

Kathri Arachige Don Velin Siriwardana - - - - Appellant

v.

Arachi Appuhamillage Don Carthelis Appuhamy and others - Respondents

FROM

THE SUPREME COURT OF CEYLON

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JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE  
OF THE PRIVY COUNCIL, DELIVERED THE 18TH JANUARY, 1955

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*Present at the Hearing :*

VISCOUNT SIMONDS  
LORD OAKSEY  
LORD TUCKER  
LORD SOMERVELL OF HARROW  
MR. L. M. D. DE SILVA

[*Delivered by* VISCOUNT SIMONDS]

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The question raised in this appeal is a pure question of fact upon which there have been concurrent findings by the learned Judge of the District Court of Colombo and the Supreme Court of Ceylon. The question is whether a certain document was properly admitted to probate as the last will and testament of one Kathri Arachige Don Frederick Siriwardana. The determination of this question depended on what answer should be given to three issues which were raised in the proceedings out of which this appeal arises. They were (1) was the document in question the act and deed of the deceased (2) was it duly executed and (3) was the signature thereon the signature of the deceased. All these questions were answered in the affirmative by both Courts. In this judgment in the Supreme Court Mr. Justice Gunasekera uses these words of the judgment of the learned Judge of the District Court "Not even the minute scrutiny to which learned Counsel has subjected all the evidence in the case, however, has brought to light a single point of substance that the learned Judge has omitted to consider in what I may be permitted to describe as an exceedingly careful judgment. I can see no reason for holding that the learned Judge has erred in his findings of fact, which alone are challenged in this case." In their Lordships' opinion this is a just description of a judgment in which a further acute examination failed to reveal any valid ground for criticism. As it appears to them, this is eminently a case in which the salutary rule should be observed that concurrent findings of fact should not be disturbed, except in very unusual circumstances, which are by no means present in this case.

Their Lordships will therefore humbly advise Her Majesty that this appeal should be dismissed. The appellant will pay the costs of the appeal.

[2]

In the Privy Council

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KATHRI ARACHIGE DON VELIN  
SIRIWARDANA

v.

ARACHI APPUHAMILLAGE DON  
CARTHELIS APPUHAMY AND OTHERS

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DELIVERED BY  
VISCOUNT SIMONDS

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