931 he was living in separation from his wife.

A.—He had his meals with us.

Q.—After 1907 he did not visit his wife ?

A.—He did not visit his wife openly.

Q.—He used to visit his wife clandestinely ?

A.—He may have. To my knowledge he did not live with his wife after 1907. I do not know whether the 3rd defendant was born in 1908. I cannot say when he was born. (Shown birth certificate of 3rd defendant (2D 3).

20

Q.—It is stated that your brother Kanthavanam gave information about the birth of the child ?

A.—Yes. The mother's name is given as Ledchumipillai. The child's name is given as Sanmugam.

Q.—Which is the other name of the 3rd defendant ?

A.—I do not know about that. It was after the 2nd defendant was born that the 3rd defendant was born. It was after the 3rd defendant was born that the 4th defendant was born.

Q.—2nd to 4th defendants are your brother's children ?

A.—I cannot say that. I have doubts about that. I had doubts 30 after the birth of the 3rd defendant.

Q.—For a very long time you had doubts about the paternity of the 3rd and 4th defendants ?

A.—Yes. I was the 1st defendant in case No. 2,267/P of this Court. In that case 2nd to 4th defendants sought to have the land called Navara-kaddanai partitioned. I deny I have filed answer in that case.

Q.—You gave your proxy to Mr. K. Subramaniam, Proctor to file answer in that case ?

A.—As I gave the land to my brother I left the matter at that. I filed proxy. I have also filed answer stating that the land belonged to my brother the 1st defendant.

Q.—In that case you do not seek to deny the paternity of the 2nd to 4th defendants ?

10 A.—Yes. Kanthavanam had donated his share to the 1st defendant. My father Kooliar Arumugam was possessed of several lands. He had several lands and many cases. His Proctor for a long time was the late Mr. S. Subramaniam, J.P.,U.M. After my father's death I retained Mr. Subramaniam in all my cases. In 1908, Mr. Subramaniam, Proctor, was living and was in active practice.

Q.—Notary Kanthavanam's licence was cancelled at a certain stage ?

20 A.—I do not know. I came to know later that his licence was cancelled. In 1908 Notary Kanthavanam had his notary's office at Kudathanai which was about 10 miles from Polikandy where my father lived. At that time the late Mr. Thamothersampillai, Proctor and Notary had his office within one mile of our house. There was another Proctor and Notary, Mr. Sivaprakasam at Valveddithurai the adjoining village. There was also V. Sinnathamby, Notary Public, at Udupiddy. Proctor V. Kanapathypillai to whom I gave the proxy in a certain case was also living at that time. His office was at Point Pedro about 3 miles from my father's place. Mr. M. S. Kandiah, Notary was practising as a Notary at Point Pedro. All these gentlemen live close to our house.

Q.—Can you explain why deeds P 5 and P 6 were executed at Kudathanai about 10 miles from Polikandy ?

30 A.—I cannot say. I deny I was present when the deed P 5 was executed. Later on my brother told me about the execution of that deed at the time when C. R. case 17,101 was pending. I asked him why he did not sign the proxy in that case and he said that all the lands would come to us. Before the plaint in the C. R. case was filed I asked him whether he would join us in filing the C. R. action. At that time my brother Kanthavanam was living with us in our house.

Q.—And you could not get your brother to join your side ?

A.—He was on our side.

Q.—Why did you make him a defendant instead of making plaintiff ?

40 A.—Though he stayed with us under the same roof he refused to join us in that action. One Sinnathamby Vallipuram is a witness for me today. He has witnessed the deed of revocation and P 6. (Paragraph 6 of the plaint P 7 shown).

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

*Q.*—In paragraph 6 of P 7 you state that the 1st and 2nd defendants in that case with the aid of Sinnathamby Murugesu and Sinnathamby Vallipuram fraudulently executed a donation deed ?

*A.*—I do not know. My father gave instructions to the Proctor. I only signed the proxy. Sinnathamby Vallipuram referred to in P 7 is witness whom I have cited today. I know the witnesses to the deed P 6. Kanthar Saravanamuttu was one of the witnesses to the deed of revocation and not to the donation deed. The original of P 6 was handed over to my Proctor about one year ago to file in this case. That deed must be with my Proctor. About two or three weeks ago I saw the deed with my 10 counsel. I first saw the deed P 6 at the time these deeds came to my hands after the death of my father. The deeds were in my custody after the death of my father as I was looking after all the lands as executor of my father's estate. P 6 was in the custody of my father. To my knowledge it was never with my brother Kanthavanam. It was not given to Kanthavanam as he came to live in our house. The revocation deed P 5 is the original deed. I came across P 5 and P 6 at one and the same time. P 5 and P 6 were along with the other deeds. My father left behind several deeds when he died. (Shown P 6). The 3rd land in P 6 is the 20 land called Mulliykaddiady. By P 6 my parents purported to donate the entirety of the 3rd land to Kanthavanam.

*Q.*—Your parents were entitled to the entirety of the 3rd land in P 6 ?

*A.*—They were entitled to 15/16 share. They exchanged lands and possessed.

*Q.*—You upset that arrangement by having a transfer deed executed in your favour for a 1/16th share in 1922 after your father's death ?

*A.*—I purchased a 1/16th share. By deed No. 5,507 of 1st June, 1922 (2D4) I purchased the 1/16th share. I was the executor of the last will of my father. The last will was executed in 1920 or 1921. The last will was attested by Notary Sabaratnam at Polikandy. At that time my brother 30 was living in our house. From 1907 to 1920 my brother Kanthavanam lived with my father.

*Q.*—Your father devised certain properties to Kanthavanam in the last will ?

*A.*—Yes.

*Q.*—But you were appointed executor ?

*A.*—Yes. The last will was not subject to any condition. (Shown a copy of last will executed by witness' father and mother (2D 5). I applied for probate of the last will.

*Q.*—And you filed inventory in accordance with the terms of the last 40 will ?

A.—Not according to the last will. I filed the inventory correcting the last will.

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

My father died intestate in respect of certain lands and testate in respect of certain lands. My brother Kanthavanam was a respondent in the last will case. He did not appear in Court. Nobody came to Court. It was Mr. S. Subramaniam, J.P.,U.M. who was my Proctor in that case.

Q.—Notice P 12 is to show cause why the final account should not be passed ?

A.—I did not serve a notice on Kanthavanam.

10 Q.—The affidavit of the process server is that he served the notice on Kanthavanam on being pointed out by you ?

A.—Yes. I pointed out all the respondents and the notices were served.

I filed an affidavit swearing to that effect. I also executed an executor's conveyance. According to the executor's conveyance Kanthavanam gets nothing from the estate of my father as he did not want any share.

Q.—Have you stated in the executor's conveyance that your brother renounced his rights.

20 A.—No. But he told us that he did not want anything. At the time the executor's conveyance was executed he told us that he did not want anything. Kanthavanam's wife died in 1917. In 1915 Kanthavanam and wife Ledchumipillai transferred two or three pieces of lands to me. Those were lands which were dowried to Ledchumipillai.

Q.—After Ledchumipillai's death 2nd to 4th defendants were living with Kanthavanam ?

A.—No.

2nd to 4th defendants lived with Thambiah their uncle.

Q.—Your brother was angry with his wife ?

A.—Yes.

30 Q.—Not with his children ?

A.—He left the children with the mother.

He was angry with his children also and he was not on talking terms with the children. I was on talking terms with Arumugam and Velupillai, the brother-in-law of my brother Kanthavanam. There was no ill-feeling between me and the brothers of Ledchumipillai. Arumugam and Velupillai donated a piece of land to me in 1926,

Q.—At the time of the donation the 2nd defendant was married to Arumugam's daughter ?

A.—He married Arumugam's daughter but I do not know when. (Shown deed 1,438 of 19-3-36 (2D 6). I cannot read without my glasses. Arumugam and Velupillai donated the land to me out of love and affection that they bore towards me.

Q.—In 1927 the 3rd defendant was married ?

A.—I do not remember.

2nd and 3rd defendants were married at the time of my brother's death.

10

At the time of 2D 6 the 2nd defendant was married to Arumugam's daughter. In July, 1931, Arumugam Kanthavanam died.

Q.—When he was seriously ill he was taken by you to his father's house ?

A.—No.

2nd to 4th defendants represented to the Magistrate, Point Pedro.

Q.—On a charge being filed against you that you have removed their father against their will a notice was issued on you ?

A.—Notice was served on me but he was living in my house. I came to the Court late. The warrant was issued as I was late. When the warrant was executed I was performing some funeral rites. I refused to allow 2nd to 4th defendants to perform those rites. The Headman also accompanied me when I was arrested on a warrant. The Magistrate asked the Headman to settle the matter and to have the funeral rites of my brother performed peacefully.

Q.—Thereafter the 2nd to 4th defendants performed the last rites of their father ?

A.—No. It was I who performed.

There was no settlement. The Headman made no attempt at settlement.

30

Q.—In spite of that 2nd defendant's father-in-law Arumugam donated the properties to you in 1936 ?

A.—Yes.

(P 9 referred to).

Q.—In the plaint in P9 there is no reference to P 6 ?

A.—I filed that deed.

Q.—In the plaint there is no reference to P6?

A.—I filed the deed P 6.

I filed answer in that case. In that answer I referred to the deed P 6. My brother Kanthavanam did not file answer in that case ; nor did he attend Court. The other co-owners also did not file answer. Interlocutory decree was entered in that case and I was ordered to pay costs. The Court directed that the shares of the defendants may be allotted together if they so wished.

10 Q.—It was thereafter that your brother Kanthavanam and others granted the proxy in favour of Mr. Kanapathipillai ?

A.—Yes.

It was for the purpose of having their shares allotted together. That proxy was signed by my brother and others before the Headman Chelliah. I obtained their signatures to the proxy representing that a proxy was necessary to have the shares of the defendants allotted together. At the time of my father's death he was entitled to monies on mortgage bonds and promissory notes.

Q.—Kathirgamar Sinnathamby was one of those who owned money to your father on a mortgage bond ?

20 A.—At that time he had paid that debt.

Q.—Do you deny that Kathirgamar Sinnathamby executed a mortgage bond the day after your father's death ?

A.—That bond was in my favour.

Q.—The consideration was an earlier bond in the name of your father ?

A.—No.

The consideration was paid by me before the Notary. One Vyravanathar Sinnathamby was also indebted to my father on a mortgage bond.

Q.—He also executed a mortgage bond shortly after your father's death ?

30 A.—Yes.

Q.—After your father's death Vyravanathar Sinnathamby paid back the money due to your father to you and a fresh bond was executed in your favour ?

A.—He executed a mortgage bond in our favour and then paid the money to me as executor.



Q.—What happened to the money that your father lent ?

A.—He paid it by borrowing money from us.

He returned the money before my father's death.

Q.—You said that money was borrowed from you to pay off your father's debt ?

A.—During the life-time of my father he borrowed the money from me and paid it to him. But he executed the bond after he died. They added Rs. 100 to each mortgage bond and I paid Rs. 300.

Q.—Similarly other mortgage bonds were executed within one or two years of your father's death ? 10

A.—We executed those bonds.

We executed one or two more bonds besides these bonds.

Q.—They were also indebted to your father during his life-time ?

A.—Yes.

My father was not in the habit of lending large sums of money on mortgage bonds. The bonds which I have shown in the inventory are for very small sums. In the last will monies are referred to.

(To Court).

Q.—Why did your father impose conditions on the donation deed in your brother's favour ? 20

A.—He did not like the place where my brother got married and therefore my father imposed these conditions.

Q.—In the last will why did not he fail to restrict your brother's rights to the lands ?

A.—Usually it is not customary to impose conditions in the last wills.

It was not done in the last will and I do not know the reason why no conditions were imposed on the last will.)

(Shown P6). (The witness is asked to write three times Avana Kanthavanam, he is given paper, pen, seat and table. Witness is also asked to write Avana Nagalingam three times. The witness writes the names and 30 the document is marked 2D7.)

Q.—I put it to you that the signature purporting to be that of Arumugam Kanthavanam in P6 was written by you ?

A.—I deny that.

One Kanapathy Vally sued me and others in respect of a land called Munkiapulam in case No. 55,590 C. R., Point Pedro.

No. 7  
Plaintiff's  
Evidence  
A. Nagalingnum  
Cross-  
Examination  
—Continued.

For my title I relied on a deed in favour of one Nagattai. I gave evidence in that case. My evidence in chief was taken on a particular date and my cross-examination took place on another day.

Q.—When you were examined you produced the deed on which you relied ?

A.—Yes.

10 Q.—According to that deed the share which the dowry grantee was given was  $1\frac{1}{8}$ th ?

A.—Yes ; but that was a mistake.

It was contested that the deed conveyed only  $1/8$ th share.

Q.—And that you altered  $1/8$ th to  $1\frac{1}{8}$ th share ?

A.—No.

On the following date the other side cited the Land Registry to produce the deed.

Q.—On the day the Registrar of Lands appeared in Court your copy was found to be missing ?

A.—I lost it when I was coming to Court in the rain. I lost that case.

20 Q.—It was held by the Magistrate that you had deliberately suppressed the document that you produced because the Land Registry's document was forthcoming ?

A.—I deny that.

I charged one Sivaguru and others with robbery of a chain.

Q.—The accused were acquitted and you were asked to pay Crown costs ?

A.—The accused were asked to take oaths and they took oath and I had to pay Crown costs.

Q.—You and the 1st defendant own several lands in common ?

30 A.—We possess divided shares.

(To Court).

Kanthavanam was the most intelligent man from my family. He was not attached to his wife. He used to visit his wife in the nights without anybody's knowledge.)

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

I sued one Subramaniam Maniccam on account of money due to me on tobacco purchase. He produced a receipt signed by me and I lost that case. I had to pay costs in that case. I am entitled to about 100 lands. In some of these 100 lands my brother the 1st defendant is entitled to shares and in some lands he has no shares. He has shares only in three lands. I am worth Rs. 2,000 or Rs. 2,400. My father left behind about 8 or 9 intestate lands. In all these 8 or 9 lands I and the 1st defendant are co-owners. Kanthavanam has no shares in those lands because my father has stated in the deed P6 that he would not be entitled to any share. I say that I and the 1st defendant have been in undisturbed possession of 10 lots 1 and 2 in plan Z.

Q.—Nobody else prevented you from possessing any portion of this land ?

A.—There will be no dispute between me and the 1st defendant. No other obstructed my possession. I filed this partition action because the 1st defendant used to pluck grass from the land which I fenced. There is no grass in the other lands. I have no wife or children.

Q.—According to you the 1st defendant will be your heir ?

A.—Yes.

Cross-examined by Mr. Balakrishnan:

20

Nachal wife of Sangaran was one of the three thombu-holders of the land called Mungodai. I am one of the descendants of Nachal. Defendants 5th to 8th are also descendants of Nachal.

Q.—5th to 8th defendants are entitled to 1/6th share of Mungodai in extent  $12\frac{1}{2}$  lachams.

A.—No. They have no shares at all.

The predecessors in title of 5th to 8th defendants have sold their shares. I have not produced any deeds of sale. The land in dispute contains two lands called Mungodai  $12\frac{1}{2}$  lachams and Mawathai in extent  $7\frac{1}{2}$  lachams. 1/6th share on the north-east is excluded according to my 30  
plaint. 5/6th share on the south-west and the entire land Mawathai forms the land sought to be partitioned. Lot 1 is enclosed on all sides with fences. Those fences were erected long ago by my father. Except the boundary fence between lots 1 and 2, lot 2 had no other fence. According to me, the land sought to be partitioned ought to be about 14 lachams in extent. Lot 1 in the plan is a little more than  $13\frac{3}{4}$  lachams. Lot 2 which defendants 5th to 8th claim is in extent 2 lachams 14 kullies.

Q.—Lot 2 is a little more than the extent that the 5th to 8th defendants claim ?

A.—No answer.

Re-examined : The Registrar of Lands was summoned at my instance to produce deeds signed by Kanthavanam in 1904 and 1915. Only a share in one land called Nagarakaddalai was given to Kanthavanam in the last will. This is the dwelling compound of my father. My father requested us to perform his annual rites at my house. There is a deed in which my father stipulated regarding the performance of the annual ceremony. That clause is inserted in the charity donation deed.

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Re-  
Examination  
—Continued.

Q.—Was Kanthavanam reconciled to getting no property from your parents ?

10

A.—Yes.

In testamentary case No. 4,514, I say that all notices were served on Kanthavanam and he was aware of all the proceedings. In case No. 17,917 decree was entered in accordance with the terms of the answer filed by me. Thambiah in whose house Kanthavanam's wife was living is the 5th defendant in this case. P6 is a certified copy given by the Registrar of Lands at the request of Mr. K. Subramaniam, Proctor, in August, 1944.

Q.—Why did you instruct your Proctor to obtain a certified copy ?

A.—To file a partition action. I have lost the original in 1936.

(To Court : I have lost 4 or 5 deeds.)

20

I handed over the original of P6 to my Proctor.

Q.—Do you know what the original is ?

A.—No.

I handed to my Proctor P6. P6 was the deed that I handed to my Proctor. I did not hand over any other copy of the deed P6. Original of the deed P6 has been lost. I did not hand over the original to anybody. I knew Notary Kanthavanam personally. He is a man from Vathiry an adjoining village. He lives about one mile away from my house. He has an office at Kudathanai also. I do not know why my father wanted to have the deed executed at Kudathanai.

30

(To Court— I do not know how far Kudathanai is from my village. I have never been to Kudathanai. I do not remember when I instructed my Proctor to file this action. I asked him to apply for P6 at the time I asked him to file this action. It was over 2 years ago. I think it must have been in July or August. I gave him the number of the deed. I got the number from case No. 17,917. When I filed those cases I had the original with me. I lost sight of the original in 1936. I kept the original of P6 at my house and a lunatic came and removed away along with three other deeds. The three deeds were in a bundle.)

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Re-exami-  
nation  
—Continued.

Q.—The other deeds were left behind ?

A.—He took all the deeds.

I could not recover a single deed from the lunatic. I had three deeds in that bundle. The other deeds were kept at my house. These three deeds were at my garden where I lived. These three deeds were kept in a box at my garden. Besides these three deeds I did not have any other deeds in my box. I had the other deeds in my house. On my way from Jaffna I got down from the bus near my garden and I kept the deeds at my garden.

5-12-46. Intld. M. M. I. K., 10  
A. D. J.

No. time. Further hearing on 14th December, 1946.

Intld. M. M. I. K.,  
A. D. J.

14-12-46. Same appearance as before.

Mr. Kulasingham calls :

K. Sathasivam  
Examination

K. SATHASIVAM affirmed, Clerk, Land Registry, Jaffna, I produce duplicate of deed No. 800 dated 6-7-1908, and attested by V. Kandavanam, Notary—P6A.

At this stage I stop further proceedings in this case because I am 20 under orders of transfer rather suddenly and I hope I will not be in a position to finish this case today, although I have fixed on a Saturday in the hope that I will finish it. If we are to continue today it would necessitate my having to come here again on another occasion probably next year to continue the hearings. It will be a source of inconvenience not only to me but also to the Court where I am ordered to go. It is agreed between the parties that this case should be heard afresh by my successor.

I refix the hearing of this case afresh on the 6th and 7th of February, 1947. Specially fixed. The new cases fixed for these two dates will go down. 30

6-2-47. Intld. M. M. I. K.,  
A. D. J.

MR. KULASINGHAM instructed by MR. SUBRAMANIAM for plaintiff.  
MR. JAYAKODY for 1st defendant instructed by MR. KULAVEERA-SINGHAM.

MR. RAMALINGAM with MR. SOORASANGARAN instructed by MESSRS. RAJARATNAM and NADARAJASUNGHAM for 2nd-4th defendants.

Mr. BALAKRISHNAN for 5th to 8th defendants.

Plaintiff and 1st to 3rd defendants present.

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Examination

Points in dispute :

(1) Plaintiff seeks to partition lots 1 and 2 in plan No. 2,201 of 19th October, 1944. 5th to 8th defendants state that lot 2 should be excluded from the corpus.

10 (2) It is admitted that Kooliar Arumugam and wife Walliammai donated this property along with other properties by deed No. 5,825 of 1896 to Arumugam Kanthavanam. Plaintiff states that this deed was revoked with the consent of Kanthavanam by deed No. 799 of 1908 and Kooliar Arumugam and wife Walliammai executed a fresh deed of donation No. 800 of 1908 in favour of Kanthavanam and accepted by him subject to a *fiduci commissum* firstly in favour of the donors and if the donors predeceased their sons then in favour of their sons, namely, 1st defendant and one Poopalasingham, who died issue less and whose interests had devolved on the plaintiff and 1st defendant. 2nd and 4th defendants state that deed No. 779 of 1908 is invalid in law and further that deed No. 800 of 1908 is invalid and that Kanthavanam never signed this deed accepting the gift.

20

(3) Prescriptive rights of parties.

Plaintiff's case.

Mr. Kulasingham calls :

30 A. NAGALINGAM affirmed, 58, cultivator, Polikandy, plaintiff. The land sought to be partitioned in this case is represented by lots 1 and 2 on plan No. 2,201 of 19th October, 1944, marked Z. The original owner of these two lots was one Vyrathai, widow of Velupillai. She became entitled to it by deed No. 3,859 of 1853 (P1). Wyrathaiotty mortgaged this share by deed No. 245 of 1873 (P2). By deed No. 1,457 of 1882 (P3) Vyrathai sold this land to Kooliar Arumugam my father who was married to my mother Walliammai. Arumugam and Walliammai executed a deed of donation No. 5,825 of 1896 (P4) in favour of Arumugam Kanthavanam. The land in question was one of the lands included in P4 but this donation was not accepted by Kanthavanam himself but was accepted by one Kanthar Sinnathamby who describes himself as an uncle of, Kanthavanam. Subsequently by deed No. 799 of 1908 (P5) the earlier donation P4 was revoked with the consent of Kanthavanam and deed No. 800 of 1908 (P6) was executed.

40 (Mr. Soorasangan objects to the document as it is not genuine.)

Mr. Kulasingham states that the deed is over 30 years old.

(Mr. Soorasangaran refers to section 90 of the Evidence Ordinance and states that it does not create a conclusive presumption. He cites *Sarkar on Evidence* at page 610.)

**Order.**

Of consent the document is admitted and the genuineness of the document will be considered after all the evidence is led.

Intld. G. C. T. A. DE S.,

A. D. J.

The original of the document P6 has been lost. The original was in my possession. The headman of my division went mad and he removed that deed. The headman's name is Chelliah. It is stated in P6 that my brother Kanthavanam has signed it accepting the gift of the property. (Shown the duplicate of P6 (P6A). Mr. Kulasingham states that P6A will be produced by the Registrar of Lands.) P6A is the duplicate of P6. I identify the signature of my father Kooliar Arumugam on P6A. My mother Walliammai has signed P6A with a mark. I also identify the signature of my elder brother Arumugam Kanthavanam. I am familiar with his signature and his hand-writing. I was not present when P6A was executed. I was about 18 or 19 years old when the deed P6A was executed. By P6 certain lands including the land sought to be partitioned in this case were donated to Kanthavanam subject to the following conditions ; that in the event of the death of Kanthavanam the properties were to devolve on the donors themselves and in the event of the death of the donors then the property should go to their sons, namely, myself, 1st defendant and Poopalasingham another brother of mine who died issue less. By P6 Kanthavanam specifically renounced his rights to any inheritance from his father. According to P6 none of these properties were to devolve on the children of Kanthavanam.

Q.—Why did Kanthavanam consent to this ?

A.—Owing to the misconduct of his wife.

30

After marrying Kanthavanam she lived with another person during the lifetime of Kanthavanam. My parents did not approve of the conduct of Kanthavanam's wife. Kanthavanam died in July, 1931. Poopalasingham pre-deceased Kanthavanam. Poopalasingham died issue-less. On the death of Kanthavanam I and the 1st defendant entered into possession of the land conveyed by P6 and I have remained in possession ever since. My mother died in 1929. My father died in 1920.

Q.—2nd to 4th defendants are the children of Kanthavanam ?

A.—That is what I hear. I cannot say.

Kanthavanam himself during his life-time acquiesced in the revocation of P4 and the execution of P5. I produce a certified copy of the amended  
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No. 7  
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 A. Nagalingam  
 Examination  
 —Continued.

Q.—When Kanthavanam died there was some quarrel between you and the 2nd to 4th defendants ?

A.—No.

Q.—Did you allow them to perform the last rites on the death of their father ?

A.—No.

I was arrested on a warrant at their instance and I set fire to the funeral pyre. Kanthavanam died at my house and I conducted the funeral ceremony. I produce a certified copy of an extract from the Magistrate's register of cases (P11) showing that Vadivelu, Chelliah and Thuraisamy filed M.C. case No. 1,196 against me. I produce a certified copy of the declaration of property filed with the Commissioner of Estate Duty in which deed P6 is shown in Testamentary Case No. 4,515, D.C., Jaffna (P12). It was in this case that my father's estate was administered. I was the executor of the last will of my father. Kanthavanam was a party respondent to that case. I did not convey any share of the estate left behind by my father to Kanthavanam as he refused to accept. I produce a certified copy of the final account, notices and precept to fiscal showing that notices were served on Kanthavanam (P13). Lot 2 in plan Z forms part of the land sought to be partitioned. I and the 1st defendant have been in possession of both these lots since the death of Kanthavanam. I produce deed No. 5,020 of 1903 (P14) for the land to the east of lot 2. In P14 the land in question is called Mungodai in extent  $4\frac{1}{2}$  lachams. The land dealt with in P14 is to the east of lot 2. A portion



No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Examination  
—Continued.

of it is also to the north of lot 2. In P14 the western boundary is described as the property of Kooliar Arumugam and others, and the southern boundary is also described as the property of Kooliar Arumugam. I produce deed No. 680 of 1907 (P15) for the eastern land. The western boundary in P15 is the same as the western boundary in P14. I produce deed No. 1,543 of 1934 (P16). P16 is for the northern land. It is land No. 2 in P16. The southern boundary is given as my property and the property of others. I produce deed No. 2,003 of 1942 (P17) for the northern land which is the second land in P17. In P17 the southern boundary is described as the property belonging to me. I produce deed 10 No. 13,098 of 1934 (P18) for the northern land which is the 3rd land mentioned in the deed P18. The southern boundary in P18 is described as the property belonging to me and others. I produce deed No. 2,537 of 1910 (P19). This deed is for the land to the south of lot 2. The land in question is the 5th land in P19. The northern and southern boundaries are described as the property of Kooliar Arumugam. I produce deed No. 13,578 of 1934 (P20). The land dealt with by P20 is to the south of lot 1. The northern boundary in P20 is given as the property belonging to me and others. 5th to 8th defendants trace their title to one Nachchan, wife of Sangariar and they say one of the children of Nachchan was one 20 Moothar who had two sons Kooliar and Sinnavar. Moothar Kooliar was my father's father. I produce the death certificate of Kanthavanam my brother (P21). P21 says that it was my brother the 1st defendant who gave the information of death to the Registrar.

A. Nagalingam  
Cross-  
Examination

Cross-examined by Mr. Jayakody :

My brother died in 1931. I know the lands that were donated by P6. After the death of my brother I began to possess those lands. 1st defendant also possessed those lands. None of the children of my brother Kanthavanam took any produce from those lands after Kanthavanam's death. My father was a man of considerable property. He had given 30 many lands as donation to the grand children of the 1st defendant. My father has not given any donation to the children of Kanthavanam. 2nd to 4th defendants claim to be the children of Kanthavanam. Kanthavanam's wife was Ledchumypillai. Ledchumypillai had four children. 2nd to 4th defendants are three of them and the 4th child was one Duraiswamy. Ledchumypillai was not legally married to anyone else besides Kanthavanam.

Cross-examined by Mr. Soorasangaran :

I have considerable experience in litigation. In case No. 25,590 C.R., Point Pedro one Kanapathy Vally sued me in respect of a land. I filed 40 answer claiming a  $1\frac{1}{2}/8$  shares of the land on a dowry deed in favour of Nagathai. I gave evidence in that case on two different dates. On the first I produced the dowry deed in favour of Nagathai and I was cross-examined on that deed.

Q.—And it was alleged in cross-examination that the deed actually dealt with 1/8 and that you have altered it to  $1\frac{1}{2}/8$  shares.?

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A. Nagalingam  
Cross-  
Examination  
—Continued.

A.—They made a false allegation.

On the second date of trial my cross-examination was continued. In the meantime the Land Registry was cited to produce the duplicate of that document. On the second date I stated that I had lost the document which I produced on the previous date of trial. The duplicate of that deed from the Land Registry was produced in that case.

10 Q.—According to the duplicate the share conveyed to Nagathai was only 1/8th ?

A.—Yes.

I lost that case. In case No. 10,727 C.R., Point Pedro I sued one Subramaniam Rasamaickam alleging that money was due to him. Rasamanickam in his answer alleged that he had paid and settled the amount and produced a receipt in Court. I lost that case but there is still money due to me from Rasamanickam. In case No. 31 C.R., Point Pedro, I sued one Velauthar Murugupillai in respect of a land called Vannantheru. I lost that case on account of my witnesses. One Thambiah a teacher of Valveddy sued me and my brother the 1st defendant for declaration of title and damages alleging that *we cut* the boundary fence and encroached into his portion. 1st defendant and I filed answer and we lost that case. In case No. 2,494/P of this Court 2nd to 4th defendants in this case sued me and the 1st defendant for a declaration of title to a land claiming to be entitled to a 1/3rd share of the land by right of inheritance from their father Arumugam Kanthavanam. I allowed the 1st defendant to file answer in that case. Both of us filed a joint answer but I allowed him to proceed with the case. After the answer was filed I never came to Court. In the answer I filed in case No. 2,494 I deny I admitted that 2nd to 4th defendants were the children of Arumugam Kanthavanam (shown plaint and paragraph 3 of the answer in case No. 2,494/P of this Court (2D8).) I have lost that case. I charged one Sivaguru and Kanthavanam with robbery of chain in the Magistrate's Court, Point Pedro. The accused were acquitted and I was asked to pay Rs. 5 as Crown costs. My father executed a last will and appointed me as the executant. By the last will my father had devised one land to Arumugam Kanthavanam. About 6 or 7 lands were conveyed to the Pillaiyar temple and my brother Arumugam Kanthavanam was appointed trustee to look after the properties on behalf of the temple but Kanthavanam refused to accept the trust as he could not manage it.

40 Q.—Your father directed you to pay certain sum of money to your brother Arumugam Kanthavanam ?

A.—Yes.

I was present when the last will was executed. I read the last will.

Q.—Did you at any time after the last will was executed discuss anything with regard to the last will with your brother Kanthavanam ?

A.—What is there to talk. He was in my house. I applied for probate of the last will and I was appointed.

Q.—You applied for probate in accordance with the wishes of your father ?

A.—Yes.

(Shown certified copy of the petition for probate (2D9). Before I filed 2D9 I did not discuss with my brother about the estate of my father. 10

Q.—In the petition you stated that your father by his last will of 1920 bequeathed property to the 1st defendant. Arumugam Kanthavanam, yourself and to some others ?

A.—Yes.

I had notice served on Kanthavanam in connection with the testamentary case.

Q.—No other notice was served on Kanthavanam in connection with the testamentary case ?

A.—Earlier also a notice was given in a case from Colombo where we were ordered to pay stamp duty. 20

Other notices also may have been issued on Kanthavanam. He had two or three other notices. The Fiscal Officer who was entrusted with the service of the notice served the notice on the persons mentioned in the notice on being pointed out by me. Thereafter I executed a conveyance. That conveyance had to be executed according to the directions of my father in the last will. In the meantime Kanthavanam gave over his lands to the 1st defendant.

(Shown executor's conveyance No. 19,545 of 1-11-1923 (2D10) Recital in 2D10 referred to.)

Q.—Among the persons mentioned in 2D10 Arumugam Kanthavanam 30 is not one ?

A.—He had transferred his interests to the 1st defendant.

Q.—Did you convey anything to Arumugam Kanthavanam by 2D10 ?

A.—2D10 was subsequent to Kanthavanam transferring his interests to the 1st defendant.

Q.—The statement by you that your father devised all his properties to the persons mentioned in the last will is not correct ?

No. 7  
Plaintiffs  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

A.—Kanthavanam asked me to transfer his interests to the 1st defendant.

Q.—When did you come to know that Kanthavanam conveyed all his interests to the 1st defendant ?

A.—He told me so in 1921 or 1922.

10 Kanthavanam did not execute any deed. Kanthavanam said that he could not look after the lands that were donated to the temple and we wrote to Colombo and we were asked to pay Rs. 10 stamp duty.

Q.—You stated in the deed of conveyance that it was you and your brother the 1st defendant who should look after the properties donated to the temple ?

A.—Yes.

Q.—And that 1st defendant and you had the right to appoint your successors after your life-time ?

A.—Yes.

20 The land to the east of lot 2 is called Mungodai in extent  $4\frac{1}{2}$  lachams. There is only one land touching lot 2 on the east. The  $\frac{1}{6}$ th share that was excluded also touches lot 2 on the east. Between lots 1 and 2 there is a live fence. It has been in existence from the time I have known this land. The donation deed P4 of 1896 in favour of my brother Arumugam Kanthavanam was accepted by Kanthar Sinnathamby on behalf of my brother Arumugam Kanthavanam who was then a minor. My mother also joined in that deed P4 along with my father. Kanthar Sinnathamby was Kanthavanam's maternal uncle. On the same day my parents executed other deeds of donation in my favour and in favour of my brothers. Those deeds too were accepted by Kanthar Sinnathamby.

30 Q.—Your father and mother were very old at the time they executed the various donations deeds in favour of your brother Kanthavanam, yourself and others ?

A.—They were of middle age.

I did not know the time when these deeds were executed. My father was 74 years old when he died. In 1907 my parents donated certain lands to my sister Sivakolunthu's children. I accepted that donation on behalf of Sivakolunthu's children who were minors.

Q.—You were a major at that time ?

A.—I was then 18 years old.

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Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

Q.—You accepted the deed as Sivakolunthu's children were 'minors' ?

A.—Yes.

Q.—Then you were a major ?

A.—I was asked by my father to accept the donation. My father had confidence in me.

One of the lands donated to my brother by deed P4 of 1896 is a land called Koddaitarai. I do not know when that land was partitioned. I now know that that land was partitioned. It was partitioned in case No. 1,940 D.C., Jaffna.

Q.—Your brother and your father were the plaintiffs in that case ? 10

A.—I do not know.

Subsequently I came to know that the land was transferred to my brother.

Q.—Long before 1908 you knew that your brother had become entitled to that land by a deed of partition ?

A.—Yes.

Q.—In spite of the partition decree declaring your brother entitled to that land you know that that land is included in P6 ?

A.—Yes.

(Shown deed No. 8,281 of 22-7-1898 (2D1).)

20

Q.—2D1 is a deed of transfer in your brother's favour for the land Mawathai ?

A.—I am unable to read.

Q.—The land purchased by your brother on 2D1 is also included in P6 ?

A.—Yes.

Kanthavanam's wife lived with another man. She started living with another man immediately after the birth of the 2nd defendant. That was in 1905 or 1906. Kanthavanam's wife was Ledchumypillai. My brother got angry with his wife and came to live at our house. Ledchumypillai lived with her paramour from 1905 till her death. I gave evidence in 30 this case on 5-12-46.

Q.—You were then cross-examined on this point and you did not say one word suggesting that Ledchumypillai lived at any time with another man ?

A.—I mentioned that.

(Mr. Soorasangaran marks the evidence of witness 2D11.)

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

Q.—Why do you say that your parents executed the deed of 1906 subject to certain conditions ?

A.—They executed the deed with conditions because Ledchumypillai lived with another man.

10 Q.—On the last occasion the Court put this question to you : “ Why did your father impose conditions on the donation deed in your favour,” and your answer was : “ He did not like the place where my brother got married and therefore my father imposed those conditions ”—did you say that ?

A.—I did not say so.

My brother married somewhere in 1902 or 1903. 2nd defendant was born in 1904. 3rd defendant was born in April, 1908.

Q.—It was your brother who registered the 2nd defendant's birth ?

A.—I do not know.

I say that the 2nd to 4th defendants were not the children of Kanthavanam.

20 Q.—On the last occasion you said : “ 2nd to 4th defendants are the children of Kanthavanam ? ”

A.—(No reply.)

I deny that Kanthavanam's wife was related to me before marriage.

My parents I and others were plaintiffs in case No. 17,101 C.R., Point Pedro. I filed a pedigree in that case.

(Shown pedigree filed by the witness in case No. 17,101 C.R., Point Pedro (2D2).)

Q.—Kanthavanam's wife Ledchumypillai and you appear in the same pedigree in 2D2.

A.—I do not know.

30 From 1905 till 1917 my brother Kanthavanam was living with my parents in the same house as myself.

Q.—In case No. 17,101 (P7) Arumugam Kanthavanam is made the 4th defendant ?

A.—Yes,

Q.—In paragraph 8 of the plaint in that case it is stated that the defendant was made a party as he was a co-owner and was unwilling to join in this action ?

A.—Yes.

Q.—And as he was not on terms with the plaintiff ?

A.—He was not angry with us.

Q.—So the statement by you and your parents was incorrect ?

A.—The statement is correct.

At the time P7 was filed my brother was well disposed towards us. My brother did not appear in that case. His share was admitted in the 10 plaint. Kanthavanam's wife had two brothers Arumugam and Velupillai. At the time of Kanthavanam's marriage Arumugam and Velupillai were not married. My sister Sivakolunthu's daughter was also unmarried at that time.

Q.—Your parents wanted Arumugam, brother of Ledchunypillai, to marry your sister's daughter Annapillai ?

A.—I deny that.

Q.—As a result of Arumugam refusing to marry Annapillai there was ill-feeling between you and your parents on the one side and Arumugam and his relations on the other side ?

20

A.—I deny that.

My father was possessed of considerable properties. He also had several cases in courts. His Proctor for a long time was the late Mr. Subramaniam. Mr. Kanapathipillai also was his Proctor. I also engaged Messrs. Subramaniam and Kanapathipillai both before and after my father's death. Messrs. Subramaniam and Kanapathipillai were Tamil Notaries also. These two proctors lived about 3 miles away from my village. Notary V. Sinnathamby lived about one mile away from my village. Mr. Sivapirakasam, Proctor and Notary, lived about one mile away from my village.

30

Q.—There was Mr. Thamothersampillai, Proctor and Notary, who was living at Udupiddy practising in Tamil and English. His place was about a mile away from your house ?

A.—Yes.

P5 and P6 were attested by Notary G. Kanthavanam.

Q.—Kanthavanam's licence was at one time cancelled ?

A.—I am not aware of that.

At the time of his death I was informed that his licence was cancelled. Several other deeds also were executed by Notary Kanthavanam. P5 and P6 were executed at Kudathanai which village is about 9 or 10 miles from my village.

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Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued

Q.—To go to Kudathanai from your village one has to go through Point Pedro ?

A.—There is another way also through Alvai.

Q.—At that time there was Notary Arumugam living at Alvai ?

A.—Yes, he also executed several deeds for us.

10 Q.—Why were deeds P5 and P6 executed at Kudathanai?

A.—Some other deeds also were executed at Kudathanai.

Notary Kanthavanam also borrowed some money from us on a mortgage bond and we took the deeds to him thinking the expenses would be less.

Q.—This question was put to you on the last occasion and you said: “ I cannot say ?”

A.—(No reply).

20 My parents by deed P6 donated to my brother Kanthavanam the entirety of two lands called Mulliyakaddiady and Kottandai (items 2 and 3 in P6 referred to).

Q.—Thereafter you with a view to claim a 1/16th share of Mulliyakaddiady executed a deed in your favour ?

A.—No.

(Shown copy of deed No. 5,507 of 1-6-1922 (2D4). (Shown copy of deed No. 969 of 17-9-1913 (2D12). By 2D12 my brother and his wife transferred *certain* lands to me.

Q.—By deed No. 1,992 of 1915 (2D13) your brother and his wife Ledchumypillai transferred some other land to you ?

A.—Not jointly

30 My brother came to the Notary's office and signed the deed. His wife also came to Notary's office and signed the deed.

In 1913 my brother and his wife mortgaged some of their lands and borrowed money from one Podian Kanthan. (Shown copy of deed No. 1,006 of 23-10-1913 (2D14).



No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

Q.—If Ledchumypillai was living with another man there must have been ill-feeling between Ledchumypillai and her brothers and yourself?

A.—I was not on talking terms.

I was not on talking terms with Ledchumypillai from the time she got married.

Q.—And Ledchumypillai's brother Arumugam also never talked to you?

A.—He used to talk to me.

In 1936 Arumugam and his brother Velupillai donated a land to me by deed No. 1,438 of 19-3-1936 (2D6). These two persons were poor people and they were obliged to me in several respects. Each of them had two or three children. One Sinnathamby Vallipuram is a witness for me today. I have cited him because he witnessed P6.

Q.—He signed P6 because he was a friend of yours and your father?

A.—No.

Q.—How did he happen to go to Kudathanai?

A.—I do not know.

I have never taken advice from Sinnathamby Vallipuram. Later he and my father had several cases and there was ill-feeling between my father and him. Vallipuram fell off with my father about 5 years before my father's death. Whenever I met Vallipuram I used to talk to him. Vallipuram is a man from Polikandy. Vallipuram is a distant relation of mine. I never took him to Notary's offices when I got deeds executed in my favour.

Q.—One Vyravanathar Sinnathamby was indebted to your father on two mortgage bonds before your father died?

A.—Yes.

(Shown copy of bond No. 4,718 of 13-9-1920 (2D15). 2D15 was executed by Vyravanathar Sinnathamby in my father's favour to secure the payment of Rs. 250 and interest at 16 per cent. 30

(Shown copy of bond No. 4,432 of 11-3-1920 (2D16). 2D16 was executed by Vyravanathar Sinnathamby to secure the payment of a sum of Rs. 100 with interest at 12 per cent. in favour of my father. (Shown mortgage bond No. 4,936 of 22-6-1921 (2D17).) 2D17 was executed by Vyravanathar Sinnathamby for a principal of Rs. 300 in favour of my mother Walliammai. It was I who lent the money on 2D17.

Q.—The lands mortgaged in 2D17 are the same lands as in 2D15 and 2D16 ?

A.—Yes.

I do not remember whether my father died about 5 or 6 months before 2D17 was executed.

Q.—2D17 was executed for the principal due on the earlier bonds 2D15 and 2D16 ?

A.—No.

10 That was redeemed during the life-time of my father. Those bonds were discharged by my father by giving a receipt. I was asked about these mortgages on the last occasion. I was not able to get at the receipts discharging 2D15 and 2D16. I do not remember when I lent the sum of Rs. 300 on 2D17. I paid the consideration due on 2D17 at my house. Sinnathamby Vallipuram is a witness to mortgage bond 2D17. He was at the Notary's office and I asked him to witness the mortgage bond.

Q.—It was on his advice that 2D17 was executed renewing the debt due on 2D15 and 2D16 ?

A.—Those were redeemed during the life-time of my father.

20 Q.—After your father's death you got your mother to transfer all her interests in all the lands in your favour ?

A.—Yes.

(Shown deed No. 588 of 12-5-1926 (2D18). After my father's death the lands referred to in 2D18 were all the lands she was entitled to.

Q.—Even the life interest which she had in some lands was transferred in your favour ?

A.—Yes.

2D18 also was witnessed by Sinnathamby Vallipuram.

Q.—I put it to you that it was he who advised you to get this transfer from your mother ?

30 A.—I deny that.

Q.—You did not pay any money to your mother for this transfer ?

A.—She had my earnings with her.

Q.—Then why didn't you ask her to get a deed of donation executed ?

A.—She executed a transfer deed.

Q.—When did you come to know about P6 ?

A.—During the pendency of case No. 17,101 in 1917.

I saw P6 at that time. It was in the custody of my father at that time.

Q.—It was never with your brother?

A.—My brother's belongings also were in my father's custody.

My brother handed over P6 to my father to be kept in the strong box. I saw my brother handing over the deed to my father. That was long ago.

Q.—On the last occasion when you gave evidence you were asked whether this deed was at any time in your brother's possession and you 10 stated that it was never in your brother's possession ?

A.—I said so. It was in my brother's possession and later on it was handed over to my father.

Q.—Deeds P5 and P6 were kept together along with other deeds by your father ?

A.—Yes.

My father owns several lands. He had several deeds when he died. I as executor of the last will of my father was in charge of the documents left behind by my father.

Q.—P5 and P6 were kept together as they related to the same lands ? 20

A.—It was along with the other deeds.

Q.—On the last occasion when you were re-examined you stated that the original of P6 was handed over to your Proctor by you ?

A.—Yes. I meant the copy.

Q.—I put it to you that the original of deed P6 is still with you ?

A.—I deny that.

I lost 3 or 4 other deeds along with deed P6. These deeds that were lost were kept in the garden at Mavathai. I brought them from the District Court of Jaffna and kept them at my garden. I filed them in case No. 17,977 D.C., Jaffna. I filed P6 in that case and not the duplicate. 30 All the other valuable documents were kept by me in a strong box.

Q.—On the last date you were asked by Court to write on a piece of paper the name Arumugam Kanthavanam three times and Arumugam Nagalingam three times ?

A.—Yes.

My writing was produced and marked (2D7). I admit my writing on 2D7.

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

I was not present when P6 was executed.

Q.—It was you who wrote out Arumugam Kanthavanam in P6 ?

A.—I deny that.

There is no ill-feeling between me and the 1st defendant but we have slight troubles over the possession of common lands. There are two other cases Nos. 2,494 and 2,267 between the same parties.

10 Q.—In both those cases you and the 1st defendant have filed one proxy and one answer ?

A.—I do not remember.

Q.—According to you possession of this land was never disturbed ?

A.—It was disturbed.

Q.—2nd to 4th defendants falsely asserted title to this land and disturbed your possession ?

A.—They falsely claimed.

Q.—It was thereafter that you filed this partition action ?

A.—No. I wanted to have the land partitioned. I have no children. My wife is not living.

20 Q.—Your brother will be your sole heir ?

A.—I have executed a last will.

Cross-examined by Mr. Balakrishnan :

30 The land to the east of this land belongs to me. The land to the north of this land also belongs to me and others. The eastern land is a land called Mungodai in extent  $2\frac{1}{2}$  lachams and not  $4\frac{1}{2}$  lachams. According to the plaint the lands to the east of the land sought to be partitioned belongs to me. The land to the north and south of the land sought to be partitioned belongs to me and others. The land called Mungodai in extent  $12\frac{1}{2}$  lachams originally belonged to three thombu holders. I am a descendant of the *thombu* holder Nachal, daughter of Vathar and wife of Sangarar, who is one of the three *thombu* holders. 5th to 8th defendants are also descendants of Nachal. Nachal was entitled to a  $\frac{1}{3}$ rd share of the land called Mungodai in extent  $12\frac{1}{2}$  lachams. There are live fences on all the four sides of lot 1. They are about 25 or 30 years old.

Q.—Except the boundary between lots 1 and 2 there are no live fences on the other boundaries of lot 2,

No. 7  
Plaintiff's  
Evidence  
A. Nagalingam  
Cross-  
Examination  
—Continued.

A.—There is a fence on the north of lot 2.

Q.—The surveyor has marked the northern boundary of lot 2 with an indefinite line. The Surveyor has stated that there are no fences on the north, east or south ?

A.—There are fences but not live fences.

Q.—You said on the last date that except the boundary between lots 1 and 2 lot 2 has no other fence ?

A.—I may have said so.

I filed this partition action as I and the 1st defendant are not in good terms as a result of common possession of the land. Other defendants 10 are all intervenients.

A. Nagalingam  
Re-examina-  
tion

Re-examined :

At my instance the Registrar of Lands was cited to produce two deeds. Deed No. 5,232 of 11-4-1904 is in the custody of the Registrar (P22). Deed No. 13,085 of 13-6-14 (P23) is also in the custody of the Registrar. I see the signatures of Arumugam Kanthavanam on P22 and P23. I identify the signature of my brother on P22 and P23. The land called Koddatharai which was partitioned is the 9th land in P6. The land called Mavathai is the 10th land in P6. (Description of the 10th land in P6 read). Kanthavanam's wife Ledchumypillai was living openly 20 with her paramour. I never spoke to her even after the time of her marriage with my brother Kanthavanam. I did not talk to her because she was my sister-in-law. In case No. 17,101 it was stated by us that Kanthavanam was unwilling to join us as plaintiffs. He was not joined as a plaintiff because he transferred his rights to us by P6. The Notary who executed P6 was Kanapathypillai Kanthavanam. He was not a native of my village. He was from the neighbouring village. He knew my people very well. I produce a certified copy of the inventory filed in case No. 4,550 Testamentary D.C., Jaffna (P24). In P24 I have shown as the last item the amount due under the judgment in case No. 19,076 30 C.R., Point Pedro from Kanapathipillai Kanthavanam. The original of P6 was filed in case No. 17,917 D.C., Jaffna. There was a trial in that case and I produced the original in that case. I withdrew the original after the case was over. I undertake to produce a certified copy of the journal entry and the proceedings with reference to this particular deed P6.

(Mr. Kulasingham marks this document previously as P25.)

Q.—Why is there a live fence between lots 1 and 2 ?

A.—There is a water channel by the side of the boundary and to prevent the flow of water into the adjoining garden we heaped up some 40 earth and planted sticks to prevent cattle from trespassing into lot 1,

Lot 2 was never under cultivation. Lot 1 was under cultivation right through. People can pass freely from lot 1 to lot 2. There is a fence marked on the eastern and northern side of lot 2. I say that that fence is not a live fence. The neighbouring land owners put up that fence to secure their lands. There is a mango tree on lot 2. There are also three palmyrah trees in lot 2. I take the produce from these trees.

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Plaintiff's  
Evidence  
A. Nagalingam  
Re-examina-  
tion  
—Continued.

Sgd. G. C. T. A. DE SILVA,

6-2-47.

A. D. J.

K. SATHASIVAM affirmed, Clerk, Land Registry, Jaffna.

K. Sathasivam  
Examination

10 I am the Record-Keeper of the Land Registry, Jaffna. The Registrar of Lands was cited to produce three deeds—the duplicate of deed No. 800 of 6-7-1908 (P6A) deed No. 5,232 of 11th April, 1904 (P22) attested by S. Subramaniam and also deed No. 13,085 of 13th June, 1914 (P23) attested by S. Subramaniam.

Cross-examined by Mr. Jayakody—Nil.

Cross-examined by Mr. Soorasangaran—Nil.

Cross-examined by Mr. Balakrishnan—Nil.

Intld. G. C. T. A. DE S.,

6-2-47.

A. D. J.

20 SINNATHAMBY VALLIPURAM affirmed, 76, Cultivator, Polikandy.

S. Vallipuram  
Examination

30 I knew the late Arumugam Kanthavanam. I knew also Kooliar Arumugam and his wife Walliammai (Shown P5). I have signed deed P5 as one of the witnesses. P5 was signed by Kooliar Arumugam and wife Walliammai. P5 was attested by Notary Kanthavanam at Kudathanai. On the day P5 was attested I went to the Notary's office to see the Notary. There were about 10 or 12 deeds of mine with the Notary. One of those deeds related to a land to the north of my land and as I wanted that deed I went to the Notary to get that deed. When I went to the Notary's office I saw Kooliar Arumugam, his wife Walliammai, their son Kanthavanam, Kanther Sinnappu and Kanthar Vallupuram were there. At the Notary's office a deed of revocation was executed and then a deed of donation was executed. The deed of revocation is P5. (Shown P6A). I identify my signature on P6A as a witness. Kanthar Sinnappu also has signed P6A as a witness. Kooliar Arumugam has signed P6A. His wife Walliammai has put her mark. I identify the signature of Kanthavanam. He signed in my presence. P5 and P6 were read out to Kanthavanam,

Cross-examined by Mr. Jayakody :

Witness Sinnappu is not alive now. Vallipuram is also dead now. The Notary is also dead now. I live close to the plaintiff's house. I knew the plaintiff very well. I knew the late Kanthavanam very well. I knew Kanthavanam's wife also. There was some displeasure between Kanthavanam and his wife. Kanthavanam told me that his parents took objection to the fact that his wife was friendly with Thambiah. Ledchumypillai had four children 2nd, 3rd and 4th defendants one Thuraisamy. He is known in the village as Thambiah Thuraisamy. I know the land in dispute. Kanthavanam took produce from this land. After him 10 the plaintiff took the produce from this land. After the death of Kanthavanam, 2nd, 3rd and 4th defendants did not take any produce from this land.

Cross-examined by Mr. Soorasangan :

I deny I was a good friend of Kooliar Arumugam. We had litigation between each other in 1914 and 1917. From 1906 till his death I was not on good terms with Kooliar Arumugam. At the time P5 and P6A were executed we were not on good terms.

Q.—Before that you were friends ?

A.—Not very intimately. I asked him to transfer a certain portion 20 of land and he gave it to me.

Q.—You used to sign deeds executed by Kooliar Arumugam and in favour of Kooliar Arumugam ?

A.—No.

Q.—In 1902 or 1903 Kooliar Arumugam arranged a marriage for his son Kanthavanam ?

A.—I do not remember.

Q.—Kanthavanam and his wife Ledchumypillai were given a dowry ?

A.—I heard.

(Shown deed No. 5,232 of 11-4-1904 (2D19).

30

I have signed this deed as one of the attesting witnesses but I do not remember the fact of signing 2D19.

Q.—Kanthavanam's marriage was registered after they started living together ?

A.—That is what I heard.

Parents of Kanthavanam were angry with Kanthavanam from 1907 because his wife was friendly with another man. That is what Kantha-

vanam told me. I knew that Kanthavanam and his wife were not on good terms. Kanthavanam was not related to me. Plaintiff is not related to me. My son-in-law is Velupillai who is a brother of Chelliah who is married to plaintiff's sister Pakkiam's daughter.

No. 7  
Plaintiff's  
Evidence  
S. Vallipuram  
Cross-  
Examination  
—Continued.

(Shown certificate of marriage (2D20).

Q.—The second attesting witness to 2D20 is yourself ?

A.—I might have signed it then but I cannot remember.

10 I knew the late Mr. Subramaniam, Proctor. I also knew the late Mr. Kanapathypillai, Proctor. I used to meet them very frequently. I had transactions with them.

Q.—In fact you are always found in proctors' offices ?

A.—Yes.

Q.—You also attested deeds executed by or in favour of plaintiff ?

A.—I remember having signed two deeds at Kudathanai.

Kooliar Arumugam executed a last will. That is what I heard.

Q.—Do you deny that you are the 1st attesting witness to the last will ?

A.—I cannot say.

20 Kooliar Arumugam left behind considerable movable and immovable property at the time of his death. I knew Vyravanathar Sinnathamby. I do not know whether he owned money to Kooliar Arumugam on two mortgage bonds.

Q.—Soon after Kooliar Arumugam's death you had a mortgage bond executed by Vyravanathar Sinnathamby in favour of the plaintiff and his mother ?

A.—I do not remember.

Q.—Do you deny that you did not witness a mortgage bond executed in favour of the plaintiff by Vyravanathar Sinnathamby ?

A.—I do not remember.

30 Whenever I went to proctors' offices I signed documents if I was asked to sign.

Q.—You are taken by villagers to the proctors' offices for advice ?

A.—No.



No. 7  
Plaintiff's  
Evidence  
S. Vallipuram  
Cross-  
Examination  
—Continued.

Q.—After Kooliar Arumugam's death you advised plaintiff to have a deed executed in favour of the plaintiff by his mother ?

A.—I do not remember.

Q.—Do you deny that you were a witness to that deed ?

A.—I do not remember.

I am asked to sign several documents and I do not remember.

Q.—If the plaintiff says that you were a witness to the mortgage bonds and the deed in favour of the plaintiff by his mother ?

A.—I do not remember.

I knew Notary Kanthavanam very well. He practised for about 25 10 years as a Notary.

Q.—At a certain stage his licence was cancelled ?

A.—He went on pilgrimage and after that his licence was cancelled.

After his return from pilgrimage he did not execute any deeds.

Q.—After his licence was cancelled he gave evidence in some cases ?

A.—I do not know.

He had his offices at Kudathanai, Alvai north and Karanavai. Kudathanai is about 6 or 7 miles from my village. On the day P5 and P6 were executed I went to the Notary's office walking. After I went to the Notary's office Kanthar Saravanai came there. The deeds were signed 20 after they were read, Kanthavanam and I were present when the revocation deed was executed. The recitals in the revocation deed were read by the Notary to all persons who were present in the Notary's office. Kanthavanam listened to the revocation deed when it was read by the Notary. Kanthavanam did not sign the revocation deed. The Notary also did not suggest that the revocation deed should be signed. I asked the Notary as to why Kanthavanam has not signed the revocation deed and the Notary told me that it was not necessary to get Kanthavanam's signature. All the witnesses to deeds P5 and P6 are not from Polikandy. Kanthar Vallipuram is from Alvai west which village is adjoining Polikandy. I do 30 not know why the other witnesses were present in the Notary's office. Sinnappu came to the Notary's office with Kooliar Arumugam. One Kanthar Velupillai of Polikandy sued one Ponnachy on a promissory note. I was the first attesting witness to that promissory note.

Q.—Ponnachy's defence was that you and Kanthar Velupillai forged the promissory note ?

A.—Yes.

I gave evidence in that case.

Q.—That case was dismissed on the ground that the promissory note was a forgery ?

A.—No. It was dismissed owing to the defect of the stamp.

Q.—Subsequently you, Kanthar Velupillai and the other witnesses to the promissory note were indicted on a charge of forgery ?

A.—Yes, we were acquitted.

10 I deny that I and the plaintiff are good friends. I am not angry with the plaintiff. Adjoining my land is a land belonging to the plaintiff. It is called Mullaikaddai. I do not know whether this land is referred to in P6. It is referred to in P6.

Q.—Plaintiff and the 1st defendant have promised to transfer that land to you without any consideration ?

A.—I deny that.

Cross-examined by Mr. Balakrishnan—Nil.

Re-examined—Nil.

6-2-47.

Intld. G. C. T. A. DE S.,  
A. D. J.

Further hearing on 7-2-47.

7-2-47.

Intld. G. C. T. A. DE S.,  
A. D. J.

Trial resumed. Same appearance as before.

30 P. SARAVANAMUTTU affirmed, 44, Cultivator, Polikandy. I know the parties to this action. I know the land sought to be partitioned in this case. The western portion of it is cultivated and the eastern portion is uncultivated. There are some mango trees and palmyrah trees standing on the uncultivated portion. I knew Arumugam Kanthavanam. During his lifetime these two portions of land were possessed by Arumugam Kanthavanam. After Kanthavanam's death these portions were possessed by the plaintiff and his brother the 1st defendant. I know the 2nd, 3rd and 4th defendants. I also know the other defendants in this case. They have never been in possession of this land or any portion of it.

Cross-examined by Mr. Jayakody—Nil.

Cross-examined by Mr. Soorasangaran :

I know the land to the north of the land in dispute which is called Urumungodai. Sinnathamby Kanagasabai was entitled to a share of that land. He sold that share to Kathirgamar Mylvaganam. I do not know

No. 7  
Plaintiff's  
Evidence  
S. Vallipuram  
Cross-  
Examination  
—Continued.

P. Saravana-  
muttu  
Examination

P. Saravana-  
muttu  
Cross-  
Examination

No. 7  
Plaintiff's  
Evidence  
P. Saravana-  
muttu  
Cross-  
Examination  
—Continued.

whether Velauthar Murugesu was also entitled to a share of that land. I do not know Velauthar Murugesu. I do not know whether he was also called as Murugupillai. I deny I am not possessed of any lands. My wife is possessed of properties but I do not have any lands. The western portion of the land sought to be partitioned is enclosed on all sides by fences. Those fences have been in existence from the time I have known this land. Arumugam Kanthavanam used to maintain and repair those fences. After his death the plaintiff used to repair those fences. The eastern fence and the enclosed portion is a regular fence.

Q.—That fence was maintained by Kanthavanam during his lifetime ? 10

A.—Yes. I do not remember Kanthavanam maintaining the fence.

I know that the plaintiff is maintaining that fence. I do not remember the time when the surveyor came to the land.

Q.—In October, 1944 there were crops in this land ?

A.—I do not know.

Q.—When did you see crops in this land for the last time ?

A.—Only grass is taken from this land.

The western portion was a garden land and as it was not cultivated only grass is cut from that portion. I have known this land for the last 16 years and during that period this land was not cultivated. To the east 20 of the land sought to be partitioned is a land belonging to the plaintiff. I live on the land to the east of that land. There is no well in my land.

Q.—You and your family used the well in plaintiff's land ?

A.—I deny that.

I deny I used the well in the land called Mawathai. I draw water from the well in the land called Vannanthurai. That well is about 150 yards away from my house.

Q.—Plaintiff said that he used to have his deeds in the land called Mawathai. He sometimes stays in the land called Mawathai ?

A.—There is a watch hut in that land.

30

Plaintiff used to stay in that watch hut. He used to leave his cattle in that land. I deny I used to look after his cattle. I do not know who looks after his cattle.

Q.—That land is to the south-west of the land on which you reside ?

A.—It is on the west of my land.

I deny I cultivate plaintiff's garden. I have my own gardens. I never cultivated plaintiff's garden. Plaintiff is a rich man.

No. 7  
Plaintiff's  
Evidence  
P. Saravana-  
muttu  
Cross-  
Examination  
—Continued.

Q.—He has lent monies to other people ?

A.—I do not know.

I deny I am indebted to the plaintiff on a promissory note.

Cross-examined by Mr. Balakrishnan :

Q.—G. Kooliar Arumugam died in 1920 ?

A.—I do not know whether it was in 1920 or 1921. I remember the fact of his dying.

10 He died about 25 years ago.

The eastern portion of this land has no fences on the north, east and west. The eastern portion was never cultivated.

Re-examined :

There is a ridge between the eastern portion and the land belonging to Sinniah Kanthavanam. There is a fence on that ridge.

P. Saravana-  
muttu  
Re-examina-  
tion

7-2-47.

Sgd. G. C. T. A. DE SILVA,  
A. D. J.

Mr. Kulasingham closes his case reading in evidence P1 to P25.

Mr. Jayakody calls no evidence.

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### No. 8

#### 2nd to 4th Defendants' Evidence

Case of 2 to 4 defts.

Mr. Soorasangaran calls :

KANTHAVANAM VADIVELU affirmed, 42, cultivator, Polikandy, 2nd defendant—

3rd and 4th defendants are my brothers. Plaintiff and the 1st defendant are my father's brothers. I say that the land sought to be partitioned is represented by lot 1 only. By deed P4 of 1896 Kooliar Arumugam and his wife Walliammai donated the land in dispute and other lands to my father Kanthavanam. That deed was accepted by my father's maternal uncle Kanthar Sinnathamby. The 5th item in P4 is the land called Koddatharai. It was partitioned in case No. 1,940 D.C., Jaffna. I produce the plaint, plan, report and final decree in that case (2D21). In that case Kooliar Arumugam was the 1st plaintiff and my father was the 2nd plaintiff. In 2D21 my father appeared through his next friend Kooliar Arumugam. In paragraph 3 of the plaint in 2D21 the title is referred to as P4. P4 was filed with the plaint in that case.

No. 8  
2nd to 4th  
Defendants'  
Evidence  
K. Vadivelu  
Examination

20

30

No. 8  
2nd to 4th  
Defendants'  
Evidence  
K. Vadivelu  
Examination  
—Continued.

My brothers and I are now in possession of the land called Koddatharai. Lot 2 in the plan filed in that case was allotted to my father. The land called Koddatharai is included in the impugned deed P6 as item 9. I produce the certificate of marriage of my father and mother (2D20). According to 2D20 my father and mother had been married when the registration took place. The marriage was registered on 9-4-1904. One of the attesting witnesses to 2D20 is Sinnathamby Vallipuram who gave evidence for the plaintiff yesterday. I also produce the dowry deed in favour of my mother No. 5,232 of 1904 (2D19). The first attesting witness to 2D19 is Mylvaganam Vallipuram who was a brother-in-law of the plaintiff. 2nd witness to 2D19 is Vallipuram Sinnathamby. Plaintiff married Vallipuram Sinnathamby's daughter. 3rd witness to 2D19 is Sinnathamby Vallipuram plaintiff's witness. My father and mother accepted 2D19. I identify my father's signature on 2D19. I produce my birth certificate (2D22). According to 2D22 I was born on 14-10-1904 and my father has given information of my birth. I produce the birth certificate of the 3rd defendant (2D3). 3rd defendant is also called Sanmugam. The names of the 3rd defendant's parents are given in 2D3. According to 2D3 my father had given information of the birth of the 3rd defendant to the Registrar. I produce a certified copy of mortgage bond No. 14,013 of 23-12-1909 (2D23) by which my father and mother and Wallipillai, sister of Mylvaganam Vallipuram, mortgaged certain lands. I produce deed No. 969 of 17-9-1913 (2D12) by which my father and mother transferred certain lands to the plaintiff. I produce deed No. 1,006 of 23-10-1913 (2D14) by which my father and mother mortgaged certain lands. I also produce deed No. 1,992 of 5-10-1915 (2D13) by which my father and mother transferred certain lands to the plaintiff. I knew Vyravanathar Sinnathamby. He by bond No. 4,718 of 30-9-1920 (2D15) mortgaged certain lands to Kooliar Arumugam to secure the payment of a sum of Rs. 200. By bond No. 4,432 of 11-3-1920 (2D16) he again mortgaged certain lands to Kooliar Arumugam to secure the payment of a sum of Rs. 100. I produce bond No. 4,936 of 28-6-1921 (2D17) by which V. Sinnathamby the mortgagor on 2D15 and 2D16 mortgaged the interests dealt with in 2D15 and 2D16 to Walliammai and the plaintiff to secure the payment of a sum of Rs. 300. When 2D17 was executed Kooliar Arumugam was not living. I say that 2D17 was executed for the principal due on 2D15 and 2D16. Sinnathamby Vallipuram was an attesting witness to 2D17. I produce mortgage bond No. 3,246 of 24-2-1918 (2D24) by which certain Kathirgamar Sinnathamby mortgaged certain lands to Kooliar Arumugam and his wife Walliammai. I also produce deed No. 4,818 of 6-12-1920 (2D25) by which Kathirgamar Sinnathamby the mortgagor on 2D24 mortgaged lands to Walliammai and her son the plaintiff. Sinnathamby Vallipuram was an attesting witness to 2D25. 2D25 was executed in the house of Kooliar Arumugam. The principal sum secured on bond 2D24 was Rs. 475 and the principal sum mentioned in 2D25 was Rs. 500.

From the time I came to know things my parents and I lived at my mother's house. My mother died in 1917 in her house. From the time I came to know things till my mother's death in 1917 my father and I lived at my mother's house.

No. 8  
2nd to 4th  
Defendant's  
Evidence  
K. Vadivelu  
Examination  
—Continued.

Q.—Plaintiff stated that there was ill-feeling between your father and mother ?

A.—I deny that.

Q.—He also stated that your mother lived with another person ?

A.—That is not correct.

10 I deny that my mother lived with another person at any time. I say that my father did not sign deed P6. I say that the recitals contained in P5 are not true. The statement that Kanthavanam married without the consent of his parents is untrue. My mother was a close relation of my father before she married my father. The statement that Kanthavanam's children including myself were ungrateful to Kooliar Arumugam and his wife is not true. At the time P5 was executed I was about 4 or 5 years old. After my mother's death in 1917 my father went to live in his mother's house after some time. I and my brothers also went to live with my father in his mother's house and continued to live there. Plaintiff also lived with his mother at that time. I got married in 1926 to Kandiah Arumugam's daughter. Kandiah Arumugam was my mother's brother. My father died in 1931. During the life-time of my father we were on good terms with the plaintiff. Plaintiff also was attached to us and to my father. On the day of my father's death we wanted money for the expenses and demanded the key of the box from the plaintiff and he refused and drove us away. We immediately came to the Magistrate's Court and obtained a warrant against the plaintiff. Plaintiff was brought to Court and the Headman was asked to have the funeral rites performed according to customary rites without any trouble. I performed the funeral rites. Thereafter the plaintiff and we were in good terms and we visited the plaintiff. Plaintiff also was well disposed towards us. Plaintiff has no children. Plaintiff's wife is not living. I wanted the key of the box from the plaintiff as my father's money was in his box. We wanted money to spend for the funeral and that was why I asked for the key. Plaintiff is a wealthy man. If died without a last will I and my brothers will inherit a 1/2 share of his properties.

20

30

Q.—What is the trouble between you now ?

A.—1st Defendant has instigated the plaintiff to file this action.

Q.—You and the 1st defendant are rivals to the plaintiff's inheritance ?

40 A.—1st defendant has got round the plaintiff.

Till I knew that the plaintiff had filed this partition action there was no dispute between us and the plaintiff. I knew of the attempt on the

No. 8  
2nd to 4th  
Defendant's  
Evidence  
K. Vadivelu  
Examination  
—Continued.

part of the plaintiff and the 1st defendant to get a partition of the land for the first time when the surveyor came to the land. I produce pedigree in case No. 17,101 C.R., Point Pedro filed by Kooliar Arumugam, the plaintiff and the 1st defendant (2D2). I produce the amended plaint in case No. 17,101 C.R., Point Pedro (2D26). My grand parents were the 1st and 2nd defendants in that case. Plaintiff in this case was the 3rd plaintiff in that case. 1st defendant was the 5th plaintiff in that case. Poopalasingham was the 4th plaintiff in that case. My father was made the 4th defendant in that case. (Paragraphs 6 and 8 of the amended plaint referred to). The 9th land in P6 was owned by my father on partition 10 decree 2D21. The 10th land in P6 was owned by my father on deed No. 8,281 of 1898 (2D1). I say that there was no necessity for my father to accept these two lands from their parents which he already owned subject to a *fidei commissum*. I produce deed No. 5,507 of 1922 (2D4) by which the plaintiff purchased the lands mentioned in items 2 and 3 in P6. I produce the last will of Kooliar Arumugam and Walliammai and probate and inventory (2D5). The last will was executed at Kooliar Arumugam's house. Sinnathamby Vallipuram, plaintiff's witness, was the first attesting witness to the last will. I produce petition for probate by plaintiff (2D9). (Paragraph 2 of 2D9 referred to). There were no respondents to 2D9. 20 By last will 2D5 my father was given a land in extent 5 latchams. The executor was also directed to pay my father Rs. 500. My father was also appointed trustee to look after certain lands which were devised to a temple by the last will. I produce testamentary conveyance 2D1 by which the plaintiff purported to convey the properties belonging to the estate of Kooliar Arumugam to his legatees. The conveyance 2D10 does not give anything to my father. According to 2D10 the right to manage the temple was given to the plaintiff and to the 1st defendant. Plaintiff also reserved the right to appoint a successor. I say that 2D10 was not executed in conformity with the last will 2D5. I produce deed No. 1,438 30 of 1936 (2D6) by which my father-in-law Kandiah Arumugam and his brother Velupillai donated a land to the plaintiff. I married Kandiah's daughter long before 1936. I produce a certified copy of interlocutory decree, final decree and plan in case No. 17,917 (2D27). In that case my father was the 1st defendant and plaintiff was the 4th defendant. By the interlocutory decree entered in that case it was ordered that the defendants including my father and the plaintiff could have their 5/6th share of the land allotted in one block on the east. I say that to have their shares allotted together in one block my father and the plaintiff gave a joint proxy after the interlocutory decree was entered in that case. In the 40 final decree my father, the plaintiff and three other defendants were allotted their shares in one lot. I produce deed No. 46 of 1911 (2D28) by which Kooliar Arumugam and his wife appointed trustees for a temple that was founded by them. That temple was always managed by members of Kooliar Arumugam's family. According to 2D28 the first trustee after the death of Kooliar Arumugam was the plaintiff and after him the 1st defendant and after him Poopalasingham and after him my father was to manage the temple and after these four persons their respective children

should manage the temple in that order. I produce a certified copy of the  
 10 plaintiff in case No. 19,076 C.R., Point Pedro (2D29). 2D29 was an action  
 on a mortgage bond of 1916. I have known this land from my infancy.  
 The land to the north of lots 1 and 2 is land called Urimungodai. One  
 Sinnathamby Kanagasabai was entitled to a share of that land. He by  
 deed No. 15,100 of 1937 (2D30) transferred his share in the land to the  
 north of lots 1 and 2 to Kathirgamar Mylvaganam. The southern  
 boundary in 2D30 is mentioned as the property of Arumugam Kantha  
 vanam who was my father and others. I produce deed No. 19,502 of  
 1944 (2D31) by which one Velauther Murugesu who owned a share of the  
 land to the north of lots 1 and 2 donated his share of that land to his wife  
 Sinnathangam. Velauthar Murugesu became entitled to this share on  
 Fiscal's conveyance P17. P17 is recited as the title to 2D31. The  
 southern boundary in 2D31 is mentioned as the property of Kanthavanam  
 Vadivelu, who is myself, and others. During my father's life-time, lot 1  
 was possessed by my father. After him lot 1 was possessed by me and  
 my brothers. Lot 1 is a garden land. My father died in 1931. Lot 1  
 was cultivated after my father's death. Lot 1 was cultivated by me and  
 my brothers. The Surveyor came to the land to survey. At that time  
 20 there were manioc plants on the land. I cultivated these plants. There  
 are pomegranate trees and murunga trees also in lot 1. They were  
 planted by my father. There are 50 vadalies on this land. They were  
 planted by me about 5 or 6 years ago. There are fences on all sides of  
 lot 1. My brothers and I fenced the fences surrounding lot 1. There is  
 no water channel in any portion of the land surveyed for this case. Plaintiff  
 and the 1st defendant were never in possession of lot 1.

Cross-examined by Mr. Balakrishnan :

I deny that the fence between lots 1 and 2 is on a ridge. There is no  
 30 trace of a ridge between lots 1 and 2. Lot 2 is possessed by 5th to 8th  
 defendants. Before them their father Kathirgamar possessed that lot.  
 Plaintiff, 1st defendant and their father never possessed lot 2.

Cross-examined by Mr. Jayakody :

2D31 was executed after the filing of this action. When 2D30 was  
 40 executed my father was not alive. I have no children. 3rd and 4th  
 defendants have children. 3rd and 4th defendants did not have any  
 children at the time of my grand-father's death. I was young at the time  
 my grand-father died. My grand-father never donated any properties to  
 me. My grand-father donated properties to some of his grand-children.  
 I lived with my father right throughout. My father was in possession of  
 the documents that belonged to him. He did not hand over any of those  
 deeds to me. The deeds were in his box. After my father's death I was  
 told by the plaintiff that the deeds were in the box. The deeds have so  
 far not come to my possession. My father never executed any deeds in  
 my favour. He was possessed of other properties besides the properties  
 donated to him by his father. When my father died the dispute was  
 about the key of the box.

No. 8  
 2nd to 4th  
 Defendant's  
 Evidence  
 K. Vadivelu  
 Examination  
 —Continued.

K. Vadivelu  
 Cross-  
 Examination



No. 8  
2nd to 4th  
Defendants  
Evidence  
K. Vadivelu  
Cross-  
Examination  
—Continued.

Q.—That was why you went to Courts ?

A.—Yes ; we wanted money for the funeral expenses. The matter was referred to the Headman by the Courts and he got the key from the plaintiff and gave it to me.

Q.—Was there any dispute as to who should perform the religious ceremony ?

A.—The priest said that the rites should be performed by me. There was a dispute about this matter. Plaintiff claimed that he should perform the rites. Usually the funeral rites are performed by the children of the deceased. I do not know why the plaintiff wanted to perform the funeral 10 rites.

Q.—I put it to you that he wanted to perform the rites because he suspected that you were not the children of Kanthavanam ?

A.—I do not know.

Cross-examined by Mr. Kulasingham :

Plaintiff has done me great wrong

Q.—He has been doing wrong to you during Kanthavanam's life-time and after his death ?

A.—It is only now since 1944.

Q.—What has he done exactly ?

20

A.—He has filed this partition action without my knowledge and got the land surveyed.

Q.—That is the only wrong he has done ?

A.—He also failed to give us the money mentioned in the last will ; he has not handed over the properties of my father.

Q.—When did you come to know of that ?

A.—After the filing of this action.

I say that my father could not have been a party to the deed of donation P6.

Q.—You cannot imagine your father joining the plaintiff in depriving 30 you people of your share ?

A.—Yes.

Q.—You do not know personally what took place in those days ? You were too young ?

A.—Yes.

Q.—The three children of Kanthavanam have prosecuted the plaintiff, namely, yourself, Chelliah and Thuraiswamy ?

A.—Yes.

Thuraiswamy is not a party to that action.

Q.—If the register of cases P10 says that the complainants were yourself, Chelliah and Thuraiswamy, then it is wrong ?

A.—Kanthaswamy was known as Thuraiswamy and Chelliah was known as Sanmugam.

10 There was no 4th son. My father had only three sons. I am not called by any other name. Chelliah was also called Sanmugam. Thuraiswamy was also called Kandasamy. I was born in 1904. Chelliah my next brother was born in 1908.

Q.—When was Kanthasamy or Thuraiswamy born ?

A.—I could not get at his birth certificate as I did not know the year of birth.

Q.—Did any brother of yours die ?

A.—One brother died when he was young.

I do not know his name.

Q.—There is a person called Thambiah Thuraiswamy ?

20 A.—Yes.

He is not in Court today.

Q.—He also used to call himself once as Kanthasamy Thuraisamy ?

A.—No.

Q.—You deny that he is your brother and that he is your mother's son ?

A.—He is not my brother.

I knew my father very well. He was very much attached to my mother. He was also very much attached to me. My father was a religious man.

30 Q.—Do you remember the time when Kooliar Arumugam's last will was proved in the District Court of Jaffna ?

A.—Yes.

At that time my father, I and my brothers lived in my father's mother's house. Plaintiff also lived in that house at that time. During those days Kanthavanam my father was on the best of terms with his brother the plaintiff.

Q.—Your grand-father Arumugam by his last will disposed of several lands ?

A.—No.

He had several lands in addition to the lands dealt with by P6. He disposed of them by a last will. My father was bequeathed one small land.

Q.—Did you try to find out why was this unequal distribution ? 10

A.—He was given lands earlier and that was why he was not given many lands in the last will.

I do not remember the time when case No. 17,917 was proceeding. In 1923 my father was living in his father's house.

Q.—Can you explain why Kanthavanam never filed answer in that case ?

A.—No.

Q.—Are you aware of the fact that the plaintiff in this case filed answer in that case basing his title on deed P6 ?

A.—No. 20

Q.—Plaintiff claimed that Kanthavanam was entitled to a share on P6 and that he was entitled to another share ?

A.—I do not know.

My father was in his senses all along. He was a very sensible man all along. I have known the 5th defendant all along.

Q.—Did you live in his house at any time ?

A.—My younger brother got married to his sister.

Q.—Did your mother ever live in his house ?

A.—No.

Kanthar Saravanamuttu is a witness for me today. I do not know 30 what he is going to say. I talked to him but I have not talked to him about this case. He has witnessed the deed and that is why I have brought him. Saravanamuttu is a relation of Notary Kanthavanam. I do not know how he is related to Notary Kanthavanam. I do not know what Saravanamuttu is going to say today.

Q.—Then why did you cite him ?

A.—He told me that he would speak to the facts.

He has signed the deed P5 as a witness and he said that he would speak to it. I know my father's signature. I have not examined the signature on P6A. I, 3rd and 4th defendants would be the heirs of the plaintiff if he died intestate.

No. 8  
2nd to 4th  
Defendant's  
Evidence  
K. Vadivelu  
Cross-  
Examination  
—Continued.

Q.—Now you know that the plaintiff has executed a last will ?

A.—I do not know.

10 Q.—When did you cease to believe that you would not inherit any property from the plaintiff ?

A.—After 1944.

The land sought to be partitioned consists of two parcels. One parcel is called Mungodai in extent  $12\frac{1}{4}$  lachams. Mungodai in extent  $12\frac{1}{4}$  lachams. The second parcel is called Mawathai in extent 4 lachams.

Q.—P1 in favour of Vyrathay says that  $1/6$ th share on the north-east out of Mungodai is excluded ?

A.—Yes.

The remainder went to Kooliar Arumugam.

20 Q.—You know Sinniah Kanthavanam's land on the north-east of this land ?

A.—There are many other lands by that name.

To the north and east of lot 2 there is a land belonging to Sinniah Kanthavanam (P18 read). The third land in P18 is described Mungodai. 3rd land in P18 is lot 2.

Q.—To the east and north of lot 2 is the property of Sinniah Kanthavanam ?

A.—Yes.

Q.—That is the excluded  $1/6$ th share of Mungodai ?

A.—It was lot 2 that was excluded.

30 I do not know where the deed for lot 2 is. I do not know whether Kanthavanam has any deed for lot 2.

Q.—Before abandoning your claim did you try to find out whether Kanthavanam or anybody else had a deed for lot 2 ?

A.—No.

Q.—You did not care what happened to lot 2 ?

A.—Yes ; as it was uncultivated land.

Re-examined :

My father never possessed lot 2. I do not claim lot 2 as part of the land sought to be partitioned. Ill-feeling arose between me and the plaintiff in 1944 after the filing of this partition action.

Q.—If you are shown P6A you will be able to say whether the signature appearing thereon is your father's signature or not ?

A.—I can say to a certain extent.

The plaintiff in this case was ordered to pay costs in case No. 17,917. 10 (Shown P6A). The signature appearing on P6A is not the signature of my father. I obtained my birth certificate and that of my brother the 3rd defendant with the aid of the horoscope.

Q.—What has happened to the horoscope of the 4th defendant ?

A.—He is living in Trincomalee and he told me that the horoscope got burnt when his house caught fire during the war.

Sgd. G. C. T. A. DE SILVA,

7-2-47.

A. D. J.

K. SINNATHAMBY affirmed, 68, trader, Polikandy :

I know the parties to this action. I knew Kooliar Arumugam and 20 his wife Walliammai. They had a son Arumugam Kanthavanam who married Ledchumypillai. I live three houses away from Kooliar Arumugam's house. I was invited for the wedding of Arumugam Kandavanam and Ledchumypillai and I attended the wedding. The parents of Kanthavanam were present at the wedding. The marriage between Kanthavanam and Ledchumypillai was arranged by the parents. Ledchumypillai was related to Kanthavanam before marriage. After marriage Kanthavanam and Ledchumypillai lived in the house of Ledchumypillai. Thereafter Ledchumypillai was dowried. I know 2nd 30 Ledchumypillai died. She died in 1917 or 1918. She died in her house. Kanthavanam was living in Ledchumypillai's house at that time. 2nd to 4th defendants also were living in that house at that time with their parents. From the time of marriage Kanthavanam and Ledchumypillai lived in Ledchumypillai's house till Ledchumypillai's death in 1918. Ledchumypillai did not at any time live with any other man called Thambiah. Ledchumypillai had a brother called Kandiah Arumugam. A marriage was proposed to Arumugam's eldest daughter Sivakaman's daughter Annapillai but he was later married to the daughter of one Sundarar Arumugam. Kandiah Arumugam was agreeable to marry 40

10 Annapillai but he did not marry Annapillai as there was displeasure between Kooliar Arumugam and Kanapathypillai Sinnathamby, an uncle of Kandiah Arumugam. As a result of that there was ill-feeling between Kooliar Arumugam and Kandiah Arumugam. Arumugam Kanthavanam was on his brother-in-law Kandiah Arumugam's side in the dispute. After Ledchumypillai's death her husband Kanthavanam stayed in his wife's house for about 2 or 3 months and thereafter lived at his mother's house with his children 2nd to 4th defendants. I know the land in dispute. The western portion of this land is enclosed on all four sides by fences. Those fences were maintained by Kanthavanam during his life-time. The land enclosed by those fences was possessed by Kanthavanam. After his death his children 2nd to 4th defendants possessed the land. Plaintiff and the 1st defendant were never in possession of that portion. (Shown deed 2D24). 2D24 is a certified copy of a mortgage bond executed by me in favour of Kooliar Arumugam for a sum of Rs. 475. (Shown 2D25). 2D25 is a mortgage bond executed by me in favour of Walliammai and the plaintiff in December, 1920 for Rs. 500. One of the witnesses to 2D25 is Sinnathamby Vallipuram. 2D25 was executed at Kooliar Arumugam's house.

20 Q.—How did you happen to go to that house on that day ?

A.—Plaintiff sent for me and I went to his house. He wanted to have a bond executed in his name for the debt. Sinnathamby Vallipuram was in the plaintiff's house when I went there. Plaintiff talked to me but Vallipuram did not talk to me. I say that 2D25 was executed in satisfaction of the money due on the earlier bond 2D24.

Cross-examined by Mr. Balakrishnan :

30 I live  $\frac{1}{4}$  mile away from this land. I know the eastern portion of the land in dispute. The eastern portion is possessed by the 5th defendant and his brothers. Plaintiff and the 1st defendant were never in possession of the eastern portion of this land. Plaintiff and the 1st defendant were in possession of a land to the east of the eastern portion of this land. Kooliar Arumugam was never in possession of lot 2.

Cross-examined by Mr. Jayakody :

40 I have a palmyrah land, about two or three lands away from this land. There were palmyrah trees on the eastern portion. Now also there are palmyrah trees on the eastern portion. There was a mango tree also in the eastern portion. The western portion of this land is a garden land. I helped Kanthavanam to irrigate the western portion of this land. I did not help 2nd to 4th defendants to irrigate the western portion of this land. I used to pass this land after Kanthavanam's death but I had not been to the land after Kanthavanam's death. Annapillai was a cousin of Kandiah Arumugam. Annapillai is the daughter of Mylvaganam Vallipuram. There was a case in connection with the land called Vannantheny between myself and one Kathirgamar Periyathamby. Plaintiff gave evidence

No. 8  
2nd to 4th  
Defendant's  
Evidence  
K. Sinna-  
thamby  
Examination  
—Continued

K. Sinna-  
thamby  
Cross-  
Examination

No. 8  
2nd to 4th  
Defendant's  
Evidence  
K. Sinna-  
thamby  
Cross-  
Examination  
—Continued.

against me in that case. That was about 12 years ago. I deny I lots that case. Now I admit that I lost that case. I am married. My marriage was registered in 1938 but I married long ago.

Cross-examined by Mr. Kulasingham :

I was married many years ago to my former wife.

Q.—In 1940 you registered a marriage with a woman called Ponnammah ?

A.—That was the woman I married earlier.

Ponnammah is not living with me now for the last 3 or 4 years.

Q.—She denied your marriage with her ?

10

A.—No.

I married first in 1935 the woman called Ponnammah. I deny that I married anyone before that. I have not seen the plan in this case. I deny that in lot 1 there is a channel running from north to south. Lot 1 is irrigated by a well and there is an irrigation channel and not a channel for the rain water to flow. The water channel is cut during the cultivation season.

Q.—The land to the south of lot 1 belongs to the plaintiff ?

A.—2nd defendant is also having a land to the south.

There are two wells in the southern land. Lot 1 is not irrigated by 20 any of those wells as there is a well in lot 1.

Re-examined :

Mylvaganam Vallipuram is the father of Annapillai. He was the maternal uncle of Kandiah Arumugam.

Intld. G. C. T. A. DE S.,

7-2-47.

A. D. J.

K. Sinna-  
thamby  
Re-examina-  
tion

K. SARAVANAMUTTU affirmed, 78, no occupation, Polikandy.

K. Saravana-  
muttu  
Examination

I have been living at Polikandy for the last 15 or 20 years. Before that I lived at Alvai west, my wife's village. I was a native of Karaveddy North. Notary Kanthavanam is a cousin of mine. My daughter is 30 married to Kanthavanam's son. Kanthavanam's wife is my niece being my sister's daughter. Notary Kanthavanam became a Notary in 1905. He had his office at Kudathanai which village is about 10 miles from Polikandy. Notary and his family lived at Kudathanai and had his office in his living compound. He did not have any offices anywhere else. He practised as a Notary for 7 or 8 years from 1905 and did not practise

for about 2 or 3 years as there was some irregularity. Thereafter he practised as a Notary for about 18 or 20 years. At the end of the period he was asked by the Government to give up practising as there were several irregularities in his work. His license was cancelled. (Shown P5). I have signed P5 as the 3rd attesting witness. I affixed my signature in the Notary's office at Kudathanai.

No. 8  
2nd to 4th  
Defendant's  
Evidence  
K. Saravana-  
muttu  
Examination  
—Continued.

Q.—Why did you go there ?

10 A.—He is my cousin and I used to go there once in two or three days. Kooliar Arumugam and wife Walliammai executed P5. I was present in the Notary's office when they came in a cart. Kooliar Arumugam and his wife Walliammai, Sinnathamby Vallipuram, Kanthar Sinnappu and the plaintiff came to the Notary's office. Sinnathamby Vallipuram gave instructions to the Notary to draft the deed. I saw Sinnathamby Vallipuram in the witness shed yesterday. Arumugam Kanthavanam was not present in the Notary's office on that occasion. A deed of revocation was executed on that day.

Q.—To your knowledge was any other deed executed on that day ?

A.—No.

20 After I started living at Polikandy I knew Arumugam Kanthavanam very well. I also knew his wife. They were living together in the same house. After the death of Kanthavanam's wife Kanthavanam went to live in the house of his parents. He also used to go to the 3rd defendant's house near the temple.

Cross-examined by Mr. Balakrishnan—Nil.

Cross-examined by Mr. Jayakody :

On the day when the deed of revocation was executed I did not return home from the Notary's office. I returned home on the following day. I have attested other deeds as witnesses executed by Notary Kanthavanam.

K. Saravana-  
muttu  
Cross-  
Examination

30 Q.—Various deeds from Polikandy were executed at Kanthavanam's office at Kudathanai ?

A.—Yes.

40 Kooliar Arumugam got several deeds executed by Notary Kanthavanam. I attested some of those deeds also. I do not remember. (Shown deed No. 687 of 28-12-1907 (1D1)). I have attested 1D1 as a witness. (Shown deed No. 904 of 6-12-1908 (1D2)). Kooliar Arumugam purchased a land on 1D2 and I have attested 1D2 as a witness. 1D2 also was executed at Notary Kanthavanam's office at Kudathanai. (Shown deed No. 748 of 15-3-1908 (1D3)). Kooliar Arumugam purchased lands on 1D3 and I have attested 1D3 as a witness. 1D3 was executed at Notary Kanthavanam's office at Kudathanai.



No. 8  
2nd to 4th  
Defendant's  
Evidence  
K. Saravana-  
muttu  
Cross-  
Examination  
—Continued.

Cross-examined by Mr. Kulasingham :

Q.—No summons was served on you to attend Court either yesterday or today ?

A.—I received summons.

Q.—That was for the previous date ?

A.—I did not receive summons. When I came to Court on the previous occasion I was informed of the trial date and I attended Court.

Q.—Who brought you to Court today ?

A.—Nobody asked me to come to Court.

Q.—You did not know what evidence you were going to give in this case ?

A.—Both parties asked me to give evidence and I told them that I would speak the truth and nothing but the truth.

Ledchumypillai had three children—2nd, 3rd and 4th defendants. I have known the 4th defendant Kanthasamy for a long time. He is also known as Raja. I do not know whether he has any other name.

Q.—You remember there was some trouble at the funeral of Kanthavanam ?

A.—Yes.

I was present at the funeral. Kanthavanam's son filed a criminal action against the plaintiff on the day of the funeral.

Q.—Vadivelu, Chelliah and Thuraisamy filed a criminal case against the plaintiff ?

A.—I do not know who Thuraisamy is.

I do not know any person by the name of Thuraisamy. I do not know a person called Thambiah Thuraisamy. I do not know the people of the locality.

Q.—Did you ever tell the 2nd defendant that Kanthavanam never came to Notary Kanthavanam's office.

A.—No.

30

I have told to-day for the first time that Kanthavanam did not come to the Notary's office.

K. Saravana-  
muttu  
Re-Examina-  
tion

Re-examined :

I came to know Vadivelu, Chelliah and Kanthasamy after I went to live at Polikandy. Kanthasamy usually lives in Trincomalee. Kanthasamy's wife is also at Trincomalee.

Sgd. G. C. T. A. DE SILVA,

7-2-47.

A. D. J.

(Mr. Soorasangaran closes his case reading in evidence 2D1 to 2D32.)

No. 8  
2nd to 4th  
Defendants'  
Evidence  
K. Saravana-  
muttu  
Re-examina-  
tion

### No. 9

#### 5th to 8th Defendants' Evidence

Case of 5th to 8th defendants.

10 Mr. Balakrishnan calls :

K. THAMBIAH, affirmed, 67, cultivator, Polikandy, 5th defendant.

No. 9  
5th to 8th  
Defendants'  
Evidence  
K. Thambiah  
Examination

20 Nachal daughter of Velan and wife Sangarar was one of the three *thombu* holders of the land called Mungodai in extent 12¼ latchams. I produce the *thombu* extract (5D1). Nachal was entitled to 1/3rd share of the land Mungodai in extent 12¼ latchams. She died leaving behind two children Moothar and Vethar. Moothar had 3 children—Kooliar, Nagathai and Sinnavar. Nagathai was dowried. Moothar's 1/5th share was inherited by Kooliar and Sinnavar equally. Kooliar's children were the plaintiff's father Arumugam and Walliammai. Arumugam's children are the plaintiff, 1st defendant and one Kanthavanam. Kanthavanam's children are the 2nd, 3rd and 4th defendants. Walliammai died issueless and her share devolved on her brother Arumugam. Sinnavar had two children—Theivanai and Kanthar. Theivanai died issueless and her share devolved on Kanthar. Vethar had two children—Nachal and Periyanchan who were entitled to 1/12th share each. Nachal had four children—Kandiah, Kalathai, Sinnathai and Seethevan, my grand mother. Seethevan married Sinnavar's son Kanthar. Nachal's share devolved on Seethevan. Nachal's other children possessed other land. Kanthar and Seethevan possessed their 1/6th share on the eastern side of the land sought to be partitioned. (Shown plan Z). They possessed lot 2 in plan Z. Kanthar and Seethevan died leaving behind three children—Murugar, Pasupathy and Kathirgamar, my father. Murugar and Pasu-  
30 vathy died issueless and their shares devolved on Kathirgamar who possessed the 1/16th share of his parents. He possessed lot 2 for his 1/6th share. Kathirgamar died leaving behind—me, 6th, 7th and 8th defendants and Sinnapillai and Seethevan. Sinnapillai and Seethevan were dowried other lands. I and 6th to 8th defendants are entitled to lot 2. Periyanchan had two children—Poothathai and Sadiar. They transferred their shares to the owners of lot 1. Their share is now

No. 9  
5th to 8th  
Defendants'  
Evidence  
K. Thambiah  
Examination  
—Continued

possessed by the 2nd defendant and his brothers. 2nd defendant has been in possession of lot 1 from the time of his father's death in 1931. Neither the plaintiff nor the 1st defendant possessed any portion of lot 2. There is a fence between lots 1 and 2.

Q.—Is there a ridge between lots 1 and 2 ?

A.—No, there are live fence sticks.

Q.—Are the live fence sticks planted on a ridge ?

A.—They are planted on the ground.

Cross-examined by Mr. Soorasangaran—Nil.

K. Thambiah  
Cross-  
Examination

Cross-examined by Mr. Jayakody :

10

3rd defendant got married to my sister and lived in my house at the time the land was surveyed.

Q.—He went to the land to point out to the Surveyor to the extent of the land ?

A.—I do not know.

Q.—You did not go before the Surveyor and seek to exclude lot 2 ?

A.—I did not know about the survey.

Cross-examined by Mr. Kulasingham :

Q.—Only 1/6th share of Mungodai and Mawathai was excluded ?

A.—I took possession from only 1/6th share, that share is excluded. 20

Q.—And the other 5/6th share belonged to Kooliar Arumugam ?

A.—Yes.

There is no other 1/6th share anywhere else. The land to the north and east of lot 2 belongs to Sinniah Kanthavanam.

Q.—Sinniah Kanthavanam bought this land from one Arumugam Kanthavanam ?

A.—I do not know.

Q.—Who possessed that land before Sinniah Kanthavanam ?

A.—He has been possessing that land right through to my knowledge.

Q.—He bought the land in 1934 ?

30

A.—I do not know about that.

Q.—Can you explain why deed P18 in favour of Sinniah Kanthavanam says that the lot transferred to him is the 1/6th share of these two parcels Mungodai and Mawathai on the north-east.

A.—I do not know.

Q.—Do you deny that the land possessed by Sinniah Kanthavanam is 1/6th on the north-east of Mungodai and Mavathai ?

(No answer).

10 (Shown plan Z). The eastern boundary of lot 2 should go further east. The Surveyor has made a mistake. The eastern boundary of lot 2 should be in a line with the dotted line on the eastern boundary of lot 2.

Q.—By lot 2 you mean the lot 2 marked on the plan and a portion of Kanthavanam's land ?

A.—Yes.

I discovered this error just now.

Q.—In the answer filed by you, you have stated that the 1/6th share has been excluded on the north-east ?

A.—Yes.

Q.—What you say in the answer is correct ?

20 A.—I did not say in the answer that it was excluded on the north-east. I said that it was excluded on the east.

Re-examined :

I did not take a copy of the plan. I was not present at the survey.

Intld. G. C. T. A. DE S.,

7-2-47.

A. D. J.

(Mr. Balakrishnan closes his case reading in evidence 5D1.)

(Mr. Jayakody reads in evidence 1D1 to 1D3.)

(Addresses and documents on 15-2-47.)

Intld. G. C. T. A. DE S.,

30

7-2-47.

A. D. J.

No. 9  
5th to 8th  
Defendants'  
Evidence  
K. Thambiah  
Cross-  
Examination  
—Continued.

K. Thambiah  
Re-examina-  
tion

JUDGEMENT OF THE DISTRICT COURT, POINT PEDRO

Judgement

This is an action to partition the land called Mungodai and Mawathai consisting of lots 1 and 2 as depicted in plan Z, filed of record.

According to the plaintiff Vyrathai was entitled to the land in question on deed No. 3,859 of 12-10-1853 (P1). Vyrathai sold it to Kooliar Arumugam on deed No. 1,457 of 25-10-1882 (P3). He married Walliammai and they by deed No. 5,825 of 1-4-1896 (P4) donated it to Arumugam Kanthavanam their son. By deed No. 799 of 6-7-1908 (P5) 10 P4 was revoked with the consent of the donee and deed of donation No. 800 of same date (P6) was executed in favour of Kanthavanam subject to this condition, *inter alia*, that in the event of the death of the donee this property should devolve on Kanthavanam's brothers, the plaintiff, 1st defendant, and Poopalasingham. Poopalasingham died issueless and the plaintiff and the 1st defendant thus claim the entire land.

There are two disputes in this case : (A) The first dispute is as regards the title to the land. 2nd to 4th defendants deny plaintiff's title to the land and pray for a dismissal of the action.

(B) The second dispute is as regards the corpus sought to be parti- 20 tioned. 5th to 8th defendants claim an exclusion of lot 2 as shown in plan Z.

I shall first deal with (A).—It is common ground that Kooliar Arumugam was the owner of lot 1. The contesting defendants' position is that P4 is valid in law and that P5 and P6 are of no avail in law. Kanthavanam the donee on P4 died leaving as heirs 2nd, 3rd and 4th defendants who thus claim the land sought to be partitioned as lot 1.

The contesting defendants further allege that P6 has not been accepted or signed by the donee. In short, they allege that P6 is a forgery.

The plaintiff has called S. Vallipuram to prove the execution of P6. 30 It is in evidence that the Notary who attested the deed and the witness K. Sinnappu are both dead. It may be noted that this deed is more than 30 years old. There are other circumstances which have to be taken into consideration in deciding the genuineness of P6. It would appear that the donees on P6, the present plaintiff and the 1st defendant sue 1 one Kathirgamar and two others in case No. 17,101 C.R., Point Pedro for declaration of title to a land called Konavalithoddam. Kanthavanam, the father of the contesting defendants 2nd to 4th, was made a party to that action as a co-owner. The abstract of title filed in that case P7 (2D6) shows that the plaintiffs relied on the documents P4, P5 and P6

which are produced in this case. It would therefore appear that the present plaintiff and the 1st defendant acted on the basis that P6 was a genuine deed as far back as 1917. That Kanthavanam himself did not question the genuineness of P6 is borne out by the absence of any attempt on his part to have the deed set aside in any Court of law.

No. 10  
Judgement  
of the  
District Court  
7-3-47  
—Continued

10 In 1923 an action has been instituted for the partition of the land called Mawathai and the present plaintiff and Kanthavanam the father of the contesting defendants among others were parties to that action. It is clear from paragraph 3 of the answer filed in that case by the present plaintiff that the deed in question (P6) has been relied upon in proof of their title to the land. That Kanthavanam himself actively participated in that case is evident from the joint statement of objections filed by him and the present plaintiff and others. In fact the present plaintiff and Kanthavanam have filed a joint proxy in that case (P10). It is therefore reasonable to infer that Kanthavanam was aware of the existence of the deed and that there was no secrecy on the part of the 1st plaintiff as regards his claim to certain lands on the strength of P6.

20 As against the documentary evidence relied on by the plaintiff the contesting defendants also produced certain documents to prove that P6 is a forgery and that it is highly improbable that Kanthavanam accepted the deed of donation. In the first place they point to the dissimilarities between Kanthavanam's signature on P6A and those appearing on P22 and P23. There is no doubt that the signature on P6A is written with due care and deliberation, whilst the signatures on P22 and P23 are written in the usual style. At the same time it is important to note that there are certain dissimilarities in the signatures on P22 and P23. I have not had the assistance of any hand-writing expert in this case and I am unable to say on a comparison of these signatures that the signature of A. Kanthavanam in P6A is not his genuine signature. I have also, examined the plaintiff's writing in 2D7. I am not satisfied, on a comparison of the signature on P6A and the plaintiff's hand-writing, that the plaintiff forged Kanthavanam's signature on P6A. It is true that the original of P6 is not available and that what is produced is a certified copy of the deed. The plaintiff says that he produced the original deed in case No. 17,917 D.C., Jaffna and in support of his statement he produces P25 ; but P25 in my opinion does not conclusively prove that it was the original deed that was produced in that case.

40 Much was made of the fact that the deed P6 was attested by a notary who was living some distance away and that it was witnessed by a man of the type of S. Vallipuram. But the contesting defendants' own witness K. Saravanamuttu, a relation of the notary, has signed P5 as an attesting witness. It is also witnessed by S. Vallipuram already referred to. Besides P5 and P6, S. Vallipuram has witnessed 2D19 and 2D20. It is idle to speculate at this distance of time as to why this deed was attested by that particular notary or why it was not attested by another notary

who lives close by. However the plaintiff has given a plausible reason and he points to the fact that the notary had borrowed some money from his father. (*Vide* P24, item 5, page 9) and 2D29 of 1920. That K. Saravanamuttu himself is a handy witness to deeds attested by the same notary is seen from 1D1 of 1907 and 1D3 of 1908. Taking all the facts into consideration I see no reason to disbelieve Vallipuram when he says that Kanthavanam signed P6 A. The contesting defendants point to certain circumstances which render it highly improbable that Kanthavanam accepted the deed of donation P6A. For instance, one of the lands referred to in P6 (item No. 9) had been partitioned in case No. 1,940 D.C., Jaffna in 1899. This land appears in P4 and paragraph 3 of the plaint in case No. 1,940 D.C., Jaffna refers to P4. It is not difficult to understand how this land came to be included in P6 in spite of the decree entered in the said partition case. Obviously the notary who attested P6 has been copying the lands described in P4 and that partition decree entered as far back as 1899 appears to have been lost sight of by the parties. Again, a land purchased by Kanthavanam on 2D1 of 1898 has been included in P6. These circumstances in my opinion do not inevitably lead one to the conclusion that Kanthavanam did not accept the donation. In this connection, it is necessary to refer to the state of things existing about the time of the execution of P5 and P6. The contesting defendants stress the fact that the recital in P5 are false. The plaintiff says that Kanthavanam's parents were dissatisfied that Kanthavanam's wife Ledchumypillai was living as the mistress of one Thambyah and that Kanthavanam himself was a consenting party to the revocation of the deed P4 and the execution of the deed P6 in favour of his brothers. Whatever the recitals in P5 may be, there can be no doubt that P6 was executed by the donors on P4. It is in evidence that on the death of Kanthavanam the plaintiff insisted on his performing the funeral rites of his brother to the exclusion of his brother's children the 2nd to 4th contesting defendants. The contesting defendants appear to have charged the plaintiff in M.C. 1196 Point Pedro in 1931. In those circumstances it is difficult to believe that the contesting defendants were allowed to possess this land by the plaintiff thereafter. There seems to be some force in the suggestion made by counsel for the plaintiff that Kanthavanam consented to the revocation of P4 and the execution of P6 as a mark of filial respect to his parents.

The contesting defendants deny that there was any ill-feeling between their parents and they point to documents 2D12 of 1913, 2D13 of 1915, 2D14 of 1913 and 2D23 of 1909. These documents however do not conclude the matter.

It is true that the plaintiff as executor of the estate of his father which was administered in D.C. 4,514, Jaffna had not carried out the terms of the last will. He has however disclosed in the inventory filed in that case the impugned deed P6 (*vide* P12) as the deceased had reserved a life interest in certain properties. The father of the contesting defendants has been noticed to show cause why the final account should not be passed

(*vide* P13 of 1925) and no objection appears to have been filed by him. It may be that the plaintiff has had his own way in regard to the disposition of the trust properties as evidenced by 2D28.

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Judgement  
of the  
District Court  
7-3-47  
—Continued

10 I do not for a moment concede that the plaintiff's oral evidence is worthy of credit. I am certainly not prepared to accept his oral evidence unless it is supported by documentary or other evidence. The cross-examination of the plaintiff shows that he is an experienced litigant and that his evidence is lacking in candour. But this case can be decided independently of the plaintiff's oral testimony. There remains for consideration the question of law whether P4 is valid, in as much as the deed has been accepted by the maternal uncle of the donee. Numerous authorities were cited by counsel on both sides in support of their submissions.

20 On behalf of the contesting defendants 2nd to 4th it was urged that P4 was valid. I was referred to 44 N. L. R. 350. In the course of the judgement in that case De Kretser J. states thus : " We have in the record evidence which indicate that the minor's father was a lunatic who had been separated from his wife by decree of Court. In the earlier testamentary proceedings it was the minor's uncle who was appointed guardian and it would be extremely difficult to say that in such circumstances the maternal uncle would not be a competent person to accept the deed." In the present case there is no such evidence ; nor can it be urged that the maternal uncle is the natural or legal guardian of the minor. This case cannot therefore be considered as an authority for the proposition that the maternal uncle is a person who is competent in law to accept a deed of gift on behalf of the minor. The other authorities cited by counsel for the contesting defendants have been considered in 37 N. L. R. 221 where it was held that the gift was invalid for want of a valid acceptance. In 11 N. L. R. 161 it was held that acceptance of a deed of gift executed in favour of the minor by his father by the uncle of the minor on behalf of the minor was invalid, the uncle not being the natural guardian of the minor. This case appears to be applicable to the facts of the present case. I therefore find that P4 was invalid for want of a valid acceptance. If P4 was invalid it was open to the donors to execute the deed of gift P6. I also find that P6 was accepted by Kanthavanam and I hold that P6 is valid in law.

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40 It was also contended on behalf of the plaintiff that in as much as the donee consented to the revocation of P5, P6 was valid in law, even assuming that P4 was valid. I need not consider this aspect of the case in view of the authority referred to in 11 N. L. R. 161. I find that the plaintiff, 1st defendant and Poopalasingham became entitled to the land on P6. Poopalasingham died leaving as heirs not only plaintiff and the 1st defendant as alleged by the plaintiff but also the children of Kanthavanam, namely, the 2nd to 4th contesting defendants. It is probably with a view to exclude the contesting defendants 2nd to 4th altogether from this



No 10  
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of the  
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—Continued

case that the plaintiff persisted in denying that they were the children of Kanthavanam. It is abundantly clear from 2D2 and 2D3 that 2nd and 3rd defendants were the children of Kanthavanam. I find that on the death of Poopalasingham his rights devolved on the plaintiff, the 1st defendant and 2nd to 4th defendants. The contesting defendants 2nd to 4th however did not claim any share of the land on this footing. But it is incumbent on the Court to examine the title of all parties and not merely decide the contests as raised by the parties—40 N. L. R. 92.

The next question for consideration is as regards the identity of the land. The defendants 5th to 8th claim an exclusion of lot 2. Their case is that they possessed lot 2 for their 1/6th share on the eastern side of the land sought to be partitioned. They admit that the remaining 5/6th share was possessed by Kooliar Arumugam. The land to the north-east of lot 2 admittedly belongs to Sinniah Kanthavanam. It is to be noted that there is not a tittle of documentary evidence in support of the defendants' case that they either owned lot 2 or possessed it. According to the 5th defendant's admission in cross-examination he seems to question the correctness of the eastern boundary of lot 2 although he did not take up that position in his answer. The oral evidence of possession is thoroughly unsatisfactory. Reliance was placed on 2D31 to show that the southern boundary holders given therein are the 2nd defendant and others but this deed has been executed after the institution of this case. 2D30 does not help the contesting defendants. That cannot carry their case any further. The plaintiff produced P14, P16, P17 and P18 for the lands adjoining lot 2 in support of his contention. The physical features of the land surveyed do not clinch the matter. But it is significant that there is a ridge separating lot 2 from the land to the east.

On a consideration of the evidence in this case I hold that the contesting defendants 5th to 8th have failed to establish title to lot 2 or adduce satisfactory evidence of exclusive possession thereof.

Enter interlocutory decree for partition of lots 1 and 2 as depicted in Plan Z allotting shares of the land to the plaintiff 1st defendant and 2nd to 4th defendants as set out in my judgement. The oldest plantation in both lots will be in common. Allot the rest of the improvements to the plaintiff and 1st defendant as stated by the plaintiff. All costs *pro rata* not to exceed 1/3rd the value of the land. 5th to 8th defendants will pay costs of contest to the plaintiff and 1st defendant. I make no order for costs of contest as against 2nd to 4th defendants.

7-3-47.

Sgd. G. C. T. A. DE SILVA 40  
A. D. J.

Judgement delivered in open Court in the presence of Proctors for plaintiff and 2 to 4 defendants.

7-3-47.

Sgd. G. C. T. A. DE SILVA  
A. D. J.

## DECREE OF THE DISTRICT COURT OF POINT PEDRO

**Interlocutory Partition Decree**

IN THE DISTRICT COURT OF JAFFNA HELD AT POINT PEDRO

ARUMUGAM NAGALINGAM of Polikandy . . . . . *Plaintiff*.

No. 2,198/P.

*Vs.*

1. ARUMUGAM THANABALASINGHAM,
2. KANDAVANAM VADIVELU,
3. KANDAVANAM CHELLIAH,
- 10 4. KANDAVANAM KANDASAMY,
5. KATHIRGAMAR THAMBIAH,
6. KATHIRGAMAR SITHAMPARAPILLAI,
7. KATHIRGAMAR PONNIAH,
8. KATHIRGAMAR VELUPILLAI, all of Polikandy . . . . . *Defendants*.

This action coming on for disposal before G. C. T. A. de Silva, Esq., Additional District Judge, Jaffna, on the 7th day of March, 1947, in the presence of Advocate Mr. A. V. Kulasingham instructed by Mr. K. Subramaniam, Proctor on the part of the plaintiff ; Advocate Mr. K. Jayakody instructed by Mr. C. Kulaveerasingham, Proctor, on the part of the 1st defendant ; Advocate Mr. T. Ramalingam and Advocate Mr. S. Soorasangan instructed by Messrs. Rajaratnam and Nadaraja, Proctors, on the part of the 2nd, 3rd and 4th defendants ; and Mr. T. Balakrishnan, Proctor, on the part of the 5th, 6th, 7th and 8th defendants and the case having been heard :

It is ordered and decreed that the lands situated at Polikandy, Udupidy Parish, Vadamaradchy Division, Jaffna District, Northern Province, called Mungodai and Mavattai, in extent 16 latchams varagu culture and 9 kullies with its appurtenances including young palmyrahs, mango tree and well and bounded on the east by the property of the plaintiff and by the property of Sinniah Kandavanam and others, north by the property of Sinniah Kandavanam and others, and by the property of the plaintiff and others, west by the property of Sinnatambiar Kandavanam and others, and south by the property of the plaintiff and others and described by survey plan No. 2,201 dated the 19th day of October, 1944, and prepared by Mr. K. Velmurugu, Licensed Surveyor and represented by lots Nos. 1 and 2 in the said plan be and the same is hereby declared the property of the plaintiff and the 1st, 2nd, 3rd and 4th defendants belonging to them in common, that the said land be partitioned and divided shares thereof be allotted and given them as follows :—

- 40 (1) A divided 4/9th share of the said land with its appurtenances be allotted and given to the plaintiff.

No. 11  
Decree of the  
District Court  
7-3-47  
—Continued

- (2) A divided 4/9th shares of the said land with its appurtenances be allotted and given to the 1st defendant.
- (3) A divided 1/9th share of the said land with its appurtenances be allotted and given to the 2nd, 3rd and 4th defendants in equal shares.

It is further ordered and decreed that the 5th, 6th, 7th and 8th defendants do pay to the plaintiff and the 1st defendant their costs of contest as taxed by the officer of this Court.

It is further ordered and decreed that all the costs of this action and of partition not exceeding 1/3rd share of the value of the land be borne by 10 the plaintiff and the 1st, 2nd, 3rd and 4th defendants in proportion to their shares in the said land.

The 7th day of March, 1947.

Sgd. G. C. T. A. DE SILVA,  
A. D. J.

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**No. 12**

**Plaintiff's Petition of Appeal to the Supreme Court**

No. 12  
Plaintiff's  
Petition of  
Appeal to the  
Supreme Court  
19-3-47

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

ARUMUGAM NAGALINGAM of Polikandy ..... *Plaintiff.*

No. 2,198/P. Vs. 20

- 1. ARUMUGAM THANABALASINGHAM,
- 2. KANDAVANAM VADIVELU,
- 3. KANDAVANAM CHELLIAH,
- 4. KANDAVANAM KANDASAMY,
- 5. KATHIRGAMAR THAMBIAH,
- 6. KATHIRGAMAR SITHAMPARAPILLAI,
- 7. KATHIRGAMAR PONNIAH,
- 8. KATHIRGAMAR VELUPILLAI, all of Polikandy..... *Defendants.*

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

ARUMUGAM NAGALINGAM of Polikandy ..... *Plaintiff-Appellant.* 30

D. C. (F) 1/1948 Vs.

- 1. ARUMUGAM THANABALASINGHAM,
- 2. KANDAVANAM VADIVELU,
- 3. KANDAVANAM CHELLIAH,
- 4. KANDAVANAM KANDASAMY, all of Polikandy  
..... (1st-4th) *Defendants-Respondents*

To THE CHIEF JUSTICE AND THE OTHER JUDGES OF THE  
SUPREME COURT.

No. 12  
Plaintiff's  
Petition of  
Appeal to the  
Supreme Court  
19-3-47  
—Continued

This 19th day of March, 1947 :

The petition of Appeal of the plaintiff-appellant above-named appearing by K. Subramaniam, his Proctor states as follows :—

1. The plaintiff-appellant instituted the above action for the partition of the land called Mungodai and Mavattai depicted as lots 1 and 2 on plan Z filed in the said case. The plaintiff-appellant claimed to be entitled to an undivided half share of the said land and allotted the other half share to his brother the 1st defendant. The 2nd to 4th defendants-respondents intervened and claimed the entirety of the said land for themselves with the exception of lot 2 which was claimed by the 5th to 8th defendants as their property. It was common ground between the parties that one Kooliyar Arumugam was the original owner of the said land and that the said Arumugam and his wife Walliammai, by deed P4 donated the said land to his son Kanthavanam, father of the 2nd to 4th defendants-respondents. It was contended for the plaintiff-appellant that P4 was invalid for want of proper acceptance and that in any event P4 was revoked by P5 with the consent of the said Kanthavanam and that the said land and other lands were donated afresh by P6 to Kanthavanam who duly accepted the said donation, which was subject to the condition that, in the event of the death of the said Kanthavanam, the lands so gifted should devolve on the donors, Arumugam and wife Walliammai and that in the event of the donors pre-deceasing Kanthavanam the said lands should devolve on the other sons of the donors, namely, the plaintiff, the 1st defendant and one Poopalasingham who pre-deceased the donors without leaving behind any issue. Arumugam and Walliammai having pre-deceased Kanthavanam, the plaintiff-appellant claimed that the entirety of the said land devolved, in accordance with the provisions of P6 which prohibited Kanthavanam from alienating or encumbering the said lands on the plaintiff-appellant and the 1st defendant-respondent. The 2nd to 4th defendants denied that P4 was invalid in law for want of proper acceptance and that the deed of revocation P5 was executed with the consent of Kanthavanam, and further contended that the signature of Kanthavanam appearing on P6 to signify his acceptance of the gift was a forgery. The plaintiff-appellant and the 2nd to 4th defendants also respectively claimed prescriptive title to the said land.

2. The parties went to trial on the points in dispute mentioned above. At the conclusion of the trial and in spite of the fact that the point was not raised in the pleadings and was not one of the points in dispute mentioned to Court, counsel for the 2nd to 4th defendants-respondents claimed that in any event the 2nd to 4th respondents were entitled to 1/3rd of Poopalasingham's 1/3rd share of the said land.

No. 12  
 Plaintiff's  
 Petition of  
 Appeal to the  
 Supreme Court  
 19-3-47  
 —Continued

3. After hearing evidence and the arguments of counsel the learned Additional District Judge, by his judgement delivered on 7th March, 1947, held that P4 was invalid in law for want of proper acceptance and that Kanthavanam's acceptance of P6 was genuine. But he also held that Poopalasingham's share of the said land devolved on the plaintiff-appellant, 1st defendant-respondent and the 2nd to 4th defendant-respondents and made no order for costs of contest as against the 2nd to 4th defendants-respondents.

4. Feeling aggrieved by that part of the said judgement dealing with Poopalasingham's share and the costs of contest as against the 2nd to 4th 10 defendant-respondents the plaintiff-appellant begs to appeal therefrom to Your Lordships' Court on the following among other grounds that may be urged by counsel at the hearing of the appeal :

- (a) The portion of the judgement appealed from is contrary to law and the weight of evidence adduced in the said case.
- (b) Since the question of the devolution of Poopalasingham's share was not in dispute, the plaintiff-appellant was unable to place any evidence before the Court to prove that Poopalasingham pre-deceased Kooliyar Arumugam and wife Walliammai as will be seen from the certificate of death of Poopalasingham 20 hereto annexed.
- (c) It is submitted that at the time of his death Poopalasingham had no rights to transmit to his heirs.
- (d) The learned Judge was in error in refusing to give the plaintiff-appellant his costs of the contest as against the 2nd to 4th defendant-respondents who had raised contentious issues regarding the deeds P4, P5 and P6 and had thereby put the plaintiff-appellant to great expenses.
- (e) The 5th to 8th defendants are not made parties to this appeal as the plaintiff-appellant claims no relief as against them in this 30 petition of appeal.

Wherefore the plaintiff-appellant prays :

- (a) That your Lordships' Court may be pleased to set aside the portion of the judgement appealed from ;
- (b) For costs of this appeal and the Court below ; and for such other and further relief as to Your Lordships Court shall seem meet.

Sgd. K. SUBRAMANIAM,  
*Proctor for Plaintiff-Appellant.*

**Memo. of Documents Filed :**

1. List of document filed by the plaintiff-appellant.
2. List of documents filed by the 1st defendant-respondent.
3. List of documents filed by the 2nd defendant-respondent.

No. 12  
Plaintiff's  
Petition of  
Appeal to the  
Supreme Court  
19-3-47  
—Continued

Sgd. K. SUBRAMANIAM,  
*Proctor for Plaintiff-Appellant.*

**List of Documents Filed by the Plaintiff-Appellant :**

- 10 P1. Deed No. 3,859 of 12-10-1853.  
P2. Deed No. 245 of 23-8-1873.  
P3. Deed No. 1,457 of 25-10-1882.  
P4. Deed No. 5,825 of 1-4-1896.  
P5. Deed No. 799 of 6-7-1908.  
P6. Copy of Deed No. 800 of 6-7-1908.  
P6A. Duplicate of Deed No. 800 of 6-7-1908.  
P7. Certified copy of amended plaint, abstract of title and answer  
in case No. 17,101 C.R., Point Pedro.  
P8. Certified copy of Journal entries and decree in case No. 17,101  
C.R., Point Pedro.  
20 P9. Certified copy of plaint and decree in case No. 17,917 D.C.,  
Jaffna.  
P10. Certified copy of the proxy in the said case No. 17,917 by  
Arumugam Kandavanam and others along with the connected  
papers.  
P11. Certified copy of the extract from the Magistrate's Register of  
cases in M.C. case No. 1,196.  
P12. Certified copy of the declaration of property filed with the  
Commissioner of Estate Duty in case No. 4,514 D.C., Testa-  
mentary Jaffna.  
30 P13. Certified copy of the Final Account notices and precept to  
Fiscal in the said case No. 4,514 D.C., Testamentary Jaffna.  
P14. Deed No. 5,020 of 24-12-1903.  
P15. Deed No. 680 of 25-12-1907.  
P16. Deed No. 1,543 of 23-2-1934.  
P17. Fiscal's Bill of Sale No. 2,003 of 5-2-1942.  
P18. Deed No. 13,098 of 12-3-1934.  
P19. Deed No. 2,537 of 22-8-1910.  
P20. Deed No. 3,578 of 21-11-1934.  
P21. Death certificate of Kandavanam dated 18-7-1931.  
40 P22. Certified copy of Deed No. 5,232 of 1-4-1904, and Duplicate  
of Deed No. 5,232 produced by the Registrar.  
P23. Deed No. 13,085 of 13-6-1914.  
P24. Copy of Inventory in case No. 4,514 D.C., Jaffna.  
P25. Copy of Translation of original of Deed No. 800 of 6-7-1908,

No. 12  
Plaintiff's  
Petition of  
Appeal to the  
Supreme Court  
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—Continued

**List of Documents Filed by the 1st Defendant**

- 1D 1. Deed No. 687 of 28-12-1907.  
1D 2. Deed No. 748 of 15-3-1908.  
1D 3. Deed No. 904 of 6-12-1908.

**List of Documents Filed by the 2nd Defendant**

- 2D 1. Deed No. 8,281 of 22-7-1898.  
2D 2. Certified copy of pedigree in case No. 17,101 C.R., Point Pedro.  
2D 3. Certified copy of Birth Certificate of Sanmugam *alias* Chelliah, the 3rd defendant in this case.  
2D 4. Deed No. 5,507 of 1-6-1922. 10  
2D 5. Certified copy of the Last Will and Inventory in case No. 4,514 D.C., Testamentary, Jaffna.  
2D 6. Deed No. 1,438 of 19-3-1936.  
2D 7. Specimen of writing of the plaintiff of the signature of A. Kandavanam and filed of record.  
2D 8. Certified copy of plaint, answer and decree in case No. 24,948 D.C., Jaffna.  
2D 9. Certified copy of the Petition of Probate in case No. 4,514 D.C., Testamentary Jaffna.  
2D10. Deed No. 19,545 of 1-11-1923. 20  
2D11. Certified copy of the evidence given in this case by the plaintiff on 5-12-46.  
2D12. Deed No. 969 of 17-9-1913.  
2D13. Deed No. 1,992 of 5-10-1915.  
2D14. Deed No. 1,006 of 13-10-1913.  
2D15. Deed No. 4,718 of 30-9-1920.  
2D16. Deed No. 4,432 of 11-3-1920.  
2D17. Deed No. 4,936 of 22-5-1921.  
2D18. Deed No. 588 of 12-5-1921.  
2D19. Deed No. 5,232 of 11-4-1904. 30  
2D20. Certified copy of Marriage Certificate of Arumugam Kandavanam and Ledchumypillai.  
2D21. Certified copy of the plaint, plan, report and final partition decree in case No. 1,940 D.C., Jaffna.  
2D22. Birth Certificate of the 2nd defendant.  
2D23. Deed No. 14,013 of 23-12-1909.  
2D24. Deed No. 3,246 of 24-2-1918.  
2D25. Deed No. 4,818 of 1-12-1920.  
2D26. Certified copy of the plaint in case No. 17,101 C.R., Point Pedro.  
2D27. Certified copy of the Interlocutory Decree, Order, Final Partition Decree and plan in case No. 17,197 D.C., Jaffna, 40

- 2D28. Deed No. 46 of 7-8-1911.
- 2D29. Certified copy of the plaint in case No. 19,076 C.R., Point Pedro.
- 2D30. Deed No. 15,100 of 20-5-1937.
- 2D31. Deed No. 19,502 of 11-9-1944.
- 2D32. Translation of P5.

No. 12  
 Plaintiff's  
 Petition of  
 Appeal to the  
 Supreme Court  
 19-3-47  
 —Continued

Sgd. K. SUBRAMANIAM,  
*Proctor for Plaintiff-Appellant.*

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**No. 13**

**2nd, 3rd and 4th Defendants' Petition of Appeal to the  
 Supreme Court**

No. 13  
 2nd, 3rd & 4th  
 Defendants'  
 Petition of  
 Appeal to the  
 Supreme Court  
 17-3-47

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IN THE DISTRICT COURT OF JAFFNA HELD AT POINT PEDRO  
 ARUMUGAM NAGALINGAM of Polikandy ..... *Plaintiff.*

No. 2,198/P. Vs.

- 1. ARUMUGAM THANABALASINGHAM,
- 2. KANDAVANAM VADIVELU,
- 3. KANDAVANAM CHELLIAH,
- 4. KANDAVANAM KANDASAMY,
- 5. KADIRGAMAR THAMBIAH,
- 6. KADIRGAMAR SIDAMPARAPILLAI,
- 7. KADIRGAMAR PONNIAH,
- 8. KADIRGAMAR VELUPILLAI, all of Polikandy ..... *Defendants.*

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IN THE SUPREME COURT OF THE ISLAND OF CEYLON

- 1. KANDAVANAM VADIVELU,
- 2. KANDAVANAM CHELLIAH,
- 3. KANDAVANAM KANDASAMY, all of Polikandy

..... (2nd, 3rd & 4th) *Defendant-Appellants.*

D.C. (F) 2/1948. Vs.

- 1. ARUMUGAM NAGALINGAM of Polikandy .... *Plaintiff-Respondent.*
- 2. ARUMUGAM THANABALASINGHAM,
- 3. KADIRGAMAR THAMBIAH,
- 4. KADIRGAMAR SIDAMPARAPILLAI,
- 5. KADIRGAMAR PONNIAH,
- 6. KADIRGAMAR VELUPILLAI, all of Polikandy

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..... (1st, 5th, 6th, 7th & 8th) *Defendants-Respondents.*



No. 13  
2nd, 3rd & 4th  
Defendants'  
Petition of  
Appeal to the  
Supreme Court  
17-3-47  
—Continued

To THE HON'BLE THE CHIEF JUSTICE AND OTHER JUDGES OF THE  
HON'BLE THE SUPREME COURT OF THE ISLAND OF CEYLON

The 17th day of March, 1947 :

The petition of appeal of the 2nd, 3rd and 4th defendants-appellants abovenamed appearing by Messrs. Rajaratnam & Nadarajasundaram, their Proctors carrying on business in partnership states as follows :—

1. The plaintiff-respondent sued the 1st defendant-respondent for partition of the land described in the schedule to the plaint claiming for themselves the entire land on the footing that by deed No. 779 of 1908, deed of donation No. 5,825 of 1896 in favour of Arumugam Kandavanam was revoked and that by deed No. 800 of 1908 the said Kandavanam was donated the said land subject to a *fidei commissum* in favour of the plaintiff 1st respondent and a brother called Poopalasingham who died issueless. 10

2. The 2nd, 3rd and 4th defendants-appellants intervened and claimed the entirety of the said land as children of the said Kandavanam and denied that the said Kandavanam accepted the said deed No. 800.

3. After trial the learned Additional District Judge by his judgement dated 7th day of March, 1947, entered interlocutory decree declaring the appellants entitled to 1/9th share of the said land and the plaintiff and 1st defendant-respondent entitled to the remaining 8/9th share and made no order as to costs of contest. The claim of the 5th to 8th defendants-respondents for the exclusion of lot 2 in plan Z was dismissed with costs. 20

4. Feeling dissatisfied with the said decree and order of the learned Additional District Judge the appellants beg to appeal therefrom to Your Lordships' Court on the following among other grounds that may be urged by counsel at the hearing of this appeal :

- (a) The said judgement and order of the learned Additional District Judge is contrary to law and the weight of evidence adduced in the case. 30
- (b) The appellants submit that learned Judge should have held that acceptance by the maternal uncle of Kandavanam of the gift by both parents on P4 was good in law.
- (c) The appellants further submit that in any event, on the evidence led in the case and in view of the averments in paragraphs 3 and 4 of the plaint the learned Judge should have held that the deed P4 was duly accepted.
- (d) The appellants further submit that on the evidence led in the case the learned Judge should have refused to apply the presumption created by section 90 of the Evidence Ordinance and should have considered the evidence led in the case 40

on the basis that the burden of proving the execution of P6A was on the 1st and 2nd respondents and should have held that the alleged signatures of Kandavanam in P6A were not affixed by A. Kandavanam.

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—Continued

- (e) The appellants submit that the evidence of the plaintiff, 1st respondent and his witness Sinnathamby Vallipuram should have been wholly rejected in view of the documentary evidence led in the case and the reliable oral evidence led on behalf of the appellants.
- (f) The appellants submit that the learned Judge could not have inferred from the documents P7, P10 and P12 that Kandavanam was aware of the execution of deed P6.
- 10 (g) The appellants submit that in any event the learned Judge should have accepted the evidence of Saravanamuttu, a relation of the Notary Kandavanam in preference to that of Sinnathamby Vallipuram.
- (h) The appellants further submit that the learned Judge should have on a comparison of the impugned signatures on P6A with the admitted signatures on P22, P23 and 2D19 held that the signatures in P6A were not genuine in view of the several obvious dissimilarities in the signatures.
- 20 (i) The appellants further submit that the learned Judge should not have accepted the reason given by the plaintiff respondent for the attestation of deed P6 by Notary Kandavanam as the debt shown in P24 was a debt incurred long after the execution of P6 as will be seen from 2D29.
- (j) The appellants further submit that learned Judge's reason justifying the inclusion of the item 9 in deed P6 cannot be accepted by Your Lordships' Court in view of the mention of the partition decree in case No. 1,940 D.C., Jaffna in P6 as the title.
- 30 (k) The appellants further submit that in any event the learned Judge should have held that P5 and P6 were ineffective in law in view of the donation deed P4 in favour of A. Kandavanam.
- (l) The appellants further submit that on the evidence led in the case the learned Judge should have held that from the time of Kandavanam's death the appellants were in exclusive possession of the land and that the appellants had acquired prescriptive title thereto.
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Wherefore the 2nd, 3rd, 4th defendants-appellants pray :

- (i) That the said judgement and order so far as it affects the appellants be set aside.

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Defendants'  
Petition of  
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*Continued*

- (ii) That the plaintiff-respondents' action be dismissed and the appellants be declared entitled to the land.
- (iii) For costs of appeal and of the Court below. And for such other and further relief as to Your Lordships' Courts shall seem meet.

RAJARATNAM & NADARAJASUNDARAM,  
*Proctors for Appellants.*

**List of Documents Filed by 2nd to 4th Defendants-Appellants**

- 2D 1. Deed No. 8,281 of 23-7-1898.
- 2D 2. Certified copy of Pedigree in case No. 17,101 C.R., Point Pedro. 10
- 2D 3. Certified Copy of Birth Certificate of Sanmugam *alias* Chelliah the 3rd defendant in this case.
- 2D 4. Deed No. 5,507 dated 1-6-1922.
- 2D 5. Certified Copy of Last Will, inventory in case No. 4,514 D.C., Testamentary, Jaffna.
- 2D 6. Deed No. 1,438 dated 19-3-1936.
- 2D 7. Specimen of writing of the plaintiff of the signature of A. Kandavanam.
- 2D 8. Certified copy of plaint, answer and decree in case No. 2,494/P D.C., Jaffna. 20
- 2D 9. Certified copy of the Petition for Probate in case No. 4,514/P D.C., Jaffna.
- 2D10. Certified copy of deed No. 19,545 dated 1-11-1923.
- 2D11. Certified copy of the Evidence given by the plaintiff in this case on 5-12-46.
- 2D12. Deed No. 969 dated 17-9-1913.
- 2D13. Deed No. 1,992 of 5-10-1915.
- 2D14. Deed No. 1,006 of 23-10-1913.
- 2D15. Deed No. 4,718 of 30-9-1920.
- 2D16. Deed No. 4,432 of 11-3-1920. 30
- 2D17. Deed No. 4,936 of 22-5-1921.
- 2D18. Deed No. 588 of 12-5-1926.
- 2D19. Deed No. 5,232 of 11-4-1904.
- 2D20. Certified copy of Marriage Certificate of Arumugam Kandavanam and Ledchumipillai.
- 2D21. Certified copy of plaint, plan, report and final partition decree in case No. 1,940 D.C., Jaffna.
- 2D22. Birth Certificate of the 2nd defendant.
- 2D23. Deed No. 14,013 of 23-12-1909.
- 2D24. Deed No. 3,246 of 24-2-1918. 40
- 2D25. Deed No. 4,818 of 6-12-1920.

- 2D26. Certified copy of plaint in case No. 17,101 C.R., Point Pedro.  
 2D27. Certified copy of the Interlocutory Decree Order Final Partition  
 decree and plan in case No. 17,917 D.C., Jaffna.  
 2D28. Deed No. 46 dated 7-8-1911.  
 2D29. Certified copy of the plaint in case No. 19,076 C.R., Point Pedro.  
 2D30. Deed No. 15,100 dated 20-5-1937.  
 2D31. Deed No. 19,502 dated 11-9-1944.  
 2D32. Translation of P5.

No. 13  
 2nd, 3rd & 4th  
 Defendants'  
 Petition of  
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 17-3-47  
*Continued*

Sgd. RAJARATNAM & NADARAJASUNDARAM,  
*Proctors for Appellants.*

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**List of Documents Filed by Plaintiff-1st Respondent**

- P 1. Deed No. 3,859 of 12-10-1853.  
 P 2. Deed No. 245 of 23-8-1873.  
 P 3. Deed No. 1,457 of 25-10-1882.  
 P 4. Deed No. 5,825 of 1-4-1896.  
 P 5. Deed No. 799 of 6-7-1908.  
 P 6. Deed No. 800 of 6-7-1908.  
 P 6A. Duplicate of deed No. 800 of 6-7-1908.  
 P 7. Plaint, answer, abstract of title, in case No. 17,101 C.R., Point Pedro.  
 P 8. Journal entry, and decree in case No. 17,101 C.R., Point Pedro.  
 P 9. Plaint, answer, decree in case No. 17,917 D.C., Jaffna.  
 P10. Proxy of Arumugam Kandavanam and others in favour of Mr. V.  
 Ganapathipillai.  
 Proxy of Arumugam Nagalingam and others in favour of C. Cumara-  
 sooriar.  
 P11. Certified copy of Magistrate's Register of cases of criminal case  
 No. 1,196.  
 P12. Statement of declaration in case No. 4,514 D.C., Jaffna.  
 P13. Final account, notice, Fiscal's report and precept to Fiscal.  
 P14. Deed No. 5,020 of 24-12-1903.  
 P15. Deed No. 680 of 25-12-1907.  
 P16. Deed No. 1,543 of 23-2-1934.  
 P17. Fiscal's Bill of Sale No. 2,003 of 5-2-1942.  
 P18. Deed No. 13,098 of 12-3-1934.  
 P19. Deed No. 2,537 of 22-8-1910.  
 P20. Deed No. 13,578 of 21-11-1934.  
 P21. Certificate of Death No. 14,066 of 18-7-31.  
 P22. Certified copy of deed No. 5,232 of 11-4-1904.  
 P23. Duplicate of deed No. 13,085 of 13-6-1914.  
 P24. Inventory in case No. 4,514 D.C., Jaffna Testamentary.  
 P25. Certified copy of translation of original of deed No. 800 of 6-7-1908  
 and the list of witnesses filed in case No. 17,917 D.C., Jaffna.

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Sgd. RAJARATNAM & NADARAJASUNDARAM,  
*Proctors for Appellants.*

No. 13  
2nd, 3rd & 4th  
Defendants'  
Petition of  
Appeal to the  
Supreme Court  
17.3.47  
—Continued

**List of Documents Filed by 1st Defendant-2nd Respondent**

- 1D1. Deed No. 687 of 28-12-1907.  
1D2. Deed No. 748 of 15-3-1908.  
1D3. Deed No. 904 of 6-12-1908.

Sgd. RAJARATNAM & NADARAJASUNDARAM,  
*Proctors for Appellants.*

**List of Documents Filed by 5th-8th Defendants-Respondents**

- 5D1. *Thombu* Extract for the land Mungodai 12½ lachams.

Sgd. RAJARATNAM & NADARAJASUNDARAM,  
*Proctors for Appellants.*

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No. 14.  
Judgement  
of the  
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13-10-48

**No. 14**

**Judgement of the Supreme Court**

S.C. Nos. 1-2

D.C. Jaffna, No. 2,198.  
(Held at Pt. Pedro)

*Present* : CANAKERATNE, J. & DIAS, J.

*Argued on* : 2nd and 9th September, 1948.

S. J. V. CHELVANAYAGAM, K.C. with C. CHELLAPPAH for plaintiff-appellant in No. 1 and plaintiff-respondent in No. 2.

E. B. WIKREMANAIKE, K.C. with H. W. TAMBIAH for the 2nd, 3rd and 4th defendants respondents in No. 1 and for the 2nd, 3rd and 4th 20 defendants-appellants in No. 2.

*Delivered on* : 13th October, 1948.

CANEKERATNE, J.—

These are appeals from a judgement in an action for partitioning a land called "Mungodai and Mavattai" which comprises lots 1 and 2 in the plan marked Z. By deed No. 5,825 (marked P4), dated April 1, 1896, one Koolaiyar Arumugam and his wife, Walliammai, gifted *inter alia* this land to their eldest son, Arumugam Kandavanam, whom I shall refer to hereafter as Kandavanam. He married one Eledchumy, who was related to him, probably according to customary rites about 1903; the marriage 30 was registered on April 9, 1904 (2D20). Their eldest child the 2nd defendant, was born on October 14, 1904, two other children of the marriage are the 3rd and 4th defendants. The plaintiff claimed a half share of the land allotted the other half to his brother, the 1st defendant; they are the

10 surviving sons of the donors. Their case was that the donors by deed P5, revoked the gift in favour of Kandavanam and by deed P6 gifted, *inter alia*, this land to Kandavanam subject to certain conditions. Both P5 and P6 were executed on the same day, July 6, 1908, and attested by the same Notary one K. Kanthavanam, two of the attesting witnesses in both were the same, the third attesting witness to P5 was one Kanthar Saravanamuttu, to P6 one Kanthar Vallipuram. The second to fourth defendants attack the genuineness of P5 and P6. The learned Judge came to the conclusion that P5 and P6 were executed by the parties named therein and the second to fourth defendants as some of the heirs of A. Poopalasingham, another son of the donors, became entitled to one-ninth share. The plaintiff appeals from this judgment and contends that the whole property passed to him and the 1st defendant and that the order depriving him of costs of contest is wrong (S.C. No. 1). The second to fourth defendants in their appeal (S.C. No. 2) contend that the finding that P5 and P6 are genuine documents is wrong.

20 K. Kanthavanam's reputation as a notary was an unsavoury one; the deeds were executed at Kudathanai, a place about 7 miles, according to the plaintiff's witnesses, 10 miles according to the 2nd defendant, from the residence of K. Arumugam. The plaintiff is a man who is undoubtedly fond of crooked ways and so bent on doing wrong that it is not surprising that the Judge did not accept his evidence. His witness Vallipuram is one who had taken part in three or four transactions that do not redound to his credit. The original of P6 handed to the donors was not forthcoming at the trial, the Judge was not impressed with the explanation offered by the plaintiff for its non-production. The impression left on reading the judgement is that the learned Judge would not have accepted the evidence of Vallipuram about the execution of P6 but for the presence of what appeared to him to be circumstances tending to show knowledge on the part of Kandavanam of P6. Had the case been heard by a Judge having a longer experience of men and matters in this part of the country it is a question whether he would have arrived at the same conclusion as the Judge who heard the case. It is unnecessary for the purposes of this appeal to decide the point whether the plaintiff has proved that P6 was executed by K. Arumugam.

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40 The first question is whether P4 is a valid gift. A donor makes a gift with the intention that the thing would become the property of the donee; the offer must be accepted by him to whom it is made, for the concurrence of the donor and donee must take place in order to render the donation perfect, the obligatory effect of the gift depends upon its acceptance. The donor may deliver the thing, e.g., a ring or give the donee the means of immediately appropriating it, e.g., delivery of the deed, or place him in actual possession of the property. Acceptance may generally take place immediately or at some future time. The continuance of the consent to give at the time of the acceptance is necessary, for a donor is perfectly free to change his bare intention, he can thus withdraw or revoke

the proffered gift.<sup>1</sup> Acceptance may be by a third person for the donee or by the donee, he may act himself or by or through another ; the latter may be authorised by him to accept it or his acceptance may be ratified by the donee. Acceptance can be regarded as complete if made by any person having authority for that purpose from the donee, or even although the acceptance should take place without the knowledge of the latter, if he subsequently ratified it.<sup>2</sup> Minors may for the purpose of acceptance be divided—notwithstanding the dictum of Layard, C.J., at P. 235 of 6 N.L.R.—into two classes, those who are of tender years, e.g., who may be termed children and those who have sufficient intelligence—or, as 10 Van der Keessel remarks, those who are infants and those who have attained puberty. (Th. 485). One who may be said to be a child is taken to lack all mental capacity or power to form a decision and so can enter into no transaction whatsoever, his guardian, whether natural or appointed, acts for him without consulting him, and with complete authority.<sup>3</sup> Such a child can hardly accept a gift. One of the second class is deemed capable of thinking for himself, has intellectus, but since he is yet inexperienced and likely to act rashly, the necessary auctoritas of his guardian must generally be interposed to make the transaction absolutely binding. Such a minor, however, can take the benefit of a contract and thus he can 20 himself accept a gift.<sup>4</sup> In three cases *Avichchi Chetty v. Fonseka*,<sup>5</sup> *de Silva v. de Silva*,<sup>6</sup> and *Cornelis v. Dharmawardene*,<sup>7</sup> acceptance of a gift by an uncle was considered insufficient. In the first of these cases a natural guardian, of the donees, who was not a donor, was said to be alive and donees were persons falling within the former class (e.g., children of the ages of four and one), nothing can be gathered as regards the age of the donees in the second and third cases. There can hardly be any doubt that Arumugam and his wife intended to transfer certain lands to their three sons, Kandavanam, the plaintiff and Poopalasingham. To effect 30 this purpose they went to the office of a notary, they got three deeds of gift prepared by Notary Eramalingar Arumugam and executed the deeds on the same day, one P4 in favour of Kandavanam the other two in favour of the other two sons. All three were accepted by the maternal uncle of the donees. The plaintiff and Poopalasingham entered into possession of the lands given to them by these deeds and one is still presumably possessing them. There is a natural presumption that the gift was accepted. Every instinct of human nature is in favour of that presumption.<sup>8</sup> It is in every case a question of fact whether or not there are sufficient indications of the acceptance of a gift.<sup>9</sup>

It was not disputed at the argument that Kandavanam entered into 40 possession of some of the lands referred to in P4, the parties were not agreed as to the time. An action for partitioning the land known as Kuddatarai (No. 5 in P4) was brought on November 30, 1899, by K. Arumugam as first plaintiff and Kandavanam as second plaintiff. Paragraph 3 of the plaint states that by deed No. 5,825, dated April 1, 1896, Arumugam conveyed to the second plaintiff an undivided one-third share in the land reserving to himself a right of life interest over the same.

By the decree dated July 1, 1901, lot 2 in plan dated April 23, 1901, was allotted to Kandavanam subject to the life interest of the first plaintiff. By P4, the donors reserved a life interest in the lands numbered 3, 4, 5, 6, 7, 8 and 9 therein, and a life interest in half the land numbered one therein, Kandavanam was entitled to take the rents and profits of the land numbered two therein (Kochchantthai) and of a half share of the land numbered one therein (Mungodai and Mavattai). If the father remained in possession of the land after P4, his possession of a half share was for and on behalf of his son Kandavanam ; one must conclude that he was not in wrongful possession of that share.<sup>10</sup> There is no evidence led in the case to show that Arumugam did not perform his duty as a father and guardian of the son. What he did at the end of November, 1899, is a clear index to his mind. By this time he recognised the validity of the gift to Kandavanam, who had attained majority, in respect of some lands at any rate. His position in the action was that land No. 5 (in P4) had become the property of the donee by P4 ; if the title to a land in respect of which he had the right of possession was recognised by him to have passed to the donee, much more would the title to lands wherein the right of possession was not in him or not in him entirely have passed to the donee. Acceptance of a gift by an unauthorised person many afterwards be ratified by the donee.<sup>11</sup> Kandavanam was about 18 years of age at the time of the execution of the deed (*see* 2D20). If he was present on this occasion he could have authorised his uncle to accept the gift, if he was absent it would be competent to him later to adopt what the uncle had done. The gift became valid by the time the action of 1899 was brought, or the gift of the properties referred to in items one and two, at any rate, of P4 was rendered valid when the donee got possession thereof which might be presumed to be shortly after the gift or at least before November 30, 1899. There is a valid acceptance when the subject of a donation comes into the possession of the donee.<sup>12</sup> It is clear that P5 which is called a deed of revocation was the unilateral act of the donors, it was not executed by Kandavanam and it cannot affect the title that Kandavanam had acquired to the lands years before. It is only in 1907 when Arumugam's feelings against the family to which his daughter-in-law belonged before her marriage had become embittered that he thought of finding an excuse for "revoking" the gift ; most of the reasons he gives seem obviously inconsistent with the facts.

Counsel for the plaintiff-appellant contended on the authority principally of *Carry v. Carry*,<sup>13</sup> that the rule of *jus accrescendi* applied in this case and that on the death of Poopalasingham, the other two donees in P6 became entitled to the entire property. It is desirable to say a few words on this question, as it was contended with confidence that this case applied, although it is not necessary for the decision of this case. There a property had been conveyed to one Menatchi by a deed of gift and she held it as a fiduciary subject to the condition that "upon the death" of M. the gift in favour of Henry, Patrick, Emmaline and Thomas should take effect, these were the children of the donor and Menatchi. Henry pre-



deceased the mother. Thomas and the mother instituted an action against Patrick and Emmaline. The action which was one for partition would undoubtedly have failed unless she succeeded in convincing the Court that Henry was entitled to a fourth share in the land at the time of his death and she acquired it by inheritance or that her son's interest lapsed and her fiduciary interest became full dominium in respect of a fourth share. She failed to convince the Court of the soundness of either proposition and it was decided that the property cannot be said to "belong in common" to Menatchi and her children within section 2 of the Ordinance (No. 10 of 1863). But in repelling the second contention of the plaintiffs 10 it was observed that the principle of *jus accrescendi* applied to property given by deed of gift too. The Court could have arrived at the decision dismissing the action without any resort to this principle. A fiduciary, as a general rule, becomes the absolute owner of the property left subject to a *fidei commissum*. This is a rule which applies really to a *fidei commissum* created by a testamentary document, for in such a case there is a presumption that the testator intended the *fidei commissary* legatee to have no transmissible interest unless he survives the fiduciary and if there is no such person, the fiduciary would hold the property free of the burden of the *fidei commissum* imposed by the testator; there is no person to 20 whom he can deliver the property. This applies where there is no person of the class of *fidei commissary* alive, for as Voet says, if none of those to whom restitution had to be made survive, the fiduciary is taken to be relieved from the burden of the *fidei commissum* (7-1-13). In the case of a *fidei commissum* created by a deed it is difficult to realise a fiduciary holding the property free of the *fidei commissum* for the contingent interest of the *fidei commissary* was, as a rule, transmitted to his heirs. For some time till about 1916 the principle of *jus accrescendi* appears to have been applied in Ceylon to all disposition whether created *inter vivos* or by last will. But in 1917, it was argued that the principle applied only in the 30 case of testamentary dispositions (*Carry v. Carry*)<sup>13</sup>; the same view was again propounded unsuccessfully in 1918 in *Usoof v. Rahimath*.<sup>14</sup> Finally the question was again raised in *Carlinahamy v. Juanis*.<sup>15</sup> where a Divisional Bench reviewed the authorities and modified very considerably the previous view, thus: In the case of a gift the law will not presume merely from the conjunction of two or more persons in the same liberality, that in the event of one of these predeceasing the vesting of the liberality, his share was intended to accrue to the others. Such a result can only arise from operative words which either expressly or by implication have this effect. One must be able to gather such an intention from the language 40 used by the donor, or really by the draftsman employed by him. If one can gather from it that the donor positively contemplated the predecease of a donee and intended that the specific share of that person should in that event go to his co-donees, there would be no difficulty: one is then really construing the language used in the document.

The appeal of the second, third and fourth defendants is allowed with costs in both Courts ; the appeal of the plaintiff is dismissed.

No. 14  
Judgement of  
the Supreme  
Court  
13-10-48  
—Continued.

Sgd. A. R. H. CANEKERATNE,  
*Puisne Judge.*

DIAS, J.—I agree.

Sgd. R. F. DIAS,  
*Puisne Judge.*

1. Van Leeuwen, Cents. For. 1.4.12.16.
2. Voet 39.5.13
3. Voet 26.8.4
4. *Babaihamy vs. Marcinahamy* (1908) 11 N.L.R. 232
5. 3 A. C. R. 4
6. 3 A. C. R. 179 ; 11 N. L. R. 161
7. 2 A. C. R. Supp. XIII
8. *Hendrick vs. Sudritaratne* (1912) 3 C. A. C. 80
9. *Bindus vs. Unity* (1910) 13 N. L. R. 259 ; and *Hendrick vs. Sudritaratne*, 3 C. A. C. 80
10. *Government Agent, S.P. vs. Karolis* (1896) 2 N. L. R. at p. 73
11. 3 Maasdorp, *Institutes* (1st Ed.) 93 ; Voet 39.5.13
12. 11 N. L. R. 232 (supra)  
*Senanayake vs. Dissanayake* (1908) 12 N. L. R. 1
13. (1917) 4 C. W. R. 50
14. (1918) 20 N. L. R. 225
15. (1924) 26 N. L. R. 129

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No. 15

**Decree of the Supreme Court on Appeal of the Plaintiff**

No. 15  
Decree of the  
Supreme Court  
on Appeal of  
the Plaintiff  
13-10-48

10 GEORGE THE SIXTH, BY THE GRACE OF GOD OF GREAT BRITAIN  
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS  
KING, DEFENDER OF THE FAITH.

D.C. (F) 1/1948

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

ARUMUGAM NAGALINGAM of Polikandy . . . . . *Plaintiff-Appellant.*

*Against*

1. A. THANABALASINGHAM,
2. K. VADIVELU,
3. K. CHELLIAH,
- 20 4. K. KANDASAMY . . . . . (1st-4th) *Defendants-Respondents.*

Action No. 2,198.

District Court of Point Pedro.

This case coming on for hearing and determination on the 2nd and 9th September and 13th October, 1948, and on this day, upon an appeal preferred by the plaintiff before the Hon. Mr. A. R. H. Canekeratne, K.C.,

No. 15  
Decree of the  
Supreme Court  
on appeal of  
the Plaintiff  
13-10-48  
—Continued.

Puisne Justice, and the Hon. Mr. R. F. Dias, Puisne Justice of this Court, in the presence of Counsel for the plaintiff-appellant and Counsel for the 2nd, 3rd and 4th defendants-respondents.

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

Witness the Hon. Mr. Edwin Arthur Lewis Wijeyewardene, K.C., Acting, Chief Justice, at Colombo, the 13th day of October, in the year of our Lord One thousand Nine hundred and Forty-eight, and of Our Reign the Twelfth.

Sgd. CLARENCE DE SILVA, 10  
*Registrar, S. C.*

No. 16  
Decree of the  
Supreme Court  
on appeal of  
2nd, 3rd & 4th  
Defendants  
13-10-48

**No. 16**

**Decree of the Supreme Court on Appeal of 2nd, 3rd and 4th Defendants**

GEORGE THE SIXTH, BY THE GRACE OF GOD OF GREAT BRITAIN  
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS  
KING, DEFENDER OF THE FAITH.

D.C. (F) 2/1948

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

- 1. K. VADIVELU,
- 2. K. CHELLIAH,
- 3. K. KANDASAMY all of Polikandy ..... 20

..... (2nd, 3rd and 4th) Defendants-Appellants.

*Against*

- 1. A. NAGALINGAM of Polikandy ..... Plaintiff-Respondent.
- 2. A. THANABALASINGHAM,
- 3. K. THAMBIAH,
- 4. K. SIDAMPARAPPILLAI,
- 5. K. PONNIAH, .
- 6. K. VELUPILLAI ..... (1st, 5th, 6th, 7th and 8th) Defendants-Respondents.

Action No. 2,198. District Court of Point Pedro. 30

This case coming on for hearing and determination on the 2nd and 9th September and 13th October, 1948, and on this day, upon an appeal preferred by the 2nd, 3rd and 4th defendants before the Hon. Mr. A. R. H. Canekeratne, K.C., Puisne Justice, and the Hon. Mr. R. F. Dias, Puisne Justice of this Court, in the presence of Counsel for the 2nd, 3rd and 4th defendants-appellants and Counsel for the plaintiff-respondent.

It is considered and adjudged that this appeal be and the same is hereby allowed with costs in both Courts.

Witness the Hon. Mr. Edwin Arthur Lewis Wijeyewardene, K.C., Acting Chief Justice, at Colombo, the 13th day of October, in the year of our Lord One thousand Nine hundred and Forty-eight, and of Our Reign the Twelfth.

Sgd. CLARENCE DE SILVA,  
Registrar, S. C.

No. 16  
Decree of the  
Supreme Court  
on appeal of  
2nd, 3rd & 4th  
Defendants  
13-10-48  
—Continued.

**No. 17**

**Application of Plaintiff for Conditional Leave to Appeal  
IN THE SUPREME COURT OF CEYLON**

No. 17  
Application of  
Plaintiff for  
Conditional  
Leave to  
Appeal  
11-11-48

10 No. S.C. No. 1-2 In the matter of an application for conditional leave  
D.C. Point Pedro to appeal to His Majesty the King in Council.  
No. 2,198.

A. NAGALINGAM of Polikandy, Velvettithurai . . . *Plaintiff-Appellant.*

*Vs.*

1. ARUMUGAM THANABALASINGHAM,
2. KANDAVANAM VEDIVELU,
3. KANDAVANAM CHELLIAH, and
4. KANDAVANAM KANDASAMY, all of Polikandy,  
Velvettithurai . . . . . (1st-4th) *Defendants-Respondents.*

20 On this 11th day of November, 1948.

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

The humble petition of the plaintiff-appellant abovenamed appearing by Kassipillai Kanakarathnam, his Proctor, states as follows :—

1. That feeling aggrieved by the judgement and decree of this Hon. Court in the above styled action pronounced on 13th October, 1948, the plaintiff-appellant is desirous of appealing therefrom to His Majesty the King in Council.
2. That the said judgement is a final judgement.
- 30 3. That the appeal involves directly or indirectly to the or claim to property of the value of a sum exceeding Rs. 5,000.
4. That the petitioner has given due notice to the respondents abovenamed of his intention to make this application.

Wherefore the petitioner prays for Conditional Leave to appeal to His Majesty the King in Council against the said judgement of this Court dated 13th October, 1948, and for such other and further relief as to this Court shall seem meet.

Sgd. K. KANAKARATNAM,  
*Proctor for Plaintiff-Appellant.*

**Judgement of the Supreme Court Refusing Conditional Leave to Appeal**

*Application for Conditional Leave to Appeal to the Privy Council  
in D.C. (F) Point Pedro No. 2,198*

*Present* : NAGALINGAM, J. & WINDHAM, J.

*Counsel* : C. CHELLAPPAH for Applicant.

H. W. THAMBIAH with S. CANAGARAYAR for 2nd, 3rd  
and 4th Respondents.

*Argued on* : January 18, 1949.

*Delivered on* : 3rd February, 1949.

10

WINDHAM, J.—

This is an application for conditional leave to appeal to the Privy Council from a judgement of this Court upon two consolidated appeals, which were lodged by the present plaintiff-petitioner and by the second, third and fourth defendants-respondents, respectively, against a judgement for partition. More than one objections has been taken by the defendants-respondents, the main one being that the plaintiff failed to give the defendants due notice of their intended application for conditional leave to appeal as required by rule 2 of the Schedule to the Appeals (Privy Council) Ordinance (Cap. 85), which provides that “ the applicant shall, 20 within fourteen days of the date of such judgement, give the opposite party notice of such intended application.”

The judgement from which conditional leave to appeal is sought was dated 13th October, 1948, and it is not disputed that the plaintiff accordingly had until the end of 27th October in which to give the required notice. He proceeded to take the following action :—

On 26th October he sent a telegram to the second defendant, which the latter admits having received on the same day, in the following terms :—“ Please take notice for yourself and others that I am appealing to Privy Council in 2,198 D.C. Point Pedro.” 30

On the same day he sent a telegram to the firm of proctors who had in the original proceedings represented the second, third and fourth defendants, in the following terms :—“ Please take notice that I am applying for conditional leave to appeal to Privy Council in 2,198.” The second, third and fourth defendants each deny that at that time the proctors to whom this telegram was sent were authorised to act or to receive such notices for them,

On the next day, 27th October, the plaintiff sent a telegram to the fourth defendant in the following terms :—“ Take notice that I the plaintiff intend to make an application to the Honourable the Supreme Court for leave to appeal to the Privy Council from the judgement and decree of the 11 (*sic*) day of October 1948.” The fourth defendant denies having received this telegram on 27th October or at all.

No. 18  
Judgement  
of the  
Supreme Court  
Refusing  
Conditional  
Leave to appeal  
3-2-49  
—Continued.

On 27th October, the plaintiff sent an express letter to each of the three (second, third and fourth) defendants in the following terms :—

10 “ Take notice that I intend to make an application to the Honourable the Supreme Court for leave to appeal to the Privy Council from the judgement and decree of the Supreme Court dated the 11th (*sic*) day of October, 1948, in the above case.” At the head of the letter the case number and reference was correctly cited. The second defendant admits receiving this letter, but only on the 31st October ; it was received at his residence on 27th October by a person who was not his agent for service, he himself being away from his residence from 27th to 31st October. The third defendant received the letter on 28th October. The fourth defendant denies receiving it at all.

20 Now on the above facts, even if we were to assume in favour of the plaintiff that the second, third and fourth defendants had each received, before the end of 27th October, both the telegrams and the letters sent to them respectively, and that the proctors to whom the telegram was sent were acting for them at the time, there would still be a failure by the plaintiff, in more than one respect, to comply with the provisions of rule 2 of the Schedule to the Appeals (Privy Council) Ordinance.

30 In the first place, neither any telegram nor a letter nor any other form of notice under rule 2 was ever sent to the first defendant-respondent, although he was a party to the appeal. It is true that this first defendant asked for no relief in the appeal and was not represented, and that there was no contest between him and the plaintiff. But nevertheless a proper compliance with rule 2 required notice to be served on him, since he was a respondent in the appeal. I would refer to *Wijesinghe Hamine v. Ekanayake*, 41 N. L. R. 415, where the judgement of Howard, C.J. (Soertsz, J. concurring) contained the following decision on the point :—“ Rule 2 of Schedule to the Ordinance provides that the applicant shall, within fourteen days from the date of such judgement, give the ‘opposite party’ notice of such intended application. Inasmuch as only the first plaintiff has been given notice it is obvious that compliance has not been made with the provisions of the rule. Counsel for the applicant has contended that as the second plaintiff has not executed the deed, he is not a necessary party to the appeal. I do not consider there is any substance in this contention. ‘Opposite party’ must imply all the parties in whose favour the judgement appealed against was given. In this connection I would refer to the judgement of the Full Bench in *Ibrahim v. Beebee et al.*, 19 N. L. R. 289 and *Suppramaniam Chettiar v. Senanayake and others*,

40

No. 18  
Judgement of  
the Supreme  
Court Refusing  
Conditional  
Leave to  
Appeal  
3-2-49  
—Continued.

16 C. L. W. 41. In the latter case de Kretser, J. held that even when parties against whom no relief is claimed are made respondents to an appeal notice of security should be given to them. For these reasons I am of opinion that notice has not been served on the opposite party. The application must, therefore, be dismissed with costs." With this decision I respectfully concur, and I must accordingly hold that the failure of the plaintiff to notify the first defendant-respondent was a fatal non-compliance with the requirements of rule 2 of the Schedule to the Appeals (Privy Council) Ordinance.

Secondly, the telegram sent to the fourth defendant in the present case, and the letter sent to all three contesting defendants, wrongly described the judgement in respect of which the application was to be made as being dated the 11th October, whereas in fact there was no judgement of that date, the correct date being 13th October. No doubt this was a clerical error and would not have misled any of the defendants. But strict compliance with the requirements of the rules set out in the Schedule to the Appeals (Privy Council) Ordinance has always been demanded by this Court; and it has been held more than once that the rules admit of no relaxation even in hard cases. In *Weerakoon Appuhamy v. Wijesinghe*, 30 N. L. R. 256, their requirements were held to be "peremptory and paramount"; and in *Tarrant & Co. v. Ibrahim Lebbe Marikkar*, 14 C. L. R. 47, Garvin, S.P.J., said, in a case calling for the grant of indulgence: "It does not appear to us that the terms of the rule vest in us any power to relax it in any case which may appear to us to be a case in which some indulgence might be accorded the applicant." In the light of these considerations I am unable to hold that the telegram to the fourth defendant, or the express letter sent to all three defendants, constituted valid notices under rule 2. And the failure to serve a valid notice on the fourth defendant was alone sufficient to vitiate the present application, in view of the decision in *Wijesinghe Hamine v. Ekanayake* to which I have already referred.

For these reasons I hold that the plaintiff has failed to comply with the requirements of rule 2 of the Schedule to the Appeals (Privy Council) Ordinance with regard to notifying the opposite party, and his application is accordingly dismissed with costs.

Sgd. R. WINDHAM,  
*Puisne Justice.*

NAGALINGAM, J.—I agree.

Sgd. C. NAGALINGAM,  
*Puisne Justice.*

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No. 19

**Decree of the Supreme Court Refusing Conditional Leave to Appeal**

GEORGE THE SIXTH, BY THE GRACE OF GOD OF GREAT BRITAIN  
IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS  
KING, DEFENDER OF THE FAITH,

No. 19  
Decree of the  
Supreme Court  
Refusing  
Conditional  
Leave to Appeal  
3-2-49

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

A. NAGALINGAM of Polikandy, Valvettiturai . . . . . *Plaintiff-Appellant.*

*Against*

1. A. THANABALASINGHAM,
2. K. VADIVELU,
3. K. CHELLIAH,
4. K. KANDASAMY . . . . . *Defendants-Respondents.*

Action No. 2,198 (S.C. Nos. 1-2 Final)

District Court of Point Pedro.

10

In the matter of an application by the plaintiff above-named dated 11-11-48 for Conditional Leave to Appeal to His Majesty the King in Council against the decree of this Court dated 13-10-48.

This matter coming on for hearing and determination on the 18th January and 3rd day of February, 1949, before the Hon. Mr. C. Nagalingam, K.C., Puisne Justice, and the Hon. Mr. R. Windham, Puisne Justice of this Court, in the presence of Counsel for the applicant and Counsel for the 2nd, 3rd and 4th respondents.

20

It is considered and adjudged that this application be and the same is hereby dismissed with costs.

Witness the Hon. Mr. Edwin Arthur Lewis Wijeyewardene, K.C., Chief Justice, at Colombo, the 3rd day of February, in the year of our Lord One thousand Nine hundred and Forty-nine, and of Our Reign the Thirteenth.

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

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**No. 20**

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

AT THE COURT OF BUCKINGHAM PALACE

THE 31ST DAY OF MAY, 1949

30

*Present :*

THE KING'S MOST EXCELLENT MAJESTY

*Lord Present :*

MR. SECRETARY NOEL-BAKER.      SIR FRANK SOSKICE.  
MR. GAITSKELL.                      SIR DAVID JENKINS.

No. 19  
Decree of the  
Supreme Court  
Refusing  
Conditional  
Leave to  
Appeal  
3-2-49  
—Continued.

No. 20  
Order of the  
Privy Council  
Granting Leave  
to Appeal  
31-5-49



## SIR CYRIL RADCLIFFE.

No. 20  
Order of the  
Privy Council  
Granting Leave  
to appeal  
31.5.49  
—Continued.

WHEREAS there was this day read at the Board a report from the Judicial Committee of the Privy Council dated the 9th day of May, 1949, in the words following, viz. :—

“ Whereas by virtue of His late Majesty King Edward the Seventh’s Order in Council of the 18th day of October, 1902, there was referred unto this Committee a humble petition of A. Nagalingam of Polikandy Valvettithurai, in the matter of an Appeal from the Supreme Court of Ceylon between the Petitioner (plaintiff) and (1) Arumugam Thanabalasingham, (2) Kandavanam Vadivelu, (3) Kandavanam Chelliah, (4) Kandavanam Kandasamy, all of Polikandy Valvetti-  
10  
thurai (Defendants) Respondents, setting forth (amongst other matters) : that the Petitioner was on the 3rd February, 1949 refused conditional leave to appeal to Your Majesty in Council from a judgement of the Supreme Court in proceedings in which the subject matter exceeded Rs. 5,000 so as to entitle the Petitioner subject to the rules contained in the Schedule to the Appeals (Privy Council) Ordinance (Chapters 85 in the Revised Legislative Enactments of Ceylon) to an Appeal as of right to Your Majesty in Council ; that the grounds  
20  
of the Supreme Court’s refusal of conditional leave were that in technical respects the Petitioner had failed to comply with the requirement of the said rules as to giving notice of an intended application for leave to appeal : that the original proceedings were instituted in the District Court of Point Pedro by the Petitioner as Plaintiff against the first Respondent who is his younger brother claiming the partition of certain land known as Mungodai and Mavattai: that by the Plaint the Petitioner allotted a half share in the land to the said Respondent who accepted this as his correct share and did not file an answer ; that he was not represented and did not take any part in any  
30  
of the subsequent proceedings : that the second third and fourth Respondents intervened in the proceedings to claim that full title to the land in question was vested in them by virtue of a deed of gift made in favour of their father : that the Court of the District Judge awarded the major portion of the land in question to the Petitioner and the first Respondent : that from this decision the Petitioner and also the second, third and fourth Respondents appealed to the Supreme Court: that the Appeals were consolidated and by Judgement dated 13th October, 1948, the Appeal of the second, third and fourth Respondents was allowed with costs and the Petitioner’s Appeal  
40  
was dismissed with costs : that the Petitioner duly applied to the Supreme Court for conditional leave to appeal and his application was opposed by the second, third and fourth Respondents whose main objection was that due notice of the intended application had not been given within the 14 days laid down by Rule 2 of the schedule to the Appeals (Privy Council) Ordinance: that this objection was upheld by the Supreme Court in a Judgement dated the 3rd February,

1949 : And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the Judgement of the Supreme Court dated the 13th October, 1948, and for such further and other relief as to Your Majesty in Council may seem just :

No. 20  
Order of the  
Privy Council  
Granting Leave  
to Appeal  
31-5-49  
—Continued.

10 “ The LORDS OF THE COMMITTEE in obedience to His late Majesty’s said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof (no one appearing in opposition thereto) Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the petitioner to enter and prosecute his appeal against the Judgement of the Supreme Court of Ceylon dated the 13th day of October, 1948, upon depositing in the Registry of the Privy Council the sum of £400 as security for costs :

“ AND THEIR LORDSHIPS do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the appeal upon payment by the Petitioner of the usual fees for the same.”

20 HIS MAJESTY having taken the said Report into consideration was pleased by and with the advice of His Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer Administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

Sgd. (Illegible).

Exhibits  
No. P 1  
Deed No. 3,859  
Translation  
12-10-1853

## PART II.

### EXHIBITS

**No. P 1—Deed No. 3,859**

**Translation No. 3,859**

On the 12th day of October, 1853 to Vairattai, widow of Velupillai Karai, of Valvettiturai, I Murugar Suppiramanian Karai of the same place have executed and granted transfer deed for land, to wit :—

Land situated at Polikandy Curichchy and registered in the *thombu* in the names of Nachchal, daughter of Vethan and wife of Sangaran and others called "Mungodai," in length 17, breadth 13, extent  $12\frac{1}{2}$  latchams 10  
varagu culture. Registered in the *thombu* in the names of Sidamparan Kulanthaiyan and others called "Mavattai," length  $10\frac{1}{2}$  breadth 7, in extent 4 latchams of these two parcels excluding  $\frac{1}{6}$ th share on the north-east, out of the first parcel, bounded on the east by Arumugattar and others north by Sidamparanathar and others, west by Nagar and others and south by Sanarapakuthevankurichy and by Mootar. The whole of the two parcels of ground well, spontaneous plantations and vadaly within these boundaries I have sold and transferred unto her and received the sum of £19 and shillings 15. 20

Having received this amount I Suppiramanian have executed and granted transfer deed to Vairattai for lands.

This deed was executed with the schedule granted by the Acting Udaiyar of Polikandy certifying that the said share of the land called Mungodai belongs to him by right of *muthusom* under and by virtue of transfer deed in favour of the late Arumugattar Murugar the father of the grantor, dated the 12th March, 1822, and the land called Mavattai by right of *muthusom* under and by virtue of transfer deed dated 28th January, 1821, and by possession and as he had the same mortgaged on the 7th January, 1849, and redeemed at present and to that effect publication was 30  
caused to be made in the village for three weeks and no objection forthcame.

Witnesses whereof are the said Udaiyar Palaniam Kanthar, Muttaiya Arumugam Karai of Valvettiturai, Mootar Kanapathipillai Madappaly of Polikandy and Suppramanian Kartigesar, Karai of Valvettiturai to their knowledge the two title deeds of these lands were delivered to her. The duplicate of this deed was written on a stamped paper of 4 shillings and was entered under No. 3,859 by me Notary in the portico of my house and I set my signature thereto. Sgd. Kadirgamar Sidamparanathar, Notary of Alvai Wadamaradchy West.

Sgd. MURUGAPPAR SUPPIRAMANIAN, 40

Witnesses:

1. Odayar (Sgd.) Palaniar Kanthar
2. Sgd. Illegible
3. „ Mootar Kanapathipullai
4. „ Kartigesar

Exhibits  
No. P 1  
Deed No. 3,859  
Translation  
12-10-1853  
—Continued.

10 I, Kadirgamar Sidamparanathar, Notary Public of Wadamaradchy Parish, do hereby certify that I have read over and explained the foregoing instrument to the aforesaid persons and they in my presence and in the presence of one another set their signatures, all of whom are known to me and I drew this deed on the aforesaid date and place and set my signature and seal thereto.

Sgd. KADIRGAMAR SIDAMPARANATHER,  
Notary.

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No. P 2.

Deed No. 245

No. 245

Translation

No. P 2  
Deed No. 245  
Translation  
23-8-1873

Mark of Vayirattai  
Sgd. Velupillai Iyampillai.

20 The 23rd day of August, 1873 to Nadappaly Vairavar Vallipuram of Polikandy, we Karai Vairattai, widow of Velupillai and son Velupillai Iyampillai of Valvettiturai have executed and granted otty deed, to wit:—

30 Land situated at Polikandykurichy registered in *thombu* on the names of Nachchal, wife of Sangaran and daughter of Vethan and others called Mungodai in extent 12½ latchams varagu culture on the name of Sithamparan Kulantaiyar and others called Mawattai in extent 4 latchams varagu culture of these excluding a one-sixth share towards the north-east out of the first parcel the remaining 5/6th share and the whole of the second parcel ; is bounded on the east by Theivanaipillai and others, north by Theivanaipillai and others, west by Thamber and others, and south by Samarapaguthevankurichy and by Kanapathiar and others. The whole of the ground, well, spontaneous plantations, vadalties, palmyrahs, and cultivated plantations has been sold by way of *otly* for the sum of Rs. 80 which we have received. The land so *ottied* belongs under transfer deed in favour of the 1st named dated 12th October, 1853, and according to deed of partition dated 30th October, 1870 the same belongs to the 2nd named and to the 1st named by life interest and possession during her life-time. We execute this deed deliver therewith the certificate granted by the Udaiyar of Polikandykurichy on publication as usual within the

Exhibits  
No. P 2  
Deed No. 245  
Translation  
23-8-1873  
—Continued.

village and deliver therewith the said transfer deed. Witnesses to this are the said Udaiyar Sithamparanathar Kanapathipillai, Sithampalathar Velauthar, Vidane of Polikandy, Nagar Thamper of the same place, Sithamparar Valliappar of the same place. This deed is written with the knowledge of these persons.

I Kathirgamar Sithamparanathar, Notary Public of Vadamadaradchy do hereby certify that the above instrument having been read over and explained unto the aforesaid persons the same was signed by the said vendor and by the witnesses in my presence and in the presence of one another all being present at my office on the aforesaid date. I know them. 10  
I set my signature and seal to this and affix 25 cents stamp to the duplicate hereof.

Sgd. K. SITHAMPARANATHAR,  
Notary.

Witnesses :

Udayar  
Vidhane  
Sgd. N. Thampar  
Valliappen

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**No. P 3**

**Deed No. 1,457**

20

**Translation**

No. P 3  
Deed No. 1,457  
Translation  
25-10-1882

On the 25th day of October, 1882, to Kooliar Arumugam of Polikandy, we Vairattai, widow of Velupillai and son Iyampillai of Valvettiturai have executed and granted transfer deed for land, to wit :—

Land situated at Polikandy and registered in the *thombu* in the names of Nachchal, daughter of Vethan and wife of Sangaran and others called Mungodai, in extent 12½ latchams varagu culture, registered in the *thombu* in the names of Sidamparan Kulandaiyan and others called “Mavattai,” in extent 4 latchams varagu culture of this 5/6th share on the west and on the south-east of the first parcel and the whole of the 30 second parcel, is bounded on the east by Sinniah and Thivanai and others, north and west by Notary Kadirgamatamby and others, and south by Samparapaguthevankurichy and by Vairavar and others. The whole of the ground, palmyrah, vadaly, well and cultivated plantations within these boundaries we have sold and transferred unto him for the sum of Rs. 200 of which the amount we have received from him is Rs. 120 and the balance of Rs. 80 should be paid by him to Vairavar Vallipuram with whom we have hypothecated these lands as *otty* and get the same redeemed.

We execute this deed with the schedule granted by Sittampalatar Kanapathipillai Udaiyar of Polikandy, certifying that this land sold and 40

transferred belongs to the 1st named person of us by right of purchase and with the 2nd named person of us by virtue of partition made on the

Witnesses hereof are Sittampalatar Kanapathipillai Udaiyar of Polikandy.

Exhibits  
No. P 3  
Deed No. 1457  
25-10-1882  
—Continued.

Witness Valliar Murugar of Alvai. Sgd. S. KANAPATHIPILLAI.  
Witness Velar Murugar of Alvai. Sgd. V. MURUGAR  
„ V. MURUGAR

This deed was drawn in my office at Alvai West.

Sgd. S. KADIRGAMATAMBY,  
*Notary Public.*

10

I, Sidamparanather Kadirgamathamby, Notary Public of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Vairattai, widow of Velupillai and son 30th October, 1870, and by possession of the abovesaid *otly* holder and to that effect publication was caused to be made as usual and no objection forthcame.

+ Hand mark of VAIRATTAI.  
Sgd. VELUPILLAI IYAMPILLAI

20

Iyampillai, in the presence of Sittampalanatar Kanapathipillai Udayar of Polikandiccurichy and Valliar Murugar and Velar Murugar of Alvai, the subscribing witnesses hereto all of whom are known to me that the said Vairattai, widow of Velupillai and son Iyampillai and the said witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Alvai West, on the 25th day of October, 1882, that the duplicate hereof bears stamps to the value of Rs. 11/- and the original to the value of Rupee 1/- and that the said stamps were supplied by Arumugam the grantee hereof.

Sgd. S. KADIRGAMATAMBY,  
*Notary Public.*

30 23rd October, 1882. (Seal)

This property has been donated to Arumugam Kanthavanam.  
1-4-96. Intd. E. R.

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No. P 4

Deed No. 5,825

Translation No. 5,825

No. P 4  
Deed No. 5,825  
1-4-1896

On the 1st day of April, 1896, to Arumugam Kanthavanam of Polikandy we Koolaiyar Arumugam and wife Walliammai of the same place, his father and mother do execute and grant donation deed to wit ;—

Exhibits  
 No. P 4  
 Deed No. 5,825  
 1-4-1896  
 —Continued.

Land in our possession by right of purchase as per transfer deed in favour of the 1st named person of us bearing date the 25th day of October, 1882, and attested by Sidampananathar Kadirgamatamby, Notary.

Land situated at Polikandy, in the Parish of Udupiddy in Vadamardchy in the District of Jaffna in Northern Province and registered in the *thombu* in the names of Nachchal, daughter of Vethan and wife of Sangaran and others called Mungodai, in extent  $12\frac{1}{4}$  latchams varagu culture, registered in the *thombu* in the names of Sidampanan Kulanthaiyan and others called Mavattai, in extent 4 latchams varagu culture of this  $\frac{5}{6}$ th share on the west and south-east out of the 1st parcel and the whole 10 of the 2nd parcel, bounded on the east by the property of Theivanai, widow of Nagamuttu and Velupillai Chinniah, north by the property of Suntarai Arumugam and sister Wallipillai and others, west by the property of Nagar Thampar and Parupathy, wife of Vairavy Vallipuram and south by Samarapagutevan Curichy and by lane and by the property of Kanapatiar Sinniah and Velupillai Kanthaiyan and others. The whole of the ground, palmyrah tree, vadaly, cultivated plantations and well within these boundaries valued at Rs. 250.

Further land belonging to the 1st named person by right of *urumai* under and by virtue of transfer deed in favour of the late Walliammai *alias* 20 Walliar, daughter of Koolayar, the sister of the 1st named person who died issue-less, dated the 24th February, 1862 and attested by Kadirgamar Sidampananathar, Notary, and unto the 1st named person by right of donation as per donation deed in favour of the 1st named person dated the 14th December, 1877, and attested by Sidampananathar Kadirgamatamby, Notary and further by right of *muthusom* of the 1st named person and by possession.

2. Land situated at Polikandy registered in the *thombu* in the names of Kanthar Sidampanan and others called Kochchantthar in extent  $4\frac{1}{4}$  latchams varagu culture, do veedu  $\frac{1}{4}$  do kudah in extent  $\frac{7}{8}$ th latchams varagu 30 culture, and bounded on the east, north and south by lane and west by the property of Karuppattai, wife of Kanthar Eramu and sister Sinnapillai. The whole of the ground and palmyrah trees within these boundaries valued at Rs. 100.

Land belonging to the 1st named person by right of *urumai* under and by virtue of the transfer deed above said in favour of the said Walliammai *alias* Walliar and further by right of *muthusom* and possession

3. Land situated at Polikandy and registered in the *thombu* in the names of Kanthar Sidampanan and others called Mullaikaddaiyadi in extent  $\frac{3}{8}$ th latchams varagu culture, ditto in extent  $3\frac{3}{8}$ th latchams 40 varagu culture, and bounded on the east by the property of Katpagam, wife of Kanthar Kadirgamar and Kanapathy Arumugam and others, north and west by lane, and south by the property of Koolaiyar Arumugam

of the whole of the ground and palmyrah trees within these boundaries, 15/16th share valued at Rs. 60.

Exhibits

No. P 4  
Deed No. 5,825

1. 4. 1896

—Continued.

Lands belonging to the 1st named person by right of *muthusom* and possession.

10 4. Land situated at Polikandy and registered in the *thombu* in the names of Periar Sidamparar above called Periyaseema, in extent 3 5/8th latchams varagu culture, is bounded on the east by the property of Sinnatangam, wife of Murugar Velupillai, north by the property of Sinnatangam, wife of Murugar Velupillai and Koolayar Arumugam, west by the property of Ponnachchy, wife of Kanthar Kadirgamar and Eesupary, widow of Velauthar Murugesar and south by the property of Ponnachchy, wife of Kanthar Kadirgamar and Eesupary, widow of Velauthar Murugesar and others. The whole of the ground, palmyrah trees and vadaly within these boundaries valued at Rs. 70.

20 5. Land situated at Polikandy and registered in the *thombu* in the name of Varal, daughter of Kanthan above called Koddatharai veedu 3/4th ditto in extent 4, 5/8th latchams varagu culture registered in the *thombu* in the names of Minchal, daughter of Thiagar and wife of Sidamparan and others called Koddatharai, in extent 15 1/2 latchams varagu culture, registered in the *thombu* in the names of Areal, daughter of Perian and others called Koddatharai in extent 5 3/8th latchams varagu culture, and bounded on the east and north by lane, west by the property of Velauthar Kanthayer and Suppar Chellappah and others, and south by lane, of the whole of the ground palmyrah tree and vadaly within these boundaries and undivided 1/3rd share and the exclusive right to the one hut on the north in the middle valued Rs. 60.

30 Further land belonging to us by right of purchase under and by virtue of transfer deeds in favour of the 1st named person, dated the 17-1-1879, and attested by Sidamparanathar Kadirgamatamby, Notary, dated the 18th day of August, 1879, and attested by Santhirasekarar Velupillai, Notary, dated the 24th January, 1882, and attested by Murugesar Kadiravetpillai, Notary, dated the 16-11-1883, and attested by Sidamparanathar Kadirgamathamby, Notary, 25th July, 1889, and attested by Vairavanathar Sinnatamby, Notary, and further by right of *urumai* unto the first named person under and by virtue of donation deed in favour of the late Walliammai *alias* Walliar, daughter of Koolayar, the sister of the 1st named person who died issue-less dated the 13th October, 1864, and attested by Kamaru Kadiritamby, Notary and by possession.

40 6. Land situated at Samarapakuthevankurichy in the Parish of Udupidy in Wadamaradchy, in the District of Jaffna, Northern Province and registered in the *thombu* in the names of Nallamappanamudaliar Alvan and others called Konavalai. Thoddam 7 ditto in extent 24 7/8th latchams varagu culture, Methakaladdy in extent 44 latchamas varagu



Exhibits  
 No. P 4  
 Deed No. 5,825  
 1-4-1896  
 —Continued.

culture of this, out of  $\frac{1}{4}$  share on the south, excluding an extent of 2 lachams on the north-west, the remainder is bounded on the east by the property of Kandar Thamar and brother Mappany and others' north by the property of Kollayar Arumugam, west by the property of Kathiravelar Mailvaganam and Kadirgamar Velauthan and others, and by land, and south by lane of the whole contained within these boundaries an undivided  $\frac{1}{4}$  of 11/16th share and share of wells values at Rs. 250/-

Further land in possession by virtue of transfer deed in favour of the 1st named person, dated the 3rd October, 1888, and attested by Vairavanathar Sinnatamby Notary. 10

7. Ditto land situated at ditto and registered in ditto *thombu* called Konavalai Thoddam 7, ditto in extent 24  $\frac{7}{8}$ th lachams varagu culture, Metkukuladdy in extent 44 lachams varagu culture of this an extent of 10 lachams in the middle is bounded on the east by the property of Kanthar Thamar and brother Mappany and others, north and south by the property of Koolayar Arumugam, and west by the property of Kathiravelar Mailvaganam and Kadirgamar Velauthar and others. Of the whole within these boundaries,  $\frac{1}{4}$ th of  $\frac{1}{3}$ rd share, on the north according to possession valued at Rs. 50.

Land in possession under and by virtue of transfer deed in favour of the 1st named person dated the 24th day of October, 1886, and attested by Vairavanathar Sinnathamby, Notary. 20

8. Ditto land situated at ditto and registered in ditto *thombu* called Konavalai Thoddam 7, ditto in extent 24  $\frac{7}{8}$ th lachams varagu culture, Metkukuladdy, in extent 44 lachams varagu culture, of this out of an extent of  $19\frac{1}{4}$  lachams on the north excluding the shortage of an extent of  $2\frac{3}{4}$  lachams, out of the remaining extent of 16' lachams excluding an extent of 8 lachams, on the east the remaining extent of  $8\frac{1}{2}$  lachams, on the west lying adjacent to it is bounded on the east by the property of Sinnavar Murugesar and Chellam, widow of Kanapathy Sinnatamby and others, north by Policandycurichy and by the property of Paramanathapillai, widow of Kanthar Kanapathipillai and Theivanaippillai, wife of Variar Sithamparapillai, west by the property of Kathiravelar Mailvaganam and Kadirgamar Velauthan and others and south by the property of Sinnapillai, daughter of Kanthar Thamar and sister Ponnachchy and others. Of the whole of the ground within these boundaries  $\frac{1}{4}$  share and the share appertaining to this of the well standing herein and of the well standing in the said land called Konavalai lying on the south of this valued at Rs. 100. 30

Land belonging to the 1st named person by right of *urumai* under and by virtue of donation deed in favour of the abovesaid late Walliammai *alias* Walliar the siter of the 1st named person, dated the 13th October, 40

1864, and attested by Kumaru Kathiritamby, Notary, and further by right of *muthusom* and possession.

Exhibits  
No. P 4  
Deed No. 5,825  
1-4-1896  
—Continued

9. Land situated at Polikandycurichy in the Parish of Udupidy in Wadamaradchy, in the District of Jaffna, Northern Province and registered in the *thombu* in the name of Kanthar Santhan and others called Serviththitharai in extent  $38 \frac{3}{4}$  latchams varagu culture, of this 1/6th share on the north-east is bounded on the east by the property of Velauther Sinniah and Kanthar Sinnathamby, north by the property of Theivanai, widow of Nagamuttu, west by the property of Velupillai Kanthaiyan and sister Sinnachchy and others, and south by the property of Nagar Thampar and sister Parupathy and others of the whole of the ground, palmyrah trees and vadalies within these boundaries 2/6th share valued at Rs. 60.

The total value is Rs. 1,000.

Grantees :

Hand mark of WALLIAMMAI,  
Sgd. KANTHAR SINNATAMBY.

Sgd. ERAMALINGAR ARUMUGAM,  
*Notary Public.*

20 We do hereby give and convey the said property by way of donation unto the said Arumugam Kanthavanam for and on account of affection but of the said properties the produce of the one-half share of the 1st land and the produce of the whole of the 2nd land belongs to him from this day forth and the whole of the produce of the other lands and the produce of the other half share of the 1st land do belong to the donee hereof after the life time of us the donors.

That as the said Kanthavanam being a minor I Kanthar Sinnathamby of Polikandy, his uncle do accept this donation for and on behalf of the said Kanthavanam.

30 Witnesses whereof are : Eramalingar Kanthavanam of Karanavai North, Visuvanathar Kartigeyar of the same place, and Kadirgamar Suppiramaniam of Karavetty North ; to their knowledge this was drawn in the office of the Notary.

Grantors :

Sgd. KOOLAIYAR ARUMUGAM,  
+ Mark of WALLIAMMAI,  
Sgd. KANTHAR SINNATHAMBY.

Sgd. ERAMALINGAR ARUMUGAM,  
*Notary Public.*

**Exhibits**

No. P 4  
Deed No. 5,825  
1-4-1896  
—Continued.

**Witnesses :**

Sgd. V. Karthegeyar  
Sgd. K. Suppramaniam

I, Eramalingar Arumugam of Alvai South, Notary Public of Jaffna, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said Koolyar Arumugam and wife Walliammai and Kanther Sinnathamby, in the presence of Eramalingar Kanthavanam of Karanavai North, Visuvanather Karthigeyar of the same place, and Kadirgamar Suppiramaniam of Karavetty North, the subscribing witnesses hereto, all of whom are known to me that the said Kooliyar Arumugam 10 and wife Walliammai, Kanthar Sinnatamby and the said witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Alvai South, on the 1st day of April, 1896. I further certify and attest that the duplicate hereof bears stamp to the value of Rs. 5/- and the original to the value of Re. 1/- and that these stamps were supplied by me.

1st day of April, 1896. Sgd. ERAMALINGAR ARUMUGAM,  
*Notary Public*

This is a true copy written referring to my Protocol and has been issued on the application of Koolaiyar Arumugam, the 1st named of the 20 donors as he requires the same for the purpose of revoking this donation. I affix a stamp of Re. 1/- and set my signature and seal hereto.

27th March, 1905. Sgd. ERAMALINGAR ARUMUGAM,  
*Notary Public.*

No. 2 D 1  
Deed No. 8,281  
22-7-1898

**No. 2D1****Deed No. 8,281****2D1.****Translation****No. 8,281**

On the 22nd day of July, 1898, to Arumugam Kantharvanam of Polikandy, I Kadiripillai Arumugam of Valvettiturai ditto execute and 30 grant transfer deed for land, to wit :—

Lands situated at Samarapakuthevankurichy, in the Parish of Udupiddy in Wadamaradchy West division in the District of Jaffna, in Northern Province called Mavattai in extent 38 latchams varagu culture, is bounded on the east by water-channel and by lane, north and west by Polikandykurichy, and south by street of the whole of the ground

palmyrah trees and well within these boundaries an undivided 1/6th share has been sold and transferred unto him for the sum of Rs. 140.

Exhibits  
 No. 2 D 1  
 Deed No. 8,281  
 22-7-1898  
 —Continued

Having received from him this sum of Rs. 140, I execute and grant this deed mentioning therein that the same belonging to me by right of *muthusom* and possession as the said share has been *ottied* by deed No. 2,309 dated 21st day of August, 1892, and attested by Murugesar Kathiravetpillai, Notary, and redeemed by me and as the said share has been mortgaged by me by deed No. 1,651 dated 10-11-1886 and attested by the said Notary Kathiravetpillai and redeemed by me.

Witnesses whereof are : Murugar Velupillai Vidhan, Polikandy, Kanthar Kadirgamar of the same place, and Saravanamuttu Kantayar of Imayanan. These as witnesses this deed was executed in the presence of Vairavanathar Sinnatamby, Notary Public in the house of the first witness.

Witnesses :

Sgd. M. VELUPILLAI,	
„ Illegibly	Grantor :
„ S. KANTAYAR.	KATHER ARUMUGAM

Sgd. V. SINNATAMBY,  
*Notary Public.*

20

I, V. Sinnathamby, Notary Public of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Kathirippillai Arumugam, in the presence of Vidhane Murugar Veluppillai of Polikandy, Kandar Kadirgamar of the same place and Saravanamuttu Kantya of Imayanan, the subscribing witnesses hereto that I know them that the said Arumugam and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in the house of the first witness, on the 22nd day of July, 1898, and that the duplicate hereof bears one rupee stamp supplied by me the Notary.

30

22nd July, 1898.

Sgd. V. SINNATAMBY,  
*Notary Public.*

**No. 2D21**

**Plaint, Plan, Report and Decree in D.C., Jaffna No. 1,940**

IN THE DISTRICT COURT OF JAFFNA

No. 2 D 21  
 Plaint, Plan,  
 Report and  
 Decree in D. C.  
 Jaffna No. 1940

1. KOOLAIYAR ARUMUGAM of Polikandy, and
2. ARUMUGAM KANDAVANAM of ditto ..... *Plaintiffs.*

Exhibits  
 No. 2 D 21  
 Plaint, Plan,  
 Report and  
 Decree in D. C.  
 Jaffna No. 1940  
 —Continued.

(The 2nd plaintiff is a minor appearing by his next friend  
 the 1st plaintiff)

No. 1,940

Vs.

Partition.

1. VELAUTHAR MURUGAR
2. SINNACHCHIPPILLAI
3. KUMANAIYAR KONAR
4. KONAR SINNATTAMBY
5. KANTHAR PARAMPO and his wife.
6. PARUPATHY 10
7. SINNATTANKAM widow of Veluppillai all of  
 Polikandy..... *Defendants.*

This 30th day of November, 1899 :

The plaint of the above-named plaintiffs appearing by V. Casipillai  
 and A. Cathiravelu, their Proctors, states as follows :—

1. That of the land situated at Polikandy within the Jurisdiction of  
 this Court called and known by the name of Koddattarai containing in  
 extent 36  $\frac{5}{12}$ th latchams varagu culture, and made up of 6 parcels, viz.,  
 Koddattarai in extent house  $\frac{3}{4}$ th (equal to 1 latchams varagu culture),  
 Koddattarai in extent 4  $\frac{5}{8}$ th latchams varagu culture, Koddatharai in 20  
 extent  $15\frac{1}{2}$  latchams varagu culture, Koddattarai in extent house  $\frac{1}{2}$  (equal  
 to  $\frac{2}{3}$  latchams varagu culture), Koddattarai in extent  $9\frac{1}{2}$  latchams  
 varagu culture and Koddattarai in extent  $5\frac{3}{8}$  latchams varagu culture,  
 and bounded on the east and north by lane, on the west by the property  
 of Chuppar Chellappah and share holders the property of Esupari, widow  
 of Kumaravelar and shareholders and the property of the 1st plaintiff and  
 shareholders and on the south by lane and the property of Marimuttu  
 and share holders certain Sinnapillai, wife of Mootar Koolaiyar was by  
 right of inheritance from her parents Kunnehar Kathirkamar and wife  
 Machchan, both of whom died intestate about 50 years ago the owner and 30  
 proprietor of  $\frac{1}{3}$ rd share in common equal to 12 latchams varagu culture  
 and  $2\frac{1}{2}$  kullies.

2. That the said Sinnapillai died intestate about 45 years ago seized  
 and possessed of the said  $\frac{1}{3}$  share and leaving behind as her only heirs  
 two children the 1st plaintiff and Valliammai each of whom became  
 entitled to  $\frac{1}{6}$ th share in common in the said land Valliammai died a few  
 years after the death of her mother unmarried and intestate and leaving  
 behind the 1st plaintiff as her only heir so that the 1st plaintiff became  
 the sole owner of the said Sinnapillai's  $\frac{1}{3}$ rd share which is equal to  
 12 latchams varagu culture, and  $2\frac{1}{2}$  kullies. 40

3. That the 1st plaintiff did on the 1st day of April, 1896, assign  
 and convey to the 2nd plaintiff by deed No. 5,825, attested by Ramalingam  
 Arumugam, Notary Public, the said undivided  $\frac{1}{3}$ rd share in the said

land reserving to himself a right of life interest over the same. The plaintiffs file herewith the said deed and prays that the same be read and considered as part and parcel of this plaint.

Exhibits  
No. 2D 21  
Plaint, Plan,  
Report and  
Decree in D. C.  
Jaffna No. 1940  
—Continued.

4. That certain Kathirkamar Velupillai of Polikandy was by right of inheritance from his parents Kunchar Kathirkamar and wife Nachchan both of whom died intestate about 50 years ago the owner and proprietor of 1/3rd share in common of the said land which is equal to 12 lachams varagu culture and  $2\frac{1}{2}$  kullies.

10 5. That the said Kathirkamar Velupillai died intestate and unmarried about 4 years ago seized and possessed of the said undivided 1/3rd share and leaving behind as his only heirs certain Kanthar Velupillai Kanthar Ramu, Kanthar Sinnathamby, Vairavy Kathirkamar, Vairavy Rasinghar and Marimuttu, wife of Murugar Arumukam who were the children and grand-children of his (Kathirkamar Velupillai's brothers Kathirkamar Kanthar and Kathirkamar Vairavy and who as the heirs and legal representatives of the estate of the said Kathirkamar Velupillai were sued in action No. 122 of this Court on a promissory note made and granted by the said Kathirkamar Velupillai in favour of the 1st plaintiff.

20 6. That the 1st plaintiff having obtained in the said action No. 122 Judgment against the said heirs of Kathirkamar Velupillai as the legal representatives and parties in possession of his estate caused writ of execution to be issued against the property of the said estate for obtaining satisfaction of the said decree and at a sale held by the Fiscal of the Northern Province on the 18th day of March, 1897, in execution of the said decree purchased the said 1/3rd share in common as will appear on reference to the Fiscal's Transfer deed in favour of the 1st plaintiff dated the 27th day of September, 1897, and filed herewith which the 1st plaintiff prays may be read and considered as part and parcel of this plaint.

30 7. That the 1st plaintiff as the purchaser and owner of the said 1/3rd share has been put in possession of the same by the Fiscal and is in possession thereof together with the 1/3rd share which he conveyed to his son the 2nd plaintiff over which he has a right of life interest.

8. That certain Sinnattai, wife of Kumanaiyar Konar was by right of inheritance from her parents Kunnehar Kathirkamar and wife Nachchan both of whom died intestate about 50 years ago the owner and proprietor of 1/6th of  $15\frac{1}{2}$  lachams varagu culture, 1/3rd of  $2\frac{2}{3}$  lachams varagu culture, 1/3rd of  $9\frac{1}{4}$  lachams varagu culture, and 1/3rd of  $5\frac{3}{8}$  lachams varagu culture in common equal to  $7\frac{49}{72}$  lachams varagu culture in common in the whole land.

40 9. That the said Sinnattai died intestate about 12 years ago seized and possessed of the said  $7\frac{49}{72}$  lachams varagu culture and leaving behind as her only heirs her children the 4th, 6th and 7th defendants who

Exhibits  
 No. 2D 2I  
 Plaint, Plan,  
 Report and  
 Decree in D. C.  
 Jaffna No. 1940  
 —Continued.

became entitled to the said 7 49/72 latchams varagu culture subject to the life interest of their father the 3rd defendant who is in possession thereof.

10. That the 2nd defendant is by right of donation from her mother Silampattai who died intestate about 15 years ago the owner and proprietor of 1/3rd of 1 latchams varagu culture, 1/3rd of 4 5/8 latchams varagu culture, and 1/6th of 15½ latchams varagu culture in common equal to 4,11/24 Latchams varagu culture in common in the whole land and is in possession thereof.

11. That the plaintiffs have by their own undisturbed and uninter- 10  
 rupted possession and by the like possession of those from whom they claim by a title adverse to and independent of that of all persons whomsoever for upwards of 10 years next immediately preceding the date of this action acquired a prescriptive right and title to 2/3rd share to 24 latchams varagu culture and 5 kullies in common in the said land in terms of the 3rd clause of the Ordinance No. 22 of 1871 the benefit whereof the plaintiffs plead in their favour.

12. That the possession in common of the said land by the plaintiffs and the defendants as heretofore is found to be inconvenient and it is expedient that the land should be partitioned under the provisions of the 20 Ordinance No. 10 of 1863.

13. That the whole land is worth Rs. 500.

14. That the 2nd plaintiff is a minor over whom the 1st plaintiff has been appointed next friend.

Wherefore the plaintiffs pray :—

- (a) That the land described in the 1st paragraph of this plaint be declared the common property of the plaintiffs and the 2nd, 4th, 6th and 7th defendants.
- (b) That the said land be partitioned and divided shares thereof be allotted and given to the plaintiffs and the 2nd, 4th, 6th and 7th 30  
 defendants in lieu of their present undivided shares and that the life interest which the 1st plaintiff has over the share belonging to the 2nd plaintiff and the life interest which the 3rd defendant has over the shares belonging to the 4th, 6th and 7th defendants be decreed to attach to the divided shares allotted to the 2nd plaintiff and the 4th, 6th and 7th defendants respectively.
- (c) That the costs of suit and of partition be decreed to be borne by the parties in proportion to their shares,

(d) For such further and other relief as to this Court shall seem meet.

Sgd. CASIPILLAI & CATHIRAVELU,  
*Proctors for Plaintiffs.*

Exhibits  
No. 2D 21  
Plaint, Plan,  
Report and  
Decree in D. C.  
Jaffna No. 1940  
—Continued.

Memorandum of documents annexed to this plaint :

- (a) A donation deed in favour of the 2nd plaintiff dated 1st April, 1896, and attested by Ramalingar Arumugam, Notary Public under No. 5825.
- (b) A Fiscal's transfer in favour of the 1st plaintiff dated 27th September, 1897.

10

Sgd. CASIPILLAI & CATHIRAVELU,  
*Proctors for Plaintiffs.*

IN THE DISTRICT COURT OF JAFFNA

- 1. KOOLAIYAR ARUMUGAM of Polikandy, and
- 2. ARUMUGAM KANDAVANAM of ditto ..... *Plaintiffs.*

(The 2nd mentioned person is a minor by his next friend  
the 1st mentioned person)

No. 1940.

*Vs.*

- 1. VELAIYUTHAR MURUGAR and 6 others ..... *Defendants.*

20

Upon the commission issued to me in this case, I caused due notice to be given and publication to be made and proceeded to the land situated at Polikandy called Koddattarai made up of 6 parcels and containing an aggregate extent of 36, 5/12 latchams varagu culture with its appurtenances and bounded on the east and north by lane, west by the property of Chuppar Chellappah and others, and south by lane and property of Marimuttu and others and made partition of the said land a survey of which is herewith annexed in presence of the parties save the 2nd defendant and allotted and given the same in the following manner, to wit :—

30

Lot 1 in the said survey in extent 9 latchams varagu culture and 7 kullies with its appurtenances is allotted and given to the 1st plaintiff for his extent of 12 latchams varagu culture and 2½ kullies of the said land.

Lot 2 in extent 9 latchams varagu culture and 7 kullies with its appurtenances is allotted and given to the 2nd plaintiff for his extent of 12 latchams varagu culture and 2½ kullies subject to the life interest of the 1st plaintiff.

Lot 3 in extent 5 latchams varagu culture and 16 kullies with its appurtenances is allotted and given to the 4th, 6th and 7th defendants for their extent of 7 latchams varagu culture and 12¼ kullies subject to the life interest of the 3rd defendant.



Exhibits  
 No. 2D 21  
 Plaint, Plan,  
 Report and  
 Decree in D. C.  
 Jaffna No. 1940  
 —Continued.

Lot 4 in extent 3 lachams varagu culture and 8 kullies with its appurtenances is allotted and given to the 2nd defendant for her extent of 4 lachams varagu culture and  $8\frac{1}{2}$  kullies.

In consideration of the difference in value of the lots 3 and 4 the 1st plaintiff has to pay to the 4th, 6th and 7th defendants Rs. 30.22 and to 2nd defendant Rs. 27.99.

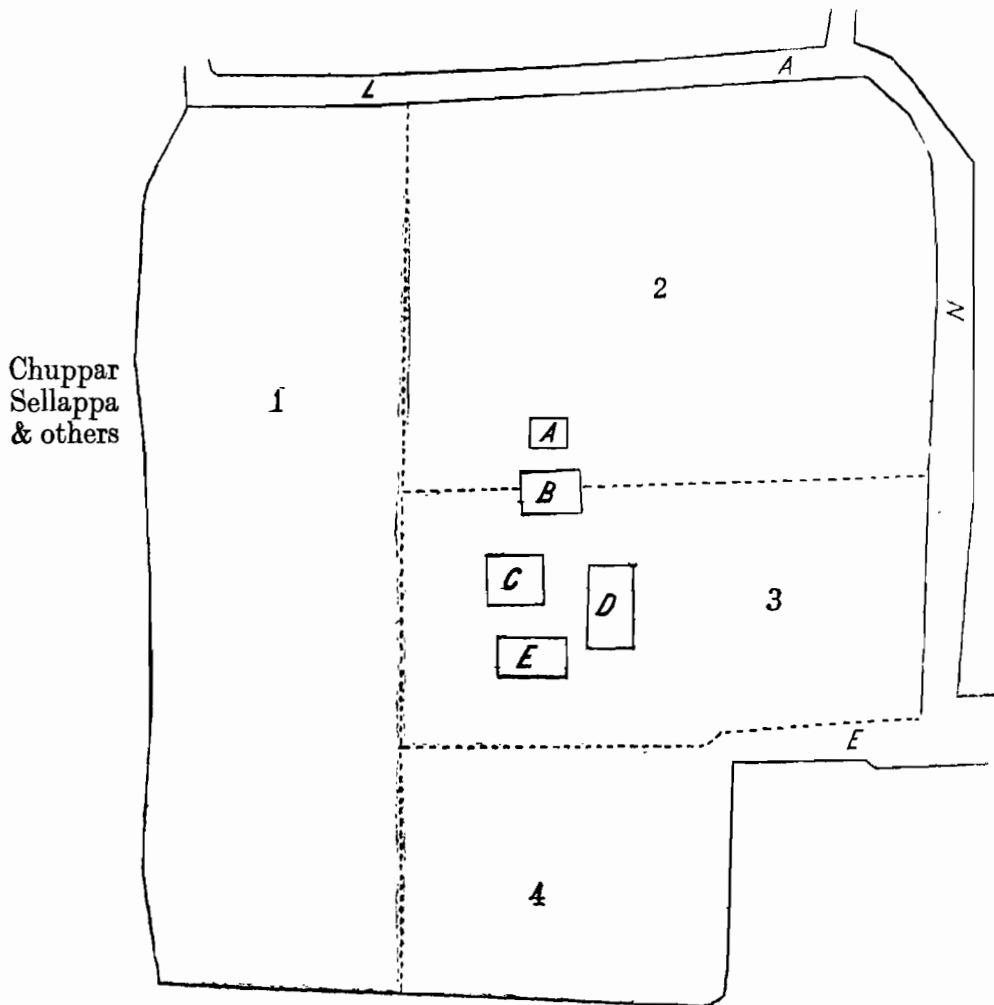
The 2nd plaintiff has to pay the 2nd defendant Rs. 37.01. The 3rd, 4th, 5th, 6th and 7th defendants claim the huts C, D and E in lot 3 as their exclusive property and the same worth Rs. 37.50 which the 1st plaintiff admits. 10

Certain Sinnatankam wife of Velupillai of Polikandy claims the huts A and B as her exclusive property and the same worth Rs. 15 which the 1st plaintiff admits.

23rd April, 1901.

Sgd. A. CANTAYAH,  
*Licensed Surveyor.*

Exhibits  
 No. 2D 21  
 Plaint, Plan,  
 Report and  
 Decree in D. C.  
 Jaffna No. 1940  
 —Continued.



Marimuttu & Shareholders.  
 Scale of 1 Chain to an Inch.

PLAN

of an Allotment of Land called Koddattarai, situated in the  
 Village of Polikandy, in the District of Jaffna,  
 Northern Province, bounded as above.

Containing in extent :

Lot 1	..	..	9 lms.	7 kls.
2	..	..	9 "	7 "
3	..	..	5 "	16 "
4	..	..	3 "	8 "

23rd April 1901

Surveyed & Drawn by  
 Sgd. Illegibly  
 Licensed Surveyor

Exhibits  
 No. 2D 21  
 Plaint, Plan,  
 Report and  
 Decree in D. C.  
 Jaffna No. 1940  
 —Continued.

Surveyed and drawn by :

Sgd. A. CANTYAH,

*Licensed Surveyor.*

23rd April, 1901.

**Final Partition Decree**

IN THE DISTRICT COURT OF JAFFNA

1. KOOLAIYAR ARUMUGAM of Polikandy, 10
2. ARUMUGAM KANTHAVANAM of ditto ..... *Plaintiffs.*  
 (The 2nd plaintiff is a minor appearing by his next friend  
 the 1st plaintiff)  
 No. 1,940. Vs.
1. VELAYTHAR MURUGAR and 6 others ..... *Defendants.*  
 SINNAIYAR THAMBAIYAR ..... *Added Party.*

This action coming on for final disposal before W. E. B. Sanders, Esq., District Judge, Jaffna, on this the 1st day of July, 1901, in the presence of Messrs. Casipillai & Cathiravelu, Proctors for plaintiffs and Mr. Cooke, Proctor, for 1st and 2nd defendants added party the 3rd, 4th, 5th, 6th and 7th defendants being absent and unrepresented on notice served. 20

It is ordered and decreed that of the land called Koddattarai, situated at Polikandy in extent 28 lachams varagu culture and 2 kullies ; bounded on the east and north by lane, west by the property of Chuppan Chellappa and others, and south by lane and property of Marimuttu and shareholders described in the survey plan dated 23rd April, 1901, filed by Mr. A. Cantaiya, Commissioner, appointed by this Court to partition the said land with his report bearing the same date—

(1) The lot marked 1 in extent 9 lachams varagu culture and 7 kullies with its appurtenances be and the same is hereby declared to be the absolute property of the 1st plaintiff.

(2) The lot marked 2 in extent 9 lachams varagu culture and 7 kullies with its appurtenances excluding the huts marked A and B belonging to Sinnatankam, wife of Velupillai be and the same is hereby declared the absolute property of the 2nd plaintiff subject however to the life interest of the 1st plaintiff. 30

(3) The lot marked 3 in extent 5 lachams varagu culture and 16 kullies with its appurtenances excluding the huts marked C, D and E which belong to the 3rd, 4th, 5th, 6th and 7th defendants be and the same is

hereby declared the absolute property of the 4th, 6th and 7th defendants subject however to the life interest of the 3rd defendant and also subject to mortgage in favour of Sinnaiyar Thambaiyar added party.

Exhibits  
No. 2D 21  
Plaint, Plan,  
Report and  
Decree in D. C.  
Jaffna No. 1940  
—Continued.

(4) The lot marked 4 in extent 3 latchams varagu culture and 8 kullies with its appurtenances be and the same is hereby declared the absolute property of the 2nd defendant.

In adjustment of the difference of the values of the lots so decreed to the parties it is further ordered and decreed that the 1st plaintiff do pay to the 4th, 6th and 7th defendants Rs. 30.22 and to the 2nd defendant Rs. 27.99 and that the 2nd plaintiff do pay to the 2nd defendant Rs. 37.01.

10

It is further ordered that the 3rd defendant do pay to the added party's costs and that the costs of action and of partition be borne by the parties. In proportion to heir shares in the land.

Sgd. W. E. B. SANDERS,  
A. D. J.

This 1st day of July, 1901.

---

**No. P 14**

**Deed No. 5,020**

TRANSLATION

**No. 5,020**

No. P 14  
Deed No. 5,020  
24-12-1903

20

Know all men by these presents that we, Varithamby Sithamparapillai, wife Kathirasipillai, brother and sisters Thangamuttu, widow of Veeragattiar Marimuttu and Velupillai Ramasamy, all of Valvettiturai for and in consideration of the sum of Rupees Sixty-five well and truly paid to us by Koolayar Arumugam of Polikandy do hereby sell, transfer, set over and convey unto the said Arumugam the property described hereinbelow :

**Property**

30

Land belonging by way of *mudusom* of us 2nd, 3rd and 4th named as per transfer deed in favour of the late Velauthar Arumugam, grand-father of the 2nd, 3rd and 4th named No. 121 of book No. 7 dated 4th November, 1823 and attested by Mailaswamy Subramaniam, Notary, and also by way of *urumai* devolved through the late Theivanaippillai, widow of Nagamuttu, aunt of the said persons.

Land situated at Polikandy Kurichchy Udupiddy Parish, Vadamaradchi Division, Jaffna District, Northern Province called Mungodai, in extent  $4\frac{1}{2}$  latchams varagu culture with palmyrahs and vadalies is bounded on the east by the property of Sinniah Kanthavanam and others,

Exhibits  
 No. P 14  
 Deed No. 5,020  
 24-12-1903  
 —Continued

north by the property of Eledchumippillai, wife of Sinnapillai, west by the property of Koolaiyar Arumugam and others and on the south by the property of Koolaiyar Arumugam of the whole of the ground, palmyrahs and vadaiies contained herein an undivided three-fourth shares.

In witness whereof we do hereunto and to two others of the same tenor and date as these presents set our hands in the presence of the Notary Sinnathamby Subramaniam and the subscribing witnesses Vyravanathar Sinnathamby of Polikandy and Vethavanam Chelliah of the same place, at the office of the Notary at Puloly East on the 24th day of December, 1903.

10

Witnesses :

V. SINNATHAMBY,  
 V. CHELLIAH.

Sgd. V. SITHAMPARAPILLAI,  
 Mark of KATHIRASAPPILLAI,  
 „ of THAYALMUTTU,  
 Sgd. V. RAMASWAMY.

Sgd. S. SUBRAMANIAM,  
*Notary Public.*

I, Sinnathamby Subramaniam, Notary Public of Vadamardchy West, Jaffna, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said Varithamby Sithamparapillai, wife Kathirasapillai Thaiyalmuttu, widow of Veeragathar Marimuttu and 20 Veluppillai Ramasamy, in the presence of the subscribing witnesses Vairavanather Sinnathamby of Polikandy and Vethavanam Chelliah of the same place, that I know the said Sithamparappillai and the witnesses whom I know declared that they know the said Kathirasippillai, Thaiyalmuttu and Ramasamy that the said Sithamparapillai Kathirasippillai Thaiyalmuttu Ramasamy and the witnesses in my presence and in the presence of one another all being present at the same time set their hands at my office at Puloly East on the 24th day of December, 1903, that of the said consideration a sum of Rs. 12/- passed in my presence

30

\* \* \* \* \*

This 24th December, 1903.

Sgd. S. SUBRAMANIAM,  
*Notary Public.*

No. 2D 20  
 Marriage  
 Certificate  
 9-4-1904

**No. 2D 20**

**Marriage Certificate**

TRANSLATION

*Application No. 5,048*

**No. 520**

**Certificate of Marriage**

Register of Marriage solemnized in the Vadamardchy Division, 40 Jaffna District, Northern Province.

	Male Party	Female Party	Exhibits
1. Name in Full Parties ..	Arumugam Kandavanam	Kandiah Eledchumy	No. 2D 20 Marriage Certificate 9-4-1904 —Continued.
2. Age ..	Twenty-six	.. Twenty-three	
3. Civil Condition ..	Married	.. Married	
4. Rank or Profession & Nationality ..	Farmer Tamil	.. Tamil	
5. Residence ..	Polikandy	.. Polikandy	
6. Full name of Father	Kooliar Arumugam	.. Velauther Kandiyar	
10 7. Rank or Profession of Father ..	Farm	.. Farm	
8. Name and Division of Registrar who issued Certificate	John Chiakering Sherrard J. S. SHARED Vadamaradchy West		
9. Place of Solemniza- tion of Marriage	Registrar's Office at Pt. Pedro.		
20 The marriage was solemnized in my presence this 9th day of April, 1904.	Sgd. JOHN C. SHERRARD, <i>Registrar.</i>		
The Marriage was Solemnized between us in the presence of	Sgd. A. Kandavanam .. Mark of Kandiah Eledchumy Sgd. JOHN C. SHERRARD.		
1. Signature of the Witnesses, Name in Full, Rank or Profession ..	Sgd. K. Velupillai, Kandiah Velupillai, Farmer, Poli- kandy		
2. Signature of the Witnesses, Name in Full, Rank or Profession ..	Sgd. S. Vallipuram Sinnatamby Vallipuram, Farmer, Polikandy Sgd. JOHN C. SHERRARD, <i>Registrar.</i>		
30			

---

No. P 22

Deed No. 5,232

No. 5,232

No. P 22  
Deed No. 5,232  
11-4-1904

40 Know all men by these presents that we Kandiah Arumugam, his brothers Kandiah Velupillai, Kandiah Sinnatamby, his sister Wallippillai, daughter of Kumaniah Mailvaganam, all of Polikandy, do hereby give, grant and convey by way of dowry the properties described in the schedule hereto worth Rs. 500 unto Ledchumipillai, wife of Arumugam Kandavanam, who is the sister of the 1st, 2nd and 3rd named of us and the niece (Pera Makal) of the 4th named of us, of the same place.

Exhibits  
 No. P. 22  
 Deed No. 5,232  
 11 4-1904  
 —Continued.

*Properties :*

In the Parish of Udupidy in the Division of Vadamaradchy West,  
 Jaffna District, Northern Province—

1-5.

6. Land situated at Polikandy Kurichchy called Kalanungkalat pulam Veedu 1 ditto, in extent 29 1/8th latchams. Of this by possession in the middle in extent 6 latchams and 15 kullies is bounded on the east by the property of Pasupathy, daughter of Kandar and others, north by street, west and south by the property of Kandiah Arumugam and others. Of this excluding 1 1/2 latchams of ground with its appurtenances on the south in extent 5 latchams and 6 kullies with its appurtenances, palmyrahs and vadalies worth Rs. 50. 10

7-9

We declare that out of the said lands the 1st and 2nd land.....the 6th land belongs by virtue of the said transfer deed No. 7,715 and as *muthusom* of the said Velauthar Kandiah and as *muthusom* of the 1st, 2nd and 3rd named of us.....

The excluded southern 1 1/2 latchams of the 6th land with its appurtenances belongs to the 1st, 2nd and 3rd named of us..... 20

I the said Ledchumipillai the receiver of this dowry do hereby accept this dowry with the consent of my husband Arumugam Kandavanam.

In witness whereof we set our hands to this and to two others of the same tenor in the presence of the Notary Sinnatamby Subramaniam and in the presence of the subscribing witnesses Mailvaganam Vallipuram of Polikandy, Vallipuram Sinnathamby and Sinnathamby Vallipuram, both of the same place in the office of the said Notary at Puloly East on the 11th day of April, 1904.

	Sgd. K. ARUMUGAM,	30
	„ K. VELUPILLAI,	
	„ K. SINNATHAMBY,	
Witness :	Mark of WALLIPILLAI,	
Sgd. M. Vallipuram	Sgd. A. KANDAVANAM,	
„ V. Sinnathamby	Mark of ELEDCHUMIPILLAI.	
„ S. Vallipuram		
	Sgd. S. SUBRAMANIAM,	
	Notary Public,	

I, Sinnathamby Subramanim, Notary Public of the judicial division of Vadamardchy West Division, Jaffna District, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said Kandiah Arumugam, Kandiah Veluppillai, Kandiah Sinnathamby and Wallippillai, daughter of Kumaniah Mailvaganam and Ledchumippillai, wife of Arumugam Kandiah, in the presence of the subscribing witnesses Mailvaganam Vallipuram of Polikandy, Vallipuram Sinnathamby, and Sinnathamby Vallipuram, both of the same place and that I know the said Arumugam, Veluppillai, Kandiahvanam and that the three witnesses declare that they have known the said Sinnathamby, Wallippillai Eladchumippillai and that the said Arumugam Veluppillai, Sinnathamby, Wallippillai Kandavanam, Eladchumippillai and the witnesses set their hands in my presence and in the presence of one another all being present at the same time and place in my office at Puloly East on the 11th day of April, 1904, and that the duplicate of this instrument bears stamps to the value of Rs. 2.50 supplied by me.

10

11th day of April, 1904.

Sgd. S. SUBRAMANIAM,  
*Notary Public.*

**Exhibits**  
No. P 22  
Deed No. 5,232  
11-4-1904  
—Continued.

**No. 2D 19**

**Deed No. 5,232**

**2D 19**

**TRANSLATION**

1st & 2nd lands A.29/89 & 90

3rd land A.32/324

**No. 5,232**

Whole of 4th land A.8/216

Whole of 5th land A.8/217

No. 2D 19  
Deed No. 5,232  
11-4-1904

20

30

Know all men by these presents that we Kandasamy Arumugam and brothers, Kantyar Veluppillai and Kantayar Sinnathamby and Wallippillai, daughter of Kunnanayar Mailvaganam, all of Polikandy do hereby give and convey by way of dowry unto Ledchumipillai, wife of Arumugam Kandavanam of the same place the sister of the 1st, 2nd and 3rd named persons and niece of the 4th named person the following properties worth Rs. 500.

*Properties :*

In the Parish of Udupidy, Wadamardchy West Division in the District of Jaffna, in Northern Province.

1.—Land situated at Polikandy.....



Exhibits  
 No. 2D 19  
 Deed No. 5,232  
 11-4-1904  
 —Continued.

5. Land situated at ditto called Kalnungaiyappulam Veedu 1/4th ditto in extent  $29\frac{1}{2}$  latchams varagu culture. Of this 1/7th share according to possession is bounded on the east by the property of Kantaya Arumugam and others, north by street, west by the property of Kandaiya Sidamparapillai and others, and south by the property of Vairavy Kadirgamar and others. The whole of the ground, palmyrahs and vadalies within these boundaries valued at Rs. 30.

6. Land situated at ditto called Kalnungaiyappulam Veedu 1 ditto in extent  $29\frac{1}{2}$  latchams varagu culture. Of this an extent of 6 latchams varagu culture and 15 kullies in the middle according to possession is bounded on the east by the property of Pasupathy, daughter of Kanthar and others, north by street, and on the west and south by the property of Kanthaya Arumugam and others. Of this excluding an extent of  $1\frac{1}{2}$  latchams of ground with its appurtenances, the remaining extent of 5 latchams varagu culture and 6 kullies with the palmyrah trees and vadalies therein, worth Rs. 50. 10

7. Land situated at ditto called Kerulavattai, in extent 10 latchams varagu culture of this 1/5th share on the north is bounded on the east by the property of Kadirgamar Kasinathar and others, north by lane, west by the property of Katpy, daughter of Kanthar and south by the property of Velauthar Sinnatamby and others, The whole of the ground, palmyrah trees and vadalies within these boundaries valued at Rs. 20. 20

.....

We do hereby declare that of these properties the 1st and 2nd properties belong to the 1st named person of us by right of purchase as per transfer deed in his favour bearing No. 4,909 dated 15th November, 1903, and attested by this Notary and further unto the 1st, 2nd and 3rd named persons by right of *muthusom* from their mother Theivanai, wife of Kantaiya to the 4th named person by right of *muthusom* from her mother the said Parupathy the 4th and 5th properties belong to the 1st, 2nd and 3rd named persons by right of *muthusom* as per transfer deed in favour of their father the late Velauthar Kantaya bearing No. 7,715 dated the 19-4-1899, and attested by Ramalingam Arumugam, Notary, the 6th property belongs to the said 1st, 2nd and 3rd named persons by right of *muthusom* by virtue of the abovesaid transfer deed No. 7,715 and by right of *muthusom* of the said Velauthar Kanthayar, the 7th property belongs to the said persons by right of *muthusom* under and by virtue of transfer deeds in favour of the late Velauthar Kanthayar, the father of the 1st, 2nd and 3rd named persons bearing No. 2,184 dated 7th September, 1900, and No. 2,117 dated 26th August, 1900, and attested by this Notary and by virtue of deed No. 9,148 dated 3rd January, 1902, and attested by Ramalingam Arumugam, Notary and further the share belonging to the said Velauthar Kanthayar by right of *urumai* from his sister the late Sinnattai, who died issue-less leaving behind her brother the said Velauthar 30 40

Kanthayer and two other brothers as heirs to her estate, belongs to the said 1st, 2nd and 3rd named persons by right of *muthusom* and the 8th and 9th properties belong to the said persons by right of *muthusom* as per above said transfer deeds Nos. 2,117 and 2,134 and as per *urumai* devolved on the said Kanthayar from the said Sinnattai.....

Exhibits  
 No. 2D 19  
 Deed No. 5,232  
 11-4-1904  
 —Continued.

I the said Ledchumipillai the dowry receiver have accepted this dowry with the consent of my husband the said Arumugam Kandavanam.

10 In witness whereof we set our signatures to this and to two others of the same tenor in the presence of Sinnatamby Subramaniam, Notary, and in the presence of Mailvaganam Vallipuram of Polikandy, Vallipuram Sinnatamby of the same place and Sinnatamby Vallipuram of the same place the subscribing witnesses hereto in the office of the said Notary at Puloly East on the 11th day of April, 1904.

Sgd. K. ARUMUGAM,  
 „ K. VELUPILLAI,  
 „ K. SINNATHAMBY  
 + hand mark of WALLIPILLAI,

Witnesses : Sgd. A. KANDAVANAM,  
 + this is the hand mark of LEDCHUMIPILLAI.

- 20 1. Sgd. M. VALLIPURAM,  
 2. „ V. SINNATAMBY,  
 3. „ S. VALLIPURAM.

Sgd. S. SUPPRAMANIAM,  
*Notary Public.*

30 I, Sinnatamby Subramaniam, Notary Public of Wadamaradchy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Kanyah Arumugam, Kanthanya Velupillai, Kanyah Sinnatamby, Wallipillai, daughter of Kumaraiyah Mailvaganam, Arumugam Kanthavanam and wife Eledchumpillai, in the presence of Mailvaganam Vallipuram of Polikandy, Vallipuram Sinnatamby of the same place, and Sinnatamby Vallipuram of the same place, the subscribing witnesses hereto that I know the said Arumugam Velupillai and Kanthavanam, but the said three witnesses who are known to me declared to have known the said Sinnatamby Wallipillai and Eledchumipillai, that the said Arumugam Velupillai, Sinnatamby Wallipillai, Kantavanam and Eledchumipillai and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Puloly East, on the 11th day of April, 19... , and that before this instrument was read over and explained unto the said dowry grantors.....and the duplicate hereof  
 40 bears stamp to the value of Rs. 2.50 cents supplied by me the Notary.

11th April, 1904. Sgd. SEENA SUBRAMANIAM,  
*Notary Public.*

**Exhibits**

No. 2D 19  
Deed No. 5,232  
11-4-1904  
—Continued

**Endorsements**

That of the land mentioned herein the divided extent of 6 lachams varagu culture and 4½ kulies with the appurtenances of Karavaddi and Saddanykanthoddam Keralavattai and Konavalai have been transferred to Arumugam Nagalingam of Polikandy.

No. 969

17.9.19

Sgd. V. SABARATNAM,  
*Notary Public.*

Lands called Vannanthoddam, Savathai, Kalnungtanyappulam (shares by both the ways) and Kandapillai Thoddam have been mortgaged. 10

No. 1006

23.10.13

Land called Kalnangtanyappulam transferred.

No. 991

8.10.15

Intd. V. S.

Intd. V. S.

No. 2D 22  
Birth  
Certificate  
14-10-1904

**No. 2D 22****Birth Certificate**

2D 22

20

**Certificate of Birth, Ceylon**

In the Parish of Udupiddy, Jaffna District, Northern Province.

- |     |  |    |   |    |
|-----|--|----|---|----|
| 1.  | Date and Place of Birth  | .. | 14th October, 1904, Polikandy                       |    |
| 2.  | Name   | .. | Vadivelu  |    |
| 3.  | Sex  | .. | Male  |    |
| 4.  | Name and Surname of Father   | .. | Arumugam Kandavanam                                 |    |
| 5.  | Name and Maiden Name of Mother and Nationality                             | .. | Eledchumi, daughter of Kandiah                      |    |
| 6.  | Rank or Profession and Nationality of Father                               | .. | Farmer, Tamil                                       | 30 |
| 7.  | Were Parents Married   | .. | Yes   |    |
| 8.  | Name and Residence of Informant, and in what capacity he gives information | .. | Arumugam Kandavanam, Polikandy. Father              |    |
| 9.  | Informant's Signature  | .. | Sgd. A. Kandavanam                                  |    |
| 10. | When Registered  | .. | 26th October, 1904                                  |    |
| 11. | Signature of Registrar   | .. | Sgd. K. Sivakumarasooriar,<br>Registrar of Udupiddy |    |

No. P 15

Deed No. 680

No. 680

Exhibits

No. P 15  
Deed No. 680  
25-12-1907

Know all men by these presents that we Subramaniam Kumaraswamy and wife Parupathipillai of Valvettiturai, in Vadamaradchi West, Jaffna, for and in consideration of the sum of Rs. 17 well and truly paid by Koolaiyar Arumugam of Polikandy do hereby sell, transfer, set over and convey unto the said Arumugam the property described hereinbelow :

*The Property, to wit :*

10 Land belonging to us by *mudusom* of the 2nd named as per transfer deed in favour of the late Velauthar Arumugam, grand-father of the 2nd named No. 121 of book No. 7 dated 4th November, 1823, and attested by Mailaswamy Subramaniam and also by way of *urumai* devolved through the late Theivanai Pillai, Widow of Nagamuttu aunt of the 2nd named.

20 Land situated at Polikandykurichchy, Udupidy Parish, Vadamaradchy Division, Jaffna District, Northern Province, called Mungkudai in extent 4½ latchams varagu culture with palmyrahs and vadalties is bounded on the east by the property of Sinniah Kandavanam and others, north by the property of Eledchumipillai, wife of Sinnappu, west by the property of Kooliar Arumugam and others, and on the south by the property of Koolaiyar Arumugam of the whole hereof one-fourth share.

The said Koolaiyar Arumugam and his heirs shall possess and enjoy the aforesaid land for ever.

We do herewith deliver the aforesaid deed. In witness whereof we the executants do hereunto and to two others of the same tenor and date as these presents set our hands in the presence of the subscribing witnesses Kanthar Saravanamuttu of Alvai West and Ponnar Sinniatamby of Polikandy and in the presence of the under-named Notary at the office of the Notary at Kudathanai on the 25th day of December, 1907.

30

Sgd. S. KUMARASWAMY,  
Mark of PARUPATHIPILLAI.

Witnesses :

Sgd. KANTHAR SARAVANAMUTTU,  
,, P. SINNATHAMBY,

Sgd. G. KANDAVANAM,  
*Notary Public,*

Exhibits

No. P15  
Deed No. 680  
25-12-1907  
—Continued

I, Kanapathippillai Kandavanam, Notary Public, duly enrolled for the Division of Vadamaradchi and Pachchilappali, do hereby certify and attest that the foregoing instrument was read over and explained unto the said Subramaniam Kumarasamy, who signed as "S. Kumaraswamy" and wife Parupathippillai, in the presence of the subscribing witnesses Kanther Saravanamuttu of Alvai West and Paramer Sinnathamby of Polikandy, who signed as "P. Sinnathamby," that I know the said executants and the witnesses, that the said instrument was signed by its executant and the witnesses and by me the Notary in my presence and in the presence of one another all being present at the same time at my office at Kudattanai 10 on the twenty-fifth day of December, 1907, that the said consideration of Rs. 17/- was not paid in my presence.

Sgd. G. KANDAVANAM,

*Notary Public.*

25th December, 1907.

**Endorsement**

Donation 4662

5.9.20

Intd. V. S.

---

**No. 1D 1**

**Deed No. 687**

20

TRANSLATION

**1D 1**

**No. 687**

Know all men by these presents that I, Pasupathy, daughter of Kathirgamar of Polikandy in Vadamaradchy West Division in Jaffna District for and in consideration of the sum of Rs. 30 received from Kooliar Arumugam of the same place do hereby sell, transfer and set over the property described in the schedule below unto the said Arumugam.

*The Description of the said land :*

The land belongs to me by *muthusom* from my father and by possession. 30

Land situated at Polikandykurichchy Erai, in the Parish of Udupiddy in Vadamaradchy West Division, Jaffna District, Northern Province, called Unthavaththai Kommangevitkolvilai on the south in extent 5 lachams varagu culture, is bounded on the east by the property of Parupathy, widow of Vethavanam and others, north by the property of Kooliar

No. 1D 1  
Deed No. 687  
28-12-1907

Arumugam and others, west by the property of Marimuttu, wife of Arumugam and others, south by lane. Of the ground contained within these boundaries an undivided 5 7/8th share together with the palmyrahs and vadalies appertaining to this.

Exhibits  
No. 1D 1  
Deed No. 687  
28-12-1907  
—Continued.

The said Arumugam and his heirs shall possess the said land from this day for ever.

10 In witness whereof I the grantor set my hand to this and to two others of the same tenor in the presence of the subscribing witnesses Kandar Saravanamuttu of Alvai West and Velauthar Sanmugam of Polikandy and in the presence of the undersigned Notary in the office of the Notary at Kudaththanai, on the 28th day of December, One thousand and Nine hundred and Seven.

+ this is the mark of PASUPATHY.

Witnesses :

Sgd. KANDAR SARAVANAMUTTU,  
,, V. SANMUGAM.

Sgd. G. KANDAVANAM,  
*Notary Public.*

20 I, Kanapathippillai Kandavanam, who is enrolled as Notary Public for the divisions of Pachilipaly in Vadamaradchy East, Jaffna District, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said grantor Pasupathy, daughter of Kathirgamar, in the presence of the subscribing witnesses Kandar Saravanamuttu of Alvai West, and Velauthar Sanmugam of Polikandy, who set his signature as V. Sanmugam and that I know the said grantor and witnesses and that they set their hands in my presence and in the presence of one another, all being present at the same time and place at my office at Kudaththanai, on the 28th day of December, One thousand Nine hundred and Seven and that the consideration of Rs. 30/- mentioned in this instrument  
30 bears one stamp to the value of cents twenty-five supplied by me.

Sgd. G. KANDAVANAM (in Tamil)  
,, G. KANDAVANAM (in English)  
*Notary Public.*

28th day of December, 1907.

**No. 1D 2**  
**Deed No. 748**  
**ID 2**  
**No. 748**

No. 1D 2  
Deed No. 748  
15-3-1908

TRANSLATION

40 Know all men by these presents that we . . . . ., widow of Nagar Thambar and Kunchupillai, widow of Velupillai, both of Polikandy

Exhibits  
 No. 1D 2  
 Deed No. 748  
 15-3-1908  
 —Continued

in Vadamradchy West Division, Jaffna District, for and in consideration of the sum of Rs. 190 received from Koolaiyar Arumugam of the same place do hereby sell, transfer and set over the property described in the schedule below unto the said Arumugam.

*Description of the said Property :*

Land belongs to the 1st named of us under and by virtue of dowry deed No. 1,227, dated 10th day of December, 1899, and attested by Sinnatamby Subramaniam, Notary Public in favour of the 1st named of us and under and by virtue of donation deed (copy) No. 81 dated 21st day of December, 1866, and attested by Kathirgamar Sithamparanathapillai, 10  
 Notary Public, in favour of the 2nd named of us and belongs to us by possession.

In the Parish of Udupiddy in the Division of Vadamradchy West, Jaffna District, Northern Province.

Land situated at Polikandy called Kinukinavalai "Thenmetku" thoddam 6, do in extent 5½ lachams varagu culture is bounded on the east and north by the property of Theivanai, widow of Velar and others, west by lane, south by the property at Samarapakuthevankurichy belonging to Kathiripillai Karthigesu and others. Of the ground and well 20  
 contained within these boundaries an undivided one-fourth share and the share of the well appertaining to this in the land called "Kinukinavalai Vadakilakku" which is lying on the north-east of this land and the right of way and water-course.

In witness whereof we the grantors set our hands to this and to two others of the same tenor in the presence of the subscribing witnesses Vairava Erasinghar of Polikandy and Thambar Kandavanam of the same place and Kandar Saravanamuttu of Alvai West and in the presence of the undersigned witnesses at the office of the Notary at Kudaththanai on the 15-3-1908.

Witnesses :	This is the mark of THEIVANAI.	30
	This is the mark of KUNCHI	
Sgd. V. ERASINGHAR,		
,, T. KANDAVANAM,		
,, K. SARAVANAMUTTU.	Sgd. G. CANDAVANAM,	
	<i>Notary Public.</i>	

I, Ganapathippillai Kandavanam, who is enrolled as Notary Public of the divisions of Pachchilipaly in Vadamradchy East, in Jaffna District, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said grantors, Theivanaippillai, widow of Thampar, who set her mark, and Kunchippillai, widow of Veluppillai who 40  
 set her mark in the presence of the subscribing witnesses, Vairava

Erasinghar of Polikandy, who set his signature as V. Erasingar, Thamar Kandavanam of the same place who set his signature as T. Kandavanam and Kandar Saravanamuttu of Alvai West, and that I know the said grantors and witnesses and that the said grantors and witnesses set their hands in my presence and in the presence of one another all being present at the same time and place at my office at Kudaththanai, on the 15th day of March, 1908, and that the grantors acknowledge that they have received the consideration of Rupees One hundred and Ninety and that the duplicate of this instrument bears one stamp of the value of Re. 1/- supplied by me.

10

Sgd. G. KANDAVANAM (in Tamil)  
 ,, G. KANDAVANAM (in English)  
 15th day of March, 1908. *Notary Public.*

**Exhibits**  
 No. 1D2  
 Deed No. 749  
 15-3-1908  
 —Continued.

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**No. 2D 3**

**Birth Certificate of Sanmugam**

TRANSLATION

**2D 3**

*Application No. 3,434*

**No. 842**

Certificate of Birth :

20

In the Parish of Udupiddy, Jaffna District, Northern Province.

30

1. Date and Place of Birth .. 11th April, 1908
2. Names .. Sanmugam
3. Sex .. Male
4. Name and Surname of Father .. Arumugam Kandavanam
5. Name and maiden Name of mother and Nationality .. Kandiah Eladchumy, Tamil
6. Rank or Profession, Nationality of Father .. Farmer, Tamil
7. Were Parents Married .. Yes
8. Name and Residence of Informant, and in what capacity he gives Information .. Arumugam Kandavanam, Father Polikandy
9. Informants Signature .. Sgd. A. Kandavanam
10. When Registered .. 19th May, 1908
11. Signature of Registrar .. Sgd. K. Sivakumarasooriar
12. Name if .. ..

No. 2D 3  
 Birth  
 Certificate of  
 Sanmugam



## No. P5

## Deed No. 799

## TRANSLATION

## No. 799

Know all men by these presents that we Koolaiyar Arumugam and wife Walliammai of Polikandy in Wadamaradchy West, Jaffna, declare as follows :—

Whereas we have executed a donation deed in favour of our son Arumugam Kanthavanam of Polikandy, bearing No. 5,825 dated the 1st day of April, 1896, and attested by Eramalingar Arumugam, Notary, for the undermentioned 9 properties and whereas the said Kanthavanam was then a minor and whereas his uncle Kanthar Sinnatamby of Polikandy had only accepted the said deed for and on his behalf and whereas we are possessing and using the said properties according to the said deed and whereas the said Kanthavanam had without our consent married one, among others who is not of our caste and whereas the wife of the said Kanthavanam and her people are our bitter enemies and ungrateful to us and whereas we think that the said Kanthavanam would during our life time ruin the said properties and whereas the said properties should be donated to the said Kanthavanam himself subject to *fidei commissum* and whereas the said Kanthavanam has full mind and perfect desire to accept such kind of donation.

Now know all men by these presents that for and on account of the aforesaid reasons and for and on account of the reason that the said Kanthavanam would accept the said properties by way of donation subject to the said bindings, we do hereby revoke the donation deed dated the 10th day of April, 1896, and all the right, title and interest therein and make the same null and avoid.

*Properties to be Described in the said Donation Deed.*

In the Parish of Udupidy in Vadamardchy West Division, in the District of Jaffna in Northern Province :

1. Land situated at Polikandy called Mungodai in extent  $12\frac{1}{4}$  latchams varagu culture, Mavattai in extent 4 latchams varagu culture of this  $\frac{5}{6}$ th share, on the west and south-east out of the first parcel and the whole of the 2nd parcel, is bounded on the east by the property of Theivanai, widow of Nagamuttu and others, north by the property of Sunthar Arumugam and others, west by the property of Nagar Thampar and others, and south by Samarapakuthevancurichy and by lane and by the property of Kanapathiar Chinniah and others. The whole of the ground, palmyrah, vadaly and cultivated plantations within these boundaries.

2. Land situated at ditto called Kochchanthai in extent  $4\frac{1}{2}$  latchams varagu culture, ditto veedu  $\frac{1}{4}$ th ditto Kandiah, in extent  $\frac{7}{8}$ th latchams varagu culture and bounded on the east, north and south by lane, and west by the property of Karuppattai, wife of Ramu and others. The whole of the ground and palmyrah trees within these boundaries.

Exhibits  
—  
No. P 5  
Deed No. 799  
6-7-1908  
—Continued.

10 3. Land situated at ditto called Mullaikkaddaiyadi in extent  $\frac{3}{8}$ th latchams varagu culture, ditto in extent 3\* latchams, and bounded on the east by the property of Katpakam, wife of Kadirgamar and others, north and west by lane, and south by the property of Koolaiyar Arumugam. Of the whole of the ground and palmyrah trees within these boundaries  $\frac{15}{16}$ th shares.

4. Land situated at ditto called Periyaseema, in extent  $3\frac{5}{8}$ th latchams varagu culture, is bounded on the east by the property of Sinnatangam, wife of Velupillai, north by the property of Sinnatangam, wife of Velupillai and Koolaiyar Arumugam, west by the property of Ponnachchy wife of Kadirgamar and others, and south by the property of Esupary, widow of Murugesar and others. The whole of the ground, palmyrah and vadalies within these boundaries.

20 5. Land situated at ditto called Korddatharai veedu  $\frac{3}{4}$ th ditto in extent  $4\frac{5}{8}$ th latchams varagu culture, Korddatharai in extent  $15\frac{1}{2}$  latchams varagu culture, Kordaththarai in extent  $5\frac{3}{8}$ th latchams, and bounded on the east and north by lane, west by the property of Velauthar Kanthayar and others, and south by lane. Of the whole of the ground, palmyrah and vadalies within these boundaries an undivided  $\frac{1}{3}$ rd share and the exclusive right to the one hut on the north in the middle.

30 6. Land situated at Samarapakuthevancurichy called Konavalaitthoddam 7, ditto in extent  $24\frac{7}{8}$ th latchams varagu culture, Mettitkaladdy in extent 44 latchams varagu culture. Of this, out of  $\frac{1}{4}$ th share on the south excluding an extent of 2 latchams on the north-west, the remainder is bounded on the east by the property of Kanthar Thamar and others, north by the property of Koolaiyar Arumugam, west by the property of Kathiravelar Mailvaganam and others and by lane and south by lane. Of the whole of those within these boundaries an undivided  $\frac{1}{4}$ th of  $\frac{11}{16}$  share and share of wells.

40 7. Land situated at ditto called Konavalaitthoddam 7, ditto in extent  $24\frac{7}{8}$ th latchams varagu culture, Metkitkaladdy in extent 44 latchams varagu culture. Of this an extent of 10 latchams in the middle, is bounded on the east by the property of Kanthar Thamar and others, north and south by the property of Koolaiyar Arumugam, west by the property of Kathiravelar Mailvaganam and others, of the whole of these within these boundaries  $\frac{1}{4}$ th of  $\frac{1}{3}$ rd share, on the north according to possession.

**Exhibits**

No. P 5  
Deed No. 799  
6-7-1908  
—Continued.

8. Ditto land situated at ditto called Konavalaithoddam 7, ditto in extent 24  $\frac{7}{8}$ th latchams varagu culture, Mettkitkaladdy in extent 44 latchams varagu culture. Of this out of an extent of 19  $\frac{1}{4}$ th latchams on the north excluding the extent of 2  $\frac{3}{4}$ th latchams being the shortage out of the remaining extent of 16 $\frac{1}{2}$  latchams excluding an extent of 8 latchams on the east, the remaining extent of 8 $\frac{1}{2}$  latchams, on the west lying adjacent to it, is bounded on the east by the property of Sinnavar Murugesar and others, north by Polikandiccurichy and by the property of Paramattaipillai, widow of Kanapatipillai and others, west by the property of Kathiravelar Mailvaganam and others, and south by the property of Sinnapillai, daughter of Thamar and others. Of the whole of the ground within these boundaries  $\frac{1}{4}$ th share and share appertaining to this of the well standing herein and of the well standing in the said land called Konavalai lying on the south of this land. 10

9. Lands situated at Polikandycurichchy called Siruththikaththai, in extent 38  $\frac{3}{8}$ th latchams varagu culture. Of this  $\frac{1}{6}$ th share on the north-east, is bounded on the east by the property of Velauthar Sinniah and others, north by the property of Theivanai, widow of Nagamuttuar, west by the property of Velupillai Kanthaiyan and others, and south by the property of Nagar Thampar and others of the whole of the ground, 20 palmyrah tree and vadaly within these boundaries  $\frac{2}{6}$ th share.

Witnesses whereof we set our signatures to this and to two others of the same tenor in the presence of Kanthar Sinnappu of Polikandy, Sinnatamby Vallipuram of the same place and Kanthar Saravanamuttu of Alvai West, and in the presence of the undersigned Notary in the office of the Notary at Kuddattanai, on the 6th day of July, 1908.

Sgd. KOOLAIYAR ARUMUGAM,  
+ this is the hand mark of WALLIAMMAI  
Sgd. K. KANTHAVANAM,  
Notary Public. 30

Witnesses :

Sgd. S. SINNAPPU  
,, S. VALLIPURAM  
,, KANTHAR SARAVANAMUTTU

I, Kanapathippillai Kanthavanam, who is duly enrolled as Notary Public of Pachchilappaly Divisions in Wadamaradchy East in Jaffna District, do hereby certify and attest that I have read over and explained the foregoing instrument to the grantors Koolaiyar Arumugam and wife, Walliammai, who set her mark in the presence of Kanthar Sinnappu of Polikandy, who has signed as Kanthar Sinnappu Sinnatamby Vallipuram of the same place who has signed as Seena Vallipuram and Kanthar Saravanamuttu of Alvai West, the subscribing witnesses hereto that I know the said grantors and witnesses that the said instrument was signed 40

by its grantors, witnesses and by me the Notary all being present at the same time and place in my office at Kudattanai, on the 6th day of July, 1908, that the duplicate hereof bears one stamp of Rs. 10/- and the original one stamp of Re. 1/- that these stamps were supplied by me and that before this instrument was read over and explained as aforesaid the word “*கிழக்கு*” in line 2 of the 3rd land paragraph on page 2 in original was underlined.

Exhibits  
No. P 5  
Deed No. 799  
6-7-1908  
—Continued.

6th day of July, 1908.

Sgd. KANA KANTHAVANAM,  
*Notary Public.*

10

**No. P 6**

**Deed No. 800**

**Translation**

**No. 800**

No. P 6  
Deed No. 800  
6-7-1908

Know all men by these presents that we, Koolaiyar Arumugam and wife Walliammai of Polikandy in Vadamaradchy West for and on account of the natural affection that we bear unto our son Arumugam Kanthavanam of the same place and for other diverse good causes moving us thereunto do hereby give and convey by way of donation unto the said Kanthavanam, the following properties worth Rs. 1,500.

20

*The Properties, to wit :—*

Land belonging to us as per revocation deed No. 799 dated this day and attested by this Notary and by right of purchase as per transfer deed in favour of the 1st named person of us dated the 25th day of October, 1882, and attested by Sidamparanathar Kadirgamatamby, Notary, and by possession.

In the Parish of Udupidy in Wadamaradchy West Division, in the District of Jaffna, in Northern Province.

40

1. Land situated at Polikandy called Mungudai, in extent  $12\frac{1}{4}$  latchams varagu culture, Mavattai in extent 4 latchams varagu culture. Of these parcels  $\frac{5}{6}$ th share on the west and south-east out of the 1st parcel and the whole of the 2nd parcel from a total extent of 14 latchams varagu culture and  $3\frac{3}{4}$  kullies, and bounded on the east by the property of Koolaiyar Arumugam and others, north by the property of Suntharar Arumugam and others, west by the property of Vallipuram Sinnathamby and others, and south by the properties of Koolaiyar Arumugam and by lane. The whole of the ground, palmyrah trees, vadalies cultivated plantations and well within these boundaries.

Exhibits  
 No. P 6  
 Deed No. 800  
 6-7-1908  
 —Continued.

Further land belonging under and by virtue of the said revocation deed and by right of *urumai* unto the 1st named person, as per transfer deed in favour of the late Walliammai *alias* Walliar, daughter of Kollai, the sister of the 1st named person who died issueless and further unto the 1st named person by right of donation as per donation deed in favour of the 1st named person bearing date the 14th day of December, 1877, and attested by Sithamparanathar Kathirgamatamby, Notary, and further by right of *Muthusom* of the 1st named person and by possession.

2. Land situated at ditto called Kochchanthai in extent  $4\frac{1}{2}$  latcham varagu culture, ditto veedu  $\frac{1}{4}$ th, ditto Kudah in extent  $\frac{7}{8}$ th latchams varagu culture. These parcels are bounded on the east, north and south by lane and west by the property of Koolaiyar Arumugam, the 1st named person of us and others. The whole of the ground, palmyrah trees and vadalies within these boundaries. 10

Land belonging to the 1st named person by virtue of the abovesaid revocation deed and by virtue of the abovesaid transfer deed in favour of the abovesaid Walliammai *alias* Walliar and by right of *urumai* and by right of *muthusom* and possession.

3. Land situated at ditto called Mullaikkaddaiyady in extent  $\frac{3}{8}$ th latchams varagu culture, ditto in extent  $3\frac{3}{8}$ th latchams varagu culture. 20 These parcels are bounded on the east by the property of Katpakam, wife of Kaingamar and others, north and west by lane and south by the property of the 1st named person. The whole of the ground, palmyrah trees and vadalies within these boundaries.

Land belonging to the first named person by right of *muthusom* and is in possession as per abovesaid revocation deed.

4. Land situated at ditto called Periasema, in extent  $3\frac{5}{8}$ th latchams varagu culture, is bounded on the east by the property of Ledchumy, daughter of Velupillai and others, north by property belonging to the 1st named person and others, west and south by the property of 30 Chellammah, wife of Chelliah and others. The whole of the ground, palmyrah trees and vadalies within these boundaries.

Land belonging as per abovesaid revocation deed and by right of purchase as per transfer deeds in favour of the first named person dated the 17th January, 1879, and attested by Sidamparanathar Kadirgamatamby, Notary, dated the 18th August, 1879, and attested by Santhirasekarar Velupillai, Notary, dated 24-1-1882, and attested by Murukesur Kathiravetpillai, Notary, dated the 16th November, 1883, and attested by Sidamparanathar Kadirgamatamby, Notary, dated the 25th July, 1889, and attested by Vairavanathar Sinnatamby, Notary and that the 40 first named person by right of *urumai* under and by virtue of donation deed in favour of the late Walliammai *alias* Walliar, daughter of Koolaiyar,

the sister of the 1st named person who died issueless dated the 13th October, 1864, and attested by Kumaru Kathirgamatamby, Notary and by possession.

Exhibits  
No. P 6  
Deed No. 800  
6-7-1908  
—Continued

10 5. Land situated at Samarapakuthevancurichy called Konavalaithoddam 7, ditto in extent 24  $\frac{7}{8}$ th latchams varagu culture, Metkitkaladdy in extent 44 latchams varagu culture. Of these out of  $\frac{1}{4}$ th share on the south, excluding 2 latchams on the north-west, the remaining extent of 17 latchams varagu culture and 10 kullies, is bounded on the east by the property of Kanthar Mappany and others, north by the property of the 1st named person, west by the property of Kadiravelar Mylavaganam and others and by lane, and south by lane of the whole contained within these boundaries an undivided  $\frac{1}{4}$ th of  $\frac{11}{16}$ th share and share appertaining to this of the wells in the entire land and right of way and water-course.

Land in our possession under and by virtue of the abovesaid deed of revocation and by virtue of transfer deed in favour of the 1st named person dated the 3rd October, 1888, and attested by Vairavanatha Sinnathamby, Notary.

20 6. Land situated at ditto called Konavalaithoddam 7, ditto in extent 24  $\frac{7}{8}$ th latchams varagu culture, Metkitkaladdy, in extent 44 latchams varagu culture. Of these out of an extent of 10 latchams in the middle,  $\frac{1}{3}$ rd share on the north according to possession, in extent 3 latchams varagu culture and 6 kullies, is bounded on the east by the property of Kanthar Mappany and others, north by the property of the 1st named person west by the property of Kathiravelar Mailvaganam, and south by the property of Nallatamby Eliatamby and others. Of this an undivided  $\frac{1}{4}$ th share and share appertaining to this of the wells standing in the entire land and right of way and water-course.

30 Land in possession under and by virtue of the abovesaid revocation deed and by virtue of transfer deed in favour of the 1st named person dated the 26th day of October, 1886, and attested by Vairavanathar Sinnatamby, Notary.

40 7. Ditto land situated at ditto called Konavalaithoddam 7, ditto in extent 24  $\frac{7}{8}$ th latchams varagu culture, Metkitkaladdy in extent 44 latchams varagu culture. Of these, out of an extent of 19  $\frac{1}{4}$ th latchams on the north, excluding the shortage of an extent of 2  $\frac{3}{4}$ th latchams out of the remaining extent of 16  $\frac{1}{2}$  latchams excluding an extent of 8 latchams on the east, the remaining extent of 8  $\frac{1}{2}$  latchams on the west lying adjacent to it, is bounded on the east by the property of Chellam, widow of Sinnatamby and others, north by the property belonging to the 1st named person, situated at Polikandy and other properties, west by the property of Kadiravelar Mailvaganam and others, and south by the property of Sinnappillai, daughter of Thamar and others. Of this an undivided  $\frac{1}{4}$ th

Exhibits  
 No. P 6  
 Deed No. 800  
 6-7-1908  
 —Continued.

share and share appertaining to this of the well standing therein and of the well in the entire land and right of way and water-course.

Land belonging by virtue of the abovesaid revocation deed and by right of *wrumai* unto the 1st named person by virtue of donation deed in favour of the abovesaid Walliammai *alias* Walliar and further by right of *wrumai* unto the 2nd named person.

8. Land situated at Polikandycurichchy called Siruththikathai in extent 38  $\frac{3}{8}$ th latchams varagu culture. Of this out of  $\frac{1}{6}$ th share on the north-east excluding  $\frac{1}{3}$ rd share on the south, the remaining  $\frac{2}{3}$ rd share in extent 4 latchams varagu culture, and 4  $\frac{3}{4}$ th kullies, is bounded 10 on the east by the property of Pattiny, daughter of Sinnathamby and others, north by the property of the 1st named person, west by the property of Kanapatiar Chinniah and others, and south by the property of Kanapatiar Chinniah. Of the whole of the ground, palmyrah trees and vadalies within these boundaries half share.

Land in possession by virtue of the abovesaid revocation deed and further by right of my *muthusom* and by virtue of decree in partition case No. 1,940 of the District Court of Jaffna.

9. Land situated at ditto called Korddaitharai 6 parcels form a total extent of 36 latchams varagu culture, and 7  $\frac{1}{2}$  kullies. Of this  $\frac{1}{3}$ rd 20 share on the north-east in extent 12 latchams varagu culture and 2  $\frac{1}{2}$  kullies, is bounded on the east and north by lane, west by the property of Sivakkolunthu, wife of Vallipuram, and south by the property of the 1st named person and others. Of these within these boundaries excluding the two of the hut and house, the whole of the remainder.

Land in our possession as per transfer deed executed by us in favour of the said Kanthavanam the donee, when he was a minor bearing No. 8,281 dated 22nd July, 1896, and attested by Vairavanathar Sinnathamby Notary.

10. Land situated at Samarapakuthevancurichchy called Mavattai 30 in extent 38 latchams varagu culture of this  $\frac{5}{6}$ th share on the east in extent 31 latchams varagu culture and 12 kullies ; is bounded on the east by water channel, north by the property of the 1st named person, west by the property of Velauthar Sinnapillai, and south by lane, of the whole of the ground within these boundaries and of the well on the north-east  $\frac{1}{5}$ th share and  $\frac{1}{6}$ th share of the well on the south-west.

We declare that the donee should not, on any cause whatever, dispose or encumber the abovesaid properties by way of document or documents such as donation, transfer, mortgage, *otty*, etc., that the said Kanthavanam should not hypothecate the said properties as security to appear either as 40 defendant, plaintiff or intervenient in any Court or Courts of law or hypothecate the same for fines in Courts or sell the same for costs or encumber

10 the same in any other way, that the said Kanthavanam may possess and enjoy half the produce of the first land from this day forth and the produce of the other half and of the other properties after the life time of us both during his life time without causing any damage to the said properties if we both are to survive at the time of the death of the said Kanthavanam or either of us happens to survive then the said properties should devolve on us or on the survivor and if we both happen to die then the same should devolve on Arumugam Nagalingam, Arumugam Thanabalasingham and Arumugam Poopalasingham of Polikandy, the brothers of the said Kanthavanam, in equal shares that whatever properties, that would be belonging to us at the time of the death of us both would not devolve on him and that we the donors, during our life time, will have right and power to partition the said land to lease out one half share of the first land and the other lands to revoke this, donation and make the same null and void and to alienate and encumber the said properties.

Exhibits  
No. P 6  
Deed No. 800  
6-7-1908  
—Continued.

I the said Kanthavanam the donee hereof do peaceably accept this donation subject to the abovesaid bindings.

20 In witness whereof we the said grantors receive and set our signatures to this and to two others of the same tenor in the presence of Kanthar Sinnappu of Polikandy Sinnatamby Vallipuram of the same place and Kanthar Vallipuram of Alvai West, the subscribing witnesses hereto and in the presence of the undersigned Notary in the office of the Notary at Kudattanai on the 6th July, 1908.

Witnesses : Sgd. (Illegibly)

Sgd. K. SINNAPPU + This is the hand mark of WALLIAMMAI  
,, S. VALLIPURAM Sgd. A. KANDAVANAM  
,, K. VALLIPURAM

Sgd. G. KANDAVANAM,  
*Notary Public.*

30 I, Kanapathipillai Kanthavanam, who is duly enrolled as Notary Public of Pachchilappaly Divisions in Wadamaradchy East, in the District of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to its executants Koolaiyar Arumugam and wife, Walliammai, who set her mark and receiver Arumugam Kanthavanam, who has signed as Avana Kanthavanam, in the presence of Kanthar Sinnappu of Polikandy, who has signed as Kana Sinnappu Sinnathamby Vallipuram of the same place who has signed as S. Vallipuram and Kanthar Vallipuram of Alvai West, who has signed as Kana Vallipuram, the subscribing witnesses hereto, that I know the grantors, receiver and  
40 witnesses that the said instrument was signed by the grantors, receiver



Exhibits  
 No. P 6  
 Deed No. 800  
 6-7-1908  
 —Continued.

and witnesses and by the Notary, all being present at the same time and place in my office at Kudattanai, on the 6th day of July, 1908, that the duplicate hereof bears 5 stamps, viz., 1 stamp of Rs. 5/- ; 1 stamp of Re. 1/- ; and 3 stamps of -/50 cents, to the value of Rs. 7/50 cents that these stamps were supplied by me and that before this instrument was read over and explained as aforesaid the word “*ஒழுங்காகும்*” in line 7 of the 5th land paragraph in page 3 in original was underlined.

6th July, 1908.

Sgd. KANA KANTHAVANAM,  
*Notary Public.*

**No. 2D 32**

10

**Deed No. 799**

Prior Registration, Jaffna

A. 3/348 2nd land

A. 3/347 6th land

A. 3/346 9th land

**2D 32**

TRANSLATION

**No. 799**

Know all men by these presents that Koolaiyar Arumugam and wife Walliammai of Polikandy in Vadammaradchy West, Jaffna declare as follows :—

Whereas on the 1st day of April, 1896, we have executed a deed of 20 donation in favour of our son Arumugam Kandavanam of Polikandy bearing No. 5,825 and attested by Ramalingam Arumugam, Notary for the undermentioned nine properties and as the said Kandavanam was a minor at that time his uncle Kanthar Sinnathamby of Polikandy had accepted the deed nominally for and on behalf of the said Kandavanam and whereas as stated and in terms of the said deed we are possessing and using the said properties and as the said Kandavanam had married without our consent one outside our family and not connected to us and whereas the said Kandavanam's wife and her progeny are our bitter enemies and ungrateful to us and as we consider that the said Kandavanam will sell or 30 otherwise dispose of the properties during our life time and whereas the said properties should be donated to the said Kandavanam subject to *fidei commissum* and whereas the said Kandavanam is entirely desirous and willing to accept the donation subject to these conditions.

Now know all men by these presents that for and on account of the aforesaid reasons and for and on account of the reason that the said Kandavanam would accept the said properties by way of donation subject to the said conditions we do hereby revoke the donation deed dated the 10th day of April, 1896, and all the rights, title and interest therein and make the same null and void.

40

*Properties to be Described in the said Donation Deed*

Exhibits

No. 2D 32  
Deed No. 799  
6-7-1908  
—Continued.

In the Parish of Udupiddy in Vadamardchy West division in the District of Jaffna, in Northern Province.

- 10 1. Land situated at Polikandy called Munkodai, in extent 12 1/4th latchams varagu culture ; Mavattai in extent 4 latchams varagu culture. Of this 5/6th share on the west and south-east out of the first parcel and the whole of the 2nd parcel is bounded on the east by the property of Theivanai, widow of Nagamuttu and others, north by the property of Sunthar Arumugam and others, west by the property of Nagar Thampar and others, and south by Samarapakuthevankurichy and by lane and by the property of Kanapathiar Chinniah and others. The whole of the ground, palmyrahs, vadaly and cultivated plantations within these boundaries.
2. Land situated at ditto called Kochchantai in extent 4 1/2 latchams varagu culture, ditto Veedu 1/4, ditto Kudah in extent 7/8th latchams varagu culture ; and bounded on the east, north and south by lane and west by the property of Karupattai, wife of Ramu and others. The whole of the ground and palmyrah trees within these boundaries.
- 20 3. Land situated at ditto called Mullaikkaddaiyadi, in extent 3/8th latchams varagu culture, ditto in extent 3 3/8 latchams ; and bounded on the east by the property of Katpakam, wife of Kadirgamar and others, north and west by lane and south by the property of Kooliar Arumugam. Of the whole of the ground and palmyrah trees within these boundaries 15/16th share.
- 30 4. Land situated at ditto called Periyaseema in extent 3 5/8th latchams varagu culture ; is bounded on the east by the property of Sinnatankam, wife of Velupillai, north by the property of Sinnatankam, wife of Velupillai and Koolaiyar Arumugam, west by the property of Ponnachchy, wife of Kadirgamar and others and south by the property of Esupary, widow of Murugesar and others. The whole of the ground, palmyrah and vadalies within these boundaries.
5. Land situated at ditto called Koddaththarai veedu 3/4th, ditto in extent 4 5/8th latchams varagu culture, Koddatharai in extent 15 1/2 latchams varagu culture, Koddatharai in extent 5 3/8th latchams ; and bounded on the east and north by lane, west by the property of Velauthar Kantayar and others and south by lane. Of the whole of the ground palmyrahs and vadalies within these boundaries an undivided 1/3rd share and the exclusive right to the one hut on the north in the middle.
- 40 6. Lands situated at Samarapakuthevankurichy called Konavalai-thoddam, 7 ditto in extent 24 7/8th latchams varagu culture, Metkitkaladdy in extent 44 latchams varagu culture. Of this out of 1/4th share

Exhibits  
 No. 2 D 32  
 Deed No. 799  
 6-7-1908  
 —Continued.

on the south excluding an extent of 2 latchams on the north-west, the remainder is bounded on the east by the property of Kanthar Thamar and others, north by the property of Koolaiyar Arumugam, west by the property of Kathiravelar Mailvaganam and others and by lane and south by lane. Of the whole of those within these boundaries an undivided 1/4th of 11/16th share and share of wells.

7. Land situated at ditto called Konavalaithoddam 7 ditto in extent 24 7/8th latchams varagu culture, Metkitkaladdy in extent 44 latchams varagu culture. Of this an extent of 10 latchams on the middle is bounded on the east by the property of Kanthar Thamar and others, north and south by the property of Koolaiyar Arumugam, west by the property of Kathiravelar Mailvaganam and others. Of the whole of these within these boundaries 1/4th of 1/3rd share on the north according to possession. 10

8. Ditto land situated at ditto called Konavalaithoddam 7, ditto in extent 24, 7/8th latchams varagu culture, Metkitkaladdy, in extent 44 latchams varagu culture. Of this out of an extent of 19 1/4th latchams on the north excluding the extent of 2 3/4th latchams being the shortage out of the remaining extent of 16 1/2 latchams excluding an extent of 8 latchams on the east, the remaining extent 8 1/2 latchams, on the west lying adjacent to it is bounded on the east by the property of Sinnavar Murugesar and others, north by Polikandikurichchy and by the property of Paramattaipillai, widow of Kanapathipillai and others, west by the property of Kathiravelar Mailvaganam and others, and south by the property of Sinnapillai, daughter of Thamar and others. Of the whole of the ground within these boundaries 1/4th share and share appertaining to this of the well standing herein and of the well standing in the said land called, Konavalai lying on the south of this land. 20

9. Land situated at Polikandykurichchy called Siruththikati in extent 38 3/8th latchams varagu culture. Of this 1/6th share on the north-west ; is bounded on the east by the property of Velauthar Sinniah and others, north by the property of Theivanai, widow of Nagamuttu, west by the property of Velupillai Kanthaiyan and others, and south by the property of Nagar Thambar and others. Of the whole of the ground palmyrah trees and vadaly within these boundaries 2/6th share. 30

In witness whereof we set our signature to this and to two others of the same tenor in the presence of Kanthar Sinnappu of Polikandy, Sinnatamby Vallipuram of the same place and Kanthar Saravanamuttu of Alvai West and in the presence of the undersigned Notary in the office of the Notary at Kudattanai on the sixth day of July, 1908. 40

Sgd. KOOLAIYAR ARUMUGAM

+ hand mark of WALLIAMMAI

Witnesses :

Sgd. K. SINNAPPU  
 ,, S. VALLIPURAM  
 ,, KANTHAR SARAVANAMUTTU

Exhibits  
 No. 2D 32  
 Deed No. 799  
 6-7-1908  
 —Continued.

Sgd. G. KANDAVANAM,  
*Notary Public*

10 I, Kanapathippillai Kanthavanam, who is duly enrolled as Notary Public of Pachchilappaly Divisions in Wadamaradchy East, in Jaffna District, do hereby certify and attest that I have read over and explained the foregoing instrument to its grantor Koolaiyar Arumugam and wife, Walliammai, who set her mark in the presence of Kanthar Sinnappu of Polikandy, who has signed as Kandar Sinnappu, Sinnathamby Vallipuram of the same place who has signed as Sinna Vallipuram and Kanthar Saravanamuttu of Alvai West the subscribing witnesses hereto that I know the said grantors and witnesses that the said instrument was signed by its grantors witnesses and by me the Notary all being present at the same time and place in my office at Kudattanai, on the 6th day of July, 1908, that the duplicate hereof bears one stamp of Rs. 10/- and the original one stamp of Re. 1/- that these stamps were supplied by me and that before this instrument was read over and explained as aforesaid the word “கிழக்கு” in line 2 of the 3rd line paragraph in page 2 in original was interlined.

20 Sgd. KANA KANTHAVANAM  
 ,, G. KANDAVANAM  
*Notary Public.*  
 6th day of July, 1908.

**No. 1D 3**

**Deed No. 904**

**No. 904**

TRANSLATION

No. 1D 3  
 Deed No. 904  
 6-12-1908

30 Know all men by these presents that we Kaliar Vallipuram and Velauthar Sinthamparapillai, both of Polikandy in the Division of Vadammaradchy West in Jaffna District for and in consideration of the sum of Rs. 200 received from Kooliar Arumugam of the same place, do hereby sell, transfer and set over the property described in the schedule below unto the said Arumugam.

*Description of the Property.*

The land belongs to the 1st named of us by *muthusom* and under and by virtue of donation deed No. 2,549 dated 10th day of February, 1890, and attested by Sithamparanathar Kathirgamatamby in favour of the

Exhibits  
 No. 1D 3  
 Deed No. 904  
 6-12-1908  
 —Continued.

2nd named of us and by deed No. 2,550 and under and by virtue of transfer deed No. 280 dated 22nd day of August, 1878, and attested by Santhirasegarar Velupillai in favour of the late Suppar Velauthar the father of the 2nd named of us and as the donation of the 2nd named of us and by possession.

In the Parish of Udupidy in Vadamradchy West Division, Jaffna District, Northern Province.

Land situated at Karanavai Navindilkurichchy called Vaduvakkaddai in extent 26 latchams varagu culture ; is bounded on the east by the property of Kandar Sinniah and others, north by the property of Velupillai 10  
 Vaithilingam and others, west and south by the property of Kooliar Arumugam and others. Of those contained within these boundaries 1 latcham and  $2\frac{1}{4}$  kullies and the share of the well appertaining to this.

We declare that the said Arumugam and his heirs shall have the right to possess the said land from today forever and if there is any dispute over the said land, we shall warrant and defend the same.

We deliver the exact copy of the said transfer deed and the deed of conveyance together with this.

In witness whereof we the grantors set our signatures to this and to two others of the same tenor in the presence of the subscribing witnesses 20  
 Kandar Saravanaimuttu of Alvai West and Velauthar Nagappiar of Kudaththanai and in the presence of the undersigned Notary at the office of the Notary at Kudaththanai on the 6th day of December, 1908.

Sgd. K. VALLIPURAM  
 „ V. SITHAMPARAPILLAI

Witnesses :

Sgd. KANDAR SARAVANAMUTTU  
 Sgd. V. NAGAPPAR

Sgd. G. KANDAVANAM,  
*Notary Public* 30

I, Kanapathippillai Kandavanam, who is enrolled as Notary Public for the Division of Pachchialapaly in Vadamradchy East, in Jaffna District, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said grantors, Kaliar Vallipuram, who set his signature as K. Vallipuram and Velauthar Sithamparappillai, who signed as V. Sithamparappillai, in the presence of the subscribing witnesses Kandar Saravanamuttu of Alvai West and Velauthar Nagappiar of Kudaththanai, who set his signature as V. Nagappiar and that I know the grantors and the witnesses and that they set their signatures in my presence and in the presence of one another, all being present at the same 40

time and place at my office at Kudaththanai, on the 6th day of December, 1908, and that the consideration of Rs. 200/- mentioned in this instrument was paid in my presence and that the duplicate of this instrument bears two fifty-cents stamps to the value of Re. 1/- supplied by me.

Exhibits  
No. 1D 3  
Deed No. 904  
6-12-1908  
—Continued.

Sgd. G. KANDAVANAM (in Tamil)  
6th day of December, 1908. ,, G. KANDAVANAM,  
Notary Public.

No. 2D 23

Deed No. 14,013

2D 23

No. 2D 23  
Deed No. 14013  
23-12-1909

10

TRANSLATION

On the 23rd of December, 1909, to Vettivelu Thambu of Valvetty presently of Kuala Lumpur; we Arumugam Kantavanam and wife Eledchumipillai and Wallipillai, daughter of Kumanayar Mailvaganam of Polikandy, execute and grant mortgage bond, to wit :

20

The amount that was paid by his uncle Vaitialingam Kantayah of Valvetty as money belonging to him and borrowed and received by us is Rs. 180. This sum of Rs. 180 with interest thereon at the rate of 12 percent. per annum we do hereby promise to repay jointly and severally unto him on demand renouncing *beneficium non numerata pecuniar*, mortgage for which is :

Lands in our possession and belonging to the 2nd named person of us by right of dowry as per dowry deed in favour of the 2nd named person of us bearing No. 5,232 dated 11th April, 1904, and attested by Sinnatamby Subramaniam, Notary, and with the 3rd named person by right of life interest.

In the Parish of Point Pedro in Wadamaradchy West Division in the District of Jaffna, in Northern Province.

30

1. Land situated at Polikandycurichy called Vannanthoddamveddu 1, ditto in extent 11 latchams varagu culture; is bounded on the east by the property of Arumugam Nagalingam and others, north and west by lane, and south by the property of Walliammai, wife of Kanthavanam and others. Of the whole of the ground palmyrah trees, vadalties and mango trees within these boundaries an undivided 3/12th share and the exclusive right to the coconut trees and hut houses.

Exhibits  
 No. 2D 23  
 Deed No. 14013  
 23-12-1909  
 —Continued.

2. Land situated at ditto called Kavavodai in extent  $30 \frac{3}{8}$ th lachams varagu culture, ditto in extent  $17 \frac{3}{8}$ th lachams varagu culture. Of this excluding an extent of  $17 \frac{1}{2}$  lachams on the south-west, the remainder is in extent  $30 \frac{1}{2}$  lachams varagu culture ; and bounded on the east by the property of Kanapathiar Sinniah and others, north by the property of Kanapathiar Sinnatamby and others, west by the property of Koolaiyar Arumugam and others, and south by street and by the property of Thamper Antony and others. Of the whole of the ground, palmyrah trees and vadalies within these boundaries an undivided  $\frac{3}{12}$ th share.

Land belonging to the 2nd named person by right of dowry as per 10 abovesaid dowry deed and unto the 1st and 2nd named persons by possession.

3. Land situated at Samarapakuthevancurichy called Konda-valaithoddam 7, ditto in extent  $24 \frac{7}{8}$ th lachams varagu culture, Metkukuladdy in extent 44 lachams varagu culture. Of this excluding an extent of 2 lachams varagu culture, on the west out of the remainder,  $\frac{1}{4}$ th share on the south in extent 19 lachams varagu culture and  $\frac{15}{16}$ th kullies ; is bounded on the east by property of Kanthar Kumaru and others, north by the property of Koolaiyar Arumugam, west by lane, and south by street ; of the whole of the ground within the boundaries an undivided  $\frac{1}{24}$ th share and share appertaining to this of the well in the entire land, on the north of this land and right of way and water-course. 20

We execute and grant this deed consenting that in default of paying the said debt the same may be recovered from the hypothecated properties and from other properties belonging to us.

Witnesses whereof are Kadiripillai Kartigesar of Valvetty and Kantya Vallipuram of Samarapakuthevancurichy and Kantya Velupillai of Polikandy. These as witnesses this deed was executed in the presence of Vairavanatar Sinnatamby, Notary in this office at Udupidy.

Grantors :

30

Sgd. ARUMUGAM KANTAVANAM  
 Hand mark of ELEDCHUMIPILLAI  
 Hand mark of WALLIPILLAI

Witnesses :

Sgd. Illegibly  
 ,, K. VALLIPURAM  
 ,, K. VELUPILLAI

Sgd. V. SINNATAMBY,  
*Notary.*

We, Kadrupillai Kartyesar of Valvetty, Kantya Vallipuram of Samarapagutevankurutchy, and Kantya Velupillai of Polikandy, who have signed above as witnesses do hereby declare that we know perfectly well the said grantors and their real names residence and occupation.

Exhibits  
No. 2D 23  
Deed No. 14,013  
23-12-1909  
—Continued.

(Illegibly)

Sgd. KANA VALLIPURAM  
,, KANA VELUPILLAI

10 I, Vairavanatger Sinnatamby, Notary Public of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Arumugam Kantavanam Eladchumpillai, wife of Kantavanam, who set her mark and Wallipillai, daughter of Kumarasamy Mailvaganam in the presence of Katherepillai Kartyesar of Valvetty, who has signed as Karther Kartigesar Kantya Vallipuram of Samarapagutevankurutchy, who has signed as K. Vallipuram and Kantya Velupillai of Polikandy, who has signed as Kana Velupillai, the subscribing witnesses hereto the grantors are not known to me but the witnesses Kanther Pillai Kartigesar, Kantya Vallipuram and Kantya Velupillai, who are known to me declared to have know them perfectly well, that the said Arumugam Kantavanam and wife Eladchumpillai, Wallipillai, daughter of Kumayaner Mailvaganam and witnesses set their signatures and marks in my presence and in the presence of one another all being present at the same time in my office at Udupidy, on the 23rd December, 1909, that the consideration of Rs. 180/- shown herein was paid in my presence and that before the instrument was read over and explained the letter “**௫**” in line 3 of paragraph 3 in page 1 in original was struck off and that the duplicate hereof bears two stamps of the value of cents fifty supplied by me the Notary.

20

23rd December, 1909.

Sgd. V. SINNATAMBY,  
*Notary Public.*

30

**No. P 19**  
**Deed No. 2,537**  
WORTH RS. 900  
**Transfer No. 2,537**

No. P 19  
Deed No. 2,537  
22-8-1910

Know all men by these presents that I Kanapathipillai Sinniah of Polikandy for and in consideration of the sum of Rs. 900, do hereby sell transfer set over and convey unto Kandiah Ramalingam of Karanavai Itakamam, the property described hereinbelow.

*Properties :*

40

In the Parish of Udupidy Vadamaradchi Division, Jaffna District,  
Northern Province.....  
.....



Exhibits  
 No. P 19  
 Deed No. 2,537  
 22-8-1910  
 —Continued.

5. Land at ditto (Polikandykurichchy) called Siruththikathai, in extent 38 3/8th latchams varagu culture, of this a three-ninth share towards the north-west is in extent 12 latchams varagu culture and 14 1/4th kullies ; and bounded on the east by the property of Kanapathipillai Sinniah and others, north and south by the property of Koolaiyar Arumugam, and on the west by water channel. Of the whole of the ground, coconut trees, mango trees, palmyrahs, vadalies and tamarind trees contained within these boundaries an undivided one-half share.

..... 10

I do hereby declare that the said lands belong to me the 1st, 2nd, 3rd, 4th and 5th lands by way of donation under donation deed No. 2,908 dated 3rd October, 1893, and attested by Sithamparanathar Kathirgamathamby, Notary Public, the 6th and 7th lands under transfer deed No. 2073 dated 12th June, 1886, attested by Sithamparanathar Kathirgamathamby, the 8th land under transfer deed No. 10,936 dated 24th November, 1903, attested by Vairavanathar Sinnathamby, the 9th land under transfer deed No. 10,851 dated 13th October, 1903, attested by Vairavanathar Sinnathamby and that having set off a sum of Rs. 390.75 being the principal and interest due to him in respect of mortgage bond No. 4,521 20 dated 5th June, 1903, and attested by Sinnatamby Subramaniam, Notary, granted by me in his favour against the said consideration received the balance sum of Rs. 509.25.

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand in the presence of the Notary Ramalingam Damoderampillai and the subscribing witnesses Kanapathipillai Mylvaganam of Udupidy Imayanankurichy, Sinnatamby Vallipuram of Polikandy and Murugesu Ponnai of Karavanai North at the office of the Notary at Karavanai, on the Twenty second day of August, 1910.

Sgd. K. CHINNIAH 30  
 Sgd. R. DAMODERAMPILLAI,  
 Notary

Witnesses :  
 Sgd. K. MAILVAGANAM  
 „ S. VALLIPURAM  
 „ M. PONNAN

I, Ramalingam Damoderampillai, Notary Public of Vadamaradchi West, Jaffna, do hereby certify and attest that the foregoing instrument was read over and explained unto the said Kanapathippillai Sinniah who signed illegibly in the presence of the subscribing witnesses Kanapathi- 40 pillai Mailvaganam of Udupidy Imayanakurichy, Sinnathamby Vallipuram of Polikandy and Murugan Ponnai of Karavanai North, that

I know the said executant and the witnesses that the said Kanapathipillai Sinniah and the witnesses in my presence and in the presence of one another all being present at the same time set their hands at my office at Karanavai, on the 22nd day of August, 1910, that of the said consideration of Rs. 900/- not even a portion was paid in my presence.

\* \* \* \* \*

The 22nd day of August, 1910. Sgd. R. DHAMODARAMPILLAI,  
Notary Public.

Exhibits  
No. P 19  
Deed No. 2,537  
22-8-1910  
—Continued.

### Endorsements

- 10 1. 8th land transferred No. 2592  
25.9.1910 Notary R. D.  
2. 6th and 7th lands transferred No. 2666  
13.11.10 Notary R. D.  
3. 9th land transferred No. 4398  
9.11.1914 Notary R. D.

No. 2D 28

Deed No. 46

Consideration : Rs. 2,000—No. 46

No. 2D 28  
Deed No. 46  
7-8-1911

20

Know all men by these presents that we Koolaiyar Arumugam and wife Walliammai of Polikandy in Vadamaradchy West, Jaffna, declare as follows :—

30 Whereas we had the temple of Sri Vairavaswamy incarnated in the land called Valangaiyan, situated at Polikandy and other buildings such as Vasanthamandapam Kalanchiam, Vaganasalai Madappaly and well built and acquired some images Thampoolavikkirakam and Athiyanavakirakam and Sodasaupasaram and lamps and others utensils necessary for poojahs and a vaganam of the statue of a dog, flag, umbrella and alavaddam and had the Kumpabishekam ceremony performed and whereas we conduct festivals for ten days annually and whereas we require a trustee on Niyayasatarikari to look after the said temple and all the properties immovable and movable belonging to the temple at present and which would hereafter become belonging to the said temple.

40 Now know ye by these presents that for and on account of the aforesaid reasons and for other diverse causes moving us thereunto, we do hereby appoint our son Arumugam Nagalingam himself, as Trustee or Niyayasakarikari to look after and manage, the said temple and all the properties immovable and movable belonging to the said temple and all the affairs of the said temple after the life time of both of us.

Exhibits  
 No. 2D 28  
 Deed No. 46  
 7-8-1911  
 —Continued.

That to look after and manage the same as aforesaid, after the life-time of the said Arumugam Nagalingam, we do hereby appoint Arumugam Thanabalasingham as Trustee or Niyayasakarikari to succeed him and after whose life-time his brother Arumugam Poopalasingham and after whose life-time his brother Arumugam Kanthavanam as Trustee or Niyayasakarikari to look after and manage the same successively.

We give power to each of the trustees to get a trustee on Niyaya-satharikari appointed jointly with or one substituted in the place whenever each of the said trustee or Niyayasatarikari finds necessary to do so during the life-time of each of them. 10

That after the life-time of the said four trustees the eldest male child of such trustee according to the order above said and if there be no male descendant for such trustee then the first eldest male child of the issues of our daughter Sivakolunthu, widow of Vallipuram and thereafter the male children, elderly by turns, of our daughters Pakkiam, wife of Kadirgamar shall have to look after and manage the said temple and all the properties immovable and movable belonging to the said temple and all the affairs of the said temple.

We give power to each of the said trustees or Niyayasakarikari to discontinue the present priest of the said temple if he is found to do, 20 anything against the religious rites or fault in officiating and to get another one appointed.

We do hereby declare that each of the said trustees or Niyayasakarikari will after the life time of both of us have full right and power to look after and manage the said temple and all the properties immovable and movable belonging to the said temple and all the affairs of the said temple as we had the same looked after and managed and will have right to get the property or properties belonging to the said temple or any portion of the same partitioned or exchanged or leased for the benefit of the said temple and to get document or documents executed therefor and if there 30 happens to be any dispute respecting the property or properties of the said temple to appear in any Courts or Courts of Justice either as plaintiff or defendant or intervenient and conduct cases to give proxy to Proctor and to revoke the same if found necessary and give proxy to another Proctor to obtain judgment and to pay costs if payable and obtain receipt therefor and to recover any costs that would become due and to grant receipt therefor to appeal to the Supreme Court if found necessary to give security to obtain judgment, to do every matters concerned with the said judgment to purchase property or properties for and on behalf of the said temple, out of the money of the said temple and to get document 40 or documents executed for such property or properties.

We do hereby set over and convey unto the said Arumugam Nagalingam, the undermentioned properties worth Rs. 2,000 and all the right,

title and interest belonging to us therein for and on behalf of the abovesaid temple and that we do hereby declare that either the said Arumugam Nagalingam or any who would be as trustee according to the abovesaid order, should not encounter or alienate the said properties or any portion thereof in breach of the abovesaid conditions and contrary to the said temple.

Exhibits  
 No. 2D 23  
 Deed No. 46  
 7-8-1911  
 —Continued.

*Properties :*

In the Parish or Udupidy in Vadamaradchy West Division in the District of Jaffna, in Northern Province.

10           1. Land situated at Polikandy called Sinnahvalaithoddam 2, ditto in extent 21 7/8th latchams varagu culture. Of these an extent of 4 3/4th latchams according to possession is bounded on the east by the property of Wallipillai, wife of Arumugam and others, north by the property of Kanthar Kumaravelar and others, west by the undermentioned second land, and south by the property of Kadiritamby Thampiah and others. The whole of the ground, palmyrah trees, vadalies, coconut trees and well within these boundaries.

20           2. That of the abovesaid first land called Sinnahvalaithoddam 2 ditto in extent 21 7/8th latchams varagu culture, an extent of 3/4th latchams, on the north-west according to possession is bounded on the east by the abovesaid first land, north by the property of Kanther Kumaravelar and others, west by the property of Koolaiyar Arumugam, and south by the property of Murugar Velupillai and others. The whole of the ground and coconut trees within these boundaries and share appertaining to this of the well standing herein.

30           3. Land situated at Karanavai Navinditkurichy called Vaduvattai-addai, in extent 15 latchams varagu culture, Vaduvatikaddaithoddam 2 ditto in extent 27 3/4th latchams varagu culture. Of these the 2nd and 3rd parcels are in extent 30 latchams varagu culture and 7 1/2 kullies. Of this 1/4th share according to possession in extent 7 latchams varagu culture and 10 7/8th kullies ; is bounded on the east by the property of Kanapathipillai Kanthavanam and others, north by the property of Vettivelu Sinniah, west by lane and south by the property of Kadiritambi Sinnatamby and others. The whole of this and share appertaining to this of the well standing on the north-east outside these boundaries and within the abovesaid 2nd and 3rd parcels and right of way and water-course and 1/6th share of the well standing within the 1st parcel and right of way and water-course.

40           4. Land situated at Polikany called Sinnahvalai, in extent 21 7/8th latchams varagu culture. Thoddam 2 of these an extent of 6 latchams varagu culture and 2 1/4th kullies on the south, out of the northern half share is bounded on the east by the property of Walliar, widow of Vallipuram and others, north by the property of Kadiritamby Thambiah and

Exhibits  
 —  
 No. 2D 28  
 Deed No. 46  
 7-8-1911  
 —Continued.

others, west by the property of Murugar Arumugam and others, and south by the property of Velupillai Sinnatamby. The whole of the ground, palmyrah trees, vadalies, coconut trees, well and hut within these boundaries.

5. Land situated at ditto called Valangaiyan in extent 8 3/8th latchams varagu culture, thoddam 2 of these, excluding an extent of 3 latchams varagu culture, excluded on the south by the first named person of us, for the common use, the remaining extent on the north is 8 latchams varagu culture and 3/4th kully ; and bounded on the east by street, north by the property of Velupillai Ponniah and others, west by water channel and south by the extent of 3 latchams of ground excluded as abovesaid and which is in the possession of the 1st named person. Of the whole of the ground, palmyrah trees and coconut trees within these boundaries an undivided half share. 10

6. Land situated at ditto called Alady, in extent 29 latchams varagu culture. Of this 1/4th share on the north-west in extent 7 1/4th latchams varagu culture ; is bounded on the east and south by the property of Velauthar Varitamby and others, and on the north and west by lane. The whole of the ground, palmyrah trees and vadalies within these boundaries. 20

We do hereby declare that of the said properties the 1st and 2nd properties belong by right of purchase as per transfer deed No. 2,608 dated 9th October, 1911 and attested by Ramalingam Thamothearampillai, Notary, the 3rd property by virtue of transfer deed No. 2,491 dated 10th October, 1889 and attested by Sidamparanatar Kadingamatamby, Notary, and the 4th property by virtue of transfer deed No. 10,667 dated 15th July, 1903 and attested by Vairavanathar Sinnatamby, Notary in favour of the first named person of us and further the 4th property by right of purchase as per Fiscal's conveyance in favour of the 1st named person bearing No. 843 dated 8th June, 1887 and executed in the Fiscal's office, Jaffna, the 5th property by virtue of transfer deed in favour of the 1st named person of us bearing No. 11,778 dated 11th September, 1901 and attested by Murugappar Supramaniam, Notary and further by right of *muthusom* from my father and the 6th property by right of purchase as per transfer deed in favour of the 1st named person of us bearing No. 7,308 dated 26th June, 1896 and attested by Vairavanathar Sinnatamby, Notary and by virtue of decree in favour of the 1st named person in case No. 6,262 of the Court of Requests of Point Pedro and are in our possession. 20

I the said Arumugam Nagalingam do accept this deed subject to all the conditions abovesaid. 30

In witness whereof we set our signatures to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary,

and in the presence of Velauthar Sidamparapillai of Polikandy, Sinnatamby Vallipuram of the same place and Vallipuram Sinnatamby of the same place the subscribing witnesses hereto in the office of the said Notary at Valvettiturai on the 7th day of August, 1911.

Exhibits  
 No. 2D 28  
 Deed No. 46  
 7-8-1911  
 —Continued.

Witnesses :  
 Sgd. V. SITHAMPARAPILLAI  
 „ S. VALLIPURAM  
 „ V. SINNATAMBY

Sgd. KOOLAIYAR ARUMUGAM  
 WALLIAMMAI hand mark  
 Sgd. A. NAGALINGAM

Sgd. V. SABARATNAM,  
*Notary*

10

20

30

I, V. Sabaratnam, Notary Public of Vadamaradchy, Jaffna, do hereby certify and attest that I have read and explained the foregoing instrument to the said Koolaiyar Arumugam, who has signed illegibly and wife Walliammai, who set her mark and Arumugam Nagalingam who signed in English and Tamil in the presence of Velanthy Sidamparapillai of Polikandy, who has signed illegibly, Sinnatamby Vallipuram of the same place and Vallipuram Sinnatamby of the same place who has signed illegibly that I know the grantors, receiver and witnesses, that the said Koolaiyar Arumugam and wife Walliammai Arumugam Nagalingam and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Valvetty on the 7th August, 1911.

I further certify and attest that before this instrument was read over and explained unto the said persons as aforesaid the letters \* \* \* \* \* that the duplicate hereof bears five stamps of the value of rupees thirty-five and the original four stamps of the value of rupee one and which stamps were supplied by me the Notary.

7th day of August, 1911.

Sgd. V. SABARATNAM,  
*Notary Public.*

**No. 2D 12**

**Deed No. 969**

TRANSLATION

**Transfer—No. 969**

No. 2D 12  
 Deed No. 969  
 17-9-1913

40

Know all men by these presents that we Arumugam Kanthavanam and wife Eledchumipillai of Polikandy do hereby sell, transfer and convey unto Arumugam Nagalingam of the same place the following properties for the consideration of Rs. 300.

## Exhibits

No. 2D 12  
Deed No. 969  
17-9-1913  
—Continued.

*Properties :*

Land in possession by virtue of dowry deed in favour of the second named person of us bearing No. 5,232 dated 11th April, 1904, and attested by Sinnatamby Subramaniam, Notary and by virtue of final decree in partition case No. 7,781 of the District Court of Jaffna.

In the Parish of Udupiddy in Wadamaradchy West Division, in the District of Jaffna, in Northern Province.

1. Land situated at Polikandy called Kavavodai in extent 30 3/8th lachams varagu culture, ditto in extent 17 1/8th lachams varagu culture. Of these excluding an extent of 17 lachams on the south-west the remain- 10  
ing extent of 30 1/4th lachams varagu culture ; of this the lot No. 1 as described on plan filed with the said decree in extent 8 lachams varagu culture and 11 21/32nd kullies of this two-third share on the north is according to possession in extent 6 lachams varagu culture and 4 1/2 kullies ; is bounded on the east by the property of Sinnatamby Vallipuram, north by the property of Vathavanam Seeney and others, west by the property of Koolaiyar Arumugam, and south by the property of Eledchumipillai, wife of Kanthavanam and Wallipillai, daughter of Mailvaganam and by land. The whole of the ground, palmyrah trees and vadalies within these 20  
boundaries.

*Lands in Possession by Virtue of the abovesaid Dowry Deed*

2. Land situated at ditto called Saddangkathoddam in extent 4 lachams varagu culture. Of this 1/7th share on the south-east in extent 10 2/7th kullies ; is bounded on the east and south by lane and north and west by the property of Koolaiyar Arumugam. The whole of the ground, palmyrah trees and vadalies within these boundaries.

3. Land situated at ditto called Kerodavattai in extent 10 lachams varagu culture. Of this one-fifth share on the north in extent 2 lachams varagu culture ; is bounded on the east by the property of Kadirgamar Kasinathar and others, north by lane, west by the property of Katpy, 30  
daughter of Kanthar and south by the property of Velauthar Sinnathamby and others. The whole of the ground, palmyrah trees and vadalies within these boundaries.

4. Land situated at Samarapakuthevancurichy called Konavalai-  
thoddam, 7 ditto in extent 24 7/8th lachams varagu culture, Metkukaladdy  
in extent 44 lachams varagu culture. Of these excluding the extent of  
2 lachams varagu culture excluded for the path that of the remainder,  
one-fourth share on the south is in extent 19 lachams varagu culture and  
15/16th kullies ; and bounded on the east by the property of Konappar  
Vallipuram and others, north by the property of Sivakolunthu, widow of 40  
Vallipuram (possession by Koolaiyar Arumugam), west by lane and by the

property of the trees of Suppar Sinniah and others, and south by street ; of the whole of the ground within these boundaries an undivided 1/24th share and share appertaining to this of the well in the entire land and right of way and water-course.

Exhibits  
No. 2D 12  
Deed No. 969  
17.9.1913  
—Continued.

10 We do hereby declare that we have received in full the said consideration of Rs. 300 paid by the grantee hereof stating as money that was earned by him, that we or our heirs have no right or interest whatever in these properties or any portion of these properties that endorsement has been made of the same in the said dowry deed and deliver herewith the mortgage bond which we have hypothecated previously and have the same redeemed and the receipt therefor.

In witness whereof we set our signatures to this and to two others of the same tenor in the presence of Vairavanatar Sabaratnam, Notary, and in the presence of the undersigned witness Kandiah Velupillai of Polikandy and Kanapatiar Vallipuram of the same place and Sinniah Arumugam of the same place in the office of the said Notary at Valvetty, on the seventeenth day of September, One thousand Nine hundred and Thirteen.

Sgd. ARUMUGAM KANDAVANAM  
This is the hand mark of ELEDCHUMIPILLAI

20 Witnesses :

Sgd K. VELUPILLAI  
,, K. VALLIPURAM  
,, S. ARUMUGAM

Sgd. V. SABARATNAM,  
*Notary Public*

30 I, V. Sabaratnam, Notary Public of Vadamaradchy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Arumugam Kandavanam and wife, Eledchumipillai, who set her mark in the presence of Kantya Velupillai of Polikandy, who signed illegibly Kanapathar Vallipuram of the same place and Sinniah Arumugam of the same place, the subscribing witnesses hereto all of whom are known to me that the said Arumugam Kandavanam and wife Eledchumipillai and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Valvetty on the 17th September, 1913, that the sum of Rs. 300/- mentioned herein was paid in my presence and that before the instrument was read over and explained unto the aforesaid persons as aforesaid \* \* \* \* \*  
40 that the duplicate hereof bears two stamps of Rs. 1.50 cents supplied by me the Notary.

17th September, 1913.

Sgd. V. SABARATNAM,  
*Notary Public.*



Exhibits  
 No. 2D 14  
 Deed No. 1,006  
 23-10-1913

No. 2D 14  
 Deed No. 1,006

TRANSLATION

No. 1,006

Mortgage  
 Lands 4  
 Consideration Rs. 120.

Know all men by these presents that we Arumugam Kandavanam and wife Eledchumipillai of Polikandy do execute and grant mortgage debt bond to Podian Kanthan of the same place, to wit :— 10

The amount we have borrowed and received from him is Rs. 120. This sum of Rs. 120 with interest thereon at the rate of 16½ per cent per annum we do hereby promise to repay jointly and severally unto him on demand renouncing *beneficium non numeratae pecuniae* and hypothecate as special mortgage the following properties :—

*Properties :*

Lands belonging by right of dowry under and by virtue of dowry deed in favour of the 2nd named person of us bearing No. 5,262 dated 11th April, 1904, and attested by Sinnatamby Subramaniam, Notary and by possession. 20

In the Parish of Udupidy in Vadamardchy West Division, in the District of Jaffna, in Northern Province.

1. Land situated at Polikandy called Vannanthoddam in veedu 1, ditto in extent 11 lachams varagu culture ; is bounded on the east by the property of Vaitilingam Kantyah and others, north and west by lane and south by the property of the 2nd named person of us and others and by other property of the whole of the ground, palmyrah trees, vadalties and mango trees, within these boundaries an undivided one-fourth share and the exclusive right to the coconut trees and hut houses.

2. Land situated at ditto called Savattai veedu one-fourth ditto in 30 extent 6 3/8th lachams varagu culture ; is bounded on the east by the property of Sinnatamby Vallipuram and others, north by the abovesaid first land, west by the property of Walliammai, wife of Kantavanam and others, and south by the property of Vallipurathar Kantavanam and others. Of the whole of the ground, palmyrah trees and vadalties within these boundaries an undivided half share.

3. Land situated at ditto called Kalingkayappulam veedu one-fourth, ditto in extent 29 1/8th lachams varagu culture. Of this an extent of 9 lachams varagu culture and 9 21/28th kullies according to possession ;

is bounded on the east by the property of Kadirgamar Sinnapillai and others, north by lane, west by the property of Velauthar Sinnapillai and others, and south by the property of Kanthar Kadirgamar and others. The whole of the ground, palmyrah trees and vadalies within these boundaries.

Exhibits  
No. 2D 14  
Deed No. 1,006  
23-10-1913  
—Continued.

10 4. Land situated at ditto called Kandappillaithoddam, in extent 1 lacham varagu culture. Ditto veedu 1 of these the western half share in extent 1 lacham varagu culture and 3 kullies ; is bounded on the east by the property of Katpy, daughter of Kanthar, north by the property of Kandiah Arumugam and others, west by the property of Sinnapillai, wife of Vallipuram, and south by lane of the whole of the ground, palmyrah trees and vadalies, within these boundaries an undivided 27/48th share.

We do hereby declare that as the right of produce of 1/12th share of the 1st property and 1/6th share of the 2nd property and the right of using the half share of the hut houses in the first out of the said property belong to Wallipillai, daughter of Kumaraiyar Mailvaganam of Polikandy, we hypothecate as mortgagee the said properties excluding the said right and deliver herewith the said deed.

20 In witness whereof we set our signature to this and to two others of the same tenor in the presence of Vairavanatar Sabaratnam, Notary, and in the presence of Kadirgamar Thambiah of Polikandy and Sinniah Arumugam of the same place the subscribing witnesses here to in the office of the said Notary at Velvetty on the 23rd day of October, 1913.

Sgd. ARUMUGAM KANDAVANAM  
Hand mark of Ledchumipillai

Witnesses :

Sgd. K. THAMBIAH  
,, S. ARUMUGAM

30 Sgd. V. SABARATNAM,  
*Notary Public.*

40 I, V. Sabaratnam, Notary Public of Vadamarachy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Arumugam Kantavanam and wife Eledchumpillai, in the presence of Kadirgamar Thambiah of Polikandy, who has signed as (illegibly) and Chinniah Arumugam of the same place and subscribing witnesses hereto all being present at the same time in my office at Velvetty on the 23rd day of October, 1913, that the said grantor Arumugam Kantavanam and wife Eledchumpillai and witnesses set their signatures in my presence and in the presence of one another that the grantors and witnesses are known to me. That the consideration of Rupees One hundred and Twenty mentioned herein was paid in my presence and that before this instrument was read over and explained

**Exhibits**  
 No. 2D 14  
 Deed No. 1,006  
 23-10-1913  
 —Continued.

unto the said persons aforesaid \* \* \* \* \*  
 duplicate hereof bears two stamps of Cents Fifty supplied by me the  
 Notary.

23rd October, 1913.

Sgd. V. SABARATNAM,  
*Notary Public.*

No. 2D 13  
 Deed No. 1,992  
 5-10-1915

**No. 2D 13**  
**Deed No. 1,992**

TRANSLATION  
 TRANSFER

**No. 1992**

10

**Consideration : Rs. 450**

Know all men by these presents that we Arumugam Kanthavanam and wife Eledchumipillai of Polikandy for and in consideration of the sum of Rs. 150 paid by Arumugam Nagalingam of the same place and received by us do hereby sell, transfer and convey unto the said Nagalingam the following property :—

*Property :*

Land belonging by right of dowry as per dowry deed in favour of the 2nd named of us bearing No. 5,232 dated 11-4-1904 and attested by Sinnatamby Supramaniam, Notary and by possession.

20

In the Parish of Udupiddy in Vadamardchy West Division, in the District of Jaffna in Northern Province.

Land situated at Polikandy called Kalnungkayappulam veedu 1/4th, ditto in extent 29 1/8th latchams varagu culture. Of this an extent of 9 latchams varagu culture and 9 21/28th kullies ; is bounded on the east by the property of Kadiramar Sinnapillai and others, north by lane, west by the property of Velauthar Sinnapillai and others, and south by the property of Kanthar Kathirgamar and others. The whole of the ground, palmyrah trees and vadalties within these boundaries.

Endorsement has been made of the same in the said dowry deed.

30

In witness whereof we set our signatures to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of Saravanamuttu Vairamuttu of Valvetty, Kadirgamar Thambiah of Polikandy and Sinniah Arumugam of the same place the subscribing witnesses hereto in the office of the said Notary at Valvetty on the 5th day of October, 1915.

Sgd. ARUMUGAM KANDAVANAM  
 This is the hand mark of Eledchumipillai

Witnesses :

Sgd. K. VAIRAMUTTU  
 ,, K. THAMBIAH  
 ,, S. ARUMUGAM

**Exhibits**  
 No. 2D 13  
 Deed No. 1,992  
 5-10-1915  
 —Continued.

10 I, V. Sabaratnam, Notary Public of Vadamardchy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Arumugam Kantavanam and wife Eledchumpillai, who set her mark in the presence of Saravanamuttu Vairamuttu of Valvetty Kadagamar Thambiah of Polikandy and Sinniah Arumugam of the same place the subscribing witnesses hereto that I know the grantors and witnesses that the said Arumugam Kantavanam and wife Eledchumpillai and witnesses set their signatures and mark in my presence and in the presence of one another all being present at the same time in my office at Valvetty, on the 5th October, 1915, that no part of the consideration of Rupees One hundred and Fifty mentioned therein was not paid in my presence and that the duplicate hereof bears three stamps of the value of Rs. 5/- supplied by me the Notary.

5th October, 1915.

Sgd. V. SABARATNAM,  
*Notary Public.*

20

**No. P 8**

**Journal Entries, Judgment and Decree in Court of Requests, Point Pedro**

**No. 17,101**

No. P 8  
 Journal Entries  
 Judgement and  
 Decree in C. R.  
 Point Pedro  
 No. 17,101

COURT OF REQUESTS, POINT PEDRO

Instituted : 22nd Nov. 1916

Disposed off : 28th April 1917

Amount Claimed : Rs. 100

Fiscal's Stamp : Re. 1

KOOLAIYAR ARUMUGAM of Polikany and 4 others. . . . . *Plaintiffs.*

No. 17,101

*Vs.*

30

KANTHAR KATHIRKAMAR of Polikandy and 3 others. . . *Defendants.*  
 22-11-16

Mr. S. Subramaniam, Proctor for plaintiff, files proxy, plaint, abstract of title, pedigree I & II, and supplies Fiscal's stamp of one rupee to issue summons.

Exhibits  
 No. P. 8  
 Journal Entries  
 Judgement and  
 Decree in C. R.  
 Point Pedro  
 No. 17,101  
 —Continued.

Plaint accepted.

Summons to issue ret'ble 27-11-1916.

27th Nov. 1916.

Sgd. C. COOMARASWAMY,  
*C. R.*

Mr. S. Subramaniam for plaintiff.

1st, 2nd and 4th defendants absent on summons served. They are absent. Fourth defendant reported not to be found.

Mr. Sivapparakasam, Proctor, undertakes to file proxy and answer for 1st and 2nd defendants on 5th prox. Re-issue on 3rd defendant for 10 same date.

5-12-1916

Sgd. C. COOMARASWAMY,  
*C. R.*

Mr. S. Subramaniam for plaintiff.

Mr. K. Sivapparakasam, Proctor, files proxy for 1st, 2nd and 3rd defendants moves that the plaintiffs be noticed to produce all the documents mentioned in the plaint for inspection and copies before filing answer.

Issue notice for 8th inst.

*C. R.* 20

.....  
 .....

13-2-1917

Mr. S. Subramaniam for plaintiffs.

Summons served on defendants save 4 reported served. They are absent. Mr. K. Sivapirakasam for them.

Fourth defendant reported not to be found.

Re-issue summons on him for 27th inst.

27-2-1917

Intld. C. C.,  
*C. R.* 30

Mr. S. Subramaniam for plaintiffs.

Fourth defendant absent on summons served. Mr. K. Sivapirakasam for 1st, 2nd and 3rd defendants moves for time till 2nd March, 1917, to file amended answer.

Allowed.

Sgd. C. COOMARASWAMY,  
*C. R.*

## Decree

## IN THE COURT OF REQUESTS OF POINT PEDRO

1. KOOLAIYAR ARUMUGAM and his wife
2. WALLIAMMAI
3. ARUMUGAM NAGALINGAM
4. ARUMUGAM POOPALASINGHAM
5. ARUMUGAM THANABALASINGHAM, all of

Polikandy ..... *Plaintiffs.*

*Vs.*

- 10
1. KANDAR KADIRGAMAR
  2. KADIRGAMAR THAMBYAH, both of Polikandy
  3. THAMAR SARAVANAI of Valvetty
  4. ARUMUGAM KANDAVANAM of Polikandy ..... *Defendants.*

20

This action coming on for final disposal before Chinnappah Coomaraswamy, Esq., Commissioner of Requests of Point Pedro, on the 28th day of April, 1917, in the presence of Mr. C. Kulandaivelu, Advocate and Mr. N. Ponniah, Advocate, instructed by Mr. S. Subramaniam, Proctor, on the part of the plaintiff and of Mr. S. S. Kanapathipillai, Advocate, instructed by Mr. K. Sivapirakasam, Proctor, on the part of the 1st, 2nd and 3rd defendants, and the 4th defendant being in default of appearance; it is ordered and decreed that the said plaintiffs be and they are hereby declared entitled to an undivided 2/48th share as forming part of the 151/192 share on the south with share of wells out of the one-fourth share on the south excluding 2 latchams therefrom on the south-west of the land called Konavalaithoddam 7, ditto 24 7/8th latchams varagu culture, Metkitkaladdy 44 latchams varagu culture, situated at Samarapakuthevan-kurichchy within the jurisdiction of this Court, and bounded on the east by the property of Konappar Vallipuram and others, north by the property of Sivakolunthu, widow of Vallipuram and by the property of the first plaintiff, west by the property of Chinniah Subramaniam and by lane and south by lane.

30

And it is further ordered that the first second and third defendants be ejected from and the plaintiffs be put, placed and quieted in possession of the said undivided two forty-eighth share of the said land.

And it is further ordered that the said first, second and third defendants do pay to the said plaintiffs the sum of Rs. 20 as damages and further damages at the rate of Rs. 20 per annum from August, 1916 till the plaintiffs are restored to possession of the said share of the said land.

Exhibits  
—  
No. P 8  
Journal Entries  
Judgement and  
Decree in C. R.  
Point Pedro  
No. 17,101  
—Continued

Exhibits  
 No. P 8  
 Journal Entries  
 Judgement and  
 Decree in C. R.  
 Point Pedro  
 No. 17,101  
 —Continued.

And it is further ordered that the said first, second and third defendants do pay to the said plaintiffs their costs of this action Rs. 72.05 as taxed by the officer of the Court.

The 28th day of April 1917

Sgd. C. COOMARASWAMY,

IN THE COURT OF REQUESTS OF POINT PEDRO

1. KOOLAIYAR ARUMUGAM of Polikandy and 4 others... *Plaintiffs.*
1. KANDAR KADIRGAMAR of Polikandy and 3 others... *Defendants.*

**Judgment :**

The point at issue between the parties now is very simple. The plaintiffs admit that Theivanai from whom the 1st 2nd and 3rd defendants claim their share was entitled to 2/48th and this share they are prepared to give to 2nd defendant (*vide* amended plaint). But the 1st, 2nd and 3rd defendants say that the share that Theivanai was entitled to is 2/35. They have produced a deed of donation in favour of the 2nd defendant by the 1st defendant dated 28th July, 1916 (D1). This is the only deed where the 2/35th share is referred to. The only way that the defendants explain how Theivanai got this 2/35th share is by prescriptive possession. According to them the share that Theivanai was actually entitled to by right of inheritance is 1/27th. But they say that Theivanai was possessing a divided portion of land about 1 latcham in extent and this they claim by right of prescription. They say that this 1 latcham represents the 2/35th share. Their contenton cannot hold good for a moment. This is a garden land and the shares are all admittedly undivided shares but the parties have to cultivate divided portions and they cultivate accordingly. Unless they partition the land once for all by a partition deed or a partition case they cannot claim the right of prescriptive possession to the portions they cultivate and the possession of the land is considered as undivided possession. This is borne out even by the deed (D1) produced by the defendants themselves. The deed speaks of an undivided 2/35th share. If the defendants are entitled to the share by right of prescriptive possession the share should have been mentioned as a divided share. Now that it is clear that the land is an undivided land it matters little what proportion the portion of land actually cultivated bears to the whole land. Parties can only claim the shares that they are legitimately entitled to. According to the defendants the 2nd defendant is entitled to only 1/27th but the plaintiffs say that he is entitled to 2/48th which is more than 1/27th. I accept the plaintiffs' story about the devolution of shares. The present contest between the parties is on the amended plaint and amended answer and the plaintiffs succeed. I would therefore enter judgment for plaintiff with costs as prayed for in the amended plaint.

In the original plaint the plaintiffs claimed the whole land without giving any shares to the 2nd defendant. It was only after the defendants filed their answer the plaintiffs filed this amended plaint waiving their

right to 2/48th in favour of the 2nd defendant. The original dispute appears to have been practically as to who was entitled to Theivanai's share whether the plaintiff or 2nd defendant. On that the defendants succeeded.

Exhibits  
No. P 8  
Journal Entries  
Judgement and  
Decree in C. R.  
Point Pedro  
No. 17,101  
—Continued.

Therefore the plaintiffs should pay the 1st, 2nd and 3rd defendants their costs of filing the first answers.

Sgd. C. COOMARASWAMY,  
C. R.

10 Pronounced in open Court in the presence of the parties and their Counsel. It is now brought to my notice that costs of filing the previous answer have been paid to defendant. (Vide J. E. of 3-2-17)

Intld. C. C.

### Decree

#### IN THE COURT OF REQUESTS OF POINT PEDRO

1. KOOLAIYAR ARUMUGAM and 4 others of Polikandy . . . *Plaintiffs*.

Class II. *Vs.*

1. KANDAR KADIRGAMAR and 3 others of Polikandy . . . *Defendants*.

20 This action coming on for final disposal before Chinnappah Coomaraswamy, Esq., Commissioner of Requests of Point Pedro, on the 28th day of April, 1917, in the presence of Mr. C. Kulandaivelu, Advocate and Mr. N. Ponniah, Advocate, instructed by Mr. S. Subramaniam, Proctor, on the part of the plaintiffs, and of Mr. S. S. Kanapathipillai, Advocate instructed by Mr. K. Sivapirakasam, Proctor, on the part of the 1st, 2nd and 3rd defendants and the 4th deft. being in default of appearance ; it is ordered and decreed that the said plaintiffs be and they are hereby declared entitled to an undivided 2/48th share as forming part of 151/192 share, on the south with share of wells out of the 1/4th share on the south excluding 2 latchams therefrom, on the north-west of the land called Konavalaitthottam 7, ditto 24 7/8th latchams varagu culture, Metkitkaladdy 44  
30 latchams varagu culture, situated at Samarapakuthevankurichchy within the jurisdiction of this Court ; and bounded on the east by the property of Konappar Vallipuram and others, north by the property of Sivakkolundu, widow of Vallipuram and by the property of the first plaintiff, west by the property of Chinniah Subramaniam and by lane and south by lane.

And it is further ordered that the 1st, 2nd and 3rd defendants be ejected from, and the plaintiffs be put, placed and quieted in possession of the said undivided 2/48th share of the said land.



## Exhibits

No. P 8  
Journal Entries  
Judgement and  
Decree in C. R.  
Point Pedro  
No. 17,101  
—Continued.

And it is further ordered that the said 1st, 2nd and 3rd defendants do pay to the said plaintiffs the sum of Rs. 20 as damages and further damages at the rate of Rs. 20 per annum from August, 1916, till the plaintiffs are restored to possession of the share of the said land.

And it is further ordered that the said 1st, 2nd and 3rd defendants do pay to the said plaintiffs their costs of this action Rs. 72.06 as taxed by the officer of the Court.

Sgd. C. COOMARASWAMY,

The 28th day of April, 1917.

C. R.

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**No. P 7**

No. P 7  
Plaint, Answer  
and Abstract of  
Title in C. R.  
Point Pedro  
No. 17,101

**Plaint, Answer and Abstract of Title in C. R., Point Pedro, No. 17,101**

IN THE COURT OF REQUESTS OF POINT PEDRO

1. KOOLAIYAR ARUMUGAM and wife
2. WALLIAMMAI
3. ARUMUGAM NAGALINGAM,
4. ARUMUGAM POOPALASINGHAM,
5. ARUMUGAM THANABALASINGAM, all of Polikandy . . . . *Plaintiffs*

No. 17,101

*Vs.*

1. KANDAR KADIRGAMAR,
2. KADIRGAMAR THAMBYAH, both of Polikandy,
3. THAMAR SARAVANAI of Valvetty,
4. ARUMUGAM KANDAVANAM of Polikandy . . . . . *Defendants.*

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On this 1st day of February, 1917.

The amended plaint of the above-named plaintiffs appearing by S. Subramaniam, their Proctor, states as follows :—

1. That the 1st plaintiff's sister Walliammai, daughter of Koolaiyar was the owner by donation from her father under deed bearing No. 170 dated 13th October, 1864, and attested by Kumaru Kathirithamby, Notary Public of 1/12th share on the south with share of wells out of one-fourth share on the south excluding 2 lachams therefrom on the north-west of the land situated at Samarapakuthevankurichchy within the jurisdiction of this Court called Konavalaithottam, 7 ditto 24 7/8th lachams varagu culture, Metkitkaladdy 44 lachams varagu culture. The said one-fourth share on the south excluding 2 lachams on the north-west ; is bounded on the east by the property of Konappar Vallipuram and others, north by the property of Sivakkolundu, widow of Vallipuram and by the property of 1st plaintiff, west by the property of Chinniah Subramaniam and by lane, and south by lane. 30

2. The said Walliammai died intestate and issueless more than thirty years ago leaving the 1st plaintiff her brother as her sole heir. The 1st plaintiff thus became entitled to the said share.

Exhibits  
No. P 7  
Plaint, Answer  
and Abstract of  
Title in C. R.  
Point Pedro  
No. 17,101  
—Continued.

3. The 1st, 2nd, 3rd and 4th plaintiffs were the owners by right of purchase under transfer deeds bearing No. 614 dated 17th January, 1879, attested by S. Kathirgamathamby, Notary Public, No. 416 dated 18th August, 1879, attested by S. Velupillai, Notary Public No. 716, dated 24th January, 1882, attested by M. Kathiravetpillai, Notary Public, No. 4,261 dated 25th July, 1889, attested by V. Sinnatamby, Notary Public, No. 174, dated 16th April, 1905, attested by G. Kandavanam, Notary Public, No. 783, dated 19th May, 1908, attested by G. Kandavanam, Notary Public and No. 969, dated 17th September, 1913, attested by V. Sabaratnam, Notary Public, No. 2,543, dated 16th October, 1916, attested by V. Sabaratnam, Notary Public; of the remaining extent except an undivided 2/48th share of the one-fourth share on the south of the said land excluding 2 latchams on the north-west and of the proportionate share of the wells.

4. The said plaintiffs purchased the said extent from Kathirgamar Velappar, Kanthar Sinnathamby and wife Theivanai Soorar Sadayar and Soorar Poothattai, Suppar Valliar and wife Minchattai and their daughter Sivagaman, Suppar Chellappar, Parupathy, daughter of Kathirgamar Velupillai, Kanthar Kathirgamar Arumugam Kandavanam and wife Eledchumipillai. All of whom except Sivagaman and Eledchumipillai were entitled to the same by inheritance as will appear on reference to the pedigree herewith filed. The said Sivagaman was entitled to her share by purchase and the said Eledchumipillai was entitled to her share by dowry. The plaintiffs pray that the abstract of title and pedigree be read as part and parcel of this plaint.

5. The 1st and 2nd plaintiffs donated in 1896 and 1908 out of the share which then belonged to them, to each of the 3rd, 4th and 5th plaintiffs and the 4th defendant who are their sons an undivided one-fourth of 11/16th share of the said one-fourth share on the south excluding 2 latchams therefrom reserving life interest in their favour. The 4th defendant is thus entitled to one-fourth of 11/16th share of the said one-fourth share on the south excluding 2 latchams therefrom and the plaintiffs are entitled to the remaining shares except an undivided 2/48th share of the said one-fourth share on the south excluding 2 latchams on the north-west and the 1st and 2nd plaintiffs are entitled to life interest over the one-fourth of 11/16th share of the 4th defendant and the plaintiffs were in possession of the said extent.

6. The 1st, 2nd and 3rd defendants did in August, 1916, and subsequently deny the rights of the plaintiffs to 2/48th share out of the share belonging to the plaintiffs and objected to the plaintiff's possession of the same.

Exhibits  
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 No. P 7  
 Plaint, Answer  
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 Title in C. R.  
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 —Continued.

The 1st, 2nd and 3rd defendants are in wrongful possession thereof. The plaintiffs have thereby sustained damage of Rs. 20 and further sustain damage of Rs. 20 per annum. The 1st and 2nd defendants are annoyed with the plaintiffs for having sued them for the recovery of the rents due to the plaintiffs in case No. 16,777 C. R., Point Pedro. The 1st and 2nd defendants with the aid of Sinnathamby Vallipuram and Sinnathamby Murukesu fraudulently executed donation deed bearing No. 1,745 dated 28th July, 1916, attested by K. Kandavanam, Notary Public purporting to donate 2/35th share to the 2nd defendant who is the son of the 1st defendant and the 2nd defendant executed a lease fraudulently in favour 10 of the 3rd defendant. The 1st defendant could inherit only 2/48th share from Theivanai, daughter of Chinnavar but he has purported to donate 2/35th share.

7. That Theivanai, daughter of Chinnavar sold her 2/48th share to 1st plaintiff in November, 1883, and executed a deed before S. Kathirgama-  
 thamby, Notary Public and the 1st plaintiff was in possession of the said  
 share from that time but the Notary did not then give the deed to the  
 1st plaintiff at the time owing to some ill-feeling. The Notary handed  
 to the 1st plaintiff, the deed produced in this case purporting to bear 20  
 No. 1,710 dated 17th November, 1883, some time before his death. The  
 1st plaintiff now learns that there is no duplicate for the said deed and  
 that the deed does not seem to be a genuine document. The 1st plaintiff  
 therefore waives his right under the said deed which right is now claimed  
 by the 1st and 2nd defendants and therefore the plaintiffs now admit  
 that the 2nd defendant is entitled to 2/48th share.

8. That the 4th defendant is made a party to this action as he is a  
 co-owner and as he is unwilling to join in this action he not being in terms  
 with the plaintiff.

9. That the 2/48th share in dispute in this case is worth about  
 Rs. 100. 30

10. The plaintiffs have by their own undisturbed and uninterrupted  
 possession and by the like possession of their previous owners for more  
 than 10 years next immediately preceding the date of the grievances  
 complained of by a title adverse to and independent of the defendants and  
 all others whomsoever acquired a prescriptive right and title to the said  
 extent.

The plaintiffs therefore prays :—

(a) That they be declared entitled to the said 2/48th share as part of  
 the said 151/192 share belonging to the plaintiffs out of the one-  
 fourth share on the south excluding 2 latchams on the north-west. 40

(b) That the 1st, 2nd and 3rd defendants be ejected therefrom and  
 the plaintiffs be quieted in possession thereof.

**ABSTRACT OF TITLE**

Nature of Deed	From Whom to Whom	Area or Fraction of Land dealt with	Boundaries	When Registered	Consideration, if any £ sh.	Duplicate or Original	Remarks
Donation No. 170, 13-10-1864	From Mootan Kooliar to Walliammai daughter of Kooliar	1/12th share on the south out of 1/4th share on the south excluding 2 latches of the land called Kona-valaithoddam 7, ditto 24 7/8th latches v.c. Metkukaladdy 44 latches v.c.	Boundaries for the whole land : east by Kandar and others ; north by the village of Polikandy and Paramattaipillai and others ; west by Murugesan and others and lane ; south by street	6-11-1882	7 10	Original	—
Transfer No. 614 17-1-1879	From Kadingamar Velappan to Kooliar Arumugam	1/12th share with share of wells and of 1/4th share on the south excluding 2 latches of the aforesaid land	East by Kandar and others, north by the village of Polikandy and Paramattaipillai and others, west by Murugan and others now new lane, south by street	—	Rs. 80	Original	—
Transfer No. 416 18-8-1879	From Kandar Sinnatamby and wife Theivanai, daughter of Kadingamar to Kooliar Arumugam	1/12th share with share of wells and of 1/4th share on the south excluding 2 latches of the aforesaid land	East by Kandar and others ; north by the village of Polikandy and Paramattaipillai and others ; west by Vallipuram and others and lane ; south by street	—	Rs. 80	Original	—
Transfer No. 710 24-1-1882	From Soonar Sada- air and Soonar Poothattai to Kooliar Arumugam	1/12th share with share of wells out of 1/4th share ; on the south excluding 2 latches of the aforesaid land	East by Kandar and others ; north by the village of Polikandy and Paramattaipillai and others ; west by Vallipuram and others and lane ; south by street	—	Rs. 65	Original	—
Transfer No. 1,709 17-11-1883	From Theivanai, daughter of Mootar Sinnavar to Kooliar Arumugam	1/3rd share with share of wells out of 1/4th share on the south excluding 2 latches of the aforesaid land	East by Kandar and others ; north by the village of Polikandy and Paramattaipillai and others ; west by lane and Vallipuram and others ; south by street	—	Rs. 200	Original	—
Transfer No. 1,710 17-11-1883	From Theivanai, daughter of Muttu Sinnavar to Kooliar Arumugam	1/24th share with share of wells out of 1/4th share on the south excluding 2 latches of the aforesaid land	East by Kandar and others ; north by the village of Polikandy and Paramattaipillai and others ; west by lane and Vallipuram and others ; south by street	4-10-1916	Rs. 20	Original	—
Transfer No. 4,261 25-7-1889	From Suppar Chelappan to Kooliar Arumugam	1/4th of 1/12th share with share of wells out of 1/4th share on the south excluding 2 latches of the aforesaid land	Boundaries for 1/4th share on the south-east by Mappany and others ; north by Arumugam ; west by Vallipuram & others ; south by street	—	Rs. 10	Original	—
Transfer No. 174 16-4-1905	From Pasupathy, daughter of Sinnavar Kandar Sinna alias Sinnatangam, daughter of Kadingamer Velupillai to Arumugam Nagalingam	3/24th share with share of wells out of 1/4th share on the south excluding 2 latches out of the aforesaid land	East by Kandar Mappany and others ; north by Kooliar Arumugam & others ; west by Kadiravelu Mylvaganam & others and lane ; south by street	—	Rs. 60	Original	—
Transfer No. 783 19-5-1908	From Kandar Kadingamar to Arumugam Poo-palasingham	An undivided 1/24th share with share of wells out of 1/4th share on the south excluding 2 latches of the aforesaid land	East by Kandar Mappany & others ; north by Kooliar Arumugam ; west by lane and by Suppar Chinmah & others ; south by lane	—	—	Original	—

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No. P 7  
Plaint, Answer  
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Title in C. R.  
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No. 17,101

Nature of Deed	From when to whom	Area or portion of land dealt with	Boundaries	When Registered	Consideration if any ₹ sh.	Duplicate or Original	Remarks
Transfer No. 969 17th Sept. 1913	From Arumugam Kandavanam and wife Ledchumipillai to Arumugam Nagalingam	An undivided 1/24th share with share of wells out of 1/4th share on the south excluding 2 lachams of the aforesaid land	East by Konar Vallipuram and others; north by Sivakolundu, widow of Vallipuram (possession of Kooliar Arumugam); west by lane and to the heirs of the late Suppar Sinniah and others; south by street	—	—	Original	—
Transfer No. 2,543 16-10-1916	From Sinny alias Sin na than ka m daughter of Kadirgamar Velupillai to Kooliar Arumugam	An undivided 3/48th share with share of wells out of 1/4th share on the south excluding 2 lachams of the aforesaid land	East by Konappur Vallipuram & others; north by Sivakolundu, widow of Vallipuram (possession the purchaser); west by lane and by Sinniah Subramanian and others; south by street	—	Rs. 100	Original	—
Donation No. 5,826 1-4-1896	From Kooliar Arumugam and wife to Arumugam Nagalingam	An undivided 1/4th of 11/16th share with share of wells out of 1/4th share on the south excluding 2 lachams on the north-west of the aforesaid land	East by Kandar Thamar brother, Mappany and others; north by Kooliar Arumugam; west by Kathiravelu Mylvaganam Kathirgamar, Velantham & others and lane; south by lane	—	Rs. 250	Original	—
Donation No. 5,827 1-4-1896	From Kooliar Arumugam and wife to Arumugam Poopalasingham	An undivided 1/4th of 11/16th share with share of wells out of 1/4th share on the south excluding 2 lachams on the north-west of the aforesaid land	East by Kandar Thamar brother, Mappany and others; north by Kooliar Arumugam; west by Kadiravelar Mylvaganam Kadirgamu Veluappiar & others and lane; south by lane	—	Rs. 250	Original	—
Donation No. 5,825 1-4-1896	From Kooliar Arumugam and wife to Arumugam Kandavanam	An undivided 1/4th of 11/16th share with share of wells out of 1/4th share on the south excluding 2 lachams on the north-west of the aforesaid land	East by Kandar Thamar brother, Mappany and others; north by Kooliar Arumugam; west by Kadirgamar Mylvaganam Kadirgamar, Veluappiar and others and lane; and south by lane	—	Rs. 250	Original	—
Renunciation No. 799 6-7-1808	Kooliar Arumugam and wife	An undivided 1/4th of 11/16th share with share of wells out of 1/4th share on the south excluding 2 lachams on the north-west of the aforesaid land	East by Kandar Thamar and others north by Kooliar Arumugam; west by Kandar Velar Mylvaganam and others and lane; and south by lane	—	—	Original	—
Donation No. 800 6-7-1808	From Kooliar Arumugam and wife to Arumugam Kandavanam	An undivided 1/4th of 11/16th share with share of wells out of 1/4th share on the south excluding 2 lachams on the north-west of the aforesaid land	East by Kandar Mappany and others; north by Kooliar Arumugam; west by Kadiravelar Mylvaganam and others and lane; and south by lane	—	—	Original	—

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Sgd. S. SUBRAMANIAM,  
Proctor for Plaintiff.

- (c) That the 1st, 2nd and 3rd defendants be ordered to pay to the plaintiffs damages Rs. 20 and further damages of Rs. 20 per annum from August, 1916, till the plaintiffs are restored to possession thereof.
- (d) For costs and for such other and further relief as to this Court shall seem meet.

Exhibits  
 No. P 7  
 Plaintiff, Answer  
 and Abstract of  
 Title in C. R.  
 Point Pedro  
 No. 17,101  
 —Continued.

Sgd. S. SUBRAMANIAM,  
*Proctor for Plaintiffs.*

IN THE COURT OF REQUESTS OF POINT PEDRO

- 10 1. KOOLAIYAR ARUMUGAM,  
 2. WALLIAMMAI,  
 3. ARUMUGAM NAGALINGAM,  
 4. ARUMUGAM POOPALASINGHAM,  
 5. ARUMUKAM THANAPALASINGHAM, all of Polikandy. . *Plaintiffs*

No. 17,101.

*Vs.*

1. KANTHER KATHIRKAMAR,  
 2. KATHIRKAMAR THAMBYAH,  
 3. THAMER SARAVANASY of Valvetty,  
 4. ARUMUKAM KANDAVANAM of Polikandy . . . . . *Defendants.*

20 This 2nd day of March, 1917.

The answer of the 1st, 2nd and 3rd defendants above named to the amended plaintiff of the plaintiffs appearing by K. Sivaprakasam, S. Kadiresu, and A. Ampalavanar, their Proctors, who carry on business in partnership under the name, firm and style of Sivaprakasam and Kathiresu states as follows :—

1. In answer to the 1st, 2nd, 3rd, 4th and 5th paragraphs of the amended plaintiff these defendants state that they are not aware of the averments contained therein and say that the plaintiffs are entitled to all the shares except 2/35th share which now belongs to the 2nd defendant.
- 30 2. In answer to the 6th paragraph of the amended plaintiff these defendants state that the 2nd defendant is entitled to 2/35th share and is in lawful possession thereof as per deed No. 1,745 mentioned therein and deny all the other averments therein.
3. In answer to the 1st paragraph of the amended plaintiff these defendants deny all the averments therein and state that the 1st plaintiff put in a forged document No. 1,710 filed of record and he finding himself unable to get out of it has wisely withdrawn his right by that forged document.

Exhibits  
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 No. P 7  
 Plaint, Answer  
 and Abstract of  
 Title in C. R.  
 Point Pedro  
 No. 17,101  
 —Continued.

4. In answer to the 8th and 9th paragraphs of the amended plaint these defendants deny that the 2/48th share is worth Rs. 150.

5. In answer to the 10th paragraph of the amended plaint these defendants deny the prescriptive possession of the plaintiffs to 2/35th share.

6. Further answering these defendants state that the late Theivanai, daughter of Chinnavar never sold any share out 2/35th which belonged to her and she was in possession of the same till her death about 5 years ago, after which date her brother 1st defendant the only heir entered into possession of the same and he donated it to 2nd defendant as per donation No. 1,745 dated 28th July, 1916, and the 2nd defendant and 3rd defendant his lessees are in possession of the same. 10

7. That the 2nd defendant has by his own undisturbed and uninterrupted possession and by the like possession of those through whom he claims and by a title adverse to and independent of all others for upwards of 10 years preceding the date hereof acquired prescriptive right and title to the said 2/35th share in terms of Section 3 of Ordinance No. 22 of 1871 the benefit whereof these defendants plead in their favour.

8. That the 1st plaintiff brought this false case as the 1st and 2nd defendants were successful in cases No. 16,912 and 16,913 of this Court 20 instituted by him and they recovered costs from him.

Wherefore these defendants pray :

That the amended plaint of the plaintiffs be dismissed with costs.

And that the 2nd defendant be declared entitled to 2/35th share of the land described in the plaint.

And pray for such other and further relief as to this Court shall seem meet.

Sgd. K. SIVAPRAKASAM,  
*Proctor for 1st, 2nd and 3rd Defendants.*

No. 2D 2  
 Pedigree in C.R.  
 Point Pedro  
 No. 17,101

**No. 2D 2**

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**Pedigree in C. R., Point Pedro, 17,101**

**IN THE COURT OF REQUESTS OF POINT PEDRO**

1. KOOLAIYAR ARUMUGAM and wife
2. WALLIAMMAI,
3. ARUMUGAM NAGALINGAM,
4. ARUMUGAM POOPALASINGHAM,
5. ARUMUGAM THANABALASINGHAM, all of Polikandy. . *Plaintiffs*

No. 17,101.

*Vs.*

1. KANDAR KADIRGAMAR of Polikandy,
2. KADIRGAMAR THAMBIAH of Polikandy,
3. THAMAR SARAVANAI of Valveddy,
4. ARUMUGAM KANDAVANAM of Polikandy . . . . . *Defendants.*

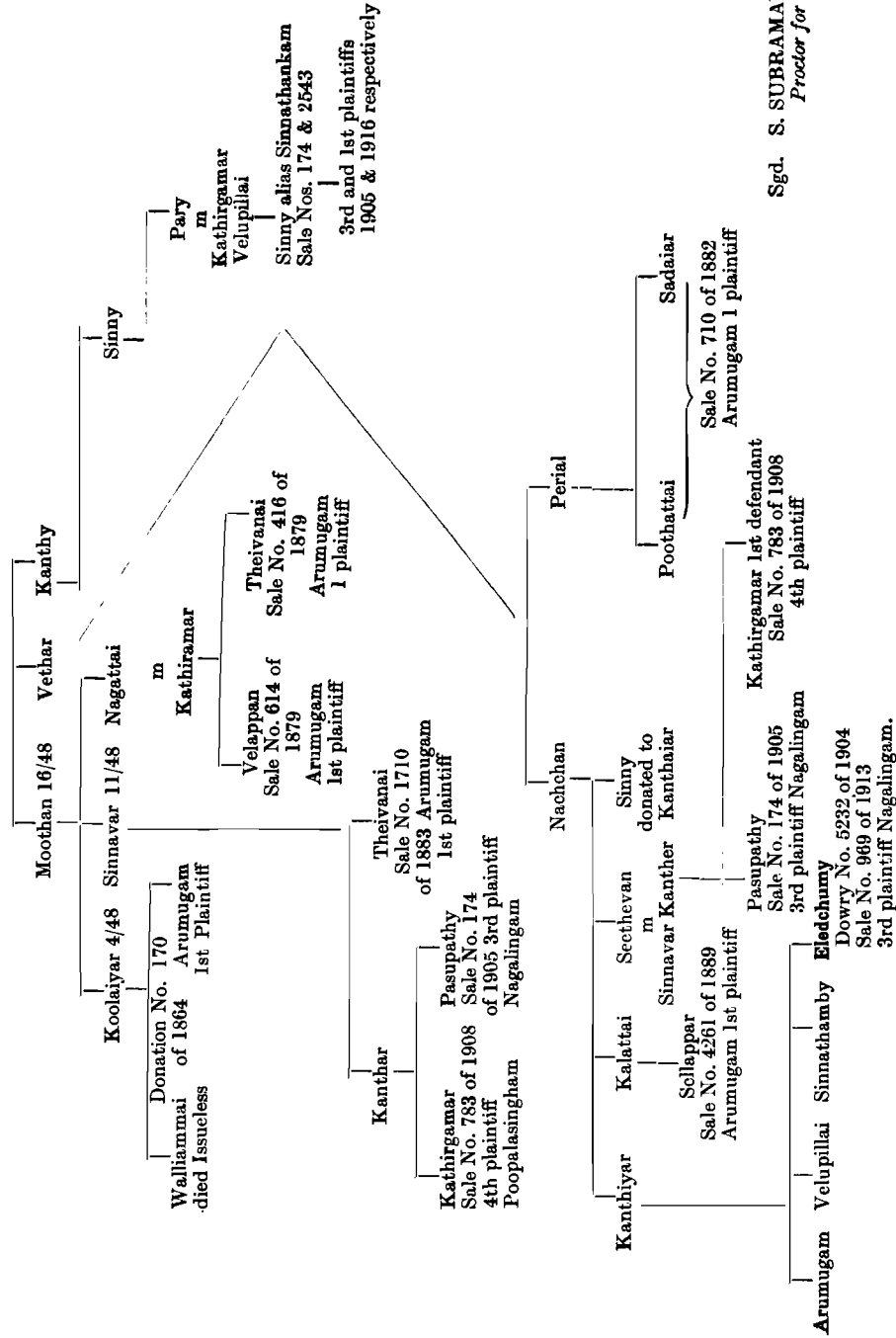
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No. 2D 2  
Pedigree filed by Plaintiff in C. R. Point Pedro No. 17,101

No. 2D 2  
Pedigree filed  
by Plaintiff  
in C. R.  
Point Pedro  
No. 17,101

**PEDIGREE FILED BY PLAINTIFF**

Santhakar 8/12



Sgd. S. SUBRAMANIAM,  
*Proctor for Plaintiff.*



## Exhibits

No. 2D 26  
 Plaint in C. R.  
 Point Pedro  
 No. 17,101  
 1-2-17

## No. 2D 26

## Plaint in C. R., Point Pedro, No. 17,101

## IN THE COURT OF REQUESTS OF POINT PEDRO

1. KOOLAIYAR ARUMUGAM of Polikandy and 4 others. . . . *Plaintiffs.*

No. 17,101.

*Vs.*

1. KANDAR KADIRGAMAR of Polikandy and 3 others. . . *Defendants.*

On this 1st day of February, 1917.

The amended plaint of the above-named plaintiffs appearing by S. Subramaniam, their Proctor, states as follows :—

1. That the 1st plaintiff's sister Walliammai, daughter of Koolaiyar 10 was the owner by donation from her father under deed bearing No. 170 dated 13th October, 1864, attested by Kumaru Kathiritamby, Notary Public of 1/12th share on the south with share of wells out of 1/4th share on the south excluding 2 lachams therefrom on the north-west of the land situated at Samarapakuthevankurichy within the jurisdiction of this Court called Konavalaithoddam 7, ditto 24 7/8th lachams varagu culture, Metkitkaladdy 44 lachams varagu culture. The said 1/4th share on the south excluding 2 lachams on the north-west is bounded on east by the property of Konappar Vallipuram and others, north by the property of Sivakkolundu, widow of Vallipuram and by the property of 1st plaintiff 20 west by the property of Chinniah Subramaniam and by lane and south by lane.

2. The said Walliammai died intestate and issueless more than thirty years ago leaving the 1st plaintiff her brother as her sole heir. The 1st plaintiff thus became entitled to the said share.

3. The 1st, 2nd, 3rd and 4th plaintiffs were the owners by right of purchase under transfer deeds bearing No. 614 dated 17th January, 1879, attested by S. Kathirgamathamby, Notary Public, No. 416 dated 18th August, 1879, attested by S. Velupillai, Notary Public, No. 716 dated 24th January, 1882, attested by M. Kathiravetpillai, Notary Public, 30 No. 4,261, dated 25th July, 1889, attested by V. Sinnatamby, Notary Public, No. 174 dated 16th April, 1905, attested by G. Kandavanam, Notary Public, No. 783, dated 19th May, 1908, attested by G. Kandavanam, Notary Public, and No. 969, dated 17th September, 1913, attested by V. Sabaratnam, Notary Public, No. 2,543, dated 16th October, 1916, attested by V. Sabaratnam, Notary Public, of the remaining extent except an undivided 2/48th share of the 1/4th share on the south of the said land excluding 2 lachams on the north-west and of proportionate share of the wells.

4. The said plaintiffs purchased the said extent from Kathirgamar Velappar Kanthar Sinnathamby and wife Theivanai, Soorar Sadayar and Soorar Poothattai, Suppar Valliar and wife Minchattai and their daughter Sivagaman, Suppar Chellappar, Parupathy, daughter of Kathirgamar, Velupillai, Kanthar Kathirgamar, Arumugam Kandavanam and wife Eledchumipillai. All of whom except Sivagaman and Eledchumipillai were entitled to the same by inheritance as will appear on reference to the pedigree herewith filed. The said Sivagaman was entitled to her share by purchase and the said Eledchumipillai was entitled to her share by dowry. The plaintiffs pray that the abstract of title and pedigree herewith filed. The said Sivagaman was entitled to her share by purchase and the said Eledchumipillai was entitled to her share by dowry. The plaintiffs pray that the abstract of title and pedigree be read as part and parcel of this plaint.

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5. The 1st and 2nd plaintiffs donated in 1896 and 1908 out of the share which then belonged to them, to each of the 3rd, 4th and 5th plaintiffs and the 4th defendant who are their sons an undivided 1/4th of 11/16th share of the said 1/4th share on the south excluding 2 lachams therefrom reserving life interest in their favour. The 4th defendant is thus entitled to 1/4th of 11/16th share of the said 1/4th share of the said 1/4th share on the south excluding 2 lachams therefrom and the plaintiffs are entitled to the remaining shares except an undivided 2/48th share of the said 1/4th share on the south excluding 2 lachams on the north-west and the 1st and 2nd plaintiffs are entitled to life interest over the 1/4th of 11/16th share of the 4th defendant and the plaintiffs were in possession of the said extent.

6. The 1st, 2nd and 3rd defendants did in August, 1916, and subsequently deny the right of the plaintiffs to 2/48th share out of the share belonging to the plaintiffs and object to the plaintiff's possession of the same. The 1st, 2nd and 3rd defendants are in wrongful possession thereof. The plaintiffs have thereby sustained damage of Rs. 20 and further sustain damage of Rs. 20 per annum. The 1st and 2nd defendants are annoyed with the plaintiffs for having sued them for the recovery of the rents due to the plaintiffs in case No. 16,777 C. R., Point Pedro. The 1st and 2nd defendants with the aid of Sinnathamby Vallipuram and Sinnathamby Murukesu fraudulently executed donation deed bearing No. 1,745 dated 28th July, 1916, and attested by K. Kandavanam, Notary Public, purporting to donate 2/35th share to the 2nd defendant who is the son of the 1st defendant and the 2nd defendant executed a lease fraudulently in favour of the 3rd defendant. The 1st defendant could inherit only 2/48th share from Theivanai, daughter of Chinnavar but he has purported to donate 2/35th share.

7. That Theivanai, daughter of Chinnavar sold her 2/48th share to the 1st plaintiff in November, 1883, and executed a deed before S. Kathirgamathamby, Notary Public, and the 1st plaintiff was in possession of

Exhibits  
No. 2D 26  
Plaint in C. R.  
Point Pedro  
No. 17,101  
1-2-17  
—Continued.

Exhibits  
 No. 2D 26  
 Plaintiff in C. R.  
 Point Pedro  
 No. 17,101  
 1-2-17  
 —Continued.

the said share from that time but the Notary did not then give the deed to the 1st plaintiff at the time owing to some ill-feeling. The Notary handed to the 1st plaintiff the deed produced in this case purporting to bear No. 1,710 dated 17th November, 1883 some time before his death. The 1st plaintiff now learns that there is no duplicate for the said deed and that the deed does not seem to be a genuine document. The 1st plaintiff therefore waives his right under the said deed which right is now claimed by the 1st and 2nd defendants and therefore the plaintiffs now admit that the 2nd defendant is entitled to 2/48th share.

8. That the 4th defendant is made a party to this action as he is a co-owner and as he is unwilling to join in this action he not being in terms with the plaintiffs. 10

9. That the 2/48th share in dispute in this case worth about Rs. 100.

10. The plaintiffs have by their own undisturbed and uninterrupted possession and by the like possession of their previous owners for more than 10 years next immediately preceeding the date of the grievance complained of by a title adverse to and independent of the defendants and all others whomsoever acquired a prescriptive right and title to the said extent.

The plaintiffs therefore pray :

(a) That they be declared entitled to the said 2/48th share as part of the said 151/192nd share belonging to the plaintiffs out of the one-fourth share on the south excluding 2 lachams on the north-west. 20

(b) That the 1st, 2nd and 3rd defendants be ejected therefrom and the plaintiffs be quieted in possession thereof :

(c) that the 1st and 3rd defendants be ordered to pay to the plaintiff damages Rs. 20 and further damages Rs. 20 per annum from August, 1916, till the plaintiff are restored to possession thereof.

(d) for costs and for such other and further relief as to this Court shall seem meet. 30

Sgd. S. SUBRAMANIAM,  
*Proctor for Plaintiff.*

No. 2D 24  
 Deed No. 3,246  
 24-2-1918

**2D 24**  
 TRANSLATION  
**2D 24**

Consideration  
 Rs. 475.

**No. 3,246**

1st Land A. 52/200  
 2nd Land A. 72/224  
 3rd Land A. 72/225  
 6th Land A. 17/21

Know all men by these presents that I Kadirgamar Sinnatamby of Polikandy do execute and grant mortgage debt bond to Koolaiyar Arumugam of the same place, to wit :— 40

The amount I have borrowed and received from him is Rs. 475. This sum of Rs. 475 with interest thereon at the rate of 12 per cent per annum if interest to be paid annually and in default at the rate of 16 per cent per annum I do hereby promise to repay unto him on demand renouncing *beneficium non numeratae pecuniae* and hypothecate as special mortgage the following properties :—

Exhibits  
No. 2D 24  
Deed No. 3,246  
24-2-1918  
—Continued.

### Properties

Lands in possession under and by virtue of transfer deed in my favour No. 196 dated 11th day of December, 1911, and attested by the Notary.

10 In the Parish of Udupiddy in Vadamarachy West Division, in the District of Jaffna, in Northern Province.

1. Land situated at Polikandy called Vaduvakkaddai in extent 11  $\frac{3}{8}$ th latchams varagu culture ; is bounded on the east by the property of Arumugam Vallipuram and others, north and south by the property of Koolaiyar Arumugam, and west by the property of Nagan Vellaiyan and others. Of the whole of the ground, palmyrah trees and vadalies within these boundaries an undivided  $\frac{7}{16}$ th share.

20 2. Land situated at ditto called Vannanthoddam Veedu 1, ditto in extent 11 latchams varagu culture ; is bounded on the east by the property of Kanther Kumaravelar and others, north and west by lane and south by the property of Katpakam, wife of Kadirgamar and others. Of the whole of the ground palmyrah trees, vadalies and mango tree within these boundaries an undivided  $\frac{1}{4}$ th share.

30 3. Land situated at ditto called Savattai Veedu  $\frac{1}{4}$ th in extent  $6\frac{3}{8}$ th latchams varagu culture ; is bounded on the east by the property of Sinnatamby Vallipuram and others, north by the abovesaid 2nd land, west by the property of Seeniar Satasivam and others, and south by the property of Vairattai, daughter of Arumugam and others. Of the whole of the ground, palmyrah trees and vadalies, within these boundaries an undivided half share.

Land in possession under and by virtue of transfer deed in my favour No. 197 dated 11-12-1911 and attested by this Notary and by virtue of Final Decree in partition case No. 11,324 of the District Court of Jaffna.

40 4. Land situated at ditto called Samaddanai Metkilvadakku, in extent 12 latchams varagu culture. Of this the extent for lot marked C described in plan filed with the Final Decree in the said partition case is 5 latchams varagu culture ; and bounded on the east by the property of Chellammah, wife of Chelliah and others, north by lane, west by the property of Sinnatamby Vallipuram and south by the property of Sivakaman, widow of Kantavanam and others. The whole of the ground, palmyrah trees and vadalies within these boundaries. Land in possession by virtue of transfer deed in my favour No. 1,684 dated 18th February, 1909, and attested by Mailvaganam Damoderampillai, Notary Public.

## Exhibits

No. 2D 24  
Deed No. 3,246  
24-2-1918  
—Continued.

5. Land situated at ditto called Serukkanseema in extent 1 5/8th latchams varagu culture, ditto Veedu 1, ditto in extent 2 latchams varagu culture, ditto Kudah, in extent 5/8th latchams varagu culture ; is bounded on the east by lane, north by the property of Sinnatamby Ponniahpillai and others, west by the property of Sinnatamby Sinnatankam and others, and south by the property of Koolaiyar Arumugam. Of the whole of the ground, palmyrah trees, vadalties, margosa trees and Naval, within these boundaries an undivided 1/4th share and the exclusive right to the eastern room, of the northern side house out of the four-sided house in this land, with the verandahs appurtenant to it and the hut house lying on the north of this and the two mango trees lying close by to it. 10

Land in possession under and by virtue of transfer deed in my favour bearing No. 3,244 dated 24th February, 1918, and attested by this Notary.

6. Land situated at Polikandy called Serukkanseema in extent 3 3/4th latchams varagu culture, but according to survey in extent 4 latchams varagu culture and 16 kullies ; is bounded on the east by lane, north by the property of Koolaiyar Arumugam and others, west by the property of Chellamma, wife of Chelliah and others, and south by property belonging to me and others. Of the whole of the ground, palmyrah trees, vadalties and tamarind trees, within these boundaries and undivided 1/4th share. 20

That in default of paying the said debt as aforesaid the same may be recovered from the hypothecated properties and from all other properties belonging to me thus consented and deliver the said deeds herewith.

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of Kantya Arumugam of Polikandy, Sinniah Arumugam of the same place the subscribing witnesses hereto in the office of the said Notary at Valvettiturai, on the 24th day of February, 1918.

Sgd. K. SINNATAMBY 30

Witnesses :

Sgd. K. ARUMUGAM  
,, S. ARUMUGAM

Sgd. V. SABARATNAM,  
*Notary Public.*

I, V. Sabaratnam, Notary Public of Vadamarachy West Division, in the District of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Kadirgamar Sinnatamby, who has signed illegibly in the presence of Kantyah Arumugam of Polikandy, and Sinniah Arumugam of the same place the subscribing witnesses hereto that I know the grantor and witnesses that the said Kadirgamar Sinnatamby and witnesses set their signatures in my presence 40

and in the presence of one another all being present at the same time in my office at Valvettiturai on the 24th day of February, 1918, that the sum of Rupees Four hundred and Seventy-five mentioned herein was paid in my presence and that the duplicate hereof bears two stamps of the value of Rupees Two and Cents Fifty supplied by me the Notary.

Exhibits  
No. 2D 24  
Deed No. 3,246  
24-2-1918  
—Continued.

24th February, 1918.

Sgd. V. SABARATNAM,  
Notary Public.

**No. 2D 16**

**Deed No. 4,432**

No. 2D 16  
Deed No. 4,432  
11-3-1920

10 Instrument : Mortgage  
Lands : 3  
Consideration : Rs. 100

Know all men by these presents that I, Vairavanathar Sinnatamby of Polikandy, do execute and grant mortgage debt bond to Koolaiyar Arumugam of the same place, to wit :—

20 The amount I have borrowed and received from him is Rs. 100. This sum of Rs. 100 with interest thereon at the rate of 12 per cent. per annum if interest to be paid annually and in default at the rate of  $16\frac{3}{4}$  per cent. per annum, I do hereby promise to repay unto him on demand renouncing *beneficium non numeratae pecuniae* and hypothecate as special mortgage the following properties :—

*Properties :*

Lands in possession by virtue of donation deed in my favour bearing No. 11,809, dated 17th June, 1905, and attested by Vairavanathar Sinnatamby, Notary.

In the Parish of Udupidy, in Vadamardchy West Division in the District of Jaffna, in Northern Province.

30 1. Land situated at Polikandy called Kandappillayanthoddam, in extent  $5\frac{1}{4}$  lachams varagu culture ; is bounded on the east by property belonging to me and by lane, north and west by lane, and south by property belonging to me and by lane. Of the whole of the ground, palmyrah trees, vadalies, cultivated plantations and well, within these boundaries an undivided  $\frac{1}{2}$  share.

2. Land situated at ditto called Pattanai, in extent  $12\frac{1}{2}$  lachams varagu culture, ditto in extent  $12\frac{1}{2}$  lachams varagu culture, form a total extent of 25 lachams varagu culture ; and bounded on the east by the property of Sinnatamby Vallipuram and others, north by property belonging to me and others, west by property belonging to me and by lane, and

Exhibits  
No. 2D 16  
Deed No. 4,432  
11-3-1920  
—Continued

south by lane. Of those within these boundaries 1/8th plantations share of the palmyrah trees and vadalies and of the remaining palmyrah trees and vadalies and of the ground an undivided one-fifth share.

3. Land situated at ditto called Savattai, in extent 15 latchams varagu culture. Of this an extent of 5 latchams varagu culture on the south-west according to possession is bounded on the east, west and south by properties belonging to me and others, and north by property belonging to Sinnapillai, wife of Vallipuram and others. Of the whole of the ground palmyrah trees, vadalies, mango trees and margosa trees, within these boundaries an undivided half share and the exclusive right to the hut 10 houses.

I deliver herewith the said deed. In witnesses whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of S. Arumugam Kanagasabai of Polikandy, and Sinniah Arumugam of the same place, subscribing witnesses hereto in my house on the 11th day of March, 1920.

Sgd. V. SINNATAMBY

Witnesses :

Sgd. S. ARUMUGAM KANAGASABAI,

„ S. ARUMUGAM

20

Sgd. V. SABARATNAM,

*Notary Public.*

I, V. Sabaratnam, Notary Public of Vadamardchy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Vairavanathar Sinnatamby, in the presence of S. Arumugam Kanagasabai of Polikandy and Sinniah Arumugam of the same place the subscribing witnesses hereto that I know the grantor and witnesses that the said Vairavanathar Sinnathamby and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in the house of the grantors on the 11th March, 1920, and I further certify and attest that the sum of Rupees One hundred mentioned herein was paid in my presence and that before this instrument was read over and explained the letters \* \* \* \* \* the duplicate hereof bears one stamp of Rupees Two supplied by me the Notary.

Sgd. V. SABARATNAM,

*Notary Public.*

11th March, 1920.

## No. 2D 5

**Inventory and Last Will No. 4819 filed in D. C. Jaffna Testamentary No. 4514**  
**IN THE DISTRICT COURT OF JAFFNA**

Exhibits  
 —  
 No. 2D 5  
 Inventory and  
 Last will No.  
 4819 filed in  
 D. C. Jaffna  
 Testamentary  
 No. 4514

Testamentary                      In the Matter of the Last Will and Testament of the  
 Jurisdiction                      late Koolaiyar Arumugam of Polikandy.  
 No. 4514

ARUMUGAM NAGALINGAM of Polikandy ..... *Executor.*

A true full and perfect Inventory of the rights and credits of the above-named deceased by the Executor :

10                      1. Land situated at Polikandy called Nakarakkaddanai  
 in extent 50 latchams varagu culture. Of this excluding an  
 extent of 8 latchams on the west, the next extent of 10  
 latchams varagu culture on the east ; is bounded on the  
 east by the property of Arumugam Nagalingam, north and  
 west by the property of Katiripillai Kanagasabapathy, and  
 south by the property of Sinnamma, wife of Sinnatamby  
 and others. Of this one-half share of well and water drawing  
 machine, situated on the land east of this is worth                      .. Rs.    25.00

20                      2. Land situated at Polikandy, called Nakarakkaddana  
 50 latchams varagu culture. Of this excluding an extent of  
 8 latchams varagu culture, on the south an extent of 3  
 latchams varagu culture, on the north is bounded on the  
 east by the property of Sinnavan Velan and others, north by  
 the property of Annapillai, wife of Kandavanam, west by the  
 property of Arumugam Nagalingam, and south by the pro-  
 perty belonging to Uppukkinattadipillaiar Temple ; of this  
 half and share of well situated on the entire land and share of  
 water drawing machine is worth                      .. „        20 00

30                      3. Land situated at Polikandy called Nakarakkaddanai  
 50 latchams varagu culture. Of this excluding an extent of  
 5 latchams on the west, the next extent of 5 latchams varagu  
 culture, on the east is bounded on the east by the property  
 of Arumugam Thanapalasingham, north by the property of  
 Katiripillai Kanagasabapathy and others, west by the  
 property of Arumugam Nagalingam, and south by the pro-  
 perty of Sinnamma, wife of Sinnatamby and others of this  
 half and share of well situated on the entire land and share of  
 water drawing machine                      .. „        15 00

40                      4. Land situated at Polikandy called Nakarakkaddanai  
 50 latchams varagu culture. Of this an extent of 26 latchams  
 varagu culture, on the east an extent of 5 latchams varagu



Exhibits  
 No. 2D 5  
 Inventory and  
 Last will  
 No. 4819 filed  
 in D. C. Jaffna  
 Testamentary  
 No. 4514  
 —Continued

culture, on the north-east is bounded on the east by the property of Sinnavan Velan and others, north by the property of Sinnamma, wife of Vairamuttu and others, west by the property of Arumugam Nagalingam and others and south by the property of Annapillai, wife of Kandavanam and others. Of this half and share of well situated on the entire land and share of water drawing machine and right of way and water course is worth .. Rs. 25 00

5. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture. Of this out of an extent of 26 latchams varagu culture ; on the east an extent of 26 latchams varagu culture, on the east an extent of 5 latchams varagu culture, on the north is bounded on the east by the property of Arumugam Nagalingam and others, north by the property of Sinnamma, wife of Vyrmuttu and others, west by the property of Arumugam Nagalingam and south by the property of Annapillai, wife of Kandavanam. Of this half and the share of well situated on the entire land and share of water drawing machine and right of way and water-course is worth .. ,, 35 00 20

6. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture. Of this out of an extent of 26 latchams on the east excluding an extent of aforesaid 10 latchams varagu culture ; the southern 5 latchams varagu culture is bounded on the east by the property of Sinnava Velan and others, north by the property of Sinnammah, wife of Vyrmuttu and others, west by the property of Arumukam Nakalingam, and on the south by the property of Arumukam Thanabalasingham, this half and the share of well situated on the entire land and share of water drawing machine and right of way and water-course is worth .. ,, 35 00 30

7. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture. Of this out of an extent of 26 latchams varagu culture on the east excluding an extent of aforesaid 18 latchams varagu culture an extent of 8 latchams varagu culture, on the south is bounded on the east by the property of Sinnavan Velan and others, north by the property of Arumugam Thanabalasingham, west by the property of Arumukam Nagalingam, and on the south by the property of Sinnamma, wife of Sinnatamby and others. Of this half share of well situated on the entire land and share of water drawing machine and right of way and water-course is worth .. ,, 40 00 40

8. A divided 1/4th share on the south by the land situated at Polikandy called Nelliddantharai 33 latchams

varagu culture, which is bounded on the east by the property of Sinnammah, wife of Vyramuttu and others, north by the property of Mailvaganam Muttukumaru and others, west by the property of Palaniapper Cumaraswamy and others, and south by the property of Arumugam Nagalingam and others. Of this an undivided half share is worth .. Rs. 40 00

Exhibits  
—  
No. 2D 5  
Inventory and  
Last will  
No. 4819 filed  
in D. C. Jaffna  
Testamentary  
No. 4514  
—Continued

10 9. Land situated at Polikandy called Nelliddantharai 16  $\frac{3}{4}$ th latchams varagu culture is bounded on the east by the property of Kuddy Kanapathy and others, north by the property of Arumukam Nakalingam and others, west by the property of Katiripillai Kanagasabapathy and others, and south by the property of Sinnammah, wife of Vyramuttu and others. Of this an undivided  $\frac{1}{4}$ th share on the east is worth .. ,, 65 00

20 10. A divided 3 latchams varagu culture and  $8\frac{1}{4}$  kullies of the land situated at Polikandy called Kirulawatte  $10\frac{3}{8}$  latchams varagu culture ; the said 3 latchams varagu culture and  $8\frac{1}{4}$  kullies is bounded on the east and west by the property of Annapillai, wife of Kandavanam and others, north by lane and south by the property of Nagan Vellian and others. Of this an undivided half share is worth .. ,, 17 50

11. Land situated at Polikandy called Kerulawattai, 3 latchams varagu culture and  $8\frac{1}{4}$  kullies ; is bounded on the east and west by the property of Annapillai, wife of Kandavanam and others, north by lane and south by the property of Superamaniam Velumailu. Of this an undivided half share is worth .. ,, 7 50

30 12. Land situated at Karanavai Navinditkurichchy called Vadavakaddai, in extent  $26\frac{3}{8}$  latchams varagu culture, is bounded on the east by the property of Thoraiayar Sinniah and others, north by the property of Nagappar Kanapathipillai and others, west and south by the property of Arumukam Nagalingam and others. Of this half of 1 latchams varagu culture and  $2\frac{1}{4}$  kullies is worth .. ,, 75 00

40 13. Land situated at Valvettiturai called Ponnachchithoddam 6 latchams varagu culture and  $3\frac{3}{8}$  kullies ; is bounded on the east by the property of Sinnatnakam, wife of Murugesu, north by the procession street of Uppukinattady Pillaiar Temple, west and south by the lane. Of this an undivided half share is worth .. ,, 50 00

14. Land situated at Karanavai Navindilkurichy called Ithialamanthai  $31\frac{3}{4}$  latchams varagu culture, tottam 2 is

Exhibits  
—  
No. 2D 5  
Inventory and  
Last will  
No. 4819 filed  
in D. C. Jaffna  
Testamentary  
No. 4514  
—Continued

bounded on the east by the property of Ponnammah, wife of Sellappah and others, north by the property belonging to Uppukinattady Pillaiar Temple and others, west by the property of Konar Mootatamby and others, south by the property of Velupillai Mootatamby and others. Of this half of  $\frac{1}{36}$ th share and the share of well and right of way and water course is worth. Rs. 75 00

15. Land situated at Polikandy called Kochchantanai,  $3\frac{3}{4}$  latchams varagu culture ; is bounded on the east by the property of Arumugam Nagalingam, north and south by lane, west by the property of Sinnatamby Vallipuram and others. Of this an undivided half share is worth .. ,, 25 00 10

16. Land situated at Polikandy called Periapananthoddam,  $3\frac{3}{4}$  latchams varagu culture ; is bounded on the east by the property of Vallipuram Mailvaganam and others, north by lane, west by the property of Thampar Vytiampillai and others, and on the south by the property of Sinnamma, wife of Vyramuttu and others, Of this  $\frac{1}{2}$  of half share on the east is worth .. ,, 5 00

17. Land situated at Karanavai Kottavattaikurichy called Kadduparenthy,  $6\frac{1}{2}$  latchams varagu culture ; is bounded on the east by the property of Alvan Nagan and others north by the property of Karaly Kuddy and others, west by lane, and on the south by the property of Sinnavan Velan and others. Of this an undivided half of  $\frac{1}{4}$ th share is worth .. ,, 25 00 20

18. Land situated at Polikandy called Saddankanthoddam,  $10\frac{1}{2}$  latchams varagu culture ; bounded on the east by the property of Arumugam Nagalingam, north by the property of Vallipuram Sinnatamby and others, west and south by lane. Of this an undivided one-fifth share is worth .. ,, 10 00 30

19. Land situated at Polikandy called Saddankanthoddam  $4\frac{1}{2}$  latchams varagu culture, bounded on the east and south by lane, north by the property of Kanthar Katirgamar and others, west by the property of Vallipuram Sinnatamby and others. Of this excluding  $\frac{1}{7}$ th share on the south-east of the remainder  $\frac{1}{3}$ rd share is worth .. ,, 5 00

20. Land situated at Polikandy called Saddankanthoddam  $3\frac{3}{4}$  latchams varagu culture ; bounded on the east by lane, north by the property of Vallipuram Sinnatamby and others, west by the property of Velupillai Chelliah and others, south by the property of Katirgamar. Of this one-sixth share is worth .. ,, 2 50 40

	21. Land situated at Polikandy called Shavattai House one-fourth, Chavattai $6\frac{3}{8}$ lachams varagu culture, bounded on the east by the property of Vairattai, wife of Chinnatamby and others, north by the property of Sinnachchy, wife of Murugesu and others, west and south by lane. Of this an undivided one-sixth share is worth	Rs. 10 00	Exhibits No. 2D 5 Inventory and Last will No. 4810 filed in D. C. Jaffna Testamentary No. 4514 —Continued.
10	22. Land situated at Polikandy called Unthuvattai $2\frac{3}{4}$ lachams varagu culture ; bounded on the east and south by the property of Marimuttu, wife of Arumugam and others, north and west by lane. Of this an undivided half share is worth	.. ,, 200 00	
	23. Land situated at Polikandy called Nulliantheni, $26\frac{3}{4}$ lachams varagu culture ; bounded on the east by the property of Theivanai, wife of Valupillai and others, north by road, west by the property of the temple of Ambalavana Nadarasaswamy, and south by the property of Achchimuttu, wife of Kandavanam and others. Of this an undivided $\frac{1}{12}$ th share is worth	.. ,, 15 00	
20	24. Land situated at Polikandy called Appilathoddam $8\frac{1}{2}$ lachams varagu culture, bounded on the east by lane, north by the property of Pakkiam, wife of Kadirgamu and others, west by the property of Vallipuram Chinnatamby, and south by lane. Of this an undivided $\frac{1}{16}$ th share is worth	.. ,, 5 00	
30	25. <i>Purchase Lands</i> : Land situated at Polikandy called Maruviliady 43 lachams varagu culture, with palmyrahs and vadalies. Of this one-fourth share on the south-east ; is bounded on the east and south by lane, north by the property of Muttupillai, widow of Sanmugam and others, and west by the property of Katakam, wife of Supiramaniam and others. Of this excluding one-fourth share on the east of the northern one-half share of the remaining $\frac{3}{4}$ th share excluding one-fourth share, the remaining $\frac{3}{4}$ th share	.. ,, 7 50	
	26. Land situated at Polikandy called Nukkaippulam $26\frac{1}{4}$ lachams varagu culture with vadalies, is bounded on the east and north by lane, west by the property of Wallipillai, daughter of Rasinghar and others, and south by the property of Arumugam Nagalingam. Of this an undivided half of one-sixth share is worth	.. ,, 25 00	
40	27. Land situated at Polikandy called Kandapillai-thoddam House, 1 ditto 1 lachams varagu culture. Of this the western one-half share is bounded on the east and north by the property of Katpy, daughter of Kandara, west by the		

**Exhibits**  
 No. 2D 5  
 Inventory and  
 Last will  
 No. 4819 filed  
 in D. C. Jaffna  
 Testamentary  
 No. 4514  
 —Continued

property of Sinnapillai, wife of Vallipuram, and south by lane.  
 Of this an undivided half share is worth .. Rs. 2 50

28. Land situated at Samarapakuthevankurichy called  
 Konavalaithoddam 7, ditto 24 7/8th latchams varagu  
 culture, Metkukuladdy 44 latchams. Of this a divided  
 17 latchams varagu culture and 9 15/16th kullies; is  
 bounded on the east by the property of Konaper Vallipuram  
 and others, north by the property of Sivakolundu, widow of  
 Vallipuram, west by lane and by the property of Sinniah  
 Subramaniam and others, and south by the street. Of this 10  
 an undivided half of three-eighth share is worth .. ,, 50 00

29. Land situated at Polikandy called Appilathoddam  
 8½ latchams varagu culture, is bounded on the east by the  
 property of Walliammai, widow of Arumugam and lane,  
 north by the property of Sinnamma, wife of Vyramuttu and  
 others, west by the property of Vallipuram Sinnatamby and  
 others, and south by lane. Of this an undivided half of  
 7/8th share is worth .. ,, 5 00

Increase by official valuation .. 917 50 20  
 1,400 00

Rs. 2,317 50

1. Amount due to the deceased on a mortgage bond  
 granted by Kandiah Selvarajah and Parupathy, widow of  
 Kandiah of Polikandy bearing No. 3,702, dated 26th Nov-  
 ember, 1918 for Rs. 60/ and interest at 12 per cent. per annum  
 from 1st October, 1920. Half of this .. 30 66

2. Amount due to the deceased on a mortgage bond  
 granted by Walliapuram Katiravelu, and wife Vairattai and  
 Mailattai, widow of Vallipuram of Alvai, west bearing 30  
 No. 4,353, dated 2nd January, 1920, for Rs. 100 and interest  
 at 12 per cent. per annum in the event of interest being paid  
 annually and in default at 16 per cent. per annum. Half  
 of this .. ,, 57 42

3. Amount due to the deceased on a mortgage bond  
 granted by Iswary, widow of Velauthar Murugesu of Poli-  
 kandy bearing No. 3,880 dated 5th March, 1919, for Rs. 170  
 and interest at 16 per cent. per annum. Half of this .. ,, 108 80

4. Amount due to the deceased on a mortgage bond 40  
 granted by Katirany, widow of Thinakary of Valvetty  
 bearing No. 3,525, dated 18th August, 1918 for Rs. 85 and

interest at 12 per cent. from 1st September, 1920. Half of this	.. Rs.	43 86	Exhibits No. 2D 5 Inventory and Last will No. 4819 filed in D. C. Jaffna Testamentary No. 4514 —Continued.
Five sheep, one-half of this two cows, one-half of this amount due under the judgment in case No. 19,076 C. R. Point Pedro from Kanapatipillai Kandavanam Rs. 295.40 with interest thereon at 9 per cent. per annum from 18th June, 1920, and costs	.. "	27 70	
Less Rs. 20 paid by the defendant Rs. 312.44 half of this	.. "	156 22	
		2,738.46	
Reduction : Funeral expenses allowed	.. "	77.25	
	Balance ..	Rs. 2,661.21	

Sgd. A. NAKALINGAM

I, Arumugam Nagalingam of Polikandy, executor of the estate of my late father, Koolaiyar Arumugam, do solemnly, sincerely and truly affirm and declare as follows :—

1. That the above written Inventory contains full, true and correct particulars of the estate of the above-named Koolaiyar Arumugam, and all his assets and credits and I have made a correct valuation of the same.

The foregoing affidavit was read over and explained to the affirmant who appeared to understand the contents thereof and wrote his signature and affirmed to the truth and correctness thereof at Point Pedro, this 11th day of July, 1922.

Sgd. Illegibly  
A. NAGALINGAM,  
*Interpreter*

Before me :

Sgd.

Drawn by :  
S. SUBRAMANIAM,  
*Proctor*

*Commissioner*

TRANSLATION

Last Will

No. 4819

We, Koolaiyar Arumugam and wife, Walliammai of Polikandy, considering the certainty of our death with sound and disposing mind and memory and understanding do execute our Last Will and Testament to wit ;—

Exhibits  
 No. 2D 5  
 Inventory and  
 Last will  
 No. 4819 filed  
 in D. C. Jaffna  
 Testamentary  
 No. 4514  
 —Continued.

We do hereby bequeath all our immovable property belonging to us by purchase and the movable property such as money to the following persons in the following manner :

Land in possession of the 1st named person of us by right of purchase.

Situated at Polikandy, in the Parish of Udupidy in the Division of Vadamaradchy West, in the District of Jaffna, Northern Province, called Nakarakkaddanai, in extent 50 latchams varagu culture. Of this—

1. Out of 19 latchams varagu culture on the west excluding 4 latchams varagu culture on the west next to it 6 latchams varagu culture, on the east of the said land out of 31 latchams varagu culture, on the east excluding 8 latchams varagu culture, on the south next to it 4 latchams varagu culture, on the north both forming a total extent of 10 latchams varagu culture ; we do hereby bequeath this to our son Arumugam Thanavalasingham. 10
2. Out of the said land called Nakarakkaddanai out of 19 latchams, on the west excluding 10 latchams varagu culture, on the west next to it 3 latchams varagu culture on the east.
3. Situated at Polikandy called Nallaiddaitharai, 33 latchams varagu culture. Of this one-fourth share on the south, both these we do hereby bequeath to our grandson Kadirgamar 20 Kanakasabapathy.
4. That of the said land called Nakarakkaddanai excluding 19 latchams varagu culture, on the west out of the remaining 31 latchams varagu culture, on the east 5 latchams varagu culture with houses on the north-east, we do hereby bequeath to our children Arumugam Kandavanam, Arumugam Nagalingam and Arumugam Thanabalasingham in equal shares.
5. That of the said land Nagarakkaddanai out of the said 31 latchams varagu culture excluding 5 latchams varagu culture, on the north-eastern out of the remaining 7 latchams varagu culture on 30 the north.
6. Situated at Valvetiturai called Nelliaddaitharaipathy 15 latchams varagu culture ; ditto  $1\frac{3}{4}$  latchams varagu culture. Of these the eastern one-half share both these we do hereby bequeath to our grand daughter Sinnammah, wife of Valupillai Vairamuttu.
7. That of the said Nagarakkaddanai out of the said 31 latchams varagu culture excluding 12 latchams varagu culture, on the north out of the remaining 7 latchams varagu culture on the north.
8. Situated at Polikandy called Themlavattai  $10\frac{3}{8}$  latchams varagu culture. Of this 3 latchams varagu culture and  $8\frac{1}{4}$  kullies. 40

9. Situated at Polikandy called Themlavattai these three we do hereby bequeath to our grand-daughter Annapillai, wife of Thamper Kandavanam.
10. That of the said Nakarakaddanai out of the said 31 latchams varagu culture 8 latchams varagu culture on the south.
11. Situated at Karanavai Navinditkurichy called Vadduvakkaddai  $26\frac{3}{8}$  latchams varagu culture. Of this 1 latcham varagu culture and  $2\frac{1}{4}$  kullies.
- 10 12. Situated at Valvettiturai called Ponnachchythoddam 6 latchams varagu culture and  $3\frac{3}{8}$  kullies.
13. Situated at Karanavai Navinditkurichy called Theyalmanthai  $31\frac{3}{4}$  latchams varagu culture. Thottam 2 of these  $1/36$ th share.
14. Situated at Polikandy called Kochchantanai  $3\frac{3}{8}$  latchams varagu culture, these five we do hereby bequeath to the Kinattadyitpillaiar our son Arumugam Kandavanam to look after the said lands.
15. Situated at Polkandy called Periapanaithottam  $3\frac{3}{4}$  latchams varagu culture, of this the western one-half share.
- 20 16. Situated at Karanavai Kottavattaikurichy called Kaddupanaiththy  $6\frac{1}{2}$  latchams varagu culture. Of this one-fourth share there we do hereby bequeath to our son Arumugam Nagalingam.
17. That out of the moneys due on mortgage bonds in favour of the 1st named of us we do hereby bequeath Rs. 500 to our son, Arumugam Nagalingam, Rs. 600 to my wife Walliammai, Rs. 650 to our son Arumugam Thanabalasingham, Rs. 500 to our son Arumugam Kandavanam but after deducting the cost of funeral expenses and the cost of the testamentary case the balance sum shall be distributed as aforesaid.

30 We do hereby nominate and appoint our son Arumugam Nagalingam to be the executor to conduct all the aforesaid affairs.

In witness whereof we do set our hands to this and to one of the same tenor in the presence of Notary Vairavnathar Sabaratnam and in the presence of Sinnatamby Vallipuram of Polikandy, and Kadirgamar Thambiah of the same the subscribing witnesses hereto at our residence on the fifth day of December, 1920.

Sgd. KOOLAIYAR ARUMUGAM

Mark of WALLIAMMAI

Exhibits  
 No. 2D 5  
 Inventory and  
 Last will  
 No. 4819 filed  
 in D. C. Jaffna  
 Testamentary  
 No. 4514  
 —Continued.



**Exhibits**  
 No. 2D 5  
 Inventory and  
 Last Will  
 No. 4819 filed  
 in D. C. Jaffna  
 Testamentary  
 No. 4514  
 —Continued

Witnesses :

Sgd. S. VALLIPURAM  
 „ K. THAMBIAH

Sgd. V. SABARATNAM,  
*Notary.*

I, Vairavanatar Sabaratnam, Notary Public, of the Division of Vadamardchy West, Jaffna, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said Koolaiyar Arumugam, who signed illegibly and wife Walliammai, who signed by making her mark in the presence of Sinnatamby Vallipuram of Polikandy and Kadirgamar Thambiah of the same place the subscribing witnesses hereto that I know the said executants and the witnesses that the said Koolaiyar Arumugam and wife Walliammai and the witnesses have in my presence and in the presence of one another set their signatures and mark at the residence of the executants on the 5th day of December, 1920.

The 5th day of December, 1920

Sgd. V. SABARATNAM,  
*Notary Public.*

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**No. 2D 9**

No. 2D 9  
 Petition in  
 D. C. Jaffna  
 Testamentary  
 No. 4514  
 13-6-1921

**Petition in D. C. Jaffna, No. 4,514T**

20

IN THE DISTRICT COURT OF JAFFNA.

No. 4,514 T In the matter of the Last Will and Testament of the late Koolaiyar Arumugam of Polikandy, DECEASED.

ARUMUGAM NAGALINGAM of Polikandy ..... *Petitioner.*

On the 13th day of June, 1921.

The petition of the above-named petitioner appearing by S. Subramaniam, his Proctor, states as follows :—

1. That the abovenamed Koolaiyar Arumugam who was the petitioner's father and who resided at Polikandy died at Polikandy aforesaid within the jurisdiction of this Court on the 6th day of December, 1920. The petitioner was present at his death.

2. The said Koolaiyar Arumugam duly executed his Last Will on the 5th December, 1920, whereby he bequeathed his property to his three sons Arumugam Thanabalasingham, Arumugam Kandavanam and the petitioner and to his grand-children, Kathirkamar Kanakasabapathy

Chinnamma, wife of Velupillai Vairamuttu and Annapillai, wife of Thampar Kanthavanam and to Ooppukinattadyithpillaiar Temple and appointed the petitioner to be the sole executors of the said Last Will.

**Exhibits**  
 No. 2D 9  
 Petition in  
 D. C. Jaffna  
 No. 4514  
 13-6-21  
 —Continued

The said Last Will is herewith annexed.

3. The said Koolaiyar Arumugam left behind him his widow of Walliammai, his heirs are his sons.

(1) The petitioner ; (2) Thanabalasingham ; and (3) Kandavanam and his grand-children.

(4) Kathirkamar Kanagasabapathy.

10 (5) Chinnamma, wife of Velupillai Vairamuttu.

(6) Annapillai, wife of Thampar Kandavanam.

(7) Alagamma, wife of Sinnathamby Subramaniam.

(8) Wallipillai, wife of Kathirgamar Sithamparapillai.

(9) Chellachchy, daughter of Kathirkamar.

His daughters Sivakkolunthu and Pakkiam were dowried. The said Koolaiyar Arumugam donated the property to the said Alagamma Wallipillai and Chellachchy previously.

20 4. The said Koolaiyar Arumugam left property within the jurisdiction of this Court of the nature and value shown in the schedule hereunder written.

5. The petitioner claims Probate as executor appointed by the said Last Will.

6. The petitioner has no reason to apprehend that anyone will oppose my application for Probate of the said Last Will.

The petitioner therefore prays for an order absolute in the first instance declaring that the said Last Will has been proved and granting Probate to the petitioner.

For costs incurred in this behalf and for such further or other relief as to this Court shall seem meet.

30

Sgd. S. SUBRAMANIAM,  
*Proctor for Petitioner.*

## Exhibits

No. 2D 9  
Petition in  
D. C. Jaffna  
No. 4514  
13-6-21  
—Continued

## Notice

## IN THE DISTRICT COURT OF JAFFNA

No. 4, 514 T In the Matter of the Last Will of the late Koolaiyar Arumugam.

1. ARUMUGAM THANABALASINGHAM,
2. ARUMUGAM KANTHAVANAM,
3. KATHIRGAMAR KANAGASABAPATHY,
4. CHINNAPILLAI, wife of Velupillai Vyramuttu,
5. ANNAPILLAI, wife of Thampar Kanthavanam, all of Polikandy.

You are hereby required to appear before this Court at 10 o'clock of 10 the forenoon on the 19th day of February, 1925, to shew cause why the final account filed in this case should not be passed and the estate closed.

By Order of Court,  
Sgd. Illegibly  
*Secretary.*

The 6th day of February, 1925.

Sgd. S. SUBRAMANIAM,  
*Proctor.*

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**No. P 12**

No. P 12  
Statement of  
Declaration of  
Property filed  
in D. C. Jaffna  
No. 4514

**Statement of Declaration of Property filed in D. C. Jaffna No. 4514**

20

Lands donated by the deceased to his son Arumugam Kanthavanam by deed No. 800 of 6th July, 1908, attested by S. Kandavanam, Notary Public, reserving life interest, to wit :—

1. Land situated at Polikandy called Mankodai,  $12\frac{1}{4}$  lachams Mavathai, 4 lachams varagu culture. Of these parcels  $\frac{5}{6}$ th share on the west and south-east of the first parcel and the whole of the 2nd parcel form a total extent of 14 lachams varagu culture and  $3\frac{3}{4}$  kullies. Of this one-half .. Rs. 150 00

2. Land situated at ditto called Kochchanthai  $4\frac{1}{2}$  lachams varagu culture ; ditto house  $\frac{1}{4}$ th, ditto Kuda  $\frac{7}{8}$ th lachams. One-half of this .. ,, 60.00 30

3. Land situated at ditto called Mullaikkaddaiadi  $2\frac{3}{4}$  lachams varagu culture, ditto  $3\frac{3}{8}$  lachams varagu culture. Of this one-half .. ,, 60.00

		Exhibits
		No. P 12
		Statement of
		Declaration of
		Property filed
		in D. C. Jaffna
		No. 4514
		—Continued
	4. Land situated at ditto called Periaseema $3\frac{5}{8}$ latchams varagu culture. Of this one-half .. Rs.	60.00
	5. Land situated at Samarakuthevankurichy called Kanvalithottam 7, ditto $24\frac{7}{8}$ latchams varagu culture; Metkitkaladdy 44 latchams varagu culture. Of this one-fourth share of the south excluding 2 latchams on the north-west. The remaining 17 latchams and 10 kullies. Of this $\frac{1}{4}$ th of $\frac{11}{16}$ th share with shares of wells and rights of way and water course. Of this One-half .. ,,	125.00
10	6. Land situated at ditto called Kandavali. Of this a divided one-third share of the north, in extent 3 latchams and 6 kullies of the 10 latchams in the middle. Of this an undivided one-fourth share and the share of wells and right of way and water-course. Of this one-half .. ,,	25.00
	7. Land situated at ditto called Kandavali, $19\frac{1}{4}$ latchams. Of this excluding $2\frac{3}{4}$ latchams for deficiency, out of the remaining $16\frac{1}{2}$ latchams, $8\frac{1}{2}$ latchams on the west. Of this an undivided one-fourth share with share appertaining to this of the well situated within this land and of the well situated within the whole land and right of way and water-course. Of this one-half .. ,,	30.00
20	8. Land situated at Polikandy called Siruththikathai $38\frac{3}{8}$ latchams. Of this out of the one-sixth share on the north-east two-third share of the north, in extent 4 latchams and $4\frac{3}{4}$ kullies. Of this an undivided one-half share. Of this one-half .. ,,	75.00
	9. Land situated at ditto called Koddathatharai 6 parcels forming an extent of 36 latchams varagu culture and $7\frac{1}{2}$ kullies. Of this one-third share on the north-east, in extent 12 latchams and $2\frac{1}{2}$ kullies. Of this one-half .. ,,	25.00
30	10. Land situated at Samarapakuthevankurichy called Mavathai 38 latchams. Of this $\frac{5}{6}$ th share on the east forming an extent of 31 latchams varagu culture and 12 kullies. Of this one-fifth share of the ground and of the well sunk newly and one-sixth share of the old well. Of these one-half ..	30.00
		Rs. 640.00

## Exhibits

No. P 13  
Final Account,  
Notice, Fiscal's  
Report and  
Precept to  
Fiscal in D. C.  
Jaffna No. 4514

## No. P 13

**Final Account, Notice, Fiscal's Report and Precept to Fiscal in  
D. C. Jaffna, Testamentary No. 4514**

## IN THE DISTRICT COURT OF JAFFNA

Testamentary In the Matter of the Last Will and Testament of the  
No. 4,514. late Koolaiyar Arumugam of Polikandy

ARUMUGAM NAGALINGAM of Polikandy ..... *Executor.*

A true full and perfect final account of the estate of the late Koolaiyar Arumugam by the executor,

1. To amount value of lands mentioned in the Inventory	10	Rs. 2,317.50
2. To amount recovered on mortgage bond granted by Vallipuram Kathiravelu and wife Vairattai and another bearing No. 4353 dated 2nd January, 1920 for Rs. 100 and interest Rs. 149.50. Half of this	74.75	.. ,,
3. To amount recovered on mortgage bond granted by Kandiah Selvarajah and Parupathy bearing No. 3,702 dated 24th November, 1918 for Rs. 60 and interest from 1st October, 1920, Rs. 81. Half of this	40.50	..
4. To amount due on mortgage bond granted by Iswary, widow of Velauthar Murukesu bearing No. 3880 dated 5th March, 1919 for Rs. 170 and interest Rs. 278.80. Half of this	139.40	.. ,,
5. To amount recovered under the mortgage decree in case No. 19,076 C. R. Point Pedro from Kanapathipillai Kandavanam Rs. 294.12 with interest at 9 per cent. per annum from 18th June, 1920 and costs Rs. 26.70 less Rs. 20 paid by defendant previously Rs. 375.36. Half of this	187.68	.. ,,
6. To amount recovered on mortgage bond granted by Kathirasy, widow of Thenakary bearing No. 3525 dated 18th August, 1918 for Rs. 85 and interest from 1st September, 1920, Rs. 115.60. Half of this	57.80	.. ,,
7. To value of 5 sheep. Half of this	9.00	..
8. To value of 2 cows. Half of this	15.00	.. ,,

	To amount due to the executor which he hereby waives	.. Rs. 13.04	<u>Rs. 13.04</u>	<u>Exhibits</u> No. P 13
	Total	.. Rs. 2,854.67		Final Account, Notice, Fiscal's Report and Precept to Fiscal in D. C. Jaffna No. 4514 —Continued.
10	1. By amount value of lands conveyed to the executor Arumugam Thanapalasingham Kathiripillai Kanagasabai Annapillai, wife of Kanthavanam, Chinnammah, wife of Vairamuttu and to Uppukkinathadyitpillaiar temple by deed No. 19545 dated 1st November, 1923, attested by S. Subramaniam, Notary Public, herewith filed marked letter A	Rs. 2,317.50		
	2. By amount of funeral expenses of the deceased	.. ,, 350.00		
	3. By amount of costs incurred in administering the estate as per taxed bill of costs marked letter B	.. ,, 159.17		
	4. By amount of stamps and fees paid for deed of conveyance bearing No. 19545 dated 1st November, 1923 attested by S. Subramaniam, Notary Public, as per receipt herewith filed marked letter C	.. ,, 28.00		
	Total	.. Rs. 2,854.67		

20 I, Arumugam Nagalingam, executor of the Last Will and Testament of the late Koolaiyar Arumugam of Polikandy do solemnly, sincerely, truly affirm and declare as follows:—

To the best of my knowledge, information and belief the above written final account contains a full true and correct account of all the property movable and immovable and rights and credits of the said Koolaiyar Arumugam, deceased so far as I have been able with due diligence to ascertain the same. -

Sgd. A. NAGALINGAM

30 Before me :

Sgd. Illegibly  
*Commissioner*

Sgd. S. SUBRAMANIAM,  
*Proctor.*

IN THE DISTRICT COURT OF JAFFNA

Testamentary            In the matter of the Last Will and Testament of the  
No. 4514.                late Koolaiyar Arumugam of Polikandy, DECEASED

Exhibits  
 No. P 13  
 Final Account  
 Notice, Fiscal's  
 Report and  
 Precept to  
 Fiscal in D. C.  
 Jaffna No. 4514  
 —Continued

ARUMUGAM NAGALINGAM of Polikandy ..... *Petitioner.*

20-5-25. Inquiry (1)

MR. S. SUBRAMANIAM for Executor.  
 MR. K. MUTTUKUMARU for widow.

Neither the widow nor her Proctor present. Final account is passed without prejudice to her rights, if any.

Intld. A. K.

**Notice**

10

IN THE DISTRICT COURT OF JAFFNA

Testamentary In the matter of the Last Will of the late Koolaiyar  
 No. 4,514. Arumugam.

To

1. ARUMUGAM THANABALASINGHAM,
2. ARUMUGAM KANTHAVANAM,
3. KATHIRGAMAR KANAGASABAPATHY,
4. CHINNAPILLAI, wife of Velupillay Vynamuttu,
5. ANNAPILLAI, wife of Thampar Kanthavanam, all of Polikandy.

You are hereby required to appear before this Court at 10 o'clock of 20 the forenoon on the 19th day of February, 1925, to show cause why the final account filed in this case should not be passed and the estate closed.

By Order of Court,

Sgd. B. EMMANUEL,  
*Secretary.*

The 6th day of February, 1925.  
 Sgd. S. SUBRAMANIAM,  
*Proctor.*

FISCAL'S REPORT TO PRECEPT.

By virtue hereof I have caused to be noticed the respondents in case No. 4,514 by causing to be delivered from them translation of them notice 30 marked A as will appear from the affidavit of K. Thampu, Process Server, marked B, dated 14th February, 1925.

Fiscal's Office.

Sgd. A. VISUVANATHAN,  
*Deputy Fiscal.*

*Affidavit B. Referred to :*

No. 4514.

I, K. Thambu, Process Server, solemnly, sincerely and truly declare and affirm that I served the notice in the said case No. 4514 made A, on the person of (1) A. Thanabalasingham, (2) A. Kanthavanam, (3) K. Kanagasabapathy, (4) Chinnapillai, wife of V. Vyramuttu, (5) Annapillai, wife of Kanthavanam by delivering to them translation thereof on being pointed out by the plaintiff Arumugam Nagalingam on the 13th day of February, 1925, at Polikandy.

**Exhibits**  
 No. P 13  
 Final Account,  
 Notice, Fiscal's  
 Report and  
 Precept to  
 Fiscal in D. C.  
 Jaffna  
 No. 4514  
 —Continued.

10

Sgd. (In Tamil) K. THAMBY.  
*Server*

**Precept to Fiscal.**

IN THE DISTRICT COURT OF JAFFNA

ARUMUGAM NAGALINGAM of Polikandy ..... *Administrator.*

No. 4514.

*Vs.*

20

1. ARUMUGAM THANAPALASINGHAM,
2. ARUMUGAM KANTHAVANAM,
3. KATHIRGAMAR KANAGASABAPATHY,
4. CHINNAPILLAI, wife of Velupillai Vyramuttu,
5. ANNAPILLAI, wife of Thampar Kanthavanam, all of

Polikandy ..... *Respondents.**To The Fiscal of the Northern Province.*

Serve forthwith the notices in the above-named action which, with the translation, is herewith transmitted to you, upon the above-named respondents to whom it is directed, and leave with or tender to each such person a translation of the notice accompanying the notice and certify to this Court on or before the 18th day of February, 1925, in what manner you have executed the precept returning the notice attached to your certificate as an exhibit.

30

The 6th day of February, 1925.

By Order of Court,

Sgd. B. EMMANUEL,  
*Secretary.*



Exhibits  
 No. P 24  
 Inventory in  
 D. C. Jaffna  
 No. 4514

## No. P 24

## Inventory in D. C. Jaffna, Testamentary No. 4,514

## IN THE DISTRICT COURT OF JAFFNA

Testamentary Jurisdiction No. 4514. In the matter of the Last Will and Testament of the late Koolaiyar Arumugam of Polikandy.

ARUMUGAM NAGALINGAM of Polikandy ..... *Executor.*

A true full and perfect inventory of the rights and credits of the above-named deceased by the executor :—

- |   |                                     |
|---|-------------------------------------|
| <p>1. Land situated at Polikandy called Nakarakkaddanai in extent 50 latchams varagu culture. Of this excluding an extent of 8 latchams on the west, the next extent of 10 latchams varagu culture on the east, is bounded on the east by the property of Arumugam Nagalingam, north and west by the property of Katiripillai Kanagasabapathy and wife of Sinnatamby and others. Of this one-half and share of well and water drawing machine situated on the land east of this is worth</p>  | <p>10<br/>         .. Rs. 25.00</p> |
| <p>2. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture, of this excluding an extent of 8 latchams varagu culture, on the south an extent of 3 latchams varagu culture on the north, is bounded on the east by the property of Sinnavan Velan and others, north by the property of Annapillai, wife of Kandavanam, west by the property of Arumugam Nagalingam, and south by the property belonging to Uppukinattady Pillaiar Temple. Of this one-half and share of well situated on the entire land and share of water drawing machine is worth</p> | <p>20<br/>         .. ,, 20.00</p>  |
| <p>3. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture, of this excluding an extent of 5 latchams on the west, the next extent of 3 latchams varagu culture on the east, is bounded on the east by the property of Arumugam Thanapalasingham, north by the property of Katiripillai Kanagasabapathy and others, west by the property of Arumukam Nagalingam, and south by the property of Sinnamma, wife of Sinnatamby and others. Of this one-half share of well situated on the entire land and share of water drawing machine is worth</p>       | <p>30<br/>         .. ,, 15.00</p>  |
| <p>4. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture, of this an extent of 26 latchams</p>  | <p>40</p>                           |

varagu culture, on the east an extent of 5 latchams varagu culture, on the north-east, is bounded on the east by the property of Sinnavan Velan and others, north by the property of Sinnamma, wife of Vairamuttu and others, west by the property of Arumukam Nagalingam and others, and south by the property of Annapillai, wife of Kandavanam and others. Of this one-half share of water drawing machine and right of way and water course is worth .. Rs. 25.00

Exhibits  
No. P 24  
Inventory in  
D. C. Jaffna  
No. 4,514  
—Continued.

10 5. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture, of this out of an extent of 26 latchams varagu culture, on the east an extent of 5 latchams varagu culture, on the north is bounded on the east by the property of Arumugam Nagalingam and others, north by the property of Sinnamma, wife of Vyramuttu and others, west by the property of Arumugam Nagalingam and south by the property of Annapillai, wife of Kandavanam. Of this one-half and the share of well situated on the entire land and share of water drawing machine and right of way and water course is worth .. ,, 35.00

20 6. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture, of this out of an extent of 26 latchams on the east excluding an extent of aforesaid 10 latchams varagu culture, the southern 5 latchams varagu culture is bounded on the east by the property of Sinnavan Velan and others, north by the property of Sinnammah, wife of Vyramuttu and others, west by the property of Arumukam Nagalingam, and on south by the property of Arumukan Thanabalasingham. Of this one-half and the share of well situated on the entire land and share of water drawing machine and right of way and water-course is worth .. ,, 35.00

40 7. Land situated at Polikandy called Nakarakkaddanai 50 latchams varagu culture, of this out of an extent of 26 latchams varagu culture, on the east excluding an extent of aforesaid 18 latchams varagu culture an extent of 8 latchams varagu culture on the south, is bounded on the east by the property of Sinnavan Velan and others, north by the property of Arumugam Thanabalasingham, west by the property of Arumugam Nagalingam, and on south by the property of Sinnammah, wife of Sinnatamby and others. Of this one-half and the share of well situated at the entire land and share of water drawing machine and right of way and water course is worth .. ,, 40.00

8. A divided 1/4th share on the south of the land situated at Polikandy called Nelliddantharai 33 latchams

Exhibits  
 No. P 24  
 Inventory in  
 D. C. Jaffna  
 No. 4,514  
 —Continued.

- varagu culture ; which is bounded on the east by the property of Sinnammah, wife of Vyramuttu and others, north by the property of Mylvaganam Muttukumaru and others, west by the property of Palaniappar Cumaraswamy and others, and south by the property of Arumugam Nagalingam and others. Of this an undivided one-half share is worth .. Rs. 40.00
9. Land situated at Polikandy called Nelliddantharai  $16\frac{3}{4}$  latchams varagu culture, is bounded on the east by the property of Kuddy Kanapathy and others, north by the property of Arumukam Nagalingam and others, west by the property of Kathiripillai Kanagasabapathy and others, and south by the property of Sinnammah, wife of Vyramuttu and others. Of this an undivided one-fourth share on the east is worth .. ,, 65.00 10
10. A divided 3 latchams varagu culture and  $8\frac{1}{4}$  kullies of the land situated at Polikandy called Kurulawatte  $10\frac{3}{8}$  latchams varagu culture. The said 3 latchams varagu culture and  $8\frac{1}{4}$  kullies is bounded on the east and west by the property of Annapillai, wife of Kandavanam and others, north by lane and south by the property of Nagan Vellaian and others. Of this an undivided one-half share is worth .. ,, 17.50 20
11. Land situated at Polikandy called Kerulawatte 3 latchams varagu culture and  $8\frac{1}{4}$  kullies, is bounded on the east and west by the property of Annapillai, wife of Kandavanam and others, north by lane and south by the property of Supramaniam Velumailu. Of this an undivided one-half share is worth .. ,, 7.50
12. Land situated at Karanavai Navinditkurichy called Vaduvakkadai in extent  $26\frac{3}{8}$  latchams varagu culture, is bounded on the east by the property of Thoraiayar Sinniah and others, north by the property of Nagappar Kanapathipillai and others, west and south by the property of Arumugam Nagalingam and others. Of this one-half of 1 latchams varagu culture and  $2\frac{1}{4}$  kullies is worth .. ,, 75.00 30
13. Land situated at Valvettiturai called Ponnachithoddam 6 latchams varagu culture and  $3\frac{3}{8}$  kullies, is bounded on the east by the property of Sinnathankam, wife of Murugesu, north by the procession street of Uppukinatady Pillaiyar Temple, west and south by lane. Of this an undivided one-half share is worth .. ,, 50.00 40
14. Land situated at Karanavai Navinditkurichy called Thialamanthai  $31\frac{3}{4}$  latchams varagu culture, Thottam

	2 is bounded on the east by the property of Ponnammah, wife of Sellappah and others, north by the property belonging to Uppukinatady Pillaiyar Temple and others, west by the property of Konar Mootatamby and others, south by the property of Velupillai Mootatamby and others. Of this one-half of 1/36th share and the share of well and right of way and water-course is worth	Rs.	75.00
10	15. Land situated at Polikandy called Kochchantai, 3 $\frac{3}{8}$ lachams varagu culture ; is bounded on the east by the property of Arumugam Nagalingam, north and south by lane, west by the property of Sinnatamby Vallipuram and others. Of this an undivided one-half share is worth	.. ..	25.00
	16 Land situated at Polikandy called Periapanaithoddam 3 $\frac{1}{4}$ lachams varagu culture ; is bounded on the east by the property of Vallipuram Mailvaganam and others, north by lane, west by the property of Thampar Vytiampillai and others, and on the south by the property of Sinnamma, wife of Vyramuttu and others. Of this one-half of one-half share on the east is worth	.. ..	5.00
20	17. Land situated at Karanavai Kottavattaikurichy called Kadduparuthy 6 $\frac{1}{2}$ lachams varagu culture ; is bounded on the east by the property of Alvan Nagan and others, north by the property of Karaly Kuddy and others, west by land, and on south by the property of Sinnavan Velan and others. Of this an undivided one-half of one-fourth share is worth	.. ..	25.00
30	18. Land situated at Polikandy called Saddankanthoddam 10 $\frac{1}{2}$ lachams varagu culture ; bounded on the east by the property of Arumugam Nagalingam, north by the property of Vallipuram Sinnatamby and others, west and south by lane. Of this an undivided one-fifth share is worth	.. ..	10.00
	19. Land situated at Polikandy called Saddankanthoddam 4 $\frac{1}{2}$ lachams varagu culture ; bounded on the east and south by lane, north by the property of Kanthar Kathirgamar and others, west by the property of Vallipuram Sinnatamby and others. Of this excluding 1/7th share on the south-east of the remainder 1/3rd share is worth	.. ..	5.00
40	20. Land situated at Polikandy called Saddankanthoddam, 3 $\frac{3}{4}$ lachams varagu culture ; bounded on the east by lane, north by the property of Vallipuram Sinnatamby and others, west by the property of Velupillai		

Exhibits  
 No. P 24  
 Inventory in  
 D. C. Jaffna  
 No. 4,514  
 —Continued.

Exhibits  
 No. P 24  
 Inventory in  
 D, C. Jaffna  
 No. 4514  
 —Continued

Chelliah and others, south by the property of Katirgamar.  
 Of this one-sixth share is worth .. Rs. 2.50

21. Land situated at Polikandy called Chavattai house  
 1/4th, ditto Chavattai 3/8th latchams varagu culture ;  
 bounded on the east by the property of Vairattai, wife of  
 Chinnatamby and others, north by the property of  
 Sinnachchy, wife of Murugesu and others, west and south  
 by lane. Of this whole share is worth .. ,, 10.00

22. Land situated at Polikandy called Unthuvattai,  
 2 $\frac{3}{4}$  latchams varagu culture ; bounded on the east and south  
 by the property of Marimuttu, wife of Arumugam and  
 others, north and west by lane. Of this an undivided one-  
 half share is worth .. ,, 200.00 10

23. Land situated at Polikandy, called Nulliantheni,  
 26 $\frac{3}{4}$  latchams varagu culture ; bounded on the east by the  
 property of Theivanai, wife of Velupillai and others, north  
 by road, west by the property of the temple of Ambalavana  
 Nadarasaswamy, and south by the property of Achchimuttu,  
 wife of Kandavanam and others. Of this an undivided  
 1/12th share is worth .. ,, 15.00 20

24. Land situated at Polikandy called Appilathoddam,  
 8 $\frac{1}{2}$  latchams varagu culture ; bounded on the east by lane,  
 north by the property of Pakkiam, wife of Kadirgamu and  
 others, west by the property of Vallipuram Chinnatamby,  
 and south by lane. Of this an undivided 1/16th share is  
 worth .. ,, 5.00

#### PURCHASE LANDS.

25. Land situated at Polikandy called Maruviliady,  
 43 latchams varagu culture with palmyrahs and vadalties.  
 Of this one-fourth share on the south-east ; is bounded on  
 the east and south by lane, north by the property of Muttu-  
 pillai, widow of Sanmugam and others, and west by the  
 property of Katpakam, wife of Supiramaniam and others.  
 Of this excluding one-fourth share, on the east of the northern  
 one half share of the remaining 3/4th share excluding one-  
 fourth share, the remaining 3/4th share .. ,, 7.50 30

26. Land situated at Polikandy called Nunkaiappulam  
 26 $\frac{1}{4}$  latchams varagu culture with vadalties ; is bounded on  
 the east and north by lane, west by the property of Walli-  
 pillai, daughter of Rasingar and others, and south by the  
 property of Arumugam Nagalingam. Of this an undivided  
 one-half of one-sixth share is worth .. ,, 25.00 40

	27. Land situated at Polikandy called Kandapillai-thoddam house 1, ditto 1 latcham varagu culture ; of this the western one-half share is bounded on the east and north by the property of Katpy, daughter of Kandar, west by the property of Sinnapillai, wife of Vallipuram, and south by lane. Of this an undivided one-half share is worth ..	Rs. 2.50
10	28. Land situated at Samarapakuthevankurichy called Konavalaithoddam 7, ditto $24\frac{7}{8}$ latchams varagu culture, Matkukuladdy 44 latchams. Of this a divided 17 latchams varagu culture, and $9, 15/16$ th kullies ; is bounded on the east by the property of Konaper Vallipuram and others, north by the property of Sivakolundu, widow of Vallipuram, west by lane and by the property of Sinniah Subramaniam and others, and south by street. Of this an undivided one-half of $3/8$ th share is worth ..	„ 50.00
20	29. Land situated at Polikandy called Appilathoddam, $8\frac{1}{2}$ latchams varagu culture, is bounded on the east by the property of Walliammai, widow of Arumugam and lane, north by the property of Sinnamma, wife of Vyramuttu and others, west by the property of Vallipuram Sinnatamby and others, and south by the lane. Of this an undivided one-half of $7/8$ th share is worth ..	„ 5.00
		Rs. 917.50
	Increase by official valuation ..	„ 1,400.00
30	1. Amount due to the deceased on a mortgage bond granted by Kandiah Selvarajah and Parupathy, widow of Kandiah of Polikandy, bearing No. 3,702 dated 24th November, 1918, for Rs. 60 and interest at 12 per cent. per annum from 1st October, 1920. One-half of this ..	Rs. 30.66
	2. Amount due to the deceased on a mortgage bond granted by Vallipuram Katiravelu and wife Vairattai and Mailattai, widow of Vallipuram of Alwai West bearing No. 4,353 dated 2nd January, 1920, for Rs. 100 and interest at 12 per cent. per annum in the event of interest being paid annually and in default at 16 per cent. per annum. One-half of this ..	„ 57.42
40	3. Amount due to the deceased on a mortgage bond granted by Iswary widow of Velauthar Murugesu of Polikandy bearing No. 3,880 dated 5th March, 1919, for Rs. 170 and interest at 16 per cent. per annum. One-half of this ..	„ 108.80
	4. Amount due to the deceased on a mortgage bond granted by Katirasy, widow of Thinakary of Valvetty bear-	

Exhibits  
No. P 24  
Inventory in  
D. C. Jaffna  
No. 4514  
—Continued.

ing No. 3,525 dated 18th August, 1918 for Rs. 85 and interest at 12 per cent. from 1st September, 1920. One-half of this . . Rs. 43.86

Five sheep—one-half of this . . „ 9.00

Two cows—one-half of this . . „ 15.00

Amount due under the judgment in case No. 19,076 C. R. Point Pedro from Kanapatipillai Kandavanam Rs. 293.40 with interest thereon at 9 per cent. per annum from 18th June, 1920, and costs Rs. 26.70 ; less Rs. 20 paid by the defendant Rs. 312.44. Half of this . . „ 156.22

Reduction—Funeral expenses (allowed) . . „ 77.25

Balance . . Rs. 2,661.21

Sgd. A. NAGALINGAM

I, Arumugam Nagalingam of Polikandy, executor of the estate of my late father Koolaiyar Arumugam, do solemnly, sincerely and truly affirm and declare as follows :

1. That the above written inventory contains full, true and correct particulars of the estate of the above-named Koolaiyar Arumugam and all his assets and credits, and I have made a correct valuation of the same. 20

Sgd. A. NAGALINGAM

Before me :

Sgd.

Commissioner.

No. 2D 7  
Specimen of  
Writing in  
Tamil

No. 2D 7

Specimen of Writing in Tamil

Sgd. In Tamil

A. KANTHAVANAM

A. KANTHAVANAM

A. KANTHAVANAM

A. NAGALINGAM

A. NAGALINGAM

A. NAGALINGAM

30

Intld. M. M. I. K.,  
Additional District Judge.

## No. 2D 29

## Plaint in C. R. Point Pedro No. 19076

Exhibits

No. 2D 29  
Plaint in C. R.  
Point Pedro  
No. 19,076  
7-6-1920

IN THE COURT OF REQUESTS OF POINT PEDRO

KOOLAIYAR ARUMUGAM of Polikandy ..... *Plaintiff.*ARUMUGAM NAGALINGAM ..... *Substituted Plaintiff.*

No. 19,076.

Vs.

KANAPATHIPILLAI KANTHAVANAM of Alvai North... *Defendant.*

The 7th day of June, 1920.

10 The plaintiff of the above-named plaintiff appearing by S. Subramaniam,  
his Proctor states as follows :—

1. By a writing obligatory dated the 16th day of July, 1916, the defendant at Valvetty within the jurisdiction of this Court bound himself to pay to the plaintiff on demand the principal sum of Rs. 200 together with interest thereon at the rate of 12 per cent. per annum from the afore-said date of the said writing.

2. For securing the payment of the said principal and interest the defendant mortgaged with the plaintiff the following property :

20 (a) An undivided 1/6th share of the ground and palmyrahs of the land situated at Alvai Malavarayakurichy, within the jurisdiction of this Court called Perumalcheema  $2\frac{1}{4}$  latchams varagu culture, ditto house 2 ; and bounded on the east by the property of Kathirasy, wife of Sitamparapillai and others, north by the property of Kanapathipillai Chellappah and others, west by lane and south by the property of Vairy Karuththaa and others.

30 (b) An undivided 1/5th share of the ground and mango trees of an extent of 5 latchams varagu culture,  $10\frac{1}{8}$  kullies being the whole of the 1st parcel and one-half share of the 2nd parcel of the parcels of land situated at Alvai Imayanankurichy called Eluvadavattai  $5\frac{5}{8}$  latchams varagu culture, ditto Eluvadavattai  $3\frac{7}{8}$  latchams varagu culture ; which 5 latchams varagu culture and  $10\frac{1}{8}$  kullies is bounded on the east by the property of the defendant and others, north by the property of Rasapillai Namasivayam, west by the property of Velupillai Sinnathamby and others, and south by the property of Wallipillai, widow of Sithamparapillai and others.

40 (c) An undivided 29/360th share of the ground, palmyrahs and vadalies of the extent of  $20\frac{5}{8}$  latchams varagu culture, being the eastern half share of the land situated at Alvai Malavarayakurichy called Meetuvan 4,  $1\frac{1}{4}$  latchams varagu culture ; which  $20\frac{5}{8}$  latchams varagu culture is bounded on the east and west by the property of Vigneswara Pillaiyar Temple, Neervalay, north by the property of Varithamby Velupillai and others and south by street.



**Exhibits**  
 No. 2D 29  
 Plaint in C. R.  
 Point Pedro  
 No. 19,076  
 7-8-1920  
 —Continued.

(d) An undivided one-sixth share of an extent of 13 lachams varagu culture and 11 kullies being  $\frac{2}{3}$ rd share of the north-west of the land situated at Polikandy called Noonkanai 20 lachams varagu culture and  $7\frac{1}{2}$  kullies ; which 13 lachams varagu culture and 11 kullies is bounded on the east by the property of Valliar Kanthappar and others, Thangamuttu, wife of Kanapathippillai and by the property of Wallipillai, widow of Chinniah and others, north by the property of the defendant and others, west and south by street.

(e) An undivided  $\frac{1}{6}$ th share of an extent of  $5\frac{5}{8}$  lachams varagu culture being the eastern one-half share on the land situated at ditto, 10 called Othiady in extent  $11\frac{1}{4}$  lachams varagu culture ; which  $5\frac{5}{8}$  lachams varagu culture is bounded on the east and south by the property of Kanthar Veluppillai and others, north by lane, and south by the property of Vairattai, wife of Kathirgamar and others.

3. There is now due from the defendant to the plaintiff the sum of Rs. 293.40 for principal and interest on the said writing.

4. The plaintiff demanded payment of the same, but the defendant failed to pay.

Wherefore the plaintiff pray that the defendant be adjudged and decreed to pay plaintiff the said sum of Rs. 293.50 with such further 20 interest on Rs. 200 as may accrue between the filing of the plaint and the day of decree at the rate of 12 per cent. per annum provided that such interest does not exceed Rs. 6.60 with interest on the aggregate amount at 9 per cent. per annum from decree till paying and also the costs of this action, on some day to be named by the Court and in default that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs and that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency and that for that purpose all proper directions may be given, and accounts 30 taken by the Court.

And the plaintiff prays for such other and further relief as to this Court shall seem meet.

Sgd. S. SUBRAMANIAM,  
*Proctor for Plaintiff.*

#### **Memorandum of Document Annexed to this Plaint**

A writing obligatory executed by the defendant in favour of the plaintiff on the 16th day of July, 1916, and attested by V. Sabaratnam, Notary Public under No. 2,396.

Sgd. S. SUBRAMANIAM, 40  
*Proctor for Plaintiff.*

Instrument : Mortgage

Lands : 3

Consideration : Rs. 200

Know all men by these presents that I, Vairavanater Sinnathamby of Polikandy do execute and grant mortgage debt bond to Koolaiyar Arumugam of the same place, to wit :—

10 The amount I have borrowed and received from him is Rs. 200. This sum of Rs. 200 with interest thereon at the rate of 12 per cent. per annum if interest to be paid annually and in default at the rate of 16 per cent. per annum, I do hereby promise to repay on demand renouncing *beneficium non numeratae pecuniae* and hypothecate as special mortgage the following properties :—

*Properties :*

Lands in possession under and by virtue of transfer deed in my favour bearing No. 2,484 dated 24th November, 1900, and attested by Sinnatamby Subramaniam, Notary.

20 In the Parish of Udupidy in Wadamaradchy West Division, in the District of Jaffna, in Northern Province.

1. Land situated at Polikandy called Kandapillithoddam in extent  $5\frac{1}{4}$  lachams ; is bounded on the east by lane and by property belonging to me and on the north, west and south by lane. Of the whole of the ground, palmyrah trees, vadalies margosa tree, mango tree and well within these boundaries an undivided one-half share.

2. Land situated at ditto called Pattani, in extent 25 lachams varagu culture ; is bounded on the east by the property of Sinnatamby Vallipuram and others, north by the property belonging to me and others, west by the property belonging to me and others, and by lane, and south by lane. Of the palmyrah trees and vadalies within these boundaries one-half of one-fourth plantations share and of the remaining palmyrah trees and vadalies and of the ground an undivided 1/10th share.

3. Land situated at ditto called Konar Chempadu, in extent  $100\frac{7}{8}$  lachams varagu culture, Veedu  $1\frac{3}{4}$ , Thoddam 2. Of these an extent of  $8\frac{1}{4}$  lachams varagu culture, on the north-east according to possession is bounded on the east and north by lane, west by the property of Kanthar Kathirgamar and others, and south by the property of Sidamparanathar Chellappah. Of the whole of the ground, palmyrah trees and vadalies within these boundaries an undivided one-half share.

Exhibits  
 No. 2D 15  
 Deed No. 4,718  
 30-9-1920  
 —Continued.

I do hereby declare that this debt may be recovered not only from the hypothecated properties but from all other properties belonging to me and that there is no connection for this and for the mortgage bond executed and granted by me previously in his favour and deliver herewith the said deed.

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanathan Sabaratnam, Notary, and in the presence of Thampar Kanthavanam of Polikandy, and Sinniah Arumugam of the same place, the subscribing witnesses hereto in the office of the said Notary at Valvettiturai, on the 30th day of September, 10 1920.

Sgd. V. SINNATHAMBY.

Witnesses :

Sgd. T. KANDAVANAM,  
 ,, S. ARUMUGAM.

Sgd. V. SABARATNAM,  
*Notary Public.*

I, V. Sabaratnam, Notary Public of Vadamardchy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Vairavanather Sinnatamby, in the 20 presence of Thampar Kandavanam of Polikandy, who signed in English and Sinniah Arumugam of the same place, the subscribing witnesses hereto that I know the grantors and witnesses, that the said grantor and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Valvettiturai, on the 30th September, 1920, that the consideration of Rs. 200/- mentioned hereon was paid in my presence and that before this instrument was read over and explained \* \* \* \* \* the duplicate hereof bears two stamps of the value of Rs. 4/- supplied by 30 me the Notary.

30th September, 1920.

Sgd. V. SABARATNAM,  
*Notary Public.*

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No. 2D 25

Deed No. 4,818.

No. 2D 25  
 Deed No. 4,818  
 6-12-1920

Instrument : Mortgage.  
 Lands : 5.  
 Consideration : Rs. 500.

Know all men by these presents that I, Kadirgamar Sinnatamby of Polikandy do execute and grant mortgage debt bond to Walliammai, widow of Arumugam and Arumugam Nagalingam of the same place, 40 to wit :—

The amount borrowed and received from the 1st named of them is Rs. 500. This sum of Rs. 500 with interest thereon at the rate of 12 per cent. per annum I do hereby promise to repay unto the 1st named person if during the life time of the first named and if thereafter unto the second named person on demand renouncing *beneficium non numeratae pecuniae* and hypothecate as special mortgage the following properties :

**Exhibits**  
 No. 2D 25  
 Deed No. 4,818  
 6.12.1920  
 —Continued.

*Properties :*

Land in possession by virtue of transfer deed in my favour bearing No. 196 dated 11th December, 1911, and attested by this Notary.

10 In the Parish of Udupidy in Vadamaradchy West Division, in the District of Jaffna, in Northern Province.

1. Land situated at Polikandy called Vannanthoddam Veddu 1, ditto in extent 11 latchams varagu culture ; is bounded on the east by the property of Kanthar Kumaravelar and others, north and west by lane, and south by the property of Katpakam, wife of Kadirgamar and others. Of the whole of the ground, palmyrah trees, vadalties and mango tree, within these boundaries an undivided one-fourth share.

20 2. Land situated at ditto called Kavattai Veedu, one-fourth in extent,  $6\frac{3}{8}$  latchams varagu culture ; is bounded on the east by the property of Sinnatamby Vallipuram and others, north by the abovesaid first land, west by the property of Seeniar Sathasivam and others, and south by the property of Vairattai, daughter of Arumugam and others. Of the whole of the ground, palmyrah trees and vadalties, within these boundaries an undivided one-half share.

Land in possession by virtue of transfer deed in my favour No. 197, dated 11th December, 1911, and attested by this Notary and by virtue of Final Decree in partition case No. 11,324 of the District Court of Jaffna.

30 3. Land situated at ditto called Samaddanaimetkilveradaku, in extent 12 latchams varagu culture. Of this the lot marked C in extent 5 latchams varagu culture ; is bounded on the east by the property of Chellammah, wife of Chelliah and others, north by lane, west by the property of Sinnatamby Vallipuram and south by the property of Sivagaman, widow of Kantavanam and others. The whole of the ground, palmyrah trees and vadalties within these boundaries.

Land in possession by virtue of transfer deed in my favour No. 1,684, dated 18th February, 1909, and attested by Ramalingam Thamotherspillai, Notary.

40 4. Land situated at ditto called Serukkanseema, in extent  $1\frac{1}{2}$  latchams varagu culture, Veedu 1 in extent 2 latchams varagu culture, Kudah in extent  $\frac{5}{8}$  latchams varagu culture ; is bounded on the east

Exhibits  
 No. 2D 25  
 Deed No. 4,818  
 8.12.1920  
 —Continued.

by lane, north by the property of Sinnatamby Ponniahpillai and others, west by the property of Sinnatamby Sinnakkunchu and others, and south by the property of Koolaiyar Arumugam. Of the whole of the ground, palmyrah trees, vadalties, margosa trees and Naval, within these boundaries an undivided one-fourth share and the eastern room of the northern share out of the four-sided house with the verandahs, appurtenant to it and the hut house on the north and the two mango trees lying close to it.

Land in possession by virtue of transfer deed in my favour No. 3,244 dated 24th February, 1918, and attested by this Notary.

5. Land situated at ditto called Serukkanseema, in extent  $3\frac{3}{4}$  10 lachams varagu culture, but according to survey in extent 4 lachams varagu culture and 16 kullies ; is bounded on the east by lane, north by the property of Koolaiyar Arumugam and others, west by the property of Chellammah, wife of Chelliah and others, and south by property belonging to me and others. Of the whole of the ground, palmyrah trees, vadalties and tamarind trees within these boundaries an undivided one-fourth share.

I deliver herewith the said deeds.

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanatar, Sabaratnam, Notary and in the presence of Sinnatamby Vallipuram of Polikandy and Kadirgamer 20 Thambiah of the same place the subscribing witnesses hereto in the house of Koolaiyar Arumugam at Polikandy on the 5th December, 1920.

Sgd. K. SINNATAMBY.

Witnesses :

Sgd. S. VALLIPURAM.

„ K. THAMBIAH.

Sgd. V. SABARATNAM,  
*Notary Public.*

I. V. Sabaratnam, Notary Public of Vadamardchy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Kadirgamar Sinnatamby in the 30 presence of Sinnatamby Vallipuram of Polikandy, and Kadirgamar Thambiah of the same place the subscribing witnesses hereto that I know the grantor and witnesses, that the said Kadirgamar Sinnatamby and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in the house of Koolaiyar Arumugam at Polikandy on the 5th December, 1920, that no part of the consideration of Rupees Five hundred mentioned herein was paid in my presence that the duplicate hereof bears two stamps for Rs. 10/- and the original one of rupee.

6th December, 1920.

Sgd. V. SABARATNAM, 40  
*Notary Public.*

## TRANSLATION

Instrument : Mortgage.

Lands : 3.

Consideration : Rs. 300.

10 Know all men by these presents that I, Vairavanatar Sinnatamby of Polikandy, do execute and grant mortgage debt bond to Walliammal, widow of Arumugam and Arumugam Nagalingam of the same place, to wit :—

The amount I have borrowed and received from the first named person of them is Rs. 300. This sum of Rs. 300 with interest thereon at the rate of 12 per cent. per annum I do hereby promise to repay unto the first named person if during the life time of the first named and if thereafter unto the second named on demand renouncing *beneficium non numeratae pecuniae* and hypothecate as special mortgage the following properties:—

*Properties :*

20 Lands in possession and belonging to me by virtue of donation deed in my favour No. 11,809 dated 17th June, 1905, and attested by Vairavanather Sinnathamby, Notary and by virtue of transfer deed in my favour No. 2,484 dated 24th November, 1900, and attested by S. Sinnatamby Subramaniam, Notary.

In the Parish of Udupiddy, in Vadamaradchy West Division in the District of Jaffna, in Northern Province.

1. Land situated at Polikandy called Kandapillaithoddam, in extent  $5\frac{1}{4}$  lachams varagu culture ; is bounded on the east by property belonging to me and by lane, north and west by lane, and south by property belonging to me and by lane. The whole of the ground, palmyrah trees, vadalies, cultivated plantation and well within these boundaries.

30 2. Land situated at ditto called Pattanai, in extent  $12\frac{1}{2}$  lachams varagu culture, ditto in extent  $12\frac{1}{2}$  lachams varagu culture, form a total extent of 25 lachams varagu culture ; and bounded on the east by the property of Sinnatamby Vallipuram and others, north by property belonging to me and others, west by property belonging to me and by lane, and south by lane. Of these within these boundaries  $\frac{1}{8}$ th plantation share of the palmyrah trees and vadalies out of the remaining palmyrah trees and vadalies and of the ground an undivided two-fifth share.

3. Land situated at ditto called Savattai, in extent 15 lachams varagu culture. Of this an extent of 5 lachams varagu culture, on the

Exhibits  
 No. 2D 17  
 Deed No. 4,936  
 22-5-1921  
 —Continued

south-west according to possession ; is bounded on the east, west and south by properties belonging to me and others, and north by the property of Theivanai, wife of Chelliah and others. The whole of the ground, palmyrah trees, vadalies, hut and houses within these boundaries.

I deliver herewith the said deeds.

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of Sinnatamby Velupillai of Polikandy and Sinniah Murugesu of the same place in the office of the said Notary at Valvettiturai on the 22nd day of May, 1921.

10

Sgd. V. SINNATHAMBY.

Witnesses :

Sgd. S. VALLIPURAM.  
 „ S. MURUGESU.

Sgd. V. SABARATNAM,  
*Notary Public.*

I, V. Sabaratnam, Notary Public of Vadamaradchy West Division, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Varaimuttu Sinnatamby, in the presence of Sinnatamby Vallipuram of Polikandy and Sinniah Arumugam of the same place that I knew the grantor and the witnesses that the said Vairavanather Sinnatamby and witnesses set their signatures in my presence and in the presence of one another and that all being present at the same time in my office at Valvettiturai, on the 22nd May, 1921, that the sum of Rs. 300/- mentioned herein was declared to have been received by the grantor and that before this instrument was read over and explained to the said persons as aforesaid the letter \* \* \* \* \* the duplicate hereof bears one stamp of the value of Rs. 5/- supplied by me the Notary.

20

22nd May, 1921.

Sgd. V. SABARATNAM,  
*Notary Public.*

30

No. 2D 4  
 Deed No. 5,507  
 1-6-1922

**No. 2D 4**  
**Deed No. 5,507**

TRANSLATION

**No. 5,507**

Know all men by these presents that we, Kanthar Velupillai and Kanthar Sidamparapillai of Polikandy for and in consideration of the sum of Rs. 50 paid by Arumugam Nagalingam of the same place and received by us do hereby sell, transfer and convey unto the said Nagalingam the following properties ;

40

Lands belonging to us by right of *muthusom* and possession.

In the Parish of Udupiddy in Vadamardchey West Division, in the District of Jaffna in Northern Province.

Exhibits

No. 2D 4  
Deed No. 5,507  
1-6-1922  
—Continued.

1. Land situated at Polikandy called Mullaikkaddaiyadi, in extent  $4\frac{1}{2}$  lachams varagu culture ; is bounded on the east by the property of Arumugam Nagalingam and others, north and west by lane, and south by the property of Arumugam Kanthavanam. Of the whole of the ground palmyrah trees and vadalies, within these boundaries an undivided  $\frac{1}{16}$ th share.

10 2. Land situated at ditto, called Kochchanthai two parcels form a total extent of 5 lachams varagu culture ; and bounded on the east, north and south by lane, and south by the property belonging to Uppukkinattadypillaiar Temple and other property of the whole of the ground, palmyrah trees and vadalies, within these boundaries an undivided  $\frac{9}{64}$ th share.

20 3. Land situated at ditto called Periyaseema, in extent  $6\frac{3}{4}$  lachams varagu culture. Of this one-fourth share on the east is in extent  $1\frac{11}{16}$ th lachams varagu culture ; and bounded on the east by lane, north by the property of the purchaser, west by the property of Arumugam Kantavanam, and south by the property of Sinnatamby Ponniahpillai and others. The whole of the ground within these boundaries.

In witness whereof we set our signatures to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of Kanthar Sinniah of Karavanai North and Kanthar Mailvaganam of Polikandy, the subscribing witnesses hereto in the office of the said Notary at Valvettiturai, on the first day of June, 1922.

Witnesses : Sgd. K. VELUPILLAI  
,, SIDAMPARAPILLAI

30 Sgd. K. SINNIAH  
,, K. MAILVAGANAM

Sgd. V. SABARATNAM,  
*Notary Public.*

40 I, Vairavanathar Sabaratnam Notary Public of Wadamardchey West Division Jaffna do hereby certify and attest that I have read over and explained the foregoing instrument to the said Kanthy Velupillai and Kanthar Sidampara Pillai in the presence of Kanthar Sinniah of Karavanai North and Kanthar Mailvaganam of Polikandy the subscribing witnesses hereto that I know the grantors and witnesses that the said Kanthar Velupillai and Kanther Sidampara Pillai and witnesses set their signature in my presence and in the presence of one another all being present at the same time in my office at Valvettiturai on the 1st day of June 1922 that the grantor declared to have received the sum of rupees fifty mentioned herein and that the duplicate hereof bears two stamps of the value of Rs. 1/50 supplied by me the Notary.

1st June 1922

Sgd. V. SABARATNAM  
*Notary Public.*



## No. P 9

Exhibits  
 No. P 9  
 Plaint, Answer  
 Statement of  
 Objections and  
 Decree in D. C.  
 Jaffna  
 No. 17917

**Plaint, Answer, Statement of Objections and Decree in D.C. Jaffna, No. 17917**

IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR CHINNAPILLAI of Polikandy..... *Plaintiff.*

No. 17,917

*Vs.*

1. ARUMUGAM KANTHAVANAM
2. VAIRAVY KATHIRKAMAR  
(Guardian *ad litem* over 10th Defendant)
3. PAKKIYAM (wife)
4. ARUMUGAM NAGALINGAM
5. SINNAPILLAI VELUPILLAI,
6. VELUPILLAI VYRAMUTTU,
7. CHINNAMMAH (wife),
8. KATHIRKAMAR CHITHAMPARAPILLAI,
9. VALLIPILLAI (wife),
10. CHELLACHCHY (minor) daughter of Kathirkamar,
11. VALLYAR, widow of Koolaiyar Arumugam, all of

10

Polikandy ..... *Defendants.*

This 12th day of August, 1923.

The amended plaint of the plaintiff above-named appearing by 20  
 K. Sivapirakasam, S. Katiresu, A. Ambalavanar, and C. Subramaniam,  
 his Proctors, who carry on business in partnership under the name, firm  
 and style of Sivapirakasam & Katiresu, states as follows :—

(1) That the plaintiff is by right of purchase as per transfer deed  
 dated the 17th August, 1893, the owner and proprietor of an undivided  
 one-sixth share with appurtenances (excluding the huts and mango) of  
 a piece of land situated at Chamaparakuthevancurichchy, within the  
 jurisdiction of this Court called Mavathai, in extent 38 latchams varagu  
 culture ; and bounded on the east by water-course and the village of  
 Polikandy, on the north and west by the village of Polikandy, and on the 30  
 south by lane, and he is in possession of the same subject to mortgage in  
 favour of the 5th defendant.

(2) That the 1st, 4th, 7th. 9th and 10th defendants are by right of  
 donation entitled to undivided shares with appurtenances as follows :—

1st defendant to 1/6th, 4th defendant 3/6th, and 7th and 9th and (10th)  
 defendants to 1/6th share with appurtenances exclusive of the huts and  
 mango which belongs to them absolutely and that 11th defendant has life  
 interest over the shares of the 1st, 7th, 9th and 10th defendants,

(3) That the 3rd defendant, wife of the 2nd defendant seems to have no share in the said land and they were made parties in the original plaint as they are in possession of the shares now allotted to their children the 7th, 9th and 10th defendants and that as long as they have not declaimed the shares allotted to them though summons was served on them it is become necessary to retain them as party defendants and summons issued to them.

Exhibits  
No. P 9  
Plaint, Answer,  
Statement of  
Objections and  
Decree in D. C.  
Jaffna  
No. 17917  
—Continued.

10 (4) That the plaintiff and 1st, 4th, 7th, 9th and 10th defendants have by their own undisturbed and uninterrupted possession and by the like possession of those through they claim and by a title adverse to and independent of all others whosoever for upwards of 10 years acquired a prescriptive right and title to their respective shares in terms of section 3 of Ordinance No. 22 of 1871.

(5) That the plaintiff is not aware of anyone other than the said parties who have any interest in the said land.

(6) That the said land is worth Rs. 5,000.

Wherefore the plaintiff prays—

- 20 (a) That the plaintiff and 1st, 4th, 7th, 9th and 10th defendants be declared the common owners of the said land described in paragraph 1 herein.
- (b) That partition be made and divided shares thereof be allotted and given to the shareholders as indicated above.
- (c) That if partition cannot be effected the said land be sold and proceeds thereof be divided among the shareholders.
- (d) That the costs of suit and of partition or of sale be ordered to be borne by the parties *pro rata*.
- (e) And prays for such other and further relief be granted as to this Court shall seem meet.

*Proctors for Plaintiff.*

30 *Documents Relied on :*

Transfer in favour of plaintiff dated 17th August, 1893 and attested by K. Arumugam N. P. under No. 4,631.

Sgd. SIVAPIRAKASAM & KATIRESU,  
*Proctors for Plaintiff.*

Documents already filed :

1. Abstract of Title.
2. Pedigree.

Sgd. SIVAPIRAKASAM & KATIRESU,  
*Proctors for Plaintiff.*

Exhibits

No. P 9  
 Plaint, Answer,  
 Statement of  
 Objections and  
 Decree in D. C.  
 Jaffna  
 No. 17917  
 —Continued.

## IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR SINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917.

*Vs.*1. ARUMUGAM KANDAVANAM and 4 others..... *Defendants.*

This 18th day of July, 1923 :

The answer of the above-named 4th defendant appearing by V. Ganapathipillai, his Proctor states as follows :—

1. Answering to the averments contained in the 1st paragraph of the plaint this defendant denies that the plaintiff is the owner of an undivided 1/6th share with its appurtenances of the land described in the 10  
 plaint or that the plaintiff possessed the said share dividedly with the remaining shareholders thereof and says that he is possessing his 1/6th share on the west and the remaining 5/6th share is possessed dividedly by the 1st and 4th defendants and other parties mentioned herein below.

2. Answering to the 2nd and 3rd paragraphs of the plaint this defendant denies the correctness of the share allotted therein.

3. Further answering to the matters and things alleged in the plaint this defendant says that the plaintiff is in possession of a divided 1/6th share on the west of the said whole land and that the remaining 5/6th share is possessed dividedly on the east and that the 1st defendant is 20  
 entitled to a divided 1/6th share by right of donation deed No. 800 of 6th July, 1908, and attested by G. Kandavanam, Notary Public, subject to the life interest of Walliammai, widow of Arumugam of Polikandy and certain Sinnammah, wife of Velupillai Vairamuthu of Polikandy and Vallipillay, wife of Kadirgamar Sithamparapillai of ditto and Chellachchy, daughter of Kadirgamar of ditto a minor are entitled to an undivided 1/6th share subject to the life interest of the said Walliammai by right of donation deed No. 9,748 dated 8th November, 1909, and attested by S. Subramaniam, Notary Public. The said persons are not made parties 30  
 to this action. The 3rd defendant has no share or interest in the land sought to be partitioned in this case. The 4th defendant is entitled to an undivided 3/6th share by right of donation deed No. 4,662, dated 5th September, 1920, and attested by V. Sabaratnam, Notary Public. There is a well and house and mango trees and coconut trees and other plantations standing on the said divided 5/6th share and which exclusively belongs to the 1st and 4th defendants and to the said persons above-mentioned. The plaintiff has no right or claim to them.

Wherefore this defendant prays that the action of the plaintiff for a partition be dismissed with costs and that in the event of the Court

ordering a partition the shares may be allotted to parties as stated in this answer and that this defendant and others may be granted a compensation of Rs. 400 for the well and house and huts Rs. 150/- and plantations Rs. 25/- aggregating to Rs. 575.

The defendant also prays for such further and other relief as to this Court shall seem meet.

Sgd. V. GANAPATHIPILLAI,  
*Proctor for 4th Defendant.*

Memorandum of document filed :  
An Abstract of Title.

10

Sgd. V. GANAPATHIPILLAI,  
*Proctor for 4th Defendant.*

IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR CHINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917. Vs.

1. ARUMUGAM KANTHAVANAM of Polikandy and

10 others ..... *Defendants.*

On this 23rd day of November, 1927.

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The statement of objections of the above-named 1st to 4th and 6th to 11th defendants hereinafter called these defendants appearing by their Proctor S. Cumarasuriar states as follows :—

1. That these defendants deny all the averments contained in the several paragraphs of the objection filed by the plaintiff to the Commissioner's report dated 12th August, 1927.

2. That these defendants accept the assessment of compensation and allotment of shares embodied in the said report filed by the Commissioner.

30

3. That these defendants are prepared to deposit in Court the compensation assessed by the Commissioner in the said report to the plaintiff's right of way and water-course to and from the well situated on the southern side of lot 2 in the plan filed with the said report.

Wherefore these defendants pray that the objection of the plaintiffs to the said report be dismissed with costs and for such other and further relief as to this Court shall seem meet.

Sgd. S. CUMARASURIAR,  
*Proctor for 1st to 4th & 6th to 11th Defendants.*

Exhibits  
No. P 9  
Plaint. Answer,  
Statement of  
Objections and  
Decree in D. C.  
Jaffna  
No. 17917  
—Continued.

Exhibits

No. P 9  
 Plaint, Answer,  
 Statement of  
 Objections and  
 Decree in D. C.  
 Jaffna  
 No. 17917  
 —Continued.

## Final Partition Decree

IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR CHINNAPILLAI of Polikandy . . . . . *Plaintiff.*

No. 17,917.

*Vs.*

1. ARUMUGAM KANTHAVANAM of Polikandy and

10 others . . . . . *Defendants.*

This action coming on for final disposal before M. H. Kantawala, Esq., Additional District Judge of Jaffna, on the 6th day of February, 1928, in the presence of Mr. Advocate Kulasingham with Mr. Proctor C. Subramaniam, on the part of the plaintiff, and of Mr. Advocate S. Kanagasabay 10 with Mr. Proctor Cumarasuriar, on the part of the defendants.

It is ordered and decreed that, of the land situated at Samarapakuthavankurichy in Udupidy Parish, called Manthay, in extent 37 latchams varagu culture,  $3 \frac{5}{32}$  kulies ; bounded on the north by the village of Polikandy, east by channel and lane, south by lane and west by the village of Polikandy and described by lots marked 1 and 2 in plan No. 4,963, made by Mr. G. C. Kanapathipillai, Surveyor, and Commissioner appointed by this Court to partition the said land, and filed of record in this case.

1. The lot marked 1 in extent 6 latchams varagu culture and  $3 \frac{5}{32}$  kulies with its appurtenances including  $\frac{1}{6}$ th share of the well marked W, 20 and the right of way and water course along a.b. ; and bounded on the east by lot No. 2, north and west by the village of Polikandy and south by lane, be and the same is hereby declared to be the absolute property of the plaintiff.

2. The lot marked 2 in extent 31 latchams varagu culture with its appurtenances including, the huts, and the whole of the well marked H, and  $\frac{5}{6}$ th share of the well marked W and the right of way and water-course marked a, b ; and bounded on the east by channel, north by the village of Polikandy, west by lot No. 1 and south by lane, be and the same is hereby declared to be the absolute property of the 1st, 4th, 7th, 9th and 10th 30 defendants, the first defendant being entitled to  $\frac{1}{5}$ th, 4th defendant to  $\frac{3}{5}$ th and 7th, 9th and 10th defendants to  $\frac{1}{5}$ th and the shares of the 1st, 7th, 9th and 10th defendants being subject to the life interest of the 11th defendant.

It is further ordered and decreed that the 1st, 4th, 7th, 9th and 10th defendants do pay Rs. 125/- to the plaintiff, that each party do bear their own costs of this day, and that the costs of this action and of partition be borne by the parties *pro rata*.

Sgd. M. H. KANTAWALA,

The 6th day of February, 1928.

*D. J.* 40

## No. P 10

**Proxies in Favour of V. Ganapathi Pillai and S. Cumarasuriar  
in D. C., Jaffna, No. 17,917**

Exhibits  
—  
No. P 10  
Proxies in  
favour of  
V. Ganapathi  
Pillai and  
S. Cumarasuriar  
in D. C. Jaffna  
No. 17,917

10 Know all men by these presents that we, Arumugam Kandavanam Vairavy Kathirkamar and his wife, Pakiyam Velupillai Vairamuttu and wife Chinnammah Kathirgamar Chithamparapillai and wife, Vallipillai, 1st, 2nd, 3rd, 6th, 7th, 8th and 9th-10th defendants guardian *ad litem* of 10th have nominated constituted and appointed and do hereby nominate, constitute and appoint Mr. V. Ganapathipillai, Proctor of the Hon'ble the Supreme Court of the Island of Ceylon to be the true and lawful Proctor, and for us and in our name and behalf before the District Court of Jaffna to appear and defend us and generally to do all things needful in the premises.

20 And to receive and to take all moneys that may be recovered, deposited or paid, in this suit and in respect of claim and costs, and without notice to move for and obtain in his name any order or orders from the said Court, for payment of any sum or sums of money that may be so recovered, paid or deposited, therein, and to give all necessary receipts, releases, and discharges therefor and if need be, to refer the said claim and all or any matters, in respect of the action instituted by virtue of these proceedings to the award and decision of arbitrators, and to name an arbitrator, for that purpose, and to sign any motion, application, submission or bond for the purpose of the arbitration and to appear before the arbitrators and to take all steps in respect of any award on such submission or reference as he the said Proctor or Proctors shall seem necessary. And generally and otherwise to take all such lawful ways and means and to do and perform all such acts, matters, and things as may be useful and necessary in and about the premises as said Proctor or Proctors or his or their substitute or substitutes may consider necessary towards procuring or carrying into execution, any judgment, or order or a definite sentence, or final decree to be made and interposed herein, and from any judgment, order or decree, interlocutory or final of the said Court, to appeal and every bond of recognisance whatsoever necessary or needful in the course of proceedings, for the prosecution of such appeal. for or appearance or for the performance of any order or judgment of the said Court, for and in name and as act and deed, to sign and deliver. And to appoint, if necessary one or more substitute or substitutes, Advocate or Advocates both in this Court and in the Supreme Court and again at pleasure revoke such appointment and appoint a new, and also if said Proctor or Proctors shall see cause the said action or suit to discontinue compromise, settle or refer to arbitration, and every such compromise, settlement or reference in name and behalf to settle and sign I hereby promising to release all kinds of irregularities and to ratify, allow confirm all and whatsoever the said Proctor or Proctors or his or their substitute or substitutes or the said Advocate or Advocates shall do herein.

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Exhibits  
 No. P 10  
 Proxies in  
 favour of  
 V. Ganapathi  
 Pillai and  
 S. Cumarasuriar  
 in D. C. Jaffna  
 No. 17,917  
 —Continued.

In witness whereof hereunto set hand at this  
 day of 19

The address of the said Proctor for the service of Process under the provisions of the Civil Procedure Code is at his office at Point Pedro.

Witnesses :

Sgd. (in Tamil) V. SELLIAH VIDHAN

Sgd. (in Tamil)	ARUMUGAM KANTHAVANAM	
„	„	VELUPILLAI VAIRAMUTTU.
„	„	K. SITHAMPARAPILLAI
+ hand mark of	VALLIAMMAI, widow of Arumugam	10
+ „	„	VAIRAVY KATHIRKAMAR
+ „	„	PAKKIAM, wife of V. Kathirkamar

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**Case No. 17,917 D. C., Jaffna**

Know all men by these presents that we, Arumugam Kanthavanam, Vairavi Kathirkamar and wife Pakkiam Arumugam Nagalingam Velupillai Vairamuttu and wife Chinnamma Kathirkamar Sithamparapillai and wife Vallipillai Chellachchi, daughter of Kathirkamar and Valliar, widow of Arumugam, all of Polikandy, the 1st, 2nd, 3rd, 4th, 6th, 7th, 8th, 9th, 10th and 11th defendants in case No. 17,917 of the District Court of Jaffna, have nominated, constituted and appointed and do hereby nominate 20 constitute, and appoint Mr. S. Cumarasuriar, Proctor of the Hon'ble the Supreme Court of the Island of Ceylon, to be our true and lawful Proctor, and for us and in our name and behalf, before the District Court of Jaffna to appear and therein to file proxy, answer affidavits, objections, statements, motions, and all other necessary for the purpose of getting our shares out of the land mentioned in the said case, and to object to the assessment by the Assessor, and to recover all costs and to do all matters and things needful and necessary in the premises on that behalf.

And to receive and take all moneys that may be recovered, deposited or paid, in this suit and in respect of our claim and costs, and without 30 notice to us to move for and obtain in his name order or orders from the said Court for payment of any sum or sums of money that may be so recovered, paid or deposited therein, and to give all necessary receipts, releases, and discharges therefor and if need be, to refer the said claim and all or any matters in respect of the action instituted by virtue of these proceedings to the award and decision of arbitrators and to name an arbitrator, for the purpose and to sign any motion, application, submission or bond for the purpose of the arbitration, and to appear before the arbi-

trators and to take all steps in respect of any award on such submission or reference as he the said Proctor or Proctors shall seem necessary, and generally and otherwise to take all such lawful ways and means, and to do and perform such acts, matters and things as may be useful and necessary in and about the premises as our said Proctor or Proctors or his or their substitute or substitutes may consider necessary towards procuring, or carrying into execution any judgment, or order, on a definitive sentence, or final decree, to be made and interposed herein, and from any judgment, order or decree interlocutory or final of the said Court, to appeal and every bond or recognizance whatsoever necessary or needful in the course of proceedings, for the prosecution of such appeal or for appearance or for the performance of any order or judgment of the said Court, for and in our name and as our act and deed, to sign and deliver, and to appoint, if necessary, one or more substitute or substitutes or Advocate or Advocates both in the District Court and in the Supreme Court, and again at pleasure to revoke such appointment anew, and also, if said Proctor or Proctors shall see cause the said action or suit to discontinue compromise, settle or refer to arbitration and every such compromise settlement or reference in our name and our behalf to settle and sign and hereby promising to release all kinds of irregularities and to ratify, allow confirm all and whatsoever the said Proctor or Proctors or his or their substitute or substitutes or the said Advocate or Advocates shall do herein.

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In witness whereof we hereunto set our hands at Polikandy, this eighth day of November, 1927.

The address of the said Proctor for the service of process under the provision of the Civil Procedure Code is at his office at Jaffna.

- + Mark of VALLIAMMAI, widow of Arumugam
- + „ VAIRAMUTTU KATHIRKAMU
- + „ PAKKIAM, widow of Vairamuttu
- Sgd. A. NAGALINGAM
- + Mark of SINNAMMA widow of Vairamuttu

**No. P 25**

**Deed No. 800 and List of Witnesses Filed in D.C., Jaffna, No. 17,917**

IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR SINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917. Vs.

- 1. ARUMUGAM KANTHAVANAM of Polikandy and 10 others ..... *Defendants.*

**Exhibits**  
 No. P 10  
 Proxies in  
 favour of  
 V. Ganapathi  
 Pillai and  
 S. Cumarasuriar  
 in D. C. Jaffna  
 No. 17,917  
 —Continued.

No. P 25  
 Deed No. 800  
 and List of  
 Witnesses filed  
 in D. C. Jaffna  
 No. 17,917



## PRIOR REGISTRATION JAFFNA

Exhibits  
 No. P 25  
 Deed No. 800  
 and List of  
 Witnesses filed  
 in D. C. Jaffna  
 No. 17,917  
 —Continued.

A.  $\frac{3}{348}$  2nd Land

A.  $\frac{3}{347}$  5th Land

## TRANSLATION

## No. 800

Know all men by these presents that we, Koolaiyar Arumugam and wife Walliammay of Polikandy in Vadamardchy West, Jaffna for and on account of the love that we bear unto our son Arumugam Kandavanam of the same place and for other good causes moving us hereunto do hereby giving in donation unto the said Kandavanam the following 10 properties worth Rs. 1,500/-.

The following properties, to wit :—

Land belonging to us by virtue of deed of revocation bearing No. 799 dated this day and attested by this Notary, Kanapathipillai Kandavanam and by right of purchase as per transfer deed in favour of the first named person of us bearing date the 25th day of October, 1882, and attested by Sithamparanathar Kathirgama-thamby, Notary and by possession.

In the Parish of Udupidy in the Division of Vadamardchy West, in the District of Jaffna, in Northern Province.

1. Land situated at Polikandykurichy called Munkodai in extent 20 12,  $\frac{1}{4}$  latchams varagu culture ; Mavathai in extent 4 latchams varagu culture. Of these parcels  $\frac{5}{6}$ th share on the west and south-east of the first parcel and the whole of the second parcel form a total extent of 14 latchams varagu culture and 3,  $\frac{3}{4}$  kulies ; and bounded on the east by the property of Koolaiyar Arumugam and others, north by the property of Suntharar Arumugam and others, west by the property of Vallipuram Chinnatamby and others, and on the south by the property of Koolaiyar Arumugam and others, and by lane of the ground palmyrah trees and vadalies, within these boundaries the plantation share and the whole of 30 the well.

Land belonging to the first named person by right of inheritance as per above said deed of revocation and by virtue of transfer deed in favour of the late Walliammay *alias* Valliyar, daughter of Koolai, the sister of the first-named person and who died issueless and further to the first-named person by right of donation as per donation deed in his favour dated the 14th December, 1877 and attested by Sithamparanathar Kathirgama-thamby, Notary, and further by right of *muthusam* and possession.

2. Land situated at ditto called Kocchanthai, in extent 4 $\frac{1}{2}$  latchams varagu culture, ditto house  $\frac{1}{4}$ th, ditto kuda in extent  $\frac{7}{8}$ th latchams varagu culture. These parcels are bounded on the east, north and south 40 by lane and on the west by the property belonging to Koolaiyar Arumugam the first-named person of us and others. The whole of the ground, palmyrah trees and vadalies contained within these boundaries,

Land belonging to the first-named person by virtue of the above said deed of revocation and by right of inheritance by virtue of the above said transfer deed in favour of the above said Walliammai *alias* Valliar and further by right of *muthusam* and possession.

Exhibits  
 No. P 25  
 Deed No. 800  
 and List of  
 Witnesses filed  
 in D. C. Jaffna  
 No. 17,917  
 —Continued.

10 3. Land situated at ditto called Mullaikkaddaiyadi, in extent  $3/8$ th latchams varagu culture, ditto in extent  $3\frac{3}{8}$  latchams varagu culture. These parcels are bounded on the east by the property of Katpakam, wife of Kathirgamar and others, north and west by lane, and on the south by the property belonging to the 1st named person. The whole of the ground, palmyrah trees and vadalties, contained within these boundaries.

Land belonging to the first-named person by right of *muthusam* and by possession as per above said deed of revocation.

4. Land situated at ditto called Perisseema, in extent 3,  $5/8$ th latchams varagu culture ; is bounded on the east by the property of Ledchumy, daughter of Velupillai and others, north by the property belonging to the first-named person and others, west and south by the property of Sellamma, wife of Chelliah and others. The whole of the ground, palmyrah trees and vadalties within these boundaries.

20 Land belonging to us by virtue of the above said deed of revocation and by right of purchase by virtue of transfer deeds in favour of the first-named person dated the 17th day of January, 1879, and attested by Sithamparanathar Kathirgamathamby, Notary, 18th August, 1879, and attested by Santhirasegarar Velupillai, Notary, 24th January, 1882, and attested by Murugesar Kathiravelpillai, Notary, 16th November, 1883, and attested by Sithamparanathar Kathirgamathamby, Notary, 25th July, 1889, and attested by Vyravanathar Chinnathamby, Notary, and to the first-named person by right of inheritance as per donation deed in favour Valliammay *alias* Valliar, daughter of Koolaiyar, the sister of the first-named person and who died issueless and by possession.

30 5. Land situated at Samarapaguthevankurichchy called Konavalaitthoddam 7, ditto in extent 24,  $7/8$ th latchams varagu culture, Metkitkaladdy, in extent 44 latchams varagu culture. Of these excluding an extent of 2 latchams on the north-west out of  $1/4$ th share of the south, the remaining extent of 17 latchams varagu culture and 10 kulies ; is bounded on the east by the property of Kanthar Mappani and others, north by the property of the first-named person, west by the property of Kathiravelar Mailvaganam and others and by lane, and south by lane. Of the whole contained within these boundaries an undivided  $1/4$ th share,  $11/16$ th share and share appertaining to this of the wells standing in the entire land and right of way and water-course.

40

Land in our possession by virtue of the above said deed of revocation and by virtue of transfer deed in favour of the first-named person dated

Exhibits  
 No. P 25  
 Deed No. 800  
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 Witnesses filed  
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 —Continued.

the 3rd October, 1888, and attested by Vairavanathar Chinnatamby, Notary.

6. Land situated at ditto called Konavalaithoddam 7, ditto in extent 24, 7/8th latchams varagu culture, Methitkaladdy in extent 44 latchams varagu culture. Of these 1/3rd share on the north according to possession out of 10 latchams in the middle, is in extent 3 latchams varagu culture, and 6 kulies ; and bounded on the east by the property of Kanthar Mappani and others, north by the property of the first-named person, west by the property of Kathiravelar Mailvaganam and others, and south by the property of Nallathamby Eliyathamby and others. Of this an undivided 1/4th share and share appertaining to this of the wells standing in the entire land and right of way and water-course. 10

Land in possession by virtue of the above said deed of revocation and by virtue of transfer deed in favour of the first-named person dated the 24th October, 1886, and attested by Vairavanathar Chinnathamby, Notary.

7. Land situated at ditto called Konavalaithoddam 7, in extent 24, 7/8th latchams varagu culture, Metketkaladdy in extent 44 latchams varagu culture. Of these out of an extent of 19, 1/4th latchams on the north excluding the shortage extent of  $2\frac{3}{4}$  latchams out of the remaining  $16\frac{1}{2}$  latchams excluding an extent of 8 latchams on the east, the remaining extent of  $8\frac{1}{2}$  latchams on the west lying contiguous to it ; is bounded on the east by the property of Sellam, widow of Sinnathamby and others, north by the property belonging to the first-named person and situated at Polikandy and by other properties, west by the property of Kathiravelar Mailvaganam and others, and on the south by the property of Sinnapillai, daughter of Thama and others. Of this an undivided 1/4th share and share appertaining to this of the well standing herein and of the well standing on the entire land and right of way and water-course. 20

Land belonging to the first-named person by right of inheritance as per above said deed of revocation and by virtue of donation deed in favour of the above said Valliammay *alias* Valliyar and by possession. 30

8. Land situated at Polikandykurichy called Siruthikathai, in extent 38, 3/8th latchams varagu culture. Of this out of 1/6th share on the east excluding 1/3rd share on the south the remaining 2/3rd share in extent 4 latchams varagu culture and 4, 3/4th kulies ; and bounded on the east by the property of Pathini, daughter of Sinnathamby and others, north by the property of the first-named person, west by the property of Kanapathiar Sinniah and others, and on the south by the property of Kanapathiar Sinniah. Of the whole of the ground palmyrah trees and vadalies, within these boundaries one half share. 40

Land in possession by virtue of the above said deed of revocation, by right of *muthusam* and by virtue of decree in partition case No. 1940 of the District Court of Jaffna.

9. Land situated at ditto called Koddaththaraisidy parcels form a total extent of 36 lachams varagu culture and  $7\frac{1}{2}$  kulies. Of this  $\frac{1}{6}$ th share on the north-east in extent 12 lachams varagu culture and  $2\frac{1}{2}$  kulies ; is bounded on the east and north by lane, west by the property of Sivakolunthu, wife of Vallipuram, and on the south by the property belonging to the first-named person and others. Of those contained within these boundaries excluding the roof of the hut and house the whole of the remaining.

Exhibits  
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Witnesses filed  
in D. C. Jaffna  
No. 17,917  
—Continued.

10

Sgd. KOOLAIYAR ARUMUGAM  
+ This is the hand mark of VALLIAMMAI  
Sgd. AVANA KANDAVANAM  
Sgd. G. KANDAVANAM,

*Notary Public.*

Land in our possession by virtue of transfer deed which we had executed in favour of the said Kandavanam the donee hereof during the time that he was a minor, bearing No. 8,281, dated 22nd July, 1898, and attested by Vairavanathar Chinnathamby, Notary.

20

10. Land situated at Samaparakathuthevanurichy called Mavaththai, in extent 38 lachams varagu culture. Of these  $\frac{5}{6}$ th share on the east in extent 31 lachams varagu culture and 12 kulies ; is bounded on the east by water channel, north by the property of the first-named person, west by the property of Velayuthar Sinnapillai, and south by lane. Of the whole of the ground within these boundaries and of the well, on the north-east,  $\frac{1}{5}$ th share and of the well standing, the south-west  $\frac{1}{6}$ th share.

30

We do hereby declare that the donee should not dispose the above said properties in any way by way of transfer mortgage, otty, etc., or by any such other documents or alienate the same in any way that he should not bind the said property or sell or encumber the same in any way for the purpose of giving security for paying fines or cost that the said Kandavanam shall possess and enjoy the produce of half share of the first land out of the said lands from this day forth and the produce of the remaining half share and of all the other lands after the life time of both of us without causing any damage and that if we both or either of us happen to live at the time of the death of Kandavanam the said properties should devolve on us or on the survivor of us and that if we or either of us fail to live then the same should devolve on Arumugam Nagalingam, Arumugam Thanabalasingham and Arumugam Poopalasingham the brothers of the said Kandavanam in equal shares that any property left behind by us during our death time should not devolve on him that we the said donors can have the said lands partitioned during our life time if we find necessary that we can give in lease half share of the first land and the other lands and have this donation revoked and make it null and void and have right and power to alienate and encumber the said lands.

40

**Exhibits**  
No. P 25  
Deed No. 800  
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Witnesses filed  
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—Continued.

I the said Kandavanam the donee hereof accept this donation with the entire satisfaction subject to the above said conditions.

In witness whereof we the said donors and donee set our signatures to this and to two others of the same tenor in the presence of Kandar Sinnappu of Polikandy, Chinnathamby Vallipuram of the same place and Kandar Vallipuram of Alvai West, the subscribing witnesses hereto and in the presence of the undersigned Notary at Kudaththanai in the office of the Notary, on the 6th day of July, 1908.

Sgd. KOOLAIYAR ARUMUGAM  
+ This is the hand mark of VALLIAMMAI 10  
Sgd. AVANA KANDAVANAM

Witnesses :

Sgd. KANA SINNAPPU  
,, SEENA VALLIPURAM  
,, KANA VALLIPURAM

Sgd. KANA KANDAVANAM,  
*Notary Public.*

I, Kanapathipillai Kandavanam who is duly enrolled as Notary Public of Pachchilapali Division of Vadamarachi East in the District of Jaffna do hereby certify and attest that I have read over and explained the foregoing instrument to the grantors Koolaiyar Arumugam and wife Valliammai who has set her mark and grantee Arumugam Kandavanam who has signed as Avana Kandavanam in the presence of Kanthar Sinnappu of Polikandy who has signed as Kana Sinnappu Sinnathamby Vallipuram of the same place who has signed as Sana Vallipuram and Kandar Vallipuram of Alvai West who has signed as Kana Vallipuram the subscribing witnesses hereto that I Know the said grantors grantee and witnesses that the said instrument was signed by it grantors grantee witnesses and by me the Notary all being present at the same time and place at my office in Kudaththanai on the 6th day of July 1908 that the duplicate hereof bears five stamps of the value of Rs. 7/50 one stamp of the value of Rs. 5/- 1 stamp of Rs. 1/- and 3 stamps of cents fifty, that the original bears one stamp of the value of Rs. 1/- that the said stamps were supplied by me and that before the said instrument was read over and explained the word "....." was interpolated

Sgd. KANA KANDAVANAM  
Sgd. G. KANDAVANAM

The 6th day of July 1908.

*Notary Public.*

## IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR SINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917.

*Vs.*

Exhibits  
 P 25  
 Deed No. 800  
 and List of  
 Witnesses filed  
 in D. C. Jaffna  
 No. 17,917  
 —Continued.

1. ARUMUGAM KANTHAVANAM,
2. VAIRAVY KATHIRGAMAR and wife
3. PACKIAM,
4. ARUMUGAM NAGALINGAM,
5. SINNAPILLAI VELUPILLAI,
6. VELUPILLAI VAIRAMUTTU, and wife
- 10 7. CHINNAMMA,
8. KATHIRGAMAR SITHAMBARAPILLAI, and wife
9. VALLIPILLAI,
10. CHELLACHCHY (minor) daughter of Kathirgamar
11. VALLIAR, widow of Koolaiyar Arumugam, all of Polikandy. The 10th defendant is a minor appearing by her guardian *ad litem* the 2nd defendant ..... *Defendants.*

**Defendant's List of Witnesses and Documents**

1. Murugar Velupillai,
2. Vallipuram Chinnathamby,
- 20 3. Vairavy Rasinghar,
4. Kadirgamar Chinnathamby, all of Polikandy
5. Kandan Vairavan of Samarapaguthevankurichchy,
6. Arumugam Velupillai of Karanavay North
7. Velupillai Vairamuttu of Polikandy,
8. Kandaiar Velupillai of ditto,
9. Vairavan Sivalai of Samarapaguthevankurichchy,
10. The defendants to produce the following documents, viz :—
  - (1) Donation deed No. 4,662 dated 5th September, 1920, and attested by V. Sabaratnam, Notary Public.
  - 30 (2) Donation deed No. 9,748 dated 8th November, 1909, and attested by S. Subramaniam, Notary Public.
  - (3) Donation deed No. 800 dated 6th July, 1908, and attested by G. Kandavanam, Notary Public.

Sgd.

This 10th March, 1924.

*Proctor for Defendants,*

Exhibits  
 No. 2D 27  
 Order, Decrees  
 and Plan in  
 D. C. Jaffna  
 No. 17,917

## No. 2D 27

## Order, Decrees and Plan in D.C., Jaffna, No. 17,917

## IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR SINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917.

*Vs.*

1. ARUMUGAM KANTHAVANAM of Polikandy and 10  
 others ..... *Defendants.*

**Order :**

This is an action for the partition of the land described in the plaint. The shares of the parties are both admitted and proved, but the 4th defendant maintained that the land has been dividedly possessed for many years and that no partition is necessary. So far as I can see from the evidence there appears to have been no formal division of the land between the parties which was intended to be a permanent division. There is no visible limit marking off the plaintiff's 1/6th on the west. There seems, however to have been some sort of arrangement by which the defendants improved and cultivated the eastern portion of the land. The 4th defendant's father Arumugam dug a well on the north-east towards which I find that the plaintiff contributed nothing. The plaintiff appears to have acquiesced in the defendant's improving, planting and building on the eastern side. The plaintiff appears to have been attending to some other garden land that he owns and neglected to improve any part of this land. I think it is but fair that the defendants should have their 5/6th share on the east where they have improved their land. They should however pay the plaintiff compensation for 5/6th of approximately four lachams occupied by the banian tree and the shrine since that would fall into the plaintiff's share and it is not cultivable. The plaintiff is entitled to 1/6th share of the well (old) on the south that must be either made available to the plaintiff or he should be compensated for it.

Interlocutory decree may be entered for partition in the shares set out in the plaint. If the defendants who are entitled to the 5/6th prefer it they can have all the 5/6th in one block on the east. Plaintiff's 1/6th share be on the west.

Plaintiff shall have a 1/6th share of the southern well or be compensated for it. He shall also be paid 5/6th the value of four lachams (approximately) on which the banian tree and the shrine stand. The 4th defendant will pay the plaintiff half the costs of contention. The other costs shall be *pro rata*. The deeds D1, D2, D3 are of no practical value as evidence of a division. The plaintiff was not party to any of these.

Commission may be issued to the same Surveyor returnable on 15-10-26.

Exhibits  
No. 2D 27  
Order, Decrees  
and Plan in  
D. C. Jaffna  
No. 17,917  
—Continued.

Communicated :

Sgd. G. W. WOODHOUSE,  
D. J.

IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR CHINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917. Vs.

1. ARUMUGAM KANTHAVANAM of Polikandy and 10  
others ..... *Defendants.*

10

7-10-26. 4th defendant present.

MR. ADV. THAMBYAH instructed by Mr. C. Subramaniam for plaintiff.

MR. ADV. KANAGASABAI instructed by MR. GANAPATHIPILLAI for  
4th defendant.

Plaintiff's case :

V. CHINNAPILLAI affirmed. I am the plaintiff. I am entitled to 1/6th (undivided) of the land sought to be partitioned. I bought it from Suppan, 4631 of 17th August, 1893, in lieu of that undivided share I possessed portions "on all four sides," for instance lots 2, 10 and I possessed a portion somewhere here sheds 3 and 4 (points out lot 6). I also possessed east of the southern well, also two lots in south (not marked).

20

I pointed out shares I possessed to the Surveyor. Some portions I possess are not marked. I possessed these lots ever since I purchased. The remaining lots were possessed by the predecessors of the defendants.

In lots 1, 2, 3 is one palmyrah tree. There is a banyan tree at the foot of which is a temple. That is a big tree with outspreading branches covering 5 or 6 latchams. The land cannot be cultivated at that spot. The palmyrah tree is possessed by defendants and myself in ratio of 5 to 7.

30

There is grass on the land. That is taken by the defendants out of the shares they possess and I took the grass from the lots I possessed.

We possessed these lots according to the manner in which our predecessor possessed. I cultivated the lots I pointed out, with tobacco and other yearly crops.



## Exhibits

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Order, Decrees  
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D. C. Jaffna  
No. 17,917  
—Continued.

## Cross-examined :

When I bought from Suppramaniam, he was possessing the lots I have just pointed out. The defendants and their predecessors in title possessed all over the land.

The garden is a garden land. There is an old well on the south-west (in middle towards the south). The north-eastern well was dug by the 4th defendant's father. I contributed a share of the costs. The defendants have a watch but on the east. I put a watch hut up. That has disappeared. Cocoanuts, arecanuts and mangoes don't exist. The defendants have 2 or 3 arecanuts and a mango tree. There are no cocoanut 10 trees. None of them bear. I have a land "Valvakkttai." I get that cultivated by tenants. As I possessed this land in small lots the cultivation was not successful. The defendants cultivated their shares on east and west in the same way.

## Re-examined :

I produce deed 2,188 of 1896, 1/3rd, 5,873 of 1896 1/3rd and 8,281 of 1898 for 1/6th. These are deeds in favour of 1st, 4th and grand father of 7th, 9th and 10th defendants.

Sgd. G W. WOODHOUSE,  
D. J.

20

## 4th defendant's case :

Mr. Kanagasabai—

Deed No. 800 of 6th July, 1908, in favour of 1st defendant 5/6th on east. West by V. Chinnapillai (plaintiff), south lane 1/5th of northern well. Sale was of 1/5th of 5/6th.

Donation deed in favour of 7th, 9th and 10th defendants. No. 9,748 of 8th November, 1909.

Donation deed No. 14,662 of 5th September, 190- to 4th defendant 3/5th of 5/6th. New well dug by us,

ARUMUGAM NAGALINGAM, affirmed. I am the 4th defendant. 30 I have known this land for the last 27 or 28 years. When my father was alive he possessed his share on the east side. He did so till he donated to me and the others. Plaintiff possessed on the west. My father dug a well on the north-west. The plaintiff did not contribute a cent towards it. I claim the huts on the eastern portion. I claim the mango and other plantations in that share. In case of partition, I ask that our 5/6th be given on the east side. The value of the well spoken of is Rs. 400,

Cross-examined :

My father bought our divided 5/6th of the whole land. He dealt with that undivided 5/6th share. In D 2 and others on western boundary (witness can't explain).

Exhibits

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No. 17,917  
—Continued.

There is a banyan tree on the west. That occupies about 4 lachams of ground. In this 4 lachams no cultivation is possible. 4 or 5 years ago this 4 lachams were cultivated. It was a small tree when the land was divided some 28 years ago.

10 Portions immediately to the north and south of this banyan tree are not cultivated. The plaintiff did not claim to cultivate for 6 or 7 years. The plaintiff has a share in southern well. The lift pump was put in that well 8 or 9 years ago. The plaintiff contributed his share of the value of the pump. He cultivated at that time on the west, but subsequently he gave up.

It is not true he cultivated portions here and that all over the land. The western portion of this land is excellent land.

20 We cultivated and improved the eastern portion. The plaintiff has neglected the portion on the west. When we divided the land the plaintiff was keen to get the western portion. There is a palmyrah tree on west. We take the produce from it. The plaintiff takes the produce of the palmyrah tree. We took grass of our portion and they of their portion.

Sgd. G. W. WOODHOUSE,

*D. J.*

### Interlocutory Partition Decree

IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR CHINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917.

*Vs.*

1. ARUMUGAM KANTHAVANAM of Polikandy and 10  
others ..... *Defendants.*

30 This action coming on for disposal before G. W. Woodhouse, Esq., District Judge, on the 7th day of October, 1926, in the presence of Mr. Adv. Thambyah with Messrs. Sivapragasam and Katiresu, Proctors, for the plaintiff ; Mr. Adv. Kanagasabai instructed by Mr. V. Ganapathi-

Exhibits  
 No. 2D 27  
 Order, Decrees  
 and Plan in  
 D. C. Jaffna  
 No. 17,917  
 —Continued.

pillai for 4th defendant and judgment being delivered on 15th October, 1926, for which date it was reserved. It is ordered and decreed that the land situated at Samarapakuthevankurichy in Udupidy Parish called Mavathay, in extent 37 latchams varagu culture and  $3 \frac{5}{32}$  kulies with its appurtenances including temple and wells and huts and bounded on the east by channel, on the north by the village of Polikandy, on the west by the village of Polikandy, and on south by lane and described by Survey plan dated the 8th September, 1923, and prepared by Mr. G. C. Kanapathipillai, Licensed Surveyor be and the same is hereby declared the property of the plaintiff and 1st, 4th, 7th, 9th and 10th defendants belonging to them in common, that the said land be partitioned and divided shares thereof be allotted and given to them as follows :—

1. A divided  $\frac{1}{6}$ th share of the said land with its appurtenances excluding huts, mango be allotted and given to the plaintiff subject to mortgage in favour of 5th defendant.
2. A divided  $\frac{1}{6}$ th share of the said land with its appurtenances be allotted and given to the first defendant subject to life interest in favour of 11th defendant.
3. A divided  $\frac{3}{6}$ th share of the said land with its appurtenances be allotted and given to the 4th defendant. 20
4. A divided  $\frac{1}{6}$ th share of the said land with its appurtenances be allotted and given to the 7th, 9th and 10th defendants subject to life interest in favour of 11th defendant.

The huts and mango tree belong exclusively to the 1st, 4th, 7th, 9th and 10th defendants.

It is further ordered that if the defendants are entitled to  $\frac{5}{6}$ th prefer it, they be allotted  $\frac{5}{6}$ th in one block on the east and the plaintiff's  $\frac{1}{6}$ th share be on the west.

It is further ordered that the plaintiff be allotted a  $\frac{1}{6}$ th share of the southern well or be compensated for it and that he also be paid  $\frac{5}{6}$ th the value of the 4 latchams (approximately) on which the banyan tree and the shrine stand. 30

It is further decreed that the costs of this action and of partition be borne by the parties in proportion to their shares in the said land and it is further decreed that the 4th defendant do pay the plaintiff half the costs of contention.

This 15th day of October, 1926.

Sgd. G. W. WOODHOUSE,  
*D. J.*

**Order :**

I would accept the evidence of the Surveyor. The plaintiff is now going back on what he said. The basis of calculation should be the average value, viz., Rs. 75 per latcham. The Commissioner however was not right in deducting the value of the ground occupied by the shrine. The plaintiff is entitled to  $(75 \times 2) \times \frac{4}{5}$ —Rs. 125/- as compensation. Let the Final Decree be entered accordingly.

Each party will bear his own costs of today.

Sgd. M. H. KANTAWALA,  
for D. J.

10 6-2-28.

**Final Partition Decree**

IN THE DISTRICT COURT OF JAFFNA

VELAUTHAR CHINNAPILLAI of Polikandy ..... *Plaintiff.*

No. 17,917.

*Vs.*

1. ARUMUGAM KANTHAVANAM of Polikandy and 10  
others ..... *Defendants.*

This action coming on for final disposal before M. H. Kantawala, Esq., Additional District Judge of Jaffna, on the 6th day of February, 1928, in the presence of Mr. Adv. Kulasingham, with Mr. Proctor C. Subramaniam, on the part of the plaintiff, and of Mr. Adv. S. Kanagasabai with Mr. Proctor Cumarasuriyar, on the part of the defendants. It is ordered and decreed that of the land situated at Samarapakuthevankurichy in Udupiddy Parish, called Mavathy in extent 37 latchams varagu culture, 3,  $\frac{5}{32}$  kulies ; bounded on the north by the village of Polikandy, east by channel and lane, south by lane, west by the village of Polikandy, and described by lots marked 1 and 2 in plan No. 4,963 made by Mr. C. C. Ganapathipillai, Surveyor and Commissioner appointed by this Court to partition the said land and filed of record in this case.

20

30

1. The lot marked 1 in extent 6 latchams varagu culture and 3,  $\frac{5}{32}$  kulies, with its appurtenances including  $\frac{1}{6}$ th share of the well marked W, and the right of way and water-course along a, b, and bounded on the east by lot No. 2, north by d, west by the village of Polikandy, and south by lane, be and the same is hereby declared to be the absolute property of the plaintiff.

40

2. The lot marked 2, in extent 31 latchams varagu culture, with its appurtenances including the huts and the whole of the well, marked X, and  $\frac{5}{6}$ th share of the well marked W, and the right of way and water-course marked A, B ; and bounded on the east by channel, north by the village of Polikandy, west by lot No. 1 and south by lane, be and the same is hereby declared to be the absolute property of the 1st, 4th, 7th, 9th and

Exhibits

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Order, Decrees  
and Plan in  
D. C. Jaffna  
No. 17,917  
—Continued.

Exhibits  
 No. 2D 27  
 Order, Decrees  
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 —Continued

10th defendants ; the 1st defendant being entitled to 1/5th, 4th defendant to 3/5th, and 7th, 9th, 10th defendants to 1/5th and the shares of 1st, 7th, 9th and 10th defendants being subject to the life interest of the 11th defendant.

It is further ordered and decreed that the 1st, 4th, 7th, 9th, and 10th defendants do pay Rs. 125/- to plaintiff, that each party do bear their own costs of this day, and that the costs of this action and of partition be borne by the parties *pro rata*.

Sgd. M. H. KANTAWALA,

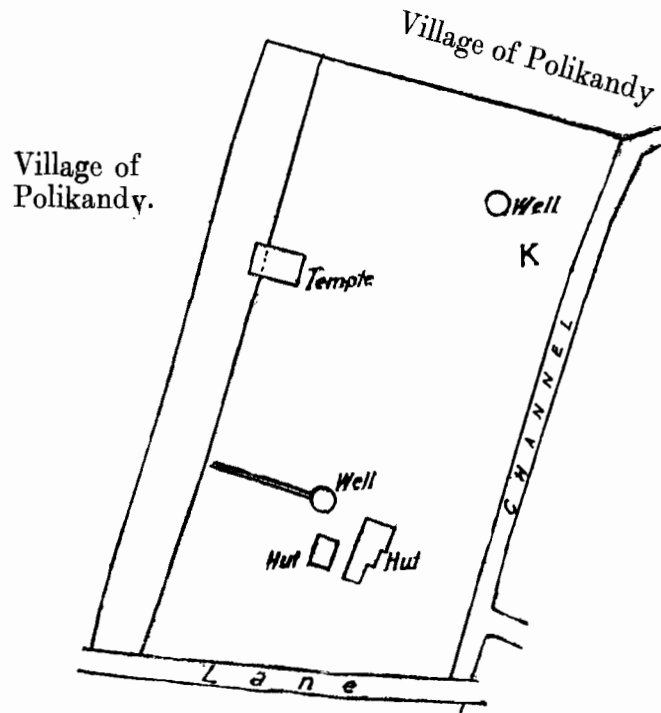
The 6th day of February, 1928.

D. J.

10

Plan No. 4,963

Case No. 17,917 D. C., Jaffna



Scale of 2 Chains to an Inch.

PLAN

of a piece of land called Mavathay,  
 situate at the village of Samarapagoothevan Kurichy in Uduppiddy  
 Parish, Vadamarchy Division in the District of Jaffna, Northern  
 Province ; bounded as above containing in extent :

No. 1.	6	latchams v.c. and	3, 5/32	kulies
„ 2.	31	„ „	- -	„
Total	37	„ „	3, 5/32	„

Exhibits  
 No. 2D 27  
 Order, Decrees  
 and Plan in  
 D. C. Jaffna  
 No. 17,917  
 —Continued

Surveyed and drawn by :

Sgd. G. G. KANAPATHIPILLAI,  
*Licensed Surveyor & Leveller.*  
 Point Pedro, 12th Aug. 1927.

**No. 2D 10**

**Deed No. 19545**

CONVEYANCE—LANDS 17

**No. 19,545**

Exhibits  
 No. 2D 10  
 Deed No. 19545  
 1-11-1923

10

To all to whom these presents shall come, I, Arumugam Nagalingam of Polikandy in Vadamaradchy West, Jaffna, have sent greetings, to wit :—

20

30

Whereas my father the late Koolaiyar Arumugam, lived at Polikandy and died there on the 6th December, 1920, and whereas he, by his Last Will dated the 5th day of December, 1920, had bequeathed all his property, to the undermentioned persons and to the temple, and whereas he had appointed me the said Arumugam Nagalingam as executor of the said Last Will and whereas I had the said Last Will proved in Testamentary Case No. 4,514 of the District Court of Jaffna, and obtain Probate and whereas I have now to file final account as per said Probate and whereas it is necessary to convey, the first three properties out of the undermentioned properties left behind by my father the said Koolaiyar Arumugam to Arumugam Thanabalasingham, the son of the said Koolaiyar Arumugam, the 4th and 5th properties to Kadirippillai Kanagasabapathy, the grand son of the said Koolaiyar Arumugam, the 6th, 7th and 8th properties to Annapillai, wife of Thampar Kandavanam, the daughter of the said Koolaiyar Arumugam, the 9th and 10th properties to Sinnammah, wife of Velupillai Vairamuttu, the daughter of the daughter of the said Koolaiyar Arumugam, the 11th and 12th properties to me the said Arumugam Nagalingam and the other properties to Uppukinatadiyitpillaiyar Temple at Polikandy, as described in the said Last Will and with the consent of the receivers before I file the final account.

40

Now know all men by these presents that I the said Arumugam Nagalingam for and on account of the abovesaid reasons do hereby set over and convey unto the said Arumugam Thanabalasingham, Kathiripillai Kanagasabapathy, Annapillai, wife of Thambar Kandavanam and Sinnammah, wife of Velupillai Vairamuttu and to me the said Arumugam Nagalingam and unto Uppukinatadiyitpillaiyar Temple at Polikandy, the following properties :—

## Exhibits

No. 2D 10  
Deed No. 19545  
1-11-1923  
—Continued.

*The Properties Conveyed to Arumugam Thanabalasingham*

In the Parish of Udupiddy in Vadammaradchy West division, in the District of Jaffna, in Northern Province.

1. Land situated at Polikandy called Nakarakaddanai, in extent 50 latchams varagu culture. Of this excluding an extent of 5 latchams varagu culture, on the west out of 24 latchams on the west and the extent of 3 latchams varagu culture, on the east lying adjacent to this 5 latchams forming a total extent of 8 latchams varagu culture, the extent of 10 latchams varagu culture on the east lying adjacent to it ; is bounded on the east by property belonging to me, north by the undermentioned 5th 10 property, west by the undermentioned 4th property, and south by the property of Sinnammah, wife of Sinnathamby and others. The whole of the ground and mango tree within these boundaries and share appertaining to this of the well and the water drawing machine in the extent of 6 latcham varagu culture, belonging to me on the east in the entire land and right of way and water-course.

2. That of the abovesaid land called Nakarakaddanai in extent 50 latchams varagu culture, excluding an extent of 8 latchams on the south out of 26 latchams on the east, the extent of 3 latchams varagu culture, on the north lying adjacent to it is bounded on the east by the 20 property of Sinnavar Velan and others, north by the property of Annapillai, wife of Kandavanam, west by property belonging to me, and south by the property belonging to Uppukinatady Pillaiyar Temple. The whole of the ground within these boundaries and share appertaining to this of the well and water drawing machine in the 6 latchams varagu culture belonging to me in the entire land, on the west of this land and right of way and water course.

3. That of the abovesaid land called Nakarakaddanai, in extent 50 latchams varagu culture an extent of 5 latchams varagu culture, on the north-east out of 26 latchams varagu culture, on the east ; is bounded on the 30 east by the property of Sinnavar Velan and others, north and west by the property of Sinnammah, wife of Vairamuttu and others, and south by the property of Annapillai, wife of Kandavanam and others. The whole contained within these boundaries and share appertaining to this of the well and of the water drawing machine in the 6 latchams varagu culture belonging to me in the entire land and right of way and water-course.

*Properties Conveyed to the said Kadirippillai Kanagasabapathy.*

4. That of the abovesaid land called Nakarakaddanai in extent 50 latchams varagu culture excluding an extent of 5 latchams varagu culture on the west out of 24 latchams on the west, the extent of 3 latchams 40 varagu culture, on the east lying adjacent to it is bounded on the east by the abovesaid 1st land, north by the undermentioned 5th land, west by

property belonging to me and south by the property of Sinnammah, wife of Chinnatamby and others. The whole of the ground within these boundaries and share appertaining to this of the well and of the water drawing machine in the 6 latchams varagu culture belonging to me in the entire land, on the east of this land and right of way and water-course.

Exhibits  
No. 2D 10  
Deed No. 19,545  
1-11-1923  
—Continued.

10 5. Land situated at Polikandy called Nakarakaddanai, in extent 33 latchams varagu culture. Of this  $\frac{1}{4}$ th share on the south in extent  $8\frac{1}{4}$  latchams varagu culture ; is bounded on the east by the property of Sinnammah, wife of Vairamuttu and others, north by the property of Mailvaganam Muttukumar, west by the property of Palaniappar Kumaraswamy and others, and south by property belonging to me. The whole of the ground palmyrah trees and vadalies within these boundaries.

*Properties Conveyed to the said Annapillai, wife of Thambar Kandavanam.*

20 6. That of the abovesaid land called Nakarakaddanai, in extent 50 latchams varagu culture excluding an extent of 8 latchams varagu culture on the south out of 26 latchams varagu culture, on the east and the extent of 3 latchams varagu culture, on the north lying adjacent to it forming a total extent of 11 latchams varagu culture, the extent of 7 latchams varagu culture, on the north lying adjacent to it is bounded on the east by the property of Sinnavan Velan and others, north by the property of Sinnammah, wife of Vairamuttu and others, west by property belonging to me, and south by the abovesaid 2nd land. The whole of the ground within these boundaries and share appertaining to this of the well and of the water drawing machine in the 6 latchams varagu culture belonging to me in the entire land on the west of this land and right of way and water-course.

30 7. Land situated at Polikandy called Kirulavattai, in extent  $10\frac{3}{8}$  latchams varagu culture. Of this an extent of 3 latchams varagu culture and  $8\frac{1}{4}$  kulies is bounded on the east and west by the property of Annapillai, wife of Kandavanam and others, north by lane and south by the property of Nagan Vellayan and others. The whole of the ground, palmyrah trees and vadalies within these boundaries.

8. Land situated at ditto called Kerulavattai, in extent 3 latchams varagu culture and  $8\frac{1}{4}$  kulies ; is bounded on the east and west by the property of Annapillai, wife of Kandavanam and others, north by lane and south by the property of Suppramaniam Ven-Mylu. The whole of the ground within these boundaries.

*Properties Conveyed to the said Sinnammah, wife of Velupillai Vairamuttu.*

40 9. That of the abovesaid land called Nakarakaddanai in extent 50 latchams varagu culture, excluding an extent of 8 latchams varagu culture, on the south out of 26 latchams varagu culture, on the east and the extent



Exhibits  
 No. 2D 10  
 Deed No. 19,545  
 1-11-1923  
 —Continued.

of 3 lachams varagu culture, on the north lying adjacent to it and the extent of 7 lachams varagu culture, on the north lying adjacent to this 3 lachams forming a total extent of 18 lachams varagu culture, the extent of 3 lachams, varagu culture on the north lying adjacent to it is bounded on the east by the abovesaid 3rd land, north by the property of Sinnammah, wife of Vairamuttu and others, west by property belonging to me, and south by property of Annapillai, wife of Kandavanam. The whole of the ground within these boundaries and share 'appertaining to this of the well and of the water drawing machine in the 6 lachams varagu culture belonging to me in the entire land and right of way and 10 water-course.

10. Land situated at Valvettiturai called Nelliddantharai, in extent 15 lachams varagu culture, ditto in extent 1,  $\frac{3}{4}$  lachams varagu culture forming a total extent of 16,  $\frac{3}{4}$  lachams varagu culture; is bounded on the east by the property of Kuddy Kanapathy and others, north by the property of Arumugam Nagalingam and others, west by the property of Kathirippillai Kanagasabapathy and others, and south by the property of Sinnammah, wife of Vairamuttu and others. Of the whole of the ground, palmyrah and vadalies within these boundaries an undivided half share.

*Properties Conveyed to me the said Arumugam Nagalingam.*

20

11. Land situated at Polikandy called Periapanthoddam, in extent 3,  $\frac{3}{4}$  lachams varagu culture. Of this the entire half share in extent 1,  $\frac{3}{8}$  lachams varagu culture is bounded on the east by the property of Vallipuram Mailvaganam and others, north by lane, west by the property of Thampar Vaithiampillai and others, and south by the property of Sinnammah, wife of Vairamuttu and others. The whole contained within these boundaries.

12. Land situated at Karanavai Kothavattaikurichchy called Kadduparutti, in extent 6  $\frac{1}{2}$  lachams varagu culture. Of this 1/4th share according to possession in extent 1,  $\frac{5}{8}$  lachams varagu culture is bounded 30 on the east by the property of Alvan Nagan and others, north by the property of Karaly Kuddy and others, west by lane, and south by the property of Sinnavan Velan. The whole of the ground, palmyrah trees and vadalies within these boundaries.

*Properties Conveyed to Uppukinataddyit Pillaiyar Temple.*

13. That of the abovesaid land called Nakarakaddanai, in extent 50 lachams varagu culture, an extent of 8 lachams varagu culture on the south out of 26 lachams varagu culture, on the east is bounded on the east by the property of Sinnavan Velan and others, north by the property of Arumugam Thenabalasingham, west by property belonging to me, and south by the property of Sinnammah, wife of Sinnatamby and 40 others. The whole of the ground within these boundaries and share

appertaining to this of the well and of the water drawing machine in the 6 lachams varagu culture belonging to me in the entire land and right of way and water-course.

Exhibits  
No. 2D 10  
Deed No. 19,545  
1-11-1923  
—Continued.

14. Land situated at Navunditkurichy called Vaduvakkaddai, in extent 26,  $\frac{3}{8}$  lachams varagu culture ; is bounded on the east by the property of Thoraiyer Sinniah and others, north by the property of Nagapper Kanapatipillai and others, and west and south by property belonging to me and others. Of this an undivided 1 lacham varagu culture and 2,  $\frac{1}{4}$  kulies and share of well.

10 15. Land situated at Valvettiturai called Ponnalythoddam, in extent 6 lachams varagu culture and 3,  $\frac{3}{8}$  kulies ; is bounded on the east by the property of Murugesu Sinnathankam, north by the Court-yard of Pillaiyar Temple and west and south by lane. The whole of the ground, palmyrah trees and vadalies within these boundaries.

20 16. Land situated at Navinditkurichy called Thiyalawanthai, in extent 31,  $\frac{3}{4}$  lachams varagu culture. Thoddam 2 forming a total extent of 34 lachams varagu culture and 7 $\frac{1}{2}$  kulies ; is bounded on the east by the property of Ponnu, wife of Chellappah and others, north by the above-said 14 land, west by the property of Konar Moothathamby and others, and south by the property of Velupillai Moothathamby and others, Of this an undivided 1/36th share and share of well.

17. Land situated at Polikandykurichy called Kochchanthai, in extent 33,  $\frac{3}{8}$  lachams varagu culture ; is bounded on the east by property belonging to me, north and south by lane and west by the property of Sinnatamby Vallipuram. The whole of the ground, palmyrah trees, vadalies and mango trees within these boundaries.

30 I do hereby convey the said lands to the said Uppukinataddyitpillaiyar Temple stating that I and my brother the said Arumugam Thanabalasingham will have to look after the said lands conveyed to the said Temple during our live time and that there would be right for me and my brother the said Thanabalasingham to appoint one to look after the same after our life time.

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Sinnatamby Subramaniam, Notary, and in the presence of the undersigned witnesses in the office of the Notary at Puloly East, on the 1st day of November, 1923.

We the said witnesses do hereby declare that we know perfectly well the said executant and his real name, residence and occupation.

Witnesses :

40 Sgd. S. SIVAGURUNATHAR  
,, A. VALIPILLAI

Sgd. S. SUBRAMANIAM,  
*Notary Public.*

Exhibits  
 No. 2D 10  
 Deed No. 19,545  
 1-11-1923  
 —Continued.

I, Sinnathamby Subramaniam, Notary Public of Jaffna do hereby certify and attest that I have read over and explained the foregoing instrument to the said Arumugam Nagalingam in the presence of Suppiramaniar Sivagurunather of Velvetty and M. Alvapillai Veli Pillai of Puloly East the subscribing witnesses hereto that I know the executant and witnesses that the said executant and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Puloly East on the 1st day of November 1923, that to the duplicate hereof one stamp of Rs. 10/- and to the original one stamp of Re. 1/- have been affixed, which stamps were 10 supplied by me and that before this instrument was read over and explained as aforesaid the letters.....  
 .....

Sgd. SEENA SUPPRAMANIAM  
 Sgd. S. SUBRAMANIAM  
*Notary Public*

Date of attestation  
 1st November, 1923.

No. 2D 18  
 Deed No. 588  
 12-5-1926

**No. 2D 18**  
**Deed No. 588**  
 TRANSFER  
**Rs. 300**

20

**Extract of 4th Land, 23rd Land and 28th Land**

Know all men by these presents that I, Walliammai, widow of Arumugam of Polikandy for and in consideration of the sum of Rs. 300/- paid by Arumugam Nagalingam of the same place and received by me do hereby sell, transfer, set over and convey unto the said Nagalingam the following properties and the life interest belonging to me in and upon the other properties :—

*Properties :*

30

4. Land situated at Polikandy, in the Parish of Udupidy in Jaffna District, in Northern Province.

Of the abovesaid land called Nakarakaddanai, in extent 50 latchams varagu culture an extent of 5 latchams varagu culture, on the north-east out of 26 latchams varagu culture, on the east with coconut trees and houses ; is bounded on the east by the property of Sinnavan Velan, north and west by the 6th, 7th and 8th properties and south by the under-mentioned 7th land. Of the whole of this an undivided half share and share appertaining to this of the well standing in the 6 latchams lying on the west of this and of the machine and right of way and water-course..... 40

10 23. Land situated at ditto, Samarapakuthevancurichy called Parunthukooduvaithan, in extent 9 latchams varagu culture, ditto in extent 11 latchams varagu culture, ditto in extent 30,  $\frac{7}{8}$  latchams varagu culture. Of these an extent of 32,  $\frac{7}{8}$  latchams varagu culture ; is bounded on the east by the property of Kuddupillai Iyyathurai and others, north by the property of Vairavan Murugan and others, west by the property belonging to me and others and by Valvettituraikurichy, and south by the property of Pakkiam, wife of Kadirgamar of this excluding the ground of the land passing through these boundaries, out of the whole of the remaining ground palmyrah trees and vadalies the life interest belonging to me.

20 28. Land situated at ditto, Samarapakuthevankurichy called Periyakaddupulam, in extent 38 latchams varagu culture ; ditto Kaddupulam in extent 28,  $\frac{1}{4}$  latchams. The extent written after excluding the padu, is 13,  $\frac{3}{4}$  latchams varagu culture ; and bounded on the east by the property of Arumugam Kanthavanam and others, north by Polikandykurichy and by the property belonging to Kadirgamar Sinnatamby and Kunchipillai, wife of Mailar and others, west by the property of Vareear Thampar and Paramar Kumaraswamy and others, and south by lane. Of the whole of the ground, palmyrah trees and vadalies within these boundaries the life interest belonging to me in and upon the undivided one-third share.....

I do hereby declare that of these properties the first property belongs to me by virtue of dowry deed in my favour No. 202 of Vol. II, dated 17th July, 1896, and attested by Kadirgamar Sidamparanathar, Notary, and the 2 to 54 properties by right of acquisition under and by virtue of transfer deeds in favour of my husband the late Koolaiyar Arumugam and by possession.

30 In witness whereof I set my signatures to the said two others of the same tenor in the presence of Kantappar Muttukumar, Notary, and in the presence of the undersigned witnesses at Polikandy, on the 12th day of May, 1926.

+ This is the hand mark of VALLIAMMAI.

Witnesses :

Sgd. K. THAMBIAH

.. S. VALLIPURAM

Sgd. K. MUTTUKUMARU,  
*Notary Public.*

**Exhibits**  
 No. 2D 18  
 Deed No. 588  
 12-5-1926  
 —Continued.

I, Kantappiar Mutukumar, Notary Public of the Judicial Division of Point Pedro, in the District of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Walliammai, widow of Arumugam, who set her mark in the presence of Kadirgamar Thambiah of Polikandy and Sinnatambiar Vallipuram of the same place the subscribing witnesses hereto, that the witnesses who are known to me declared to have known the said grantors perfectly well, that the said grantor and witnesses set their signatures in my presence and in the presence of one another all being present at the same time at Polikandy on the 12th day of May, 1926, that no part of the consideration mentioned herein was paid in my presence, that to the duplicates hereof 5 stamps of the value of Rs. 32.50 cents and to the original only rupee one have been affixed and which stamps were supplied by me and that before this instrument was read over and explained the letter . . . . .

Sgd. K. MUTTUKUMAARU,  
*Notary Public.*

No. P 21  
 Certificate of  
 Death  
 15-7-1931

**No. P 21**

**Certificate of Death**

TRANSLATION

*Certificate of Death*

20

**No. 14,066**

In the Division of Udupiddy, in the District of Jaffna,  
 in Northern Province

- |  |    |  |    |
|--|----|--|----|
| 1. Date and Place of Death   | .. | 15th day of July, 1931, Polikandy                        |    |
| 2. Full Name   | .. | Arumugam Kanthavanam                                     |    |
| 3. Sex and Nationality   | .. | Male, Ceylon Tamil                                       |    |
| 4. Age   | .. | Forty-six years  |    |
| 5. Rank or Profession  | .. | Farmer   |    |
| 6. Names of Parents :  |    |  |    |
| Father   | .. | Koolaiyar Arumugam                                       | 30 |
| Mother   | .. | Walliammai, daughter of<br>Kanthar                       |    |
| 7. Cause of Death and Place of<br>Burial or Cremation                            | .. | Pandu and swelling ; Oorany                              |    |
| 8. Name and Residence of Informant<br>and with what right he<br>gave Information | .. | Arumugam Thanabalasinghem<br>Polikandy, Brother, present |    |
| 9. Signature of Informant  | .. | A. Thanabalasingham                                      |    |
| 10. When Registered  | .. | 18th day of July, 1931                                   |    |
| 11. Signature of Registrar   | .. | Sgd. K. Veeravagu  | 40 |

**No. P 16**  
**Deed No. 1,543**  
**No. 1,543**

Exhibits  
 No. P 16  
 Deed No. 1543  
 23-2-1934

10 Know all men by these presents that I, Arumugam Kandavanam of Polikandy, personally and as executor of the Last Will of my late wife's Thangamuttu of Polikandy in Testamentary Case No. 8,333, D.C., Jaffna (hereinafter called the vendor) for and in consideration of the sum of Rs. 235.22 justly and truly due and owing to Kartigesu Kulasekarampillai of Valuvettiturai from me personally and as executor in the said case  
 20 No. 8,333 T.D.C., Jaffna, for principal and interest due on mortgage bond No. 2,837 of 21-6-31 and attested by K. Muttukumar for Rs. 125 and interest and also on a Pronote dated 22..... for Rs. 35 and interest both granted by me and my late wife Thankamuttu (and the said Kartigesu Kulasegerampillai is (hereinafter called the purchaser (the receipt whereof I do hereby admit and acknowledge) do hereby grant, convey, assign, sell, transfer, set over and assure unto the said purchaser his heirs, executors, administrators and assigns the following lands and premises fully described in the schedule hereto together with all and singular the rights ways, easements, advantages, servitudes and appurtenances, whatsoever thereto  
 30 belonging or in any wise appertaining or usually held, occupied, used, or enjoyed therewith, or reputed or known as part or parcel thereof, and together with all the estate, right, title, interest, claim and demand whatsoever of me the said vendor in, to out of, and upon the said premises and every part thereof.

The said lands were held and possessed by me and my late wife the 1st land as *mudusam* of my late wife from her parents and the 2nd and 3rd lands as *urumai* from our daughter who was entitled to the same under deed No. 2,489 dated 10th September, 1930, and attested by K. Muttukumar, Notary Public.

30 And the estate of my said wife is now administered in the Testamentary Case No. 8,333 D.C., Jaffna.

*The Schedule Referred to above :*

40 1. Land at Polikandy Udupidy Parish, Vadamaradchy Division, Jaffna District, Northern Province, called Vellaiputtoo in extent thoddam 2. Ditto 34 latchams varagu culture. Of this an extent of 6 latchams varagu culture, on the north-west ; is bounded on the east and south by land of Ponniah Kandasamy, north by road, on the west by the land of Paramar Sinnatamby and others. Of the whole of the ground, old and young palmyrahs and coconut trees contained within these boundaries an undivided half of 1/5th share and the share thereto of the wells lying within the entire two parcels and right of way and water-course,

Exhibits  
 No. P 16  
 Deed No. 1543  
 23-2-1934  
 —Continued

2. Land at ditto called Oorimunkudai in extent 13,  $\frac{5}{8}$ th lachams varagu culture. Of this an extent of 9 lachams varagu culture and  $1\frac{1}{2}$  kulies being  $\frac{2}{3}$ rd share on the east ; is bounded on the east by land of Chellamuttu, wife of Vairamuttu and others, north by land of Achchimuttu, wife of Kandavanam and others, west by land of Arumugam Nagalingam, and on the south by land of Arumugam Nagalingam and others. Of the whole of the ground, old and young palmyrahs, contained within these boundaries an undivided  $\frac{1}{5}$ th of  $\frac{14}{32}$ nd shares.

3. Land at ditto called Chiruththikathai, in extent 38,  $\frac{3}{8}$  lachams varagu culture. Of this according to possession on the south-east an extent of 4 lachams varagu culture and  $4\frac{3}{4}$  kulies ; is bounded on the east by land of Thamper Sinniah and others, north by land of Vallipuram Mylvaganam and others, west by land of Annapillai, wife of Sinniah and others, and on the south by street. Of the whole of the ground old and young palmyrahs contained within these boundaries an undivided one-tenth share ( $\frac{1}{5}$ th of half share).

To have and to hold the said premises hereby sold and conveyed or expressed so to be with all the rights, easements and appurtenances unto the said purchaser, his heirs, executors, administrators and assigns absolutely for ever.

20

And I the said vendor for myself, my heirs, executors and administrators do hereby covenant, with the said purchaser and his aforewritten that the said premises hereby sold and conveyed, are free from all encumbrances whatsoever that I now have good right to sell and convey the said premises in manner aforesaid that the said purchaser and his aforewritten may at all times hereafter quietly enter into hold and enjoy the said premises that I and my aforewritten shall and will at all times hereafter warrant and defend the said premises and every part thereof unto the said purchaser and his aforewritten against any person or persons whomsoever and that I and my aforewritten shall and will at all times hereafter at the request and costs of the said purchaser and his aforewritten do and execute or cause to be done and executed all such further acts, deeds, assurances, matters and things whatsoever for further and more perfectly assuring the said premises and every part thereof unto the said purchaser and his aforewritten as shall or may be reasonably required.

30

In witness whereof I do hereunto and to two others of the same tenor and date as these presents set my hand at Valveddy, this Twenty-third day of February, 1934,

Sgd. A. KANDAVANAM

Sgd. S. APPADURAI, 40  
*Notary Public,*

I, Saravanamuttoo Appadurai, Notary Public, within the Judicial Division of Point Pedro, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the within named Arumugam Kandavanam, the vendor hereof who is not known to me in the presence of Kandiah Chellam and Sidamparapillai Mailvaganam, both of Valvettiturai the subscribing witnesses hereto who are known to me the same was signed by the said vendor and also by the said witnesses in my presence and in the presence of one another all being present at the same time at Valveddy on the 23rd day of February, 1934.

Exhibits  
No. P 16  
Deed No. 1543  
23-2-1934  
—Continued.

10 I further certify and attest that no consideration passed in my presence that in both the duplicate and the original page 1 lines.....read over and explained as aforesaid, that the original of these presents bears 1 stamp of the value of rupee one that the duplicate bears 2 stamps of the value of Rs. 7/- and that the said stamps were supplied by me.

Sgd. S. APPADURAI,  
Notary Public.

Date of Attestation : 23rd February, 1934.

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No. P 18

Deed No. 13,098

No. P 18  
Deed No. 13,098  
12-3-1934

20 Transfer  
Lands 3  
Consideration : Rs. 330/-.

P18

No. 13,098

Know all men by these presents that I, Arumugam Kanthavanam of Polikandy, for and in consideration of the sum of Rs. 330/- paid by Sinniah Kanthavanam, Sinniah Arumugam, Sinniah Ponniah and Sinniah Velupillai of the same place and received by me, do hereby sell, transfer and convey unto him the said Kanthavanam, Arumugam Ponniah and Velupillai the properties described in the schedule hereunder.

30 The lands described in the schedule hereunder were belonging to my wife, the late Thangamuttu and all in my possession by virtue of Last Will, left behind by her in my favour, which I have proved in case No. 8,333, of the District Court of Jaffna and obtained probate and by virtue of decree in case No. 26,715 of the Court of Requests of Point Pedro.

I have received the said consideration paid by the grantees declaring as their *muthusam* money.



Exhibits  
 No. P 18  
 Deed No. 13,098  
 12-3-1934  
 —Continued.

I sell and transfer these lands for the purpose of paying and settling the debts payable on promissory notes granted by me and my wife the late Thankamuttu in favour of Naganathar Kadiritamby of Karanavai North, dated the 2nd January, 1932, for Rs. 50/- and interest thereon at the rate of eighteen per cent. per annum, in favour of Sabapathy Thambiraja of Valveddy dated the 11th May, 1932, for Rs. 30/- and interest thereon at the rate of twelve per cent. per annum and in favour of Sinnatamby Vallipuram of Polikandy dated the 15th August, 1932, for Rs. 125/- and interest thereon at the rate of twelve per cent. per annum and for paying the costs of Rs. 65.68 in case No. 24,876 of the Requests of Point Pedro. 10

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of the undersigned witnesses in the office of the said Notary at Polikandy on the 12th day of March, 1934.

*Schedule of Properties :*

In the Parish of Udupidy in Wadamarachy Division in the District of Jaffna, in the Northern Province.

1. Land situated at Polikandycurichchy called Vallaipattu thoddam 2, ditto in extent 34,  $\frac{1}{8}$  latchams varagu culture. Of these  $\frac{1}{6}$ th share on the north-west is according to possession in extent 6 latchams varagu culture and 2,  $\frac{3}{8}$  kulies ; and bounded on the east and south by the property of Ponniah Kantasamy, north by road, and west by the property of Paramar Sinnatamby and others. Of the whole of the ground, palmyrah trees, vadalies and coconut trees, within these boundaries an undivided  $\frac{1}{10}$ th share belonging to me and share appertaining to this of the wells in the entire land and right of way and water-course. 20

2. That of the abovesaid first land  $\frac{1}{6}$ th share on the south is according to possession in extent 6 latchams varagu culture and 2,  $\frac{3}{8}$  kulies ; and bounded on the east by the property of Walliammai, wife of Chelliah and others, north by the property of Kadirgamar Periatamby and others, west by the property of Paramar Sinnatamby and others, and south by the property of Eledchumipillai, daughter of Velupillai and others. Of the whole of the ground, palmyrah trees, vadalies and coconut trees within these boundaries an undivided  $\frac{1}{10}$ th share belonging to me and share appertaining to this of the well herein and of the well standing in the entire land and right of way and water-course. 30

3. Land situated at Polikandy called Mungkudai in extent 12,  $\frac{1}{4}$  latchams varagu culture. Of this  $\frac{1}{6}$ th share on the north-east is according to possession in extent 2 latchams varagu culture and  $\frac{3}{4}$ th kuly ; and bounded on the east by the property of Sinnapillai Velupillai and others, north-west and south by the property of Arumugam Nagalingam and 40

others. Of the whole of the ground, palmyrah trees, vadalies, coconut trees and mango tree within these boundaries an undivided 1/5th share belonging to me.

Exhibits  
No. P 18  
Deed No. 13,098  
12 3-1934  
—Continued.

Sgd. A. KANTHAVANAM

Sgd. V. SABARATNAM,  
*Notary Public.*

10 I, Vairavanather Sabaratnam, Notary Public of Vadamaradchy, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Arumugam Kanthavanam in the presence of Nagamuttu Kathiritamby of Karavanai North, Varitamby Sinniah of Polikandy, and V. Sinnatamby Krishna Pillai of Karavanai North, the subscribing witnesses hereto that I know the grantor and witnesses that the said grantor and witnesses set their signature in my presence and in the presence of one another all being present at the same time in my office at Polikandy on the 12th March, 1934, that the consideration mentioned herein was paid in my presence that the duplicate hereof one stamp of the value of rupees ten and to the original one stamp of the value of rupee one have been affixed, that these stamps were supplied by me and that before this instrument was read over and explained the letter in duplicate was written above the line.

20

Sgd. V. SABARATNAM,  
*Notary Public.*

Date of Attestation : 12th March, 1934.

**No. P 20**  
**Deed No. 13,578**

No. P 20  
Deed No. 13,578  
21-11-1934

Transfer  
Land 1  
Consideration Rs. 500/-

**No. 13,578**

30 Know all men by these presents that I, Sinnapillai Saravanapperumal of Polikandy do hereby sell, transfer and convey unto Sinnatamby Chelliahpillai of the same place, the property described in the schedule hereunder for the consideration of Rs. 500/-.

The property described in the schedule hereunder belongs to me by virtue of donation deed in my favour, bearing No. 10,615 dated 2nd day of June, 1930, and attested by this Notary.

I have received the said consideration, paid by Arumugam Nagalingam of Polikandy, stating as money donated to him.

Endorsement has been made of this in the said deed,

Exhibits  
 No. P 20  
 Deed No. 13,578  
 21-11-1934  
 —Continued.

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of the undersigned witnesses in the office of the said Notary at Polikandy.

*Schedule of Property :*

In the Parish of Udupidy in Vadamaradchy Division, in the District of Jaffna, in Northern Province.

1. Land situated at Samarapakuthevankurichy called Mavattai, in extent 37 latchams varagu culture and 3, 5/12th kulies. Of this lot No. 1 in extent 6 latchams varagu culture 3, 5/12th kulies is bounded on 10 the east by the property of Sinnammah, wife of Sidamparapillai and others,

north by the property of Arumugam Nagalingam and others, west by the property of Rasapillai Namasivayam and others, and south by lane. The whole of the ground, palmyrah trees and banian tree, within these boundaries and one-sixth share of the well standing in lot 2 and of the water drawing machine and the way and water-course to irrigate water.

Sgd. S. SARAVANA PERUMAL

Witness :

A. NAGALINGAM

20

Sgd. V. SABARATNAM,  
*Notary Public.*

I, Vairavanather Sabaratnam, Notary Public of Vadamaratchy, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Sinna Pillai Saravana Perumal, who has signed in English in the presence of Varitamby Thampiah of Valvetty and Arumugam Nagalingam of Polikandy the subscribing witnesses hereto that I know the grantor and witnesses, that the said grantor and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Polikandy, on the 21st 30 day of November, 1934, that the grantor declared to have received the full amount of consideration mentioned herein that to the duplicate hereof one stamp of the value of Rs. 10/- and to the original one stamp of Re. 1/- have been affixed and that these stamps were supplied by me.

Sgd. V. SABARATNAM,  
*Notary Public.*

Date of Attestation ; 21st November, 1934,

253

No. 2D 6  
Deed No. 1,438  
2D 6

Exhibits  
No. 2D 6  
Deed No. 1,438  
19-3-1936

TRANSLATION

Donation  
Land 1  
Rs. 50/-

No. 1,438

10 Know all men by these presents that we, Kandiah Arumugam and Kandiah Velupillai of Polikandy for and on account of the natural love and affection that we bear unto our cousin Arumugam Nagalingam of the same place, do hereby give, set over and convey by way of irrevocable donation unto the said Nagalingam the property described in the schedule hereunder, worth Rs. 50/-.

Land in our possession by right of *mudusam* devolved from our father the late Velauthar Kanthiah.

I the said Arumugam Nagalingam, the donee hereof have accepted this donation.

20 In witness whereof we set our signatures to this and to two others of the same tenor in the presence of Veeravattiar Subramaniam, Notary Public and in the presence of the undersigned witnesses in the office of the said Notary at Point Pedro, on the 19th March, 1936.

*Schedule of Property :*

30 Land situated at Polikandy, in the Parish of Udupiddy in Vadamardchy Division, in the District of Jaffna, in Northern Province called Kalmurungaiappulamveedu 1, ditto in extent  $29\frac{1}{8}$  lachams varagu culture. Of these parcels excluding an extent of 2 lachams varagu culture, on the north out of the  $3\frac{1}{2}$  lachams varagu culture in the middle, the extent of  $1\frac{1}{2}$  lachams varagu culture, on the south lying adjacent to it with palmyrah trees and vadalties ; bounded on the east by the property of the heirs of Pasupathy, daughter of Kanthar and others, north by the property of the donee hereof, west by the property of Kathirgamar Kanagasabai and others, and south by the property of the second named person of us and others. Of those within these boundaries excluding the hut and house the whole of the remainder.

K. ARUMUGAM  
K. VELUPILLAI  
A. NAGALINGAM

Exhibits  
 No. 2D 6  
 Deed No. 1,438  
 19-3-1936  
 —Continued.

We the undersigned witnesses do hereby declare that we know perfectly well the said executants and their real name, residence and occupation.

Sgd. Illegible  
 ,, M. VELUPILLAI

Sgd. M. SUBRAMANIAM  
*Notary Public.*

I, Veeragathiar Subramaniam, Notary Public of the Judicial Division of Point Pedro and Chavakachcheri, in the District of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Kandiah Arumugam and Kandiah Veluppillai and Arumugam Nagalingam in the presence of Vairamuttu Chetty Sangaramoorthy of Point Pedro, and Murugar Veluppillai of Polikandy, the subscribing witnesses hereto that I know the donee and witnesses but the witnesses who are known to us declared to have known the others perfectly well, the said executants and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Point Pedro, on the 19th March, 1936, that the duplicate bears one stamp of the value of rupee one that the said stamp was supplied by me and that before this instrument was read over and explained the letter.....in line 12 of page 1 in duplicate was struck off.

Sgd. V. SUPPIRAMANIAM,  
 ,, V. V. SUBRAMANIAM,  
*Notary Public.*

19th March, 1936.

No. 2D 30  
 Deed No. 15,100  
 20-5-1937

**No. 2D 30**  
**Deed No. 15,100**  
**2D 30**  
 TRANSLATION  
**No. 15,100**

30

Transfer  
 Land 1  
 Consideration Rs. 100/-  
 Prior Registration, Jaffna A. 218/179

Know all men by these presents that I, Sinnatamby Kanagasabai of Polikandy for and in consideration of the sum of Rs. 100/- paid by Kadirgamar Mailvaganam of Valvetty and received by me, do hereby sell, transfer and convey unto the said Mailvaganam the property described in the schedule herewith.

The property described in the schedule hereunder belongs by virtue of transfer deed in my favour No. 11,248 dated 18th March, 1931, and attested by this Notary and by possession.

I deliver herewith the said deed,

In witness whereof I set my signature to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of the undersigned witnesses in the office of the said Notary at Polikandy, on the 20th day of May, 1937.

Exhibits  
 No. 2D 30  
 Deed No. 15,100  
 20-5-1937  
 —Continued.

*Schedule of Property :*

10 Land situated at Polikandykurichy, in the Parish of Udupidy in Vadamardchy Division, in the District of Jaffna, in Northern Province called Oorimunkodai in extent 13 5/8th lachams varagu culture. Of this 2/3rd share on the east is according to possession in extent 9 lachams p.c. and 1 1/2 kulies ; and bounded on the east and west by the property of Arumugam Nagalingam and others, north by the property of Achimuttu, wife of Kandavanam and others, and south by the property of Arumugam Kantavanam and others. Of the whole of the ground, palmyrah trees and vadalies within these boundaries an undivided 3/16th share.

Sgd. S. KANAGASABAI

Witnesses :

V. SEENIAR  
 N. ARUMUGAM

20 Sgd. V. SABARATNAM,  
*Notary Public.*

30 I, Vairavanather Sabaratnam, Notary Public of Vadamardchy, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Sinnathamby Kanagasabai in the presence of Vethavanam Sinniar of Polikandy, and Nallatamby Arumugam of the same place the subscribing witnesses hereto, that I know the grantor and witnesses, that the said grantors and witnesses set their signatures in my presence and in the presence of one another all being present at the same time in my office at Polikandy on the 20th May, 1937, that the grantors declared to have received the full amount of consideration mentioned herein that the duplicate hereof one stamp of the value of Rs. 2/- has been affixed that this stamp was supplied by me and that before this instrument was read over and explained the letter..... struck off.

20th May, 1937.

Sgd. V. SABARATNAM,  
*Notary Public.*

**No. P 17**

**Fiscal's Conveyance No. 2,003**

**No. 2,003/28,606 C.R.P.**

*Fiscal's Conveyance to Purchaser after Confirmation of Sale by Court*

No. P 17  
 Fiscal's  
 Conveyance  
 No. 2,003  
 5-2-1942

40 To All to whom these presents shall come—Greetings :

Exhibits  
 No. P 17  
 Fiscal's  
 Conveyance  
 No. 2,003  
 5-2-1942  
 —Continued.

Whereas by virtue of a writ of execution issued from the Court of Requests of Point Pedro, in case No. 28,606 bearing date the 6/7th day of July, 1936, directed to the Fiscal of the Northern Province, whereby he was directed to levy and make of the houses, lands, goods, debts and credits of the defendant, Subramaniam Rasamaniccam of Polikandy for the recovery of a sum of Rs. 122.66, costs, interests, and charges, M. Prasad, Esq., Fiscal of the said Province did cause to be seized and taken the property hereinafter described in the schedule hereto, which, after due notice was exposed to public sale on the seventh day of September, 1936, at the respective premises by Mr. R. Kathirkamathamby Udaiyar of Udupiddy, acting under the authority of the said Fiscal and sold to Velauthar Murugesu of Polikandy, the plaintiff hereinafter called the purchaser, as the highest bidder at the said sale, for the sum of Rs. 128/-.

And whereas the said purchaser has been allowed the sum of Rs. 125.44 in reduction of his claim and has produced the Order of Court copy whereof is hereunto annexed, and has paid to the said Fiscal, a balance sum of Rs. 2.56 out of the said purchase amount, and has thus become entitled to all the right, title and interest of the defendant in the said properties described in the schedule hereto.

And whereas the said court by an order dated the 14th day of 20 November, 1941, copy of which is hereunto annexed, has duly confirmed the said sale.

Now these presents witness that the said Fiscal of the said Province in consideration of the said sum of Rs. 128/- credited to and the said purchaser as aforesaid, the receipt whereof the said Fiscal doth hereby acknowledge, hath sold and assigned, and by these presents doth sell and assign unto the said purchaser, his heirs, executors, administrators, and assigns, all the right, title and interest of the said defendant in the said property, described in the schedule hereto.

To have and to hold the said premises, with their and every of their appurtenances, to him the said purchaser, his heirs, executors, administrators, and assigns, for ever.

In witness whereof the said Fiscal hath hereunto subscribed his name at Jaffna, this 5th day of February, 1942.

Sgd. Illegibly  
 for M. PRASAD,  
 Fiscal, N.-P.

*Schedule Referred to :*

The right, title and interest of the defendant in an undivided 1/16th share of a piece of land situated at Polikandy in Udupiddy Parish, Vada- 40

maradchy Division, of the Jaffna District, Northern Province, called Oorimongodai ; containing or reputed to contain in extent  $9\frac{3}{4}$  lachams varagu culture, bounded or reputed to be bounded on the east, west and south by the property of Arumugam Nagalingam, and on the north by the property of Achchimuttu, wife of Kandvanam and others, and found to contain in extent 7 lachams varagu culture and 6, 10/32nd kulies. On survey, as described in the diagram annexed to these presents and numbered 2,003 sold for Rs. 51/-.

Exhibits  
No. P 17  
Fiscal's  
Conveyance  
No. 2003  
5-2-42  
—Continued

10 2. The right, title and interest of the defendant in an undivided 1/12th share of a divided half share on the northern side of a piece of land situated at Polikandy aforesaid, called Naruviliyady ; containing or reputed to contain in extent 23 lachams varagu culture and the said half share is bounded or reputed to be bounded on the east by lane, north by the property of Kandar Velupillai and others, west by the property of Katpakam, wife of Subramaniam and others, and on the south by the property of Arumugam Nagalingam, and found to contain in extent 12 lachams varagu culture and 1, 19/32nd kulies on survey, as described in the diagram annexed to these presents and numbered 2,005 sold for Rs. 61/-.

20 3. The right, title and interest of the defendant, in an undivided 1/3rd share of 3/16th share of a piece of land situated at Polikandy aforesaid, called Nampithavattai ; containing or reputed to contain in extent  $8\frac{3}{4}$  lachams varagu culture and bounded or reputed to be bounded on the east by the property of Wallipillai, wife of Arulampalam, north and west by road, and on the south by the property of Sinnathamby Sinnakunchu and others, and found to contain in extent 7 lachams varagu culture and 7, 1/32nd kulies on survey, as described in the diagram annexed to these presents and numbered 2,003, sold for Rs. 16/-.

Sgd. Illegibly  
for M. PRASAD,  
Fiscal, N.-P.

30

**No. 2D 31**  
**Deed No. 19,502**  
**2D 31**

No. 2D 31  
Deed No. 19,502  
11-9-1944

TRANSLATION

Instrument : Donation  
Lands : 3  
Consideration : Rs. 300/-

**No. 19,502**

40 Know all men by these presents that I, Velauthar Murugesu of Polikandy, for and on account of the natural affection that I bear unto



Exhibits  
 No. 2D 31  
 Deed No. 19,502  
 11-9-1944  
 —Continued.

my wife, Sinnatangam, wife of Murugesu of the same place, do hereby give, set over and convey by way of irrevocable donation unto the said Sinnatangam the properties described in the schedule hereunder worth Rs. 300/-.

The properties described in the schedule hereunder belong to me by virtue of Fiscal's conveyance executed in my favour in the Fiscal's Office, Jaffna, on the 5th day of February, 1942, under No. 2,003 and further the 2nd property by virtue of deed of partition in favour of me and others bearing No. 17,116 dated 6th October, 1941, and attested by this Notary and by possession. 10

That of the said deeds I deliver herewith deed No. 2,003, I the said Sinnatangam, wife of Murugesu, the donee hereof do accept by way of donation with gratitude.

In witness whereof we set our signatures to this and to two others of the same tenor in the presence of Vairavanathar Sabaratnam, Notary, and in the presence of the undersigned witnesses in our house on the 11th day of September, 1944.

*Schedule of Properties :*

In the Parish of Udupidy in Wadamarachy Division, in the District of Jaffna, in Northern Province. 20

1. Land situated at Polikandy called Oorimungkodai, in extent  $9\frac{3}{4}$  latchams varagu culture, but according to survey in extent 7 latchams varagu culture and  $6\frac{10}{32}$ nd kulies ; is bounded on the east by the property of Walliammai, wife of Kanagasabai and others, north by the property of Rasammah, wife of Nadarajah and others, west by the property of Arumugam Nagalingam and others, and south by the property of Kantavanam Vadivelu and others. Of the whole within these boundaries an undivided  $\frac{1}{16}$ th share.

2. Land situated at ditto called Naruvundiladi, in extent 23 latchams varagu culture. Of this the northern half share is according to survey in extent 12 latchams varagu culture and  $1\frac{19}{32}$ nd kulies. Of this the lot No. 3 in extent 1 latchams varagu culture ; is bounded on the east by street, north by the property of Subramaniam Chinniah and others and west and south by the property of Arulampalam Nadarajah and others. The whole within these boundaries. 30

3. Lands situated at ditto called Nambittavattai, in extent  $8\frac{3}{4}$  latchams varagu culture, but according to survey in extent 7 latchams varagu culture and  $7\frac{1}{32}$ nd kulies ; is bounded on the east by the property of Alagammah, widow of Cumaraswamy and others, north and west by lane, and south by the property of Velupillai Nadarajah and others. Of 40

the whole of these within these boundaries an undivided one-third of three-sixteenth share.

**Exhibits**  
 No. 2D 31  
 Deed No. 19,502  
 11-9-1944  
 --Continued

MURUGESAR } (hand mark and left thumb)  
 SINNATANGAM }

Witnesses :

K. AHAMPARAM  
 S. RASIAH  
 S. PONNIAH

V. SABARATNAM,  
*Notary Public.*

20

30

I, Vairavanather Sabaratnam, Notary Public of Vadamaratchy, Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to the said Velauthar Murugesu and wife Sinnatangam, who set their marks and left thumb impressions in the presence of Kanapathipillai Sitamparam of Polikandy, Sinnatamby Kandiah of the same place and Sinniah Ponniah of the same place, the subscribing witnesses hereto that I know the donors, donee and witnesses, that the said donors, donee and witnesses set their signatures in my presence and in the presence of one another, all being present at the same time in the house of the donor and donee on the 11th September, 1944, that to the duplicate hereof 2 stamps of the value of Rs. 7/- and to the original one stamp of the value of Rs. 1/- have been affixed that these stamps were supplied by me that though the donor was previously able to sign, now he is not able to sign owing to illness but set his mark and left thumb impression.

Sgd. V. SABARATNAM,  
*Notary Public.*

Date of Attestation : 11th September, 1944.

**No. 2D 8**

**Plaint, Answer and Decree in D.C., Jaffna, No. 2,494**

**2D 8**

**IN THE DISTRICT COURT OF JAFFNA HELD AT  
 POINT PEDRO**

1. KANDAVANAM VADIVELU of Polikandy,
2. KANDAVANAM SELLIAH of Polikandy,
3. KANDAVANAM KANDASAMY of Polikandy . . . . . *Plaintiffs.*

40

No. 2D 8  
 Plaint, Answer  
 and Decree in  
 D. C. Jaffna  
 No. 2,494

Exhibits  
 —  
 No, 2D 8  
 Plaint, Answer  
 and Decree to  
 D. C. Jaffna  
 No. 2,494  
 —Continued.

No. 2,494.

Vs.

1. ARUMUGAM NAGALINGAM of Polikandy,
2. ARUMUGAM THANABALASINGHAM of Polikandy . . *Defendants.*

This 5th day of October, 1945 :

The plaint of the above-named plaintiffs appearing by Messrs. Rajaratnam & Nadarajasundaram, Proctors, carrying on business in partnership states as follows :—

1. Of the piece of land situated at Polikandy within the jurisdiction of this court called Pathuvalaiyakalthoddam 10, ditto in extent  $32\frac{1}{2}$  lachams varagu culture, the divided extent of  $16\frac{1}{2}$  lachams varagu 10 culture, on the west with its appurtenances ; is bounded on the east by the property of Ponniahpillai Nagaratnam and others, north by street, west by the property of Sinnathamby Ponniah and others. south by the property of plaintiffs and others.

2. Of the land bounded as aforesaid certain Koolaiyar Arumugam and wife Walliammai, were the original owners and proprietors.

3. By deed No. 4,369 dated February, 1908, and attested by S. Subramaniam, Notary Public, the said owners donated the aforesaid land to 1st and 2nd defendants, A. Poobalasingham and A. Kandavanam, their sons subject to the following conditions :— 20

(i) The said donees and their descendants shall have the rights to execute deeds or lease bonds in order to bring the said land to a good condition.

(ii) The donees shall not in any way dispose the said land or give as security or hypothecate the same or that none will have the right to make the same liable for any kind of debts or fines of court or hypothecate as security.

(iii) That the donees shall have to perform and to spend for our funerals and other connected ceremonies after the death of us or either of us and to perform according to Hindu rites, 20 anniversaries and that if the said donees happened to die their descendants and that if there be no descendants for them then their heirs will have to perform everything that ought to be done after the death of us or either of us and that each of the said persons should perform in the house standing in the said land either jointly or severally.

4. The said Poobalasingham having held and possessed the said share died leaving behind property worth Rs. 2,500 and leaving behind as his heirs defendants 1st and 2nd and A. Kandavanam..

5. The said Kandavanam having held and possessed his one-third share died leaving behind property worth under Rs. 2,500 and leaving behind 1st, 2nd and 3rd plaintiffs as his heirs.

Exhibits  
No. 2D 8  
Plaint, Answer  
and Decree in  
D. C. Jaffna  
No. 2,494  
—Continued

6. The plaintiffs have by their own undisturbed and uninterrupted possession and by the like possession of the previous owners for a period of 10 years and upwards immediately preceding the date of this action by a title adverse to and independent of the defendants and all others whomsoever acquired a prescriptive right and title thereto in terms of section 3 of Chapter 55 of the Ceylon Legislative Enactments.

10 7. On or about the 12th day of September, 1945, the 1st defendant denied the right and title of the plaintiffs to a one-third share or any share of the said land and is in wrongful possession thereof to the plaintiff's damage of Rs. 200/- and continuing damages of Rs. 150/- per annum from this date.

7. A cause of action has therefore accrued to the plaintiffs to sue the defendants for a declaration of title to a one-third share of the land described in paragraph 1 and for recovery of damages of Rs. 200/- and continuing damages of Rs. 150/- per annum till restored to possession.

20 8. The 2nd defendant is made a party to this action as he is a co-owner of the said land.

9. The subject matter of this action is reasonably worth Rs. 750/-.

Wherefore the plaintiffs pray—

- (i) That they be declared entitled to the one-third share of the land described in paragraph 1 of the plaint.
- (ii) That the 1st defendant be ordered to pay the plaintiffs Rs. 200/- as damages and Rs. 150/- per annum as continuing damages from this day till restored to possession.
- (iii) That the plaintiffs be put placed and quieted in possession thereof.
- 30 (iv) For costs as against the 1st defendant and for costs as against the 2nd defendant in the event of his contesting the plaintiff's claim.

and for such other and further relief as to this court shall seem meet.

Sgd. RAJARATNAM & NADARAJASUNDARAM,

*Proctors for Plaintiffs.*

**Exhibits**  
 No. 2D 8  
 Plaint, Answer  
 and Decree in  
 D. C. Jaffna  
 No. 2,494  
 —Continued

Memo of Documents Filed :

1. Abstract of Title
2. Pedigree

Sgd. RAJARATNAM & NADARAJASUNDARAM,  
*Proctors for Plaintiffs.*

IN THE DISTRICT COURT OF JAFFNA HELD AT  
 POINT PEDRO

1. KANDAVANAM VADIVELU of Polikandy and 2  
 others . . . . . *Plaintiffs.*

No. 2,494 P.

*Vs.*

10

1. ARUMUGAM NAGALINGAM of ditto and another . . . . *Defendants.*

On this 24th day of January, 1946 :

The answer of the defendants above-named appearing by C. Kula-  
 veerasingham, their Proctor, states as follows :—

1. Answering to paragraph 1 of the plaint the defendants admit the  
 truth of the averments therein contained save and except the allegation  
 that the plaintiffs are entitled to any share in the land forming the southern  
 boundary of the said land. The defendants state that they are the sole  
 owners of the said land.

2. Answering to paragraph 2 of the plaint the defendants admit the 20  
 truth of the averments contained therein and state further that the said  
 land was subject to a trust for the purposes mentioned in the said paragraph  
 and that the right of the descendants of any of the donees to succeed to  
 the trusteeship would accrue only on the death of all the donees.

3. Answering to paragraphs 3 and 4 of the plaint wrongly numbered  
 4 and 5 in the copy served on the defendants, the defendants admit the  
 death of Poobalasingham and Kandavanam leaving behind the heirs  
 referred to in the said paragraphs, but deny that in view of the averments  
 contained in paragraph 2 above either Poobalasingham or Kandavanam  
 had any interest in the said land to transmit to their heirs during the life- 30  
 time of the defendants or any one of them.

4. Answering to paragraph 5 of the plaint wrongly numbered 6 the  
 defendants deny the truth of the averments contained therein. The  
 defendants further state that they have been and still are in lawful posses-  
 sion of the said land.

5. Answering to paragraphs 6 and 7 of the plaint, wrongly numbered 7 and 7 respectively in the copy served on the defendants, the defendants deny the truth of the averments contained thereon. The defendants state that they only denied the present right of the plaintiffs to the possession of the said land or any share thereof.

Exhibits  
—  
No. 2D 8  
Plaint, Answer  
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D. C. Jaffna  
No. 2,494  
—Continued

Wherefore the defendants pray—

- (1) That the plaintiffs' action be dismissed.
- (2) For costs and for such other and further relief as to this court shall seem meet.

10

Sgd. C. KULAVEERASINGHAM,  
*Proctor for Defendants.*

**Decree**

IN THE DISTRICT COURT OF JAFFNA HELD AT  
POINT PEDRO

1. KANDAVANAM VADIVELU of Polikandy,
2. KANDAVANAM SELLIAH of ditto,
3. KANDAVANAM KANDASAMY of ditto ..... *Plaintiffs.*

No. 2,494 P.

*Vs.*

20

1. ARUMUGAM NAGALINGAM of ditto,
2. ARUMUGAM THANABALASINGHAM of ditto ..... *Defendants.*

This action coming for final disposal before G. C. T. A. de Silva, Esq., Additional District Judge, Jaffna, on the 24th day of January, 1947, in the presence of Messrs. Adv. T. Ramalingam with S. Soorasangan, instructed by Messrs. Rajaratnam and Nadarajasundaram, Proctors, on the part of the plaintiffs, and Adv. Mr. A. V. Kulasingham, instructed by Mr. C. Kulaveerasingham, Proctor, on the part of the defendants.

It is ordered and decreed that the plaintiffs be and is hereby declared entitled to a one-third share of the land morefully described in the schedule hereto.

30

It is further ordered and decreed that the defendants do pay the plaintiffs Rs. 100 as damages and Rs. 75/- per annum from 5th October, 1945, till restored to possession as continuing damages.

It is further ordered and decreed that the plaintiffs be put placed and quieted in possession of the said land,

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 D. C. Jaffna  
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 —Continued.

And it is further ordered that the said defendants do pay to the said plaintiffs their costs of this action as taxed by the officer of the court.

24th January, 1947.

*Schedule Referred to :*

Of the piece of land situated at Polikandy, Parish of Udupidy, Vadamaradchy Division, Jaffna District, Northern Province, called Pathuvalaivaykal in extent thoddam 10, ditto in extent 32½ latchams varagu culture, the divided extent of 15½ latchams varagu culture, on the west with its appurtenances is bounded on the east by the property of Ponniahpillai Nagaratnam and others, north by street, west by the property of Sinnathamby Ponniah and others, and south by the property of the plaintiffs and others. 10

Sgd. G. C. T. A. DE SILVA,  
 A. D. J.

No. 2D 11  
 Proceedings in  
 D. C. Jaffna  
 No. 2,198  
 5-12-1948

**No. 2D 11**

**Proceedings in D. C., Jaffna, No. 2,198**

**2D 11**

IN THE DISTRICT COURT OF JAFFNA HELD AT  
 POINT PEDRO

A. NAGALINGAM of Polikandy ..... *Plaintiff.* 20

No. 2,198 P. Vs.

A. THANABALASINGHAM of ditto and 7 others ..... *Defendants.*

5-12-46. Trial resumed. Same appearance as before.

Mr. Kulasingam states that the plaintiffs and the 1st defendant claim this land by right of prescriptive possession since the death of Kanthavanam in 1931. Mr. Ramalingam states that his clients, defendants 2nd to 4th have been in possession of lot 1 and claim prescriptive rights to lot 1 since 1931.

Plaintiff's case :

Mr. Kulasingham calls—

30

A. NAGALINGAM affirmed, 58, cultivator, Polikandy, plaintiff. The land sought to be partitioned is represented by lots 1 and 2 on plan No. 2,201 of the 19th October, 1944, marked Z. The original owner of

these two lots was one Vyrathai, widow of Velupillai. She became entitled to it by deed No. 3,859 of 1853 (P1) Vyrattai mortgaged this share by deed No. 245 of 1873 (P2). By deed No. 1,457 of 1882 (P3) Vyrathai sold this land to Kooliyar Arumugam, who was married to Walliammai. Arumugam and wife Walliammai executed a deed of donation No. 5,823 of 1896 (P4) in favour of Arumugam Kanthavanam. The land in question was one of the land included in P4 but the donation was not accepted by Kanthavanam himself but it was accepted by one Kanthar Sinnathamby who called himself an uncle of Kanthavanam. Subsequently by deed No. 799 of 1908 (P5) the earlier donation P4 was revoked with the consent of Kanthavanam and deed No. 800 of 1908 was executed.

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Mr. Ramalingam objects to the production of deed No. 800 of 1908, as it is a certified copy and not the original.

Mr. Kulasingham cites section 90 of the Evidence Ordinance and states that this deed was executed over 30 years ago and that in the absence of the original he is entitled to produce a certified copy.

#### ORDER

The document that is sought to be produced appears to be a certified copy of a duplicate which is with the Registrar of Lands. Irrespective of the provisions of section 90 and the meaning that may be attached to the word "document" appearing therein whether it also includes a certified copy or not. I will admit this document on the undertaking given by Counsel for the plaintiff that he will cite the Registrar of Lands to produce the duplicate of this document. I mark the document as P6 and admit it subject to proof.

Sgd. M. M. I. KARIAPPER,  
A. D. J.  
5-12-46.

The original of P6 has been lost. The original of P6 was in my possession. One headman Chelliah broke open the box and took away my deeds when he was in a state of insanity. P6 shows that my brother Kanthavanam has signed P6 accepting the fresh gift of the property. (Shown the duplicate of P6 (P6A) which comes from the custody of the Registrar of Lands) P6A is the duplicate of P6. I identify the signature of my father Kooliar Arumugam. I also identify the mark of my mother Walliammai. I also identify the signature of my elder brother Arumugam Kanthavanam. I am familiar with the signature and his writing. At the time of the execution of P6 I was a student. I was not present when P6A was executed. By deed P6 certain lands including the land sought to be partitioned in this case were donated to Kanthavanam subject to the following conditions :—That in the event of the death of Kanthavanam the properties were to devolve on the donors themselves and that if the donors predeceased then the properties should go to their sons, myself



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and the 1st defendant and Poopalasingham, another of my brother who died issueless. By P6 Kanthavanam renounced his rights to any inheritance from his father. By P6 the properties donated were not to devolve the children of Kanthavanam.

Q.—Why ?

A.—On account of the conduct of his wife. At the time of the deed P6 my brother Kanthavanam was married. Kanthavanam's wife's behaviour was not approved by my parents. Kanthavanam died in July, 1931. Poopalasingham predeceased Kanthavanam. Poopalasingham did not leave behind any children. On the death of Kanthavanam I and the 1st defendant entered into possession of the land conveyed by P6. My mother died in 1929, and my father died in 1920. We have been in possession of this land from the time of my brother Kanthavanam's death. 2nd to 4th defendants are the children of Kanthavanam. Kanthavanam himself during his lifetime acquiesced in the revocation and the execution of P6. I produce a certified copy of the amended plaint and abstract of title and answer filed by my father and mother and myself and Poopalasingham and the 2nd defendant in this case in case No. 17,101 (P7) C.R., Point Pedro against Kanthar Kathirgamar. Kathirgamar Thambiah, Thamar, Saravanai and Arumugam Kanthavanam. Fourth defendant in that case was my brother. The plaintiffs in that case relied on the deed P6. Kanthavanam is made a party as he is a co-owner and as he was unwilling to join in that action. Kanthavanam did not file answer but answer was filed by the 1st, 2nd and 3rd defendants. I produce the journal entries in case No. 17,101 C.R., Point Pedro (P8) case No. 17,917 of this Court was filed by Velauthar Sinnapillai. Arumugam Kanthavanam and I were among the defendants in that case. I filed answer through Proctor V. Kanapathypillai. In the answer I relied on the deed P6. I produce a certified copy of the plaint. My answer and the proxy given by me and by Kanthavanam. Kanthavanam filed proxy in case No. 17,917 through Mr. Kanapathipillai, Proctor. I also filed answer through Mr. Kanapathipillai. I produce the proxies given by me and Kanthavanam along with the connected papers P9. When Kanthavanam died there was some unpleasantness between me and Kanthavanam's children as they were not allowed to perform the last rites to his father. I was arrested on a warrant and I had to set fire to the funeral pyre. Kanthavanam died at my house and I conducted the funeral ceremony. I produce a certified copy of an extract from the Magistrate's register of cases P10. Showing that Vadivelu, Chelliah and Thuraisamy files case No. 1,196 against me. I do not know how old defendants 2nd to 4th were at the time of their father's death. They were majors and were married. I produce a certified copy of the declaration of property filed with the Commissioner of Estate Duty in which deed No. 800 P6 is shown in Testamentary Case No. 4,514, D.C., Jaffna P11 in that case my father's estate was administered,

Q.—Why were the lands dealt with in P6 shown in P10 ?

10 A.—My father had life interest in that land and duty was payable under the Estate Duty Ordinance. I was the executor of the Last Will of my father. Kanthavanam was a party to that case. I produce a certified copy of the final account. Notices and precept to Fiscal showing that notice was served on Kanthavanam P12 lot 2 forms part of the land sought to be partitioned. I and the 1st defendant have been in possession of both these lots since the death of Kanthavanam. I produce deed No. 5,020 of 1903, P13, for the land to the east of lot 2. In P13 the land in question is called Mungudai in extent  $4\frac{1}{2}$  lachams. (Shown plan Z). The land dealt with in P13 to the east of lot 2. A portion of it is also to the north of lot 2. In P13 the western boundary is described as the property of Kooliyar Arumugam and others and the southern boundary is also described as the property of Kooliyar Arumugam. I produce deed No. 680 of 1907 P14 for the eastern land. The western boundary in P14 is the same as the western boundary in P13, I produce deed No. 1,543 of 1934 (P15).

20 Q.—P15 was executed by Kanthavanam for the land to the north of the land sought to be partitioned ?

30 A.—That was not my brother. That was another Kanthavanam. The northern land is land No. 2 in P15. The southern boundary is given as property and the property of other. I produce deed No. 2,003 of 1942 P16. For the northern land which is the second land in P16. In P16 the southern boundary is described as that of myself. I produce deed No. 13,098 of 1934, P17 for the northern land which is the 3rd land mentioned in the deed P17. The southern boundary is described as the property of Arumugam Nagalingam and others. I produce deed No. 2,537 of 1910, P18, deed P18 is for the land to the south of lot 2. The land in question is the 5th land in P18. The northern and southern boundaries are described as the property of Koolaiyar Arumugam. I produce deed No. 13,578 of 1934 P19. The land dealt with by P19 is to the south of lot 1 and not to the south of lots 1 and 2. The northern boundary is given as the property of Arumugam Nagalingam and others. Fifth to 8th defendants trace their title to one Nachchan, wife of Sangaraiaar and they say that one of the children of Nachchan was one Moothar who had two sons Kooliyar and Sinnavar. Moothar Kooliyar was my grand-father. I produce the death certificate of Kanthavanam my brother P20 which shows that it was my brother 1st defendant who gave the information of death.

40 Cross-examined by Mr. Kulaveerasingham—Nil.

Cross-examined by Mr. Soorasangaran.

I have a sister called Sivakolundu. She has two children Annapillai and Alagamma. They were donated lands by my parents in 1907. I

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accepted that deed of donation on their behalf as they were minors. In 1907 I was about 18 years old. To the east of lot 2 are the lands called Tikathai and Mungodai in extent 4 latchams. The land called Tikathai is to the south of lot 2.

Q.—What are the lands that lie to the east of lot 2 and adjoining it ?

A.—Mungodai, in extent  $4\frac{1}{2}$  latchams.

Q.—There are no other lands which touch the eastern boundary of lot 2 ?

A.—A portion of Tilakathai also touch the eastern boundary. The northern land is also called Mungodai in extent  $2\frac{1}{2}$  latchams. The land to the west of lot 1 is called Mavathai. It is a big land and I do not know its extent. The land to the south of lots 1 and 2 are lands called Mavathai and Tikathai. There is a fence between lots 1 and 2. That fence has been in existence from the time I have known this land. It was I who instructed my Proctor to draft the plaint in this case. According to the plaint I seek to partition a divided  $\frac{5}{6}$ th share after excluding  $\frac{1}{6}$ th share on the north-east of the entire land. The  $\frac{5}{6}$ th share is represented in the plan Z by lots 1 and 2. The  $\frac{1}{6}$ th share which I have excluded is represented outside lot 2 on the north-east. That is the property of Sinniah Kanthavanam. 20

Q.—That is the land called Tikathai ?

A.—No, it is called Mungodai, in extent  $2\frac{1}{2}$  latchams. There was a water channel at the place where the fence is and my father erected the fence separating the two lots so that water could flow. The water channel was on the east of the fence. The water channel is in existence even now and I pointed it out to the surveyor. All the deeds that I have produced exclude a  $\frac{1}{6}$ th share out of the entire land. (Shown P3). I cannot read clearly. (Shown P4).

Q.—On the same day that P4 was executed donation deeds were executed by your parents in favour of yourself 1st defendant and your 30 deceased brother Poopalasingham ?

A.—All the four of us were minors at that time. It was Kanthar Sinnathamby who accepted the donation P4 and the donation in favour of the others. Kanthar Sinnathamby has signed P4. Kanthar Sinnathamby was my mother's brother. My father also joined in the donation P4 and in the other donations.

Q.—A half share of the first item in P4 and the second item was free from any life interest ?

A.—The second item was subject to life interest P4 read. The first item in P4 is the land sought to be partitioned. 40

Q.—In 1899 your father and brother Kanthavanam instituted a partition action for the land called Kodaitharai ?

Exhibits  
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A.—There was an action but I was aware of it then. I now know that there is a partition action. That land is the 5th item in P4. The title pleaded in the plaint in that case was the deed P4. The land was partitioned and divided lots are being possessed now. (Shown P6).

Q.—The land called Kodatharai is item No. 9 in P6 ?

A.—I cannot read without glasses. (Shown item 10 in P6).

10 Q.—The title recited for land No. 10 in P6 is the transfer in favour of Kanthavanam ?

A.—I cannot read. My brother Kanthavanam bought a land called Mawathai. The land was bought in my brother's name with the money given by my father. That is what I was told. (Shown deed No. 8,281 of 22-7-1898 2D1.) 2D1 is a copy of the deed of transfer in favour of my brother Kanthavanam. My brother Kanthavanam married in 1903 or 1904.

Q.—Kanthavanam's wife was related to Kanthavanam before marriage ?

20 A.—Not a close relation. (Shown pedigree filed by witness his parents and Poopalasingham in case No. 17,101 C.R., Point Pedro (2D2).) 2D2 being a certified copy it must be correct. I have referred to deed P6 and two other deeds in the plaint filed in 2D2.

Q.—Why was your brother Kanthavanam made a defendant in that case ?

30 A.—He had a share in the land called Konavalai. His share was not denied by me and the other plaintiffs in that case. My brother Kanthavanam did not appear in that case. Kanthavanam's wife had two brothers called Arumugam and Velupillai. Arumugam married after Kanthavanam's marriage, but I cannot say when. At the time of Arumugam's marriage my sister's daughter Annapillai was not married.

Q.—Your parents and you wanted Arumugam to marry Annapillai ?

A.—I deny that.

Q.—Ill feeling between your parents and yourself on the one side and your brother Kanthavanam on the other side started about the time Arumugam got married ?

A.—No.

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 —Continued.

Q.—The ill-feeling started in 1907 ?

A.—No, the ill-feeling started in 1897. No, the ill-feeling started in 1907. My brother Kanthavanam bolted away from the house and came to our house. He did not run away from his house as his brother in-law did not marry my niece. He fell off with his wife and came to our house. I cannot remember the month when this ill-feeling arose. Then he continued to live with us till his death.

Q.—From 1907 till he died in 1931, he was living in separation from his wife ?

A.—He had his meals with us. 10

Q.—After 1907 he did not visit his wife ?

A.—He did not visit his wife openly.

Q.—He used to visit his wife calendestinely ?

A.—He may have. To my knowledge he did not live with his wife after 1907. I do not know whether the 3rd defendant was born in 1908. I cannot say when he was born. (Shown birth certificate of the 3rd defendant (2D3).)

Q.—It is stated that your brother Kanthavanam gave information about the birth of the child ?

A.—Yes. The mother's name is given as Ledchymypillai. The 20 child's name is given as Sanmugam.

Q.—Which is the other name of the 3rd defendant ?

A.—I do not know about that. It was after the 2nd defendant was born that the 3rd defendant was born. It was after the 3rd defendant was born the 4th defendant was born.

Q.—Second to 4th defendants are your brother's children ?

A.—I cannot say that. I have doubts about that. I had doubts after the birth of the 3rd defendant.

Q.—For a very long time you had doubts about the paternity of the 3rd and 4th defendants ? 30

A.—Yes. I was the 1st defendant in case No. 2,267 P of this Court. In that case 2nd to 4th defendants sought to have the land called Nakara-kaddanai partitioned. I deny I have filed answer in that case.

Q.—You gave your proxy to Mr. K. Subramaniam, Proctor, to file answer in that case ?

A.—As I gave the land to my brother I left the matter at that. I filed proxy. I have also filed answer stating that the land belonged to my brother the 1st defendant.

Exhibits  
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—Continued

Q.—In that case you do not seek to deny the paternity of the 2nd to 4th defendants ?

10 A.—Yes ; Kanthavanam had donated his share to the 1st defendant. My father Kooliyar Arumugam was possessed of several lands. He had several lands and many cases. His Proctor for a long was the late Mr. S. Subramaniam, J.P., U.M. After my father's death I retained Mr. Subramaniam in all my cases. In 1908, Mr. Subramaniam, Proctor, was living and was in active practice.

Q.—Notary Kanthavanam's license was cancelled at a certain stage ?

20 A.—I do not know. I came to know later that his license was cancelled. In 1908 Notary Kanthavanam had his Notary's office at Kudathanai, which was about 10 miles from Polikandy where my father lived. At that time the late Mr. Thamotharampillai, Proctor and Notary, had his office within one mile of our house. There was another Proctor and Notary, Mr. Sivapragasam at Valvedditurai, the adjoining village. There was also V. Sinnathamby, Notary Public at Udupiddy. Proctor V. Kanapathipillai to whom I gave the proxy in a certain case was also living at that time. His office was at Point Pedro about 3 miles from my father's place. Mr. M. S. Kandiah, Notary, was practising as a Notary at Point Pedro. All these gentlemen live close to our house.

Q.—Can you explain why deeds P5 and P6 were executed at Kudathanai about 10 miles from Polikandy ?

30 A.—I cannot say. I deny I was present when the deed P5 was executed. Later on my brother told me about the execution of that deed at the time when C.R. case 17,101 was pending. I asked him why he did not sign the proxy in that case and he said that all the lands would come to us. Before the plaint in the C.R. case was filed I asked him whether he would join us in filing the C.R. action. At that time my brother Kanthavanam was living with us in our house.

Q.—And you could not get your brother to join your side ?

A.—He was on our side.

Q.—Why did you make him a defendant instead of making plaintiff ?

A.—Though he stayed with us under the same roof he refused to join us in that action. One Sinnatamby Vallipuram is a witness for me today. He has witnessed the deed of revocation and P6. (Paragraph 6 of the plaint P7 shown).

Exhibits  
 No. 2D 11  
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 —Continued

Q.—In paragraph 6 of P7 you state that the 1st and 2nd defendants in that case with the aid of Sinnathamby Murugesu and Sinnathamby Vallipuram fraudulently executed a donation deed ?

A.—I do not know. My father gave instructions to the Proctor. I only signed the proxy. Sinnathamby Vallipuram referred to in P7 is witness whom I have cited today. I know the witnesses to the deed P6. Kanthar Saravanamuttu was one of the witnesses to the deed of revocation and not to the donation deed. The original of P6 was handed over to my Proctor about one year ago to file in this case. That deed must be with my Proctor. About 2 or 3 weeks ago I saw the deed with my counsel. I 10 first saw the deed P6 at the time these deeds came to my hands after the death of my father. The deeds were in my custody after the death of my father as I was looking after all the lands as executor of my father's estate. P6 was in the custody of my father. To my knowledge it was never with my brother Kanthavanam. It was not given to Kanthavanam as he came to live in our house. The revocation deed P5 is the original deed. I came across P5 and P6 at one and the same time. P5 and P6 were along with the other deed. My father left behind several deeds when he died. (Shown P6). The 3rd land in P6 is the land called Mulliykaddiady. By P6 my parents purported to donate the entirety of the 3rd land to Kantha- 20 vanam.

Q.—Your parents were entitled to the entirety of the 3rd land in P6 ?

A.—They were entitled to 15/16th share. They exchanged lands and possessed.

Q.—You upset that arrangement by having a transfer deed executed in your favour for a 1/16th share in 1922 after your father's death ?

A.—I purchased a 1/16th share. By deed No. 5,507 of 1st June, 1922, 2D4 I purchased the 1/16th share. I was the executor of the Last Will of my father. The Last Will was executed in 1920 or 1921. The Last Will was attested by Notary Sabaratnam at Polikandy. At that 30 time my brother was living in our house. From 1907 to 1920 my brother Kanthavanam lived with my father.

Q.—Your father devised certain properties to Kanthavanam in the Last Will ?

A.—Yes.

Q.—But you were appointed executor ?

A.—Yes. The Last Will was not subject to any condition. (Shown a copy of Last Will executed by witness' father and mother 2D5). I applied for probate of the Last Will.

Q.—And you filed inventory in accordance with the terms of the Last 40 Will ?

A.—Not according to the Last Will. I filed the inventory correcting the Last Will. My father died intestate in respect of certain lands and testate in respect of certain lands. My brother Kanthavanam was a respondent in the Last Will case. He did not appear in Court. Nobody came to Court. It was Mr. S. Subramaniam, J.P., U.M., who was my Proctor in that case.

Exhibits  
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—Continued

Q.—Notice P12 is to show cause why the final account should not be passed ?

A.—I did not serve a notice on Kanthavanam.

10 Q.—The affidavit of the process server is that he served the notice on Kanthavanam on being pointed out by you ?

A.—Yes. I pointed out all the respondents and the notices were served. I filed an affidavit swearing to that effect. I also executed an executor's conveyance. According to the executor's conveyance Kanthavanam gets nothing from the estate of my father as he did not want any share.

Q.—Have you stated in the executor's conveyance that your brother renounced his rights ?

20 A.—No, but he told us that he did not want anything. At the time the executor's conveyance was executed he told us that he did not want anything. Kanthavanam's wife died in 1917. In 1915, Kanthavanam and his wife Ledchumipillai transferred two or three pieces of lands to me. Those were lands which were dowried to Ledchumipillai.

Q.—After Ledchumipillai's death 2nd to 4th defendants were living with Kanthavanam ?

A.—No. 2nd to 4th defendants lived with Thambiah, their uncle.

Q.—Your brother was angry with his wife ?

A.—Yes.

Q.—Not with his children ?

30 A.—He left the children with the mother. He was angry with his children also and he was not on talking terms with the children. I was on talking terms with Arumugam Velupillai, the brothers in-law of my brother Kanthavanam. There was no ill-feeling between me and the brothers of Ledchumipillai. Arumugam and Velupillai donated a piece of land to me in 1926.

Q.—At the time of the donation the 2nd defendant was married to Arumugam's daughter.



Exhibits  
 No. 2D 11  
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A.—He married Arumugam's daughter but I do not know when. (Shown deed 1,438 of 19-3-36 (2D6).) I cannot read without my glasses. Arumugam and Velupillai donated the land to me out of love and affection that they bore towards me.

Q.—In 1927 the 3rd defendant was married ?

A.—I do not remember. 2nd and 3rd defendants were married at the time of my brother's death. At the time of 2D6 the 2nd defendant was married to Arumugam's daughter. In July, 1931, Arumugam Kanthavanam died.

Q.—When he was seriously ill he was taken by you to his father's 10 house ?

A.—No. 2nd to 4th defendants represented to the Magistrate, Point Pedro.

Q.—On a charge being filed against you that you have removed their father against their will a notice was issued on you ?

A.—Notice was served on me but he was living in my house. I came to the Court late. The warrant was issued as I was late. When the warrant was executed I was performing some funeral rites. I refused to allow 2nd to 4th defendants to perform those rites. The Headman also accompanied me when I was arrested on a warrant. The Magistrate asked the Headman to settle the matter and to have the funeral rites of my brother performed peacefully.

Q.—Thereafter the 2nd to 4th defendants performed the last rites of their father ?

A.—No. It was I who performed. There was no settlement. The Headman made no attempt at settlement.

Q.—In spite of that 2nd defendant's father-in-law Arumugam donated the properties to you in 1936 ?

A.—Yes. (P9 referred to).

Q.—In the plaint in P9 there is no reference to P6 ?

30

A.—I filed that deed.

Q.—In the plaint there is no reference to P6 ?

A.—I filed the deed P6. I filed answer in that case. In that answer I referred to the deed P6. My brother Kanthavanam did not file answer in that case, nor did he attend Court. The other co-owners also did not file answer. Interlocutory decree was entered in that case and I was ordered to pay costs. The Court directed that the shares of the defendants may be allotted together if they so wished.

Q.—It was thereafter that your brother Kanthavanam and others granted the proxy in favour of Mr. Kanapathipillai ?

A.—Yes. It was for the purpose of having their share allotted together. That proxy was signed by my brother and others before the Headman Chelliah. I obtained their signatures to the proxy representing that a proxy was necessary to have the shares of the defendants allotted together. At the time of my father's death he was entitled to monies on mortgage bonds and promissory notes.

Exhibits  
—  
No. 2D 11  
Proceedings in  
D. C. Jaffna  
No. 2,198  
5-12-1946  
—Continued.

10 Q.—Kathirgamar Sinnathamby was one of those who owned money to your father on a mortgage bond ?

A.—At that time he had paid that debt.

Q.—Do you deny that Kathirgamar Sinnathamby executed a mortgage bond the day after your father's death ?

A.—That bond was in my favour.

Q.—The consideration was an earlier bond in the name of your father ?

A.—No. The consideration was paid by me before the Notary. One Vairavanathar Sinnathamby was also indebted to my father on a mortgage bond.

20 Q.—He also executed a mortgage bond shortly after your father's death ?

A.—Yes.

Q.—After your father's death Vyravanathar Sinnathamby paid back the money due to your father to you and a fresh bond was executed in your favour ?

A.—He executed a mortgage bond in our favour and then paid the money to me as executor.

Q.—What happened to the money that your father lent ?

A.—He paid it by borrowing money from us. He returned the money before my father's death.

30 Q.—You said that money was borrowed from you to pay off your father's debt ?

A.—During the lifetime of my father he borrowed the money from me and paid it to him. But he executed the bond after he died. They added Rs. 100 to each mortgage bond and I paid Rs. 300/-.

Q.—Similarly other mortgage bonds were executed within one or two years of your father's death ?

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 —Continued

A.—We executed those bonds. We executed one or two more bonds besides these bonds.

Q.—They were also indebted to your father during his lifetime ?

A.—Yes. My father was not in the habit of lending large sums of money on mortgage bonds. The bonds which I have shown in the inventory are for very small sums. In the Last Will monies are referred to.

(To Court :

Q.—Why did your father impose conditions on the donation deed in your brother's favour ?

A.—He did not like the place where my brother got married and 10 therefore my father imposed those conditions.

Q.—In the Last Will why did not he fail to restrict your brother's rights to the lands ?

A.—Usually it is not customary to impose conditions in the Last Wills. It was not done in the Last Will and I do not know the reasons why no conditions were imposed on the Last Will.) (Shown P6)—(the witness is asked to write three times Avana Kanthavanam—he is given paper, pen, seat and table. Witness is also asked to write Avana Nagalingam three times. The witness writes the name and the document is marked 2D7).

Q.—I put it to you that the signature purporting to be that of Aru- 20 mugam Kanthavanam in P6 was written by you ?

A.—I deny that. One Kanapathy Vally sued me and others in respect of a land called Nunkiapulam in Case No. 55,590 C.R., Point Pedro. For my title I relied on a deed in favour of one Nagathai. I gave evidence in that case. My evidence in chief was taken on a particular date and my cross-examination took place on another day.

Q.—When you were examined you produced the deed on which you relied ?

A.—Yes.

Q.—According to that deed the share which the dowry grantee was 30 given was  $1\frac{1}{2}/8$ th ?

A.—Yes. But that was a mistake. It was contested that the deed conveyed only  $1/8$ th share.

Q.—And that you altered  $1/8$ th to  $1\frac{1}{2}/8$ th share.

A.—No. On the following date the other side cited the land registry to produce the deed,

Q.—On the day the Registrar of Lands appeared in Court your copy was found to be missing ?

A.—I lost it when I was coming to Court in the rain. I lost that case.

Q.—It was held by the Magistrate that you had deliberately suppressed the document that you produced because the Land Registry's document was forthcoming ?

A.—I deny that. I charged one Sivaguru and others with robbery of a chain.

10 Q.—The accused were acquitted and you were asked to pay Crown costs ?

A.—The accused were asked to take oaths and they took oath and I had to pay Crown costs.

Q.—You and the 1st defendant owned several lands in common ?

A.—We possess divided shares.

20 (To Court : Kanthavanam was the most intelligent man from my family. He was not attached to his wife. He used to visit his wife in the nights without anybody's knowledge.) I sued one Subramaniam Maniccam on account of money due to me on tobacco purchase. He produced a receipt signed by me and I lost that case. I had to pay costs in that case. I am entitled to about 100 lands. In some of those 100 lands my brother the 1st defendant is entitled to shares and in some lands he has no shares. He has shares only in three lands. I am worth Rs. 2,000 or Rs. 2,400. My father left behind about 8 or 9 intestate lands. In all those 8 or 9 lands I and the 1st defendant are co-owners. Kanthavanam has no shares in those lands because my father has stated in the deed P6 that he would not be entitled to any share. I say that I and the 1st defendant have been in undisturbed possession of lots 1 and 2 in Plan Z.

30 Q.—Nobody else prevented you from possessing any portion of this land ?

A.—There will be no dispute between me and the 1st defendant. No other obstructed my possession. I filed this partition action because the 1st defendant used to pluck grass from the land which I fenced. There is no grass in the other lands. I have no wife or children.

Q.—According to you the 1st defendant will be your heir ?

A.—Yes.

Cross-examined by Mr. Balakrishnan :

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Exhibits  
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 —Continued.

Nachal, wife of Sangaran was one of the three *thombu* holders of the land called Mungodai. I am one of the decendants of Nachal. Defendants 5th to 8th are also descendants of Nachal.

Q.—5th to 8th defendants are entitled to 1/6th share of Mungodai, in extent  $12\frac{1}{2}$  lachams ?

A.—No. They have no shares at all. The predecessors in title of 5th to 8th defendants have sold their shares. I have not produced any deeds of sale. The land in dispute contains two lands called Mungodai  $12\frac{1}{2}$  lachams and Nawathai in extent  $7\frac{1}{2}$  lachams. One-sixth share on the north-east is excluded according to my plaint,  $\frac{5}{6}$ th share on the south-west and the entire land Mawathai forms the land sought to be partitioned. Lot 1 is enclosed on all sides with fences. Those fences were erected long ago by my father. Except the boundary fence between lots 1 and 2, lot 2 had no other fence. According to me the land sought to be partitioned ought to be about 14 lachams in extent. Lot 1 in the plan is a little more than  $13\frac{2}{3}$  lachams. Lot 2 which defendants 5th to 8th claim is in extent 2 lachams 14 kulies. 10

Q.—Lot 2 is a little more than the extent that the 5th to 8th defendants claim ?

A.—No answer. 20

Re-examined : The Registrar of Lands was summoned at my instance to produce deeds signed by Kanthavanam in 1904 and 1915. Only a share in one land called Nagarakaddanai was given to Kanthavanam in the Last Will. This is the dwelling compound of my father. My father requested us to perform his annual rites at my house. There is a deed in which my father stipulated regarding the performance of the annual ceremony. That clause is inserted in the charity donation deed.

Q.—Was Kanthavanam reconciled to getting no property from your parents ?

A.—Yes. In testamentary case No. 4,514. I say that all notices were served on Kanthavanam and he was aware of all the proceedings. In case No. 17,917 decree was entered in accordance with the terms of the answer filed by me. Thambiah in whose house Kanthavanam's wife was living is the 5th defendant in this case. P 6 is a certified copy given by the Registrar of Lands at the request of Mr. K. Subramaniam, Proctor, in August, 1944. 30

Q.—Why did you instruct your Proctor to obtain a certified copy ?

A.—To file a partition action. I have lost the original in 1936.

(To Court : I have lost 4 or 5 deeds.) I handed over the original of P 6 to my Proctor.

Q.—Do you know what the original is ?

A.—No. I handed to my Proctor P6. P6 was the deed that I handed to my Proctor. I did not hand over any other copy of the deed P6. Original of the deed P6 has been lost. I did not hand over the original to anybody. I knew Notary Kanthavanam personally. He is a man from Vathiry and adjoining village. He lived about one mile away from my house. He has an office at Kudathanai also. I do not know why my father wanted to have the deed executed at Kudathanai.

Exhibits

No. 2D 11  
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—Continued.

10 (To Court) : I do not know how far Kudathanai is from my village. I have never been to Kudathanai. I do not remember when I instructed my Proctor to file this action. I asked him to apply for P6 at the time I asked him to file this action. It was over two year ago. I think it must have been in July or August. I gave him the number of the deed. I got the number from case No. 17,917. When I filed those cases I had the original with me. I lost sight of the original in 1936. I kept the original of P6 at my house and a lunatic came and removed it away along with three other deeds. The three deeds were in a bundle.

Q.—The other deeds were left behind ?

20 A.—He took all the deeds. I could not recover a single deed from the lunatic. I had three deeds in that bundle. The other deeds were kept at my house. These three deeds were at my garden where I lived. These three deeds were kept in a box at my garden. Besides these three deeds I did not have any other deeds in my box. I had the other deeds in my house. On my way from Jaffna I got down from the bus near my garden and I kept the deeds at my garden.

Sgd. M. M. I. KARIAPPER,  
A. D. J.

5-12-46. No time. Further hearing on 14th December, 1946.

Sgd. M. M. I. KARIAPPER,  
A. D. J.

No. P 11

Copy of Magistrate's Register of Cases  
MAGISTRATE'S REGISTER OF CASES

No. P 11  
Copy of  
Magistrate's  
Register of  
Cases

Serial No.	Date of Offence	Date of Institution	Name of Police Station or place from which the case comes from	Names and residences of parties concerned	Nature of alleged offence and of any property stolen	Preliminary	Final	Remarks
1196	14-7-31	16-7-31	Polikandy	1. Kandavanam Vadivelu 2. do Chelliah 3. do Thuraisamy all of Polikandy vs. Arumugam Nagalingam of do	Miscellaneous C. P. C.	Notice 16-7-31	16-7-31 Accused released P. V. to see that there is no trouble	Destroyed

Exhibits  
 No. 5D 1  
 Extract from  
 Thombu  
 Register

## No. 5D 1

## Extract from the Thombu Register

TRANSLATION

Extract from Thombu Register of Polikandy in Vadamaradchi

1822 G.R.

Page 107

Registered in the  
 names of Nachchal  
 daughter of Vethan  
 and wife of San-  
 garan, Nachchal  
 daughter of Varear  
 and wife of Sooran  
 and Varal daughter  
 of Iygal and wife of  
 Eraman and share.

Mungkudai Length 17 Breadth 13 Extent  $12\frac{1}{4}$  Lms  
 of this Shady part  $3\frac{1}{4}$ , Extent 9 Lms V. C. Casw 3.  
 Sinnum 3 4th Grade Tithe rate Casw 7, Sinnum  $\frac{1}{2}$   
 Palmyrahs 42, Excluded 4. Palmyrahs 38, Fanams 3  
 Casw 8. Total Fanams 4. Casw 8, Sinnum  $3\frac{1}{2}$ .



True extract

Sgd. (ILLEGIBLE)

for Government Agent, N.P.

Kachcheri,

Jaffna 20-11-46.

No.....

Supreme Court of Ceylon  
No. 1-2 of 1948 (Final).

District Court, Point Pedro  
No. 2198

*In the Privy Council  
on an Appeal from the Supreme Court of Ceylon*

A. NAGALINGAM OF POLIKANDY,  
Valvettiturai.....*Plaintiff-Appellant.*

VERSUS

1. ARUMUGAM THANABALASINGHAM
2. KANDAVANAM VADIVELU
3. KANDAVANAM CHELLIAH
4. KANDAVANAM KANDASAMY, all of  
Polikandy, Valvettiturai.....*Defendants-Respondents.*

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RECORD  
OF PROCEEDINGS

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