

Judgment  
# 1956

24 1956

Supreme Court of Ceylon  
No. 72 (Final) of 1953.

District Court, Colombo,  
No. 5951.

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

RECEIVED  
20 FEB 1957  
INSTITUTION FOR THE ADVANCED  
LEGAL STUDIES

BETWEEN

1. MOHAMEDALY ADAMJEE and 3 others

*Plaintiffs-Appellants.*

AND

1. HADAD SADEEN and 42 others

*Defendants-Respondents.*

---

RECORD  
OF PROCEEDINGS.

---

# INDEX

## PART I

Serial No.	Description of Document	Date	Page
1	Journal Entries	20 5 50 to 8 4 54	1
2	Plaint of the Plaintiffs	20 5 50	18
3	Amended Plaint of the Plaintiffs	20 5 50	24
4	Petition of the Plaintiffs	20 5 50	28
5	Affidavit of the 2nd Plaintiff	20 5 50	32
6	Amended Petition of the Plaintiffs	20 5 50	35
7	Petition of the Plaintiffs	1 11 50	40
8	Affidavit of the 2nd Plaintiff	31 10 50	41
9	Answer of the 22nd to 27th Defendants	7 3 51	43
10	Answer of the 8th, 11th, 21st, 29th, 30th, 31st and 37th Defendants	2 5 51	45
11	Objections of the 8th, 11th, 21st, 29th, 30th, 31st and 37th Defendants	2 5 51	45
12	Answer of the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 13th, 29th, 30th, 31st and 37th Defendants	19 9 51	46
13	Objections of the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 13th, 29th, 30th, 31st, and 37th Defendants	19 9 51	47
14	Answer of the 34th Defendant	19 9 51	48
15	Issues Framed		48
16	Plaintiffs' Evidence		55
17	Defendants' Evidence		70
18	Addresses to Court		76
19	Judgment of the District Court	4 3 52	82
20	Decree of the District Court	4 3 52	97
21	Petition of Appeal to the Supreme Court	13 3 52	99
22	Petition of the Plaintiffs	25 3 52	104

INSTITUTION OF ADVANCED  
 LECTURE STUDENTS,  
 25, RUSSELL SQUARE,  
 LONDON,  
 W.C.1.

**PART 1 — (Contd.)**

Serial No.	Description of Document	Date	Page
23	Affidavit of the 2nd Plaintiff ....	24 3 52	105
24	Inquiry and Order regarding application for an injunction restraining the sale of property ....	5 5 52	107
25	Judgment of the Supreme Court ...	10 2 54	110
26	Decree of the Supreme Court ....	10 2 54	116
27	Application for Conditional Leave to Appeal to the Privy Council ....	1 3 54	117
28	Decree granting Conditional Leave to Appeal to the Privy Council ....	10 3 54	120
29	Application for Final Leave to Appeal to the Privy Council ....	29 3 54	121
30	Decree granting Final Leave to Appeal to the Privy Council ....	9 4 54	124

## INDEX — PART II.

### Plaintiff's Documents.

Exhibit Mark	Description of Document	Date	Page
P 1	Deed No. 6186	16 8 1919...	147
P 2	Fiscal's Conveyance No. 11174	29 3 1916...	136
P 2 (a)	Plan No. 222 attached to P2	1 3 1907...	138
P 3	Deed Nos. 452/437	21 9 31 15 1 32	153
P 4	Last Will No. 682 of G. Adamjee	16 6 37	173
P 5	Probate in D. C. Colombo No. 8526 T	26 10 38	175
P 5 (a)	Inventory filed in D. C. Colombo No. 8526/T	24 10 46	177
P 6	Letters of Administration D. C. Colombo No. 10871 T	1 12 44	226
P 7	Inventory filed in D. C. Colombo No. 10871 T	13 2 52	227
P 8	Deed No. 419	19 10 44	183
P 9	Letters of Administration in D. C. Colombo No. 3486 T	28 2 29	149
P 10	Inventory filed in D. C. Colombo No. 3486 T	25 2 30	151
P 11	Petition for Injunction in D. C. Colombo No. 5706/P	20 5 50	260
P 12	Affidavit for Injunction in D. C. Colombo No. 5706 P	20 5 50	268
P 13	Journal Entries in D. C. Colombo No. 5706 P	15 7 49 to 4 10 51	241
P 14	Plaint in D. C. Colombo No. 5706 P	15 7 49	247
P 15	Abstract of Title in D. C. Colombo No. 5706 P	15 7 49	252
P 16	Pedigree in D. C. Colombo No. 5706/P	—	253
P 17	Statement of Claim of 15th, 16th, 17th and 20th Defendants in D. C. Colombo No. 5706 P	14 12 49	254
P 18	Proceedings in D. C. Colombo No. 5706/P	9 3 50	254
P 19	Judgment in D. C. Colombo No. 5706 P	29 3 50	256

**Plaintiff's Documents — (Contd.)**

Exhibit Mark	Description of Document	Date	Page
P 20	Decree in D. C. Colombo No. 5706/P....	30 1 50	259
P 21	Proceedings in respect of Injunction in D. C. Colombo No. 5706/P	23 5 50	274
P 22	Deed No. 246	19 2 1878	129
P 23	Extracts from Municipal Assessment Register	1947-51	233
P 24	Extracts of Encumbrances regarding P2	1916-1950	144
P 25	Extracts of Encumbrances	1865-1914	139
P26 (a-d)	Receipts for Rates	1947	283
P27 (a-d)	Receipts for Rates	1948	287
P28 (a-d)	Receipts for Rates	1949	291
P29 (a-c)	Receipts for Rates	1950	295
P30 (a-d)	Receipts for Rates	1951	298
P 31	List of Tenents, Assessment Numbers and Rent	1946-51	302
P 32	Rent Book	1942-47	* Not Printed
P 33	Rent Book	1947-49	* Not Printed
P 34	Rent Book	1949-52	* Not Printed
P 35	Counterfoil Books of Rent Receipts	1948-51	* Not Printed
P 36	Letter from Municipal Assessor to Julius & Creasy	6 2 52	311
P 36 (a)	Annexure to P36		312
P 37	Valuation Report	2 2 52	308
P 38	Extracts from Books of Rates and Taxes		318
P 39	Document referred to by witness Mahroof	(Undated)	319
P 39 A	Reverse of P39—Telegram from Kasanathan to Hamza	(Date not clear)	319

\*Original documents forwarded to the Privy Council along with printed record.

**Defendants' Documents.**

Exhibit Mark	Description of Document	Date	Page
8D1	Last Will No. 7130 of I. L. I. L. Marikar ....	12 12 1872 ..	126
8D2	Probate in D. C. Colombo No. 3909/T ....	29 5 1876....	128
8D3	Deed No. 2575 ..... ..	14 9 1888....	132
8D4	Judgment of the Supreme Court in D. C. Colombo No. 5706 ....	6 9 51 ....	275
8D5	Field Notes of Surveyor Carthigesu in D. C. Colombo No. 5706 ....	—	282

20 FEB 1957

Supreme Court of Ceylon,  
No. 72 (Final) of 1953.

INSTITUTE OF ADVANCED  
LEGAL STUDIES

District Court, Colombo,  
No. 5951.

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

BETWEEN

1. MOHAMEDALY ADAMJEE and 3 others

*Plaintiffs-Appellants.*

AND

1. HADAD SADEEN and 42 others

*Defendants-Respondents.*

---

---

RECORD  
OF PROCEEDINGS.

---

---

No. 1.

**Journal Entries.**

No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.

IN THE DISTRICT COURT OF COLOMBO

No. 5951 L

1. MOHAMEDALY ADAMJEE

Class:

& others all of Colombo

Amount; Rs. 100000/-

Plaintiffs.

Nature: Land.

Vs.

Procedure: Regular.

1. HADAD SADEEN

of Colombo and others.

Defendants.

**Journal.**

The 20th day of May 1950. M/s. Julius & Creasy, Proctors file appointment (1a) and Plaint (1b) with Petition (1c) and Affidavit (1d) and for reasons stated therein move.

- (a) That this Court do set aside or vacate the decree entered in Partition Proceedings No. 5706 on or about the 30th day of March 1950.
- (b) For a declaration that the decree entered by this Court in 5706/Partition on or about 30-3-50 is null and void and of no force or effect in law.
- (c) Or in the alternative for damages against the defts jointly and severally in the sum of Rs. 100000/-.
- (d) For an injunction against the respondents restraining any sale of the property and premises and for.....order to accompany the.....to the said effect.
- (e) For an Order on the Comr. appointed by Court for the sale of the said premises to stay the sale of the same and for costs.

Sgd.....  
District Judge.

Summons issued with Precept returnable the.....day of.....19  
Issue SS. Ret'ble

Re open.....call on 23-5-50.  
Cite 5706/P.

Intd.....



No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.  
—continued.

23-5-50. M/s Julius & Creasy for Plffs.  
Case called with case No. 5706/P  
Call case on 24-5-50.

Intd.....

24-5-50. Case called with case No. 5706/P  
Issue SS. Returnable 28-6-50  
Mr. Ben Kadirigamar states that he will amend the pleadings  
.....

31-5-50. Proctors for plaintiffs move to amend the plaint by adding  
at the end of paragraph 24 the following:—

“Or in the alternative for an injunction and an order  
restraining and enjoining the defendants from making any  
application for the withdrawal of or drawing or receiving  
payment of the proceeds of any sale of the premises which  
proceeds may be deposited in Court or any share or part  
thereof.”

They further move to amend the plaint by adding at the end  
of paragraph ‘D’ of the prayer the following:—

“Or in the alternative for an injunction and an order rest-  
raining and enjoining the defendants from making any  
application for the withdrawal of or drawing or receiving  
payment of the proceeds of any sale of the premises which  
proceeds may be deposited in Court or any share or part  
thereof.”

They also file herewith plaint as amended. Allowed. Issue  
copy of amended plaint with summons.

Intd.....

2-6-50. With reference to the order made on 24-5-50, Proctors  
for plaintiffs-petitioners move to amend the petition filed  
in this case by interpolating between the words “aforesaid”  
and “to” in paragraph 24 the words “or in the alter-  
native for an injunction and an order restraining and  
enjoining the defendants-respondents from making any  
application for the withdrawal of or drawing or receiving  
payment of the proceeds of any sale of the premises which  
proceedings may be deposited in Court or any share or  
part thereof.”

and by adding at the end of prayer ‘d’ of the said petition  
the words.

“Or in the alternative for an injunction and an order restraining and enjoining the defendants-respondents from making any application for the withdrawal of or drawing or receiving payment of the proceeds of any sale of the premises which proceedings may be deposited in Court or any share or part thereof.”

No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.  
—continued.

They tender petition as amended and move that the Court be pleased to make an order on the Interim application of the petitioners dated the 20th May 1950.

Amendment accepted.

Issue notice 28-6-50.

Intd.....

13-6-50. SS issued on 1-8, 11-13, 21-31, 34, 37 and 43 defts.

5951/L

19-6-50. Notice to set aside decree entered in case No. 5706P  
Issue on 1-8, 11-13, 21-31, 34, 37 and 43 defendts.

Intd.....

28-6-50. M/S. Julius & Creasy for Plaintiff.  
1. Summon on 1-8, 11-13, 21-31, 34, 37 and 43 defts  
—no return.  
2. Notice to set aside decree entered in case No. 5706 P  
on 1-8, 11-13, 21-31, 34, 37 and 43 defts—no return.  
Await and reissue for 23-8-50.

Proxy of 35th deft. filed; also of 22nd to 27th.  
Proxy and answer of 8, 11, 21, 29, 30, 31 and 37 will be filed  
by Mr. Kadiragamar.

9, 10, 14 to 20, 35 and 36, 32 and 33

.....  
Order. Pltff. for steps re minors on 23-8-50  
Proxies and Answers of those served on 23-8-50.  
objections on 23-8-50.

15-9-50. SS issued on 1-7, 12, 13, 25-28 defts.  
Notice reissue on 1-7, 11, 12, 13, 25-28 & 43 defts. WP.

No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54  
—continued.

- 23-8-50. 1. Steps re minors  
2. Proxies  
3. Answers  
4. Objections  
5. Summons on 1-7, 12, 13, 25-28, 43 defts. not served.  
Reissue for 27-9-50.  
6. Notice to set aside decree  
decree entered in case No. 5706 P on 1-7, 12, 13, 25-28  
& 43 defts—respondents not served.  
  
Reissue for 27-9-50.  
Notice served on 11th Deft-respdt.  
Proxy of 8, 21, 29, 30 31, & 37 filed.  
Served defendants are minors.  
Plaintiff for steps for 27-9-50.
- 2-9-50. SS Issued on 1-7, 12, 13, 25-28 & 43 defts.  
Notice reissued on 1-7, 12, 13, 25-28 & 43 defts. WP.
- 27-9-50. M/s. Julius & Creasy for Plaintiff.  
1. Steps re minors.....for 8-11-50  
2. Summons not served on 1-7, 12, 13, 25-28 and 43 defts.  
Reissue for 8-11-50  
3. Notice to set aside decree not served on 1-7, 12, 13,  
25-28 & 43 defts.  
Reissue for 8-11-50  
Answers and objections.....8-11-50.
- 8-11-50. 1. Steps re minors.....O/N for 17-1-51.  
2. Summons not reissued on 1-7, 12, 13, 25-28 & 43 defts.  
Reissue for 17-1-51.  
3. Notice to set aside decree not reissued on 1-7, 12, 13,  
25-28 & 43 defts.  
Reissue for 17-1-51.

4. Answers and objections on 17-1-51  
Long date on application.

No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.  
—continued.

21-11-50 Proctor for Plaintiff tenders Order Nisi for signature.  
Order Nisi signed.

Intd.....

A. D. J.

11-12-50 SS issued on 1-7, 12, 13, 25-28 & 43 defts.  
Notice reissued on 1-7, 12, 13, 25-28 & 43 defts. WP.  
Notice of Order Nisi issued on 3, 11, 14, 17 & 23defts.

17-1-51 1. Notice of order nisi not served on 3, 14, 17, & 23 defts.  
Reissue 7-3-51.

2. Summons on 1-7, 12, 13, 25-28 & 43 defts not served  
Reissue for 7-3-51.

3. Notice to set aside decree on 1-7, 12, 13, 25-28 & 43  
defts not served.  
Reissue for 7-3-51.

4. Answers and objections  
Stand over till g.a.l. is finally appointed - call 7/3.

Intd.....

20-2-51. Notice of *Order Nisi*  
Reissue on 3, 11, 14, 17, & 23.  
SS reissued on 1-7, 12, 13, 25-28 & 43 defts. WP  
Notice reissue on 1-7, 12, 13, 25-28 & 43.

7-3-51. M/s. Julius & Creasy for Plaintiff.  
1. Notice of *Order Nisi* not served on 3, 11, 14, 17, & 23  
Respondents.  
Reissue for 2-5-51  
2. Summons not served on 1-7, 12, 13, 25-28 & 43 defts.  
Reissue for 2-5-51  
3. Notice of injunction not served on 1-7, 12, 13, 25-28  
and 43 defts.  
Reissue for 2-5-51  
Answers of 22-27 defts. filed.

No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.  
—continued.

- 4-4-51. SS reissued on 1-7, 12, 13, 28 & 43 defts.  
Notice of injunction reissued on 1-7, 12, 13, 28&43 defts.  
*Order Nisi* reissued on 3, 11-14, 17&23 defts.
- 2-5-51. 1. SS not served on 1-7, 12, 13, 28 & 43 defts.  
Reissue for 6-6-51.
2. Notice of injunction not served on 1-7, 12, 13, 28 & 43 defts.  
Reissue for 6-6-51.
3. *Order Nisi* not served on 3, 11-14, 17 & 23 Respdts.  
Reissue for 6-6-51.
- Answers & objections of 8, 11, 21, 29, 30, 31, 37 defts filed.

Intd.....

A. D. J.

- 6-6-51. M/s. Julius & Creasy for Plaintiffs.  
Mr. K. Rasanathan for 8, 29, 3, 10, 31, & 37 defts.  
Mr. E. W. Seneyiratne for 22-27, defts.  
Mr. N. M. Zaheed for 32-34 defts.
1. Summons not reissued on 1-7, 12, 13, 28 & 43 defts.  
Reissue for 18-7-51.
2. Notice of injunction not reissued on 1-7, 12, 13, 28 & 43 defts.  
Reissue for 18-7-51.
3. *Order Nisi* not reissued on 3, 12-14, 17 and 23 Respdts.  
Reissue for 18-7-51.
4. Deficiency of stamps Rs. 18/- due from  
K. Rasanathan—18/7.
- No further dates will be given.

Intd.....

- 20-6-51. Proctors for Plaintiffs file affidavit of Mohamedaly Adamjee, one of the plaintiffs in this case and for reasons stated therein move for leave of Court to issue the Summons, Notices of Injunction on 1 to 7, 12, 13, 28 and 43rd Defendants and *Order Nisi* on 3, 11, 14, 17 and 23rd Respondents in this case for substituted service by affixing copies of the said summons notices of Injunction and *Order Nisi* at the respective last known places of residences of the above parties requiring them to appear in Court within 7 days from the date of such service. They also move that the 25-7-51 be fixed as the returnable date of the said process.

No. 1.  
Journal  
Entries  
20-5-50 to  
8-4-54.  
—continued.

Allowed for 18/7.

Intd.....

5951/L.

- 30-6-51. SS reissue on 1-7, 12, 13, 28 and 43 defts. for substd. service.  
Notice of injunction reissue on 1-7, 12, 13, 28 and 43 defts. for substd. service.  
Notice of *Order Nisi* reissue on 3, 11, 14, 17 and 23 defts. for substd. service.  
Copies of SS Notice of Injunction and notice of *Order Nisi* sent by registered post.
- 18-7-51. M/s. Julius & Creasy for Plaintiffs.  
Mr. K. Rasanathan for 8, 29, 30, 31 & 37 defts.  
Mr. E. W Seneviratne for 22-27 defts.  
Mr. N. M. Zaheed for 32-34 defts.
1. Summons served on 1-7, 12, 13, 28 & 43 defendants by way of substituted service. Absent.
  2. Notice of injunction served on 1-7, 12, 13, 28 & 43 defendants by way of substituted service Absent.
  3. Notice of *Order Nisi* served on 3, 11, 14, 17 & 23rd Respondents by way of substituted service. Absent.  
Enter order absolute.
- Mr. Rasanathan for certain defendants will file answer and objections on 19-9-51.

Intd.....

No 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.  
—continued.

20-7-51. Proctor for Plaintiffs with reference to the summons, notice of Injunction and *Order Nisi* issued for substituted service against defendants tender herewith proof of posting to be filed of record.

Not tendered

Intd.....  
A. D. J.

10-8-51. With reference to the Order made on their motion dated 19th July 1951, Proctors for Plaintiffs submit that they have already filed with the said motion postal receipts bearing Nos. 441-456 in proof of posting summonses, notice of Injunction and *Order Nisi* in this case.

File what is tendered.

Intd.....

M/s. Julius & Creasy for plaintiff.

*Vide* J. E. of 18-7-51.

Mr. K. Rasanathan for 8, 25, 29, 30, 31 and 37 defendants files proxies, answer and objections of 1-7, 13, 29, 30, 31, 37 defendants.

Answer & objections of 8, 25, 29, 30, 31, and 37 defendants due.

Mr. N. M. Zaheed files answer of 34th defendants.

By Consent mention on 3/10 to fix trial and inquiry.

Intd.....

3-10-51. Messrs. Julius & Creasy for Plaintiff.

Mr. K. Rasanathan for 1-8, 13, 25, 29, 30, 31 and 37 defendants.

Mr. N. M. Zaheed for 34 defendant.

Case mentioned to fix trial or inquiry.

Mention in 'C' Court on 9-10-51 to fix inquiry and trial.

Intd.....

- 9-10-51. M/s. Julius & Creasy for Plaintiff.  
 Mr. K. Rasanathan for 1-8, 13, 25, 29, 30, 31 and 37  
 defendants.  
 Mr. N. M. Zaheed for 34 defendant.  
 Case called.  
 Inquiry into application for injunction 31-10-51.  
 Trial 5/3 and 6/3.

No. 1.  
 Journal  
 Entries.  
 20-5-50 to  
 8-4-54.  
 —continued.

Intd.....

- 30-10-51. Proctor for Petitioners files additional list of witnesses.  
 Proctors for Defendants received notice.

Intd.....

- 31-10-51. Messrs. Julius & Creasy for plaintiff.  
 Mr. K. Rasanathan for 1-8, 13, 25, 29, 30, 31st and 37  
 Defendants.  
 Mr. N. M. Zaheed for 34th defendant  
 Inquiry re application for injunction.  
*Vide* proceedings and Enquiry.  
 Trial 5, 6, 7 and 8 February 1952.  
 Specially fixed.

Intd.....

- 30-10-51. Proctor for Petitioners files plaintiffs Petitioners List of  
 Notices, with notice to Proctor for 1-8, 11, 13, 21, 29, 30,  
 31 and 37 defendants, Proctor for 22-27 defendants and  
 Proctor for 34th defendant.

File.

Intd.....

- 15-11-51. Mr. E. W. Seneviratne moves that the Court be pleased to  
 certify the payment of Rs. 31.50 being his share of the  
 fees.

Payment certified.

Intd.....

A. D. J.



No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.  
—continued.

30-1-52. Messrs. Julius & Creasy with notice to Proctors for 1-8, 11, 13, 21, 29, 30, 31 and 37 defendants, 22-27 defendants, and for 34th defendant, files plaintiffs' list of documents.

Intd.....

30-1-52. Messrs. Julius & Creasy for Plaintiffs file plaintiffs' list of witnesses with notice to Proctors for 1-8, 11, 13, 21, 29, 30, 31 and 37 defendants, 22-27 defendants, and for 34th defendants and move for summonses. File. Issue S. S. except on 7, 8, 9, witnesses.

Intd.....

31-1-52. Proctor for 1-8, 11, 13, 21, 29, 30, 31 and 37 defendants files list of witnesses with notice to plaintiff's Proctor, and moves for summons.

File—Issue SS.

Intd.....

A. D. J.

1-2-52. Messrs. Julius & Creasy file plaintiff's additional list of documents with notice to Proctor for 1-8, 11, 13, 21, 29-31 and 37 defendants.

Intd.....

1-2-52. Messrs. Julius & Creasy for plaintiffs file additional list of witnesses with notice to Proctors 1-8, 11, 13, 21, 29-31 and 37 defendants, 22-27 defendants and for 34 defendant.

File—Issue SS except on 10, 11, 12, and 13 witnesses.

Intd.....

A. D. J.

1-2-52. Mr. Senanayake of Messrs. Julius & Creasy appears in support of his application for summons on witnesses 10-13.

*Vide Order* on J. E. of 1-2-52.

He states that the Assistant Food Controller—M.C. Colombo is not prepared to issue certified copies. He has applied for certified copies and they were refused.

Re ws. 11 he states that he was unable to obtain certified copies re application made by plaintiffs in D.C. Colombo 5707/P.

Re ws. 12, he states that certified copies have been obtained but he requires an Officer of that Dept. to give evidence in that connection.

He is not asking for summons on ws. 13.

Issue SS. on wss. 10 and 12 of plaintiff's additional list of witnesses. Re ws. 11.....Registrar of Lands Colombo to produce or cause to be produced the application made to the Registrar of Lands Colombo on behalf of plaintiff in D.C. Colombo 5707/P to forward Registers of the previous injunction.

No. 1.  
Journal  
Entries.  
20-5-50 to  
8-4-54.  
—continued.

- 1-2-52. SS on 10 witness by plaintiff.
- 1-2-52. Messrs. Julius & Creasy, Proctors for Plaintiffs file additional list of witnesses and documents and move for SS.

A. D. J.

- 1-2-52. SS issue on 1 witness by defendant.
- 5-2-52. Messrs. Julius & Creasy for plaintiffs.  
Mr. K. Rasanathan for 1-8, 13, 25, 29, 30 31 and 37 dfts.  
Mr. E. W. Seneviratne for 22-27 Defendants.  
Mr. N. M. Zaheed for 32-34 Defendants.

Trial.

Vide proceedings—Trial adjourned till tomorrow.

Intd.....

- 1-2-52. SS on 10 witness by plaintiff.
- 1-2-52. Messrs. Julius & Creasy, Proctors for Plaintiffs files additional list of witnesses and documents and move for SS.

A. D. J.

- 1-2-52. SS issue on 1 witness by defendant.
- 5-2-52. Messrs. Julius & Creasy for 1-8, 13, 25, 29, 30, 31 and 37 defendants.  
Mr. E W. Seneviratne for 22-27 Defendants.  
Mr. N. M. Zaheed for 32-34 Defendants.

Vide J. E. 31 Trial.

Vide proceedings—Trial adjourned file tomorrow.

Intd.....

- 6-2-52. Appearances as before.  
Vide proceedings.  
Addresses for 12-2-52.

Intd.....

- 12-2-51. Messrs. Julius & Creasy for plaintiff.  
Mr. K. Rasanathan for 1-8, 13, 21, 29, 30, 31 & 37 defendants.  
Mr. E. W. Seneviratne for 22-27 Defendants.  
Mr. N. M. Zaheed for 32-34 defendants.

Vide J. E. Addresses.

Appearances as before.

No. 1.  
Journal  
Entries  
20-5-50 to  
8-4-54,  
—continued.

Mr. Adv. E. B. Wickramanayake K.C. moves for a postponement as he is engaged in the Appeal Court to-day.

Mr. Adv. N. E. Weerasooriya K.C. has no objection Refer addresses for 14-2-52.

Intd.....

- 14-2-52. Messrs. Julius & Creasy for Plaintiff.  
Mr. K. Rasanathan for 1-8, 13, 21, 29, 30, 31 and 37 Defendants.  
Mr. E. W. Seneviratne for 22-27 Defendants.  
Mr. N. M. Zaheed for 32-34 Defendants.  
Vide J. E. Addresses.  
Vide proceedings—Judgment for 4-3-52.  
Documents 8 D1—8 D5 filed. } Vol. II  
„ P1—P39 „ }

Intd.....

- 4-3-52. Messrs. Julius & Creasy for Plaintiff.  
Mr. K. Rasanathan for 1-8, 13, 21, 29, 31 and 37 defendants.  
Mr. E. W. Seneviratne for 22-27 defendants.  
Mr. N. M. Zaheed for 32-34 defendants.  
Judgment delivered in Open Court in the presence of the Proctors-Parties are absent.

Intd.....

- 14-3-52. Messrs. Julius & Creasy, Proctors for Plaintiffs-Appellants tender herewith the Petition of Appeal of the above named Plaintiffs-Appellants against the judgment and Decree of this Court dated 4/3/52 and moves that the same be accepted and filed.

They also tender herewith—

- (a) Stamps to the value of Rs. 39/- for the Certificate in appeal.
- (b) Stamps to the value of Rs. 78/- for the judgment of the Supreme Court.
- (c) Notice under Section 756 of the Code stating that the Plaintiffs-Appellants will on the 24th day of March 1952 (or sooner if possible) deposit in Court to the credit of this case a sum of Rs. 1000/- as security for costs of

appeal to which Proctor for 1-7, 13, 29, 30, 31 and 37 Defendants-Respondents; Proctor for 8, 11, 21, 29, 30, 31 and 37 Defendants-Respondents, Proctor for 22-27 Defendants-Respondents and Proctor for 34th Defendant-Respondent have received notice respectively.

No. 1.  
Journal  
Entries  
20-5-50 to  
8-4-54.  
—continued.

They also tender herewith notices under Section 756 of the Code, that the Plaintiffs-Appellants will deposit in Court on or before 24-3-52 a sum of Rs. 5250/- as security for costs of Appeal of 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 28, 32, 33, 35, 36, 38, 39, 40, 41, 42 and 43 Defendants-Respondents who were unrepresented in in these proceedings and move that such notices be issued on the said parties-returnable on 19-3-52.

- (d) Application for three typewritten copies of the record for the purpose of the appeal in terms of the Civil Appellate Rules 1938 (including two copies for the Judges.)  
They also move that on the Petition of Appeal being accepted the Court be pleased to allow orders to deposit to issue to us for Rs. 6250/- as security for Defendants-Respondents costs in appeal and Rs. 75/- as the costs of three typewritten copies of the record to be deposited in the Colombo Kachcheri.

1. File.
2. Issue notice of Security for 19-3-52.

Intd.....  
A. D. J.

14-3-52. Notices sent to Fiscal/W.P to be served.

Intld.....

14-3-52. Acting Superintendent of Police, Crimes requests for a certified copy of the case record, for official purposes, to investigate into the complaint made by the Attorney General, forwarded to him for inquiry and report.

Inform that appeal has been filed. Copy may be taken by writer here.

Intld.....

19-3-52. Messrs. Julius & Creasy for plaintiff-appellants  
Mr. K. Rasanathan for 1-8, 13, 21, 29-31 & 37 Defendants-Respondents.

No. 1,  
Journal  
Entries  
20-5-50 to  
8-4-54.  
—continued.

Notice of security served on 9, 10, 12 to 20, 28 to 33, 35, 36, 38-42 (pointed out)-absent. Affidavit of identity on 21-5-52. Issue on unserved for 21-5-52.

Appellants' Proctors tender security bond for Rs. 6250/- and K/R for Rs. 75/- for typewritten briefs.

Intld.....

20-3-52. Messrs. Julius & Creasy, Proctors for Plaintiff-Appellants tenders herewith Notice of Appeal for service on the Proctors for 1 to 7, 13, 29, 30, 31, 37, 8, 11, 21, to 27, 34th Defendants-Respondents and also Notice of Appeal on 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 21, 32, 33, 35, 36, 38, 39, 40, 41, 42 and 43 unrepresented Defendants-Respondents together with Copies of Petition of Appeal. They also tender herewith Bond hypothecating the sum of Rs. 6250/- deposited as security for the Defendants-Respondents costs of Appeal together with the relative K. R. No. 29274 and move the same be filed.

They also tender herewith K.R. Note 29275 of 18-3-52 for Rs. 75/- deposited by the Plaintiffs—Appellants in the Colombo Kachcheri to the credit of this case as the costs of the three type-written copies of the record.

Issue notice of Appeal for 21-5-52.

Intd.....

A. D. J.

20-3-52 Notices of Appeal sent to Fiscal/W/P. to be served on 1-7, 13, 29, 30, 31, 37, 8, 11, 21 to 27 & 34 Defendants—Respondents and on 9, 10, 12, 14, 15, 16, 17, 18, 19, 20, 28, 32, 33, 35, 36, 38, 39, 40, 41, 42 & 43.

Intd.....

28-3-52. Reply to M/O Colombo Municipality.

Intd.....

28-3-52. Messrs. Julius & Creasy for Plaintiff—Petitioners file petition and affidavit of the 2nd plaintiff petr. and for reasons stated therein move that the Court do by order an injunction restrain the defendants-respondents from selling or causing or attempting to sell or have the property sold until the final determination of this action and or for an order of detention of the same until the final determination of this action, as prayed for in the petition.

Proctor for 1-8, 11, 13, 21, 29, 30, 31, 37 defendants-Res-  
pondents takes notice for 1/4/52 and objects. Proctor for  
22-27 Defendants-Respondents and Proctor for 34 defen-  
dant-Respondent take notice.

No. 1.  
Journal  
Entries  
20-5-50 to  
3-4-54.  
—continued.

Returnable on 1/4/52.

Intd.....

1-4-52. Messrs. Julius & Creasy for Plaintiff.  
Mr. K. Rasanathan for 1-8, 13, 21, 29, 30, 31 and 37  
defendants.  
Mr. E. W. Seneviratne for 22-27 defendants.  
Mr. N. M. Zaheed for 32-34 defendants.  
*Vide* J. E. Case called.  
Proctors move that the case be called in 'C' for inquiry as  
the order concerned was made in that Court.

Mention in 'C' Court.

Intd.....

5951/L

1-4-52. Case called in Court C  
Inquiry for 5/5/52.

Intd.....

2-4-52. Messrs. Julius & Creasy for Plaintiff-Appellants with reference  
to the order of Court dated 9/3/52 move to file affidavit  
of identity.

File mention on date of inquiry.

Intd.....

A. D. J.

5-5-52. Messrs. Julius & Creasy for Plaintiff.  
Mr. K. Rasanathan for 1-8, 13, 21, 29, 30, 31 and 37  
Defendants.

Mr. E. W. Seneviratne for 22-27 defendants.

Mr. N. M. Zaheed for 32-34 Defendants.

*Vide* J. E. Inquiry.

*Vide* proceedings.

Intd.....

No. 1.  
Journal  
Entries  
20-5-50 to  
8-4-54.  
—continued.

- 21-5-52. Messrs. Julius & Creasy for Plaintiff.  
Mr. K. Rasanathan for 1-8, 13, 21, 29-31 and 37 Defendants-Respondents.  
(a) Notice of appeal served on 43rd Defendant (point out)  
Affidavit of identity on served also by personal service hence no affidavit is necessary. Served on 1-21, 29, 37, 22 to 28, 38, 39 to 43 absent.  
No return on 38 defendant-respondent  
Call for and reissue if necessary for 25-6-52.  
Intd.....  
A. D. J.
- 25-6-52. Messrs. Julius & Creasy for plaintiff-appellant  
Mr. K. Rasanathan for 1-8, 13, 21, 29-31 & 37 defendants.  
Notice of appeal served on 38 defendant-respondents - absent  
Forward record to S. C. in due course.  
Intd.....  
A. D. J.
- 25-8-52. The Appeal Br. request fees to be called from the following:-  
Messrs. Julius & Creasy for Rs. 300/-  
Mr. K. Rasanathan for Rs. 125/-  
Call for fees  
Intd.....  
Asst. Secy.
- 8-9-52. K.R. No. 56554 of 3-9-52 for Rs. 300 is filed.
- 11-12-52. The Attorney-General, *Vide* His letter No. C.W. 127/52 of 8-12-52 inquires as to whether an appeal has been preferred to the Supreme Court in this case,  
Inform.  
Intld.....  
For Asst. Secy.
- 19-2-52. Messrs. Julius & Creasy Proctors for Plaintiffs file decree in triplicate for the signature of Court.  
Decree entered.  
Intd.....  
Asst. Secy.

- 27-2-52. Record sent to S. C. Intd.....  
Dy. Reg. S. C.
- 19-3-52. Messrs. Julius & Creasy, Proctors for the Appellant, file proxy. Intd.....  
Dy. Reg. S. C.
- 13-2-54. The Registrar S. C. returns record. Appeal dismissed with costs and the application refused. Intd.....  
A. D. J.
- 23-2-54. Messrs Julius & Creasy for plaintiffs-apply for execution of Decree against the defendants by issue of writ. recovery of Rs. 29,687/50 and  $\frac{1}{2}$  costs. Allowed issue writ. Intd.....  
A. D. J.
- 24-2-54. Writ. issued against defts. 1-43, returnable 21-2-55.
- 5-3-54. The Dy. Fiscal reports that the immoveable property seized under the writ in this case has been valued at Rs. 153,000/- 5951/L
- 9-3-54. The Supdt. of Police, C.I.D. vide his letter No. C69/53/CR informs Court that the Ay. G. has directed him to enquire into the complaint that one M. H. Mahroof, 8th defendant had given false evidence during the trial in this case. He requests to send the record to him for the purpose of the enquiry and undertakes to send same within 3 weeks time. Forward record. Intd.....  
A. D. J.
- 5-4-54. The Superintendent of Police, C. I. D. vide his letter No. C 69/53/CR returns Case No. 5951/L and informs that he may have to call the record as the enquiry is incomplete. File Intd.....  
A. D. J.
- 8-4-54. The Attorney-General, vide his letter No. CW 127/52 of 3-4-54 requests to forward to him the record in this case. He requires same for an administrative purpose. Forward record. Intd.....  
A. D. J.



No. 2.  
Plaint of the  
Plaintiffs.  
20-5-.50

No. 2.

**Plaint of the Plaintiffs.**

IN THE DISTRICT COURT OF COLOMBO.

No. 5951/L

Class. V

Claim.

Nature: Land.

Procedure: Regular.

1. MOHAMEDALY ADAMJEE
  2. LUKMANJEE GULAMHUSSEIN
  3. TAIYABHAI GULAMHUSSEIN
  4. ABBASBHOY GULAMHUSSEIN
- all of Colombo Plaintiffs.

Vs.

1. Hadad Sadeen
2. Abdul Cader Sadeen.
3. Halwan Sadeen.
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella, Colombo.
8. Mohamed Hamza Mahroof of 158 Layards Broadway, Colombo.
9. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
10. Mohamed Mahroof Mohamed Khalif (9th and 10th by their G-A-L.) and
11. M. L. M. M. Shariff both of 164 New Moor Street, Colombo and
12. Noorul Hidayah Abdeen of Reid Avenue, Colombo.
13. Muzaira Akbar of Reid Avenue, Colombo.
14. Abdul Mawahib Nakeem of Castle Street, Borella, Colombo.
15. Sithy Safia Nakeem.
16. Ummu Vojeeda Nakeem.
17. Haseen Jiffry Nakeem.
18. Mohamed Ismail Nakeem.
19. Mohamed Samsudeen Nakeem.
20. Mohamed Milhar Nakeem (14th to 20th by their G-A-L)
21. M. Y. M. Hamza.

22. Mrs. Noor Himiya Mohideen and
23. M. Awn Marikar all of Castle Street, Borella, Colombo.
24. M. Mohamed Thahir of Messenger Street, Colombo.
25. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella, Colombo.
26. Mrs. Sithy Zavahira Zubair of Kirillapone.
27. M. M. Nuhman.
28. M. H. Sakaf.
29. M. Z. F. Cassim.
30. Mrs. Ummu Zulaiha Ammen.
31. Miss. H. M. Mohideen.
32. Mohamed Sameer Mohamed Alavi all of Castle Street, Borella, Colombo, and
33. Miss. S. Z. Sameer (32nd and 33rd by their G-A-L)
34. M. I. M. Sameer.
35. M. S. Farook.
36. Miss. M. R. S. Hanoon (35 & 36 by their G-A-L)
37. M. Z. F. Cassim.
38. Hadija Ghouse Cassim.
39. Ayn Safia Ghouse Cassim.
40. Shuhaib Ghouse Cassim.
41. Ameer Eaizer Ghouse Cassim.
42. Falih Ghouse Cassim (by their G-A-L)
43. M. Ghouse Cassim all of Castle Street of Borella, Colombo.

No. 2.  
Plaint of the  
Plaintiffs  
20-5-50  
—continued.

Defendants.

On this 20th day of May 1950.

The Plaintiff of the Plaintiffs abovenamed appearing by Geoffrey Thomas Hale, Frederick Claude Brown, Joseph Francis Martyn and Henric Theodore Perera carrying on business in partnership in Colombo under the name, style and firm of Julius and Creasy and their Assistants Alexander Noreus Wiratunga, John Peter Edmund Gregory, James Arelupar Naidoo, Alexander Richard Neville de Fonseka, Behram Kaikhushroo Billimoria, Lena Charlotte Fernando, Mohamed Shereeff Mohamed Shabdeen and Rex Herbert Sebastian Phillips, Proctors, states as follows:—

No. 2.  
Plaint of the  
Plaintiffs  
20-5-50  
—Continued

1. The Plaintiffs and the Defendants reside and the cause of action pleaded herein arose at Colombo within the local limits of the jurisdiction of this Court.

2. The land which is described in the schedule to this plaint is situated in Colombo within the local limits of the jurisdiction of this Court.

3. One I. L. Idroos Lebbe Marikkar was the owner and was lawfully entitled to the land and premises described in the schedule to this plaint.

4. The said I. L. Idroos Lebbe Marikkar died on or about the 8th day of May 1876, leaving a Last Will bearing No. 7130 dated the 12th December 1872 attested by S. M. P P S. Goonetilleke, Notary Public, which Will was admitted to probate in Testamentary Proceedings No. 3909 of the the District Court of Colombo on or about the 29th day of May 1876.

5. In terms of the said Last Will the said property and premises were allotted and conveyed to Savea Umma a daughter of the said deceased by Deed No. 2575 dated 14th September 1888 attested by D. Simon Lewis Notary Public.

6. In proceedings No. 40152 of the District Court of Colombo against the said Sevea Umma and her husband Lewana Marikar Samsudeen Hadjar decree was entered and the said property was sold by the Fiscal Western Province and the same was purchased by Leonora Fonseka and Fiscal's Conveyance dated the 29th day of March 1916 was executed conveying the same to the said Leonora Fonseka.

7. By Deed No. 6186 dated the 16th day of August 1919 attested by Arthur Alvis Notary Public the said Leonora Fonseka sold conveyed and transferred the said land and premises to Adamjee Lukmanjee who possessed and enjoyed the same thereafter.

8. The said Adamjee Lukmanjee died intestate on the 20th day of February 1927 leaving him surviving his widow and two sons the 1st plaintiff and Gulamhussein Adamjee and his said widow accordingly became entitled to one-eighth part or share of the said land and premises and the 1st plaintiff and Gulamhussein Adamjee each to seven-sixteenth parts or shares of the same.

9. By Deed No. 452/437 dated 21st September 1931 and 15th January 1932 attested by G. T. Hale Notary Public and J. F. Martyn Notary Public respectively the administrator of the intestate estate of the deceased abovenamed conveyed the said land and premises to the heirs of the said deceased and his widow conveyed and transferred her said one-eighth share or part of the same to the 1st plaintiff and Gulamhussein Adamjee.

10. The said Gulamhussein Adamjee died on the 15th day of July 1937 leaving a Last Will and Testament which was duly proved in Testamentary Proceedings No. 8526 of the District Court of Colombo and his undivided half share of the land and premises vested in his four sons the 2nd, 3rd and 4th plaintiffs and Taherbhoy Gulamhussein who became each entitled to an undivided eighth part or share in the said land and premises.

No. 2.  
Plaint of the  
Plaintiffs  
20-5-50  
—continued.

11. The said Taherbhoy Gulamhussein died on or about the 10th day of August 1941 intestate and unmarried and leaving him surviving and his heirs his grandmother Havabai Valijee and his full brother the 4th plaintiff and his estate was duly administered in Testamentary Proceedings No. 10871 of the District Court of Colombo.

12. The said Havabai Valijee by deed No. 419 dated 12th September 1944 attested by J. P. E. Gregory Notary Public of Colombo conveyed all her interest in the said land and premises to the 4th plaintiff.

13. The Plaintiffs accordingly became entitled to the entirety of the said land and premises and were and at all times since have been and are the sole owners of the same and have been in the exclusive possession of the same. The Plaintiffs further say that the deeds referred to in paragraphs 6, 7, 9 and 12 have all been duly registered and that the Defendants had at all material times notice of such registration and of the Plaintiffs' title. The Plaintiffs claim the benefit of the registration of the said deeds.

14. The Plaintiffs plead that by themselves and through their predecessors intitle they have been in the sole and uninterrupted and undisturbed possession of the said property and premises to the exclusion of all others from at least the 29th day of March 1916 and the Plaintiffs have prescribed to the said land and premises.

15. The Plaintiffs plead that in or about the last week of the month of April 1950 they discovered that the 1st to 7th Defendants hereto had instituted partition proceedings in respect of the said land and premises as Plaintiffs having cited the 8th to the 43rd Defendants as Defendants thereto and without any notice whatsoever to the Plaintiffs proceedings are alleged to have been completed for the sale of the said land and premises under the Partition Ordinance and a decree having been obtained sale of the said land has been fixed at the instance of Defendants hereto for the 26th day of May 1950.

16. The Plaintiffs plead that the Defendants should have made the Plaintiffs parties to the said action and that they should have had and should have been given notice of the same.

17. The plaintiffs plead that the Defendants who at all material dates were aware that the Plaintiffs were owners of and in possession of the said premises acted fraudulently and in collusion with each other

No. 2.  
 Plaint of the  
 Plaintiffs.  
 20-5-50  
 —continued.

in the said Proceedings No. 5706 of this Court and having falsely stated that they and their predecessors in title had been in the undistributed and uninterrupted possession of the said land and premises and that all improvements are in common between them caused this Court to enter a decree for sale of the said land and premises, and have falsely caused the Court to declare that the Defendants are among themselves the owners of the said land and premises.

18. The Plaintiffs plead that the Defendants have wrongfully and unlawfully and/or negligently and/or fraudulently and/or in collusion with each other neglected or omitted to make the plaintiffs parties to the said action or to give the Plaintiffs any notice of the said proceedings in order that a decree might be obtained from this Court without the Plaintiffs having any knowledge of the same or being parties thereto.

19. The Plaintiffs plead that there has not been a due or proper investigation into title by this Court in the said partition Proceedings No. 5706-P of this Court and that the said decree entered by this Court on or about the 30th day of March 1950, is not a decree entered in terms of the Partition Ordinance and is accordingly null and void and of no effect.

20. The Plaintiffs have effected improvements to the said land and premises and the value of the said improvements is reasonably worth at least Rs. 30,000/-.

21. The Plaintiffs plead that in these premises the Plaintiffs have been gravely prejudiced and/or have suffered considerable loss and damage.

22. The said land and premises are reasonably worth at least Rs. 100,000/-

23. The plaintiffs plead that they are entitled to a declaration that the decree entered by this Court in the said partition proceedings No. 5706 on the 30th day of March 1950 is null and void and of no effect in law and/or that the same be and that they are entitled to have the same set aside by this Court and in the alternative for damages against the defendants hereto in a sum of at least Rs. 100,000/- and a cause of action has accordingly accrued to the plaintiffs to sue the defendants.

24. The plaintiffs plead that they will suffer grave and irreparable injury loss and damage if the said land and premises are sold or permitted to be sold and the plaintiffs plead that in these premises they are entitled to an injunction from this Court restraining or staying the sale of the said land and premises as aforesaid.

Wherefore the plaintiffs pray:

(a) that this Court do set aside or vacate the decree entered in partition proceedings No. 5706 on or about the 30th March 1950.

No. 2.  
Plaint of the  
Plaintiffs.  
20-5-50  
—continued.

(b) for a declaration that the decree entered by this court in partition proceedings No. 5706 on or about the 30th March 1950 is null and void and of no force or effect in law.

(c) or in the alternative for damages against the defendants jointly and severally in the sum of Rs. 100,000/-.

(d) for an injunction against the Defendants restraining any sale of the said property and premises and for an enjoining order to accompany the summons enjoining to Defendants to the said effect.

(e) for an order on the commissioner appointed by Court for the sale of the said premises to stay the sale of the same.

(f) for costs and for such other and further relief as to this Court seems meet.

Julius & Creasy,  
Proctors for plaintiff.

#### THE SCHEDULE ABOVE REFERRED TO

All that allotment of land with the buildings and plantations standing thereon bearing assessment No. 26 situated at Kollupitiya within the Municipality and District of Colombo Western Province bounded on the North by premises bearing assessment No. 25 belonging to O. H. M. Sheriff and the Passage, on the East by premises bearing assessment No. 1 belonging to Ana Ravanna Mana Chetty, on the South by Muhandiram's Road, and on the West by High Road, from Colombo to Galle, containing in extent one rood and twenty 26/100 square perches according to the Figure of Survey bearing No. 222 dated the 1st day of March 1906 and made by H. G. Dias, Licensed Surveyor and Leveller, which bears present assessment Nos. G7, (1-5) to 37 Muhandiram's Road and 153, and 155 and 157 Galle Road, Kollupitiya.

Sgd. Julius & Creasy,  
Proctors for Plaintiffs.

Settled by,

S. J. Kadirgamar

N. E. Weerasooriya, K.C.

Advocates.

**No. 3.****Amended Plaint of the Plaintiffs.**

This 20th day of May 1950.

The Amended plaint of the plaintiffs.

1. The Plaintiffs and the defendants reside and the cause of action pleaded herein arose at Colombo within the local limits of the jurisdiction of this court.

2. The land which is described in the schedule to this plaint is situated in Colombo within the local limits of the jurisdiction of this Court.

3. One I. L. Idroos Lebbe Marikar was the owner and was lawfully entitled to the land and premises described in the schedule to this plaint.

4. The said I. L. Idroos Lebbe Marikar died on or about the 8th day of May 1876 leaving a last Will bearing No. 7130 dated the 12th December 1872 attested by S. M. P. S. Goonetilleke, Notary Public, which Will was admitted to probate in Testamentary Proceedings No. 3909 of the District Court of Colombo on or about the 29th day of May 1876.

5. In terms of the said Last Will the said property and premises were allotted and conveyed to Savea Umma a daughter of the said deceased by Deed No. 2575 dated 14th September 1888 attested by D. Simon Lewis Notary Public.

6. In proceedings No. 40152 of the District Court of Colombo against the said Savea Umma and her husband Lewana Marikar Samsudeen Hadjiar decree was entered and the said property was sold by the Fiscal Western Province and the same was purchased by Leonora Fonseka and Fiscal's Conveyance dated the 29th day of March 1916 was executed conveying the same to the said Leonora Fonseka.

7. By Deed No. 6186 dated the 16th day of August 1919 attested by Arthur Alvis Notary Public the said Leonora Fonseka sold conveyed and transferred the said land and premises to Adamjee Lukmanjee who possessed and enjoyed the same thereafter.

8. The said Adamjee Lukmanjee died intestate on the 20th day of February 1927 leaving him surviving his widow and two sons the 1st plaintiff and Gulamhussein Adamjee and his said widow accordingly became entitled to one eighth part or share of the said land and premises and the 1st plaintiff and Gulamhussein Adamjee each to seven/sixteenth parts or shares of the same.

9. By Deed No. 452/437 dated 21st September 1931 and 15th January 1932 attested by G. T. Hale Notary Public and J. F. Martyn Notary Public respectively the administrator of the intestate estate of the deceased abovenamed conveyed the said land and premises to the heirs of the said deceased and his widow conveyed and transferred her said one eighth share or part of the same to the 1st plaintiff and Gulamhussein Adamjee.

No. 3.  
Amended  
Plaint of  
the Plaintiffs  
20-5-50  
—continued.

10. The said Gulamhussein Adamjee died on the 15th day of July 1937 leaving a Last Will and Testament which was duly proved in Testamentary Proceedings No. 8526 of the District Court of Colombo and his undivided half share of the land and premises vested in his four sons the 2nd, 3rd and 4th plaintiffs and Taherbhoy Gulamhussein who became each entitled to an undivided eighth part or share in the said land and premises.

11. The said Taherbhoy Gulamhussein died on or about the 10th day of August 1941 intestate and unmarried and leaving him surviving and his heirs his grandmother Havabai Valijee and his full brother the 4th plaintiff and his estate was duly administered in Testamentary Proceedings No. 10871 of the District Court of Colombo.

12. The said Havabai Valijee by deed No. 419 dated 12th September 1944 attested by J. P. E. Gregory Notary Public of Colombo conveyed all her interest in the said land and premises to the 4th plaintiff.

13. The plaintiffs accordingly became entitled to the entirety of the said land and premises and were and at all times since have been and are the sole owners of the same and have been in the exclusive possession of the same. The plaintiffs further say that the deeds referred to in paras. 6, 7, 9 and 12 have all been duly registered and that the defendants had at all material times notice of such registration and of the plaintiffs' title. The plaintiffs claim the benefit of the registration of the said deed.

14. The plaintiffs plead that by themselves and through their predecessors in title they have been in the sole and uninterrupted and undisturbed possession of the said property and premises to the exclusion of all others from at least the 29th day of March 1916 and the plaintiffs have prescribed to the said land and premises.

15. The plaintiffs plead that in or about the last week of the month of April 1950 they discovered that the 1st to 7th defendants hereto had instituted partition proceedings in respect of the said land and premises as plaintiffs having cited the 8th to the 43rd defendant as defendants thereto and without any notice whatsoever to the plaintiffs proceedings are alleged to have been completed for the sale of the said land and premises under the partition ordinance and a decree having been obtained sale of the said land has been fixed at the instance of the defendants hereto for the 26th day of May 1950.



No. 3.  
Amended  
Plaint of  
the Plaintiffs  
20-5-50  
—continued.

16. The plaintiffs plead that the defendants should have made the plaintiffs parties to the said action and that they should have had and should have been given notice of the same.

17. The plaintiffs plead that the defendants who at all material dates were aware that the plaintiffs were the owners of and in possession of the said premises acted fraudulently and in collusion with each other in the said proceedings No. 5706 of this Court and having falsely stated that they and their predecessors in title had been in the undisturbed and uninterrupted possession of the said land and premises and that all improvements are in common between them caused this Court to enter a decree for sale of the said land and premises, and have falsely caused the court to declare that the defendants are among themselves the owners of the said land premises.

18. The plaintiffs plead that the defendants have wrongfully and unlawfully and/or negligently and/or fraudulently and/or in collusion with each other neglected or omitted to make the plaintiffs parties to the said action or to give the plaintiffs any notice of the said proceedings in order that a decree might be obtained from this court without the plaintiffs having any knowledge of the same or being parties thereto.

19. The plaintiffs plead that there has not been a due or proper investigation into title by this court in the said partition proceedings No. 5706-P of this court and that the said decree entered by this court on or about the 30th day of March 1950 is not a decree entered in terms of the partition ordinance and is accordingly null and void and of no effect.

20. The plaintiffs have effected improvements to the said land and premises and the value of the said improvements is reasonably worth at least Rs. 30,000/-.

21. The plaintiffs plead that in these premises the plaintiffs have been gravely prejudiced and/or have suffered considerable loss and damage.

22. The said land and premises are reasonably worth at least Rs. 100,000/-.

23. The plaintiffs plead that they are entitled to a declaration that the decree entered by this Court in the said partition proceedings No. 5706 on the 30th day of March 1950 is null and void and of no effect in law and/or that the same be and that they are entitled to have the same set aside by this court and in the alternative for damages against the defendants hereto in a sum at least Rs. 100,000/- and a cause of action has accordingly accrued to the plaintiffs to sue the defendants.

24. The plaintiffs plead that they will suffer grave and irreparable injury loss and damage if the said land and premises are sold or permitted to be sold and the plaintiffs plead that in these premises they are entitled to an injunction from this court restraining or staying the sale of the said land and the premises as aforesaid or in the alternative for an injunction and an order restraining and enjoining the defendants from making any application for the withdrawal of or drawing or receiving payment of the proceeds of any sale of the premises which proceeds may be deposited in court or any share or part thereof.

No. 3.  
Amended  
Plaint of the  
Plaintiffs.  
23-5-50.  
—continued.

Wherefore the plaintiffs pray :

(a) that this court do set aside or vacate the decree entered in partition proceedings No. 5706 on or about the 30th day of March 1950.

(b) for a declaration that the decree entered by this court in partition proceedings No. 5706 on or about the 30th day of March 1950 is null and void and of no force or effect in law;

(c) or in the alternative for damages against the defendants jointly and severally in the sum of Rs. 100,000/-

(d) for an injunction against the defendants restraining any sale of the said property and premises and for an enjoining order to accompany the summons enjoining the defendants to the said effect or in the alternative for an injunction and an order restraining and enjoining the defendants from making any application for the withdrawal of or drawing or receiving payment of the proceeds of any sale of the premises which proceeds may be deposited in Court or any share or part thereof.

(e) for an order on the Commissioner appointed by Court for the sale of the said premises to stay the sale of the same.

(f) for costs and for such other and further relief as to this court seems meet.

Julius & Creasy  
Proctors for plaintiffs.

#### THE SCHEDULE ABOVE REFERRED TO.

All that allotment of land with the buildings and plantations standing thereon bearing assessment No. 26, situated at Kollupitiya within the Municipality and District of Colombo Western Province bounded on the north by premises bearing assessment No. 25 belonging to O. H. M. Sheriff and the Passage, on the east by premises bearing assessment No. 1 belonging to Ana Ravanna Mana Chetty, on the south by Muhandiram's road, and on the west by High road, from Colombo

No. 3.  
Amended  
Plaint of the  
Plaintiffs.  
20-5-50  
—continued.

to Galle, containing in extent one rood and twenty 26/100 square perches according to the figure of Survey bearing No. 222 dated the 1st day of March 1906 and made by H. G. Dias Licensed Surveyor and Leveller, which bears present assessment Nos. G7, (1-5) to 37 Muhandiram's Road, and 153 and 155 and 157 Galle Road, Kollupitiya.

Julius & Creasy  
Proctors for plaintiffs.

---

**No. 4.**

**Petition of the Plaintiffs.**

No. 4.  
Petition of  
the Plaintiffs.  
20-5-50.

This 20th day of May 1950.

The petition of the plaintiffs petitioners

1. The plaintiffs petitioners and the defendants respondents reside and the cause of action pleaded herein arose at Colombo within the local limits of the jurisdiction of this Court.

2. The land which is described in the schedule to this petition is situated in Colombo within the local limits of the jurisdiction of this Court.

3. One I. L. Idroos Lebbe Marikar was the owner and was lawfully entitled to the land and premises described in the schedule to this petition.

4. The said I. L. Idroos Lebbe Marikar died on or about the 8th day of May 1876 leaving a Last Will bearing No. 7130 dated the 12th December 1872 attested by S. M. P. P. S. Goonatilleke, Notary Public, which will was admitted to probate in Testamentary, Proceedings No. 3909 of the District Court of Colombo on or about the 29th day of May 1876.

5. In terms of the said Last Will the said property and premises were allotted and conveyed to Savea Umma a daughter of the said deceased by Deed No. 2575 dated 14th September 1888 attested by D. Simon Lewis Notary Public.

6. In Proceedings No. 40152 of the District Court of Colombo against the said Savea Umma and her husband Lewana Marikar Samsudeen Hadjar decree was entered and the said property was sold by the Fiscal Western Province and the same was purchased by Leonora Fonseka and Fiscal's Conveyance dated the 29th day of March 1916 was executed conveying the same to the said Leonora Fonseka.

7. By deed No. 6186 dated the 16th day of August 1919 attested by Arthur Alvis Notary Public the said Leonora Fonseka sold conveyed and transferred the said land and premises to Adamjee Lukmanjee who possessed and enjoyed the same thereafter.

No. 4.  
Petition of  
the Plaintiffs,  
20-5-50  
—continued.

8. The said Adamjee Lukmanjee died intestate on the 20th day of February 1927 leaving him surviving his widow and two sons the 1st plaintiff petitioner and Gulamhussein Adamjee and his said widow accordingly became entitled to one-eighth part or share of the said land and premises and the 1st Plaintiff petitioner and Gulamhussein Adamjee each to seven sixteenth parts or shares of the same.

9. By deed No. 452/437 dated 21st September, 1931 and 15th January 1932 attested by G. T. Hale Notary Public and J. F. Martyn Notary Public respectively the administrator of the intestate estate of the deceased abovenamed conveyed the said land and premises to the heirs of the said deceased and his widow conveyed and transferred her said one eighth share or part of the same to the 1st plaintiff-petitioner and Gulamhussein Adamjee.

10. The said Gulamhussein Adamjee died on the 15th day of July 1937 leaving a last will and testament which was duly proved in Testamentary Proceedings No. 8526 of the District Court of Colombo and his undivided half share of the land and premises vested in his four sons 2nd, 3rd and 4th plaintiffs-petitioners and Taherbhoy Gulamhussein who became each entitled to an undivided eighth part or share in the said land and premises.

11. The said Taherbhoy Gulamhussein died on or about the 10th day of August 1941 intestate and unmarried and leaving him surviving as his heirs his grandmother Havabai Valijee and his full brother the 4th plaintiff petitioner and his estate was duly administered in Testamentary Proceedings No. 10871 of the District Court of Colombo.

12. The said Havabai Valijee by deed No. 419 dated 12th September 1944 attested by J. P. E. Gregory Notary Public of Colombo conveyed all her interest in the said land and premises to the 4th plaintiff petitioner.

13. The plaintiffs-petitioners accordingly became entitled to the entirety of the the said land and premises and were and at all times since have been and are the sole owners of the same and have been in the exclusive possession of the same. The plaintiffs-petitioners further say that the deeds referred to in paragraphs 6, 7, 9 and 12 have all been duly registered and that the defendants respondents had at all material times notice of such registration and of the plaintiffs petitioner's title. The plaintiffs-petitioners claim the benefit of the registration of the said deeds.

No. 4  
Petition of  
the Plaintiffs.  
20-5-50.  
—continued.

14. The plaintiffs-petitioners plead that by themselves and through their predecessors in title they have been in the sole and uninterrupted and undisturbed possession of the said property and premises to the exclusion of all others from at least the 29th day of March 1916 and the plaintiffs-petitioners have prescribed to the said land and premises.

15. The plaintiffs petitioners plead that in or about the last week of the month of April 1950 they discovered that the 1st to 7th defendants respondents hereto had instituted partition proceedings in respect of the said land and premises as plaintiffs having cited the 8th to the 43rd defendants respondents as defendants thereto and without any notice whatsoever to the plaintiffs petitioners and proceedings are alledged to have been completed for the sale of the said land and premises under the partition ordinance and a decree having been obtained and sale of the said land has been fixed at the instance of the defendants-respon-dents hereto for the 26th day of May 1950.

16. The plaintiffs petitioners plead that the defendants respon-dents should have made the plaintiffs petitioners parties to the said action and that they should have had and should have been given notice of the same.

17. The plaintiffs petitioners plead that the defendants res-pondents who at all material dates were aware that the plaintiffs petitioners were the owners of and in possession of the said premises acted fraudulently and in collusion with each other in the said proceedings No.5706 of this Court and having falsely stated that they and their predecessors in title had been in the undisturbed and uninterrupted possession of the said land and premises and that all improvements are in common between them caused this court to enter a decree for sale of the said land and premises, and have falsely caused the court to declare that the defendants respondents are among themselves the owners of the said land and premises.

18. The plaintiffs petitioners plead that the defendants respo-dents have wrongfully and unlawfully and/or negligently and/or fraudulently and/or in collusion with each other neglected or omitted to make the plaintiffs petitioners parties to the said action or to give the plaintiffs-petitioners any notice of the said proceedings in order that a decree might be obtained from this Court without the plaintiffs-peti-tioners having any knowledge of the same or being parties thereto.

19. The plaintiffs petitioners plead that there has not been a due or proper investigation into title by this court in the said partition procee-dings No. 5706-P of this court and that the said decree entered by this Court on or about the 30th day of March 1950 is not a decree entered in terms of the partition ordinance and is accordingly null and void and of no effect.

20. The plaintiffs petitioners have effected improvements to the said land and premises and the value of the said improvements is reasonably worth at least Rs. 30,000/-

No. 4.  
Petition of  
the Plaintiffs,  
20-5-50.  
—continued.

21. The plaintiffs petitioners plead that in these premises the plaintiffs petitioners have been gravely prejudiced and/or have suffered considerable loss and damage.

22. The said land and premises are reasonably worth at least Rs. 100,000/-.

23. The plaintiffs petitioners plead that they are entitled to a declaration that the decree entered by this Court in the said partition proceedings No. 5706 on the 30th day of March 1950 is null and void and of no effect in law and/or that the same be and that they are entitled to have the same set aside by this Court and in the alternative for damages against the defendants respondents hereto in a sum of at least Rs. 100,000/- and a cause of action has accordingly accrued to the plaintiffs-petitioners to sue the defendants respondents.

24. The plaintiffs petitioners plead that they will suffer grave and irreparable injury loss and damage if the said land and premises are sold or permitted to be sold and the plaintiffs-petitioners plead that in these premises they are entitled to an injunction from this Court restraining or staying the sale of the said land and premises as aforesaid. To the best of the information and belief of the plaintiffs petitioners the defendants-respondents are persons who are incapable of satisfying any decree that the plaintiffs petitioners may obtain against them.

Wherefore the plaintiffs petitioners pray

(a) that this Court do set aside or vacate the decree entered in partition proceedings No. 5706 on or about the 30th day of March 1950.

(b) for a declaration that the decree entered by this court in partition proceeding No. 5706 on or about the 30th day of March 1950 is null and void and of no force or effect in law.

(c) or in the alternative for damages against the defendants -respondents jointly and severally in the sum of Rs. 100,000/-.

(d) for an injunction against the defendants respondents restraining any sale of the said property and premises and for an enjoining order to accompany the summons enjoining the defendants respondents to the said effect.

(e) for an order on the commissioner appointed by court for the sale of the said premises to stay the sale of the same.

No. 4  
Petition of  
the Plaintiffs  
20-5-50.  
—continued

(f) for costs and for such other and further relief as to this court shall seem meet.

Sgd. Julius & Creasy  
Proctors for plaintiffs-Petitioners.

**The Schedule above referred to:**

All that allotment of land with the buildings and plantations standing thereon bearing assesment No. 26 situated at Kollupitiya within the Municipality and District of Colombo Western Province bounded on the north by premises bearing assesment No. 25, belonging to O. H. M. Sheriff and the passage, on the east by premises bearing assesment No. 1 belonging to Ana Ravanna Mana Chetty, on the south by Muhandiram's Road and on the west by High Road from Colombo to Galle, containing in extent one rood and twenty 26/100 square perches according to the Figure of survey bearing No. 222 dated the 1st day of March 1906 and made by H. G. Dias Licensed Surveyor and Leveller which bears present assesment Nos. G7 (1-5) to 37 Muhandiram's Road, and 153 and 155 and 157 Galle Road, Kollupitiya.

Sgd. Julius & Creasy  
Proctors for plaintiffs-Petitioners.

---

**No. 5.**

**Affidavit of the 2nd Plaintiff.**

No. 5.  
Affidavit  
of the  
2nd Plaintiff  
20-5-50.

I, Lukmanjee Gulamhussein of Colombo, not being a Christian do hereby solemnly, sincerely and truly declare and affirm as follows :

1. That I am the 2nd plaintiff petitioner abovenamed.
2. The land which is described in the schedule to the plaint is situated in Colombo within the local limits of the jurisdiction of this Court.
3. One I. L. Idroos Lebbe Marikar was the owner and was lawfully entitled to the land and premises described in the schedule to the plaint.
4. The said I. L. Idroos Lebbe Marikar died on or about the 8th day of May 1876 leaving a Last will bearing No. 7130 dated the 12th December 1872 attested by S. M. P. P. S. Goonetilleke Notary Public, which Will was admitted to probate in Testamentary Proceedings No. 3909 of the District Court of Colombo on or about the 29th day of May 1876.
5. In terms of the said Last Will the said property and premises were allotted and conveyed to Sevea Umma a daughter of the said deceased by deed No. 2575 dated 14th September 1888 attested by D. Simon Lewis Notary Public.

6. In Proceedings No. 40152 of the District Court of Colombo against the said Savea Umma and her husband Lewana Marikar Samsudeen Hadjar decree was entered and the said property was sold by the Fiscal, Western Province and the same was purchased by Leonora Fonseka and Fiscal's Conveyance dated the 29th day of March 1916 was executed conveying the same to the said Leonora Fonseka.

No. 5.  
Affidavit of  
the 2nd  
Plaintiff  
20-5-50  
—continued.

7. By Deed No. 6186 dated the 16th day of August 1919 attested by Arthur Alwis Notary Public the said Leonora Fonseka sold conveyed and transferred the said land and premises to Adamjee Lukmanjee who possessed and enjoyed the same thereafter.

8. The said Adamjee Lukmanjee died intestate on the 20th day of February 1927 leaving him surviving his widow and two sons the 1st plaintiff petitioner and Gulamhussein Adamjee and his said widow accordingly became entitled to one-eighth part or share of the land and premises and the 1st plaintiff petitioner and Gulamhussein Adamjee each to seven sixteenth parts or shares of the same.

9. By deed No. 452/437 dated 21st September 1931 and 15th January 1932 attested by G. T. Hale Notary Public and J. F. Martyn Notary Public respectively the administrator of the intestate estate of the deceased above named conveyed the said land and premises to the heirs of the said deceased and his widow conveyed and transferred her said one-eighth share or part of the same to the 1st plaintiff petitioner and Gulamhussein Adamjee.

10. The said Gulamhussein Adamjee died on the 15th day of July 1937 leaving a Last Will and Testament which was duly proved in Testamentary Proceedings No. 8526 of the District Court of Colombo and his undivided half share of the land and premises vested in his four sons 2nd, 3rd and 4th plaintiffs petitioners and Taherbhoy Gulamhussien who became each entitled to an undivided eighth part or share in the said land and premises.

11. The said Taherbhoy Gulamhussain died on or about the 10th day of August 1941 intestate and unmarried and leaving him surviving as his heirs his grandmother Havabai Valijee and his full brother the 4th plaintiff petitioner and his estate was duly administered in Testamentary Proceedings No. 10871 of the District Court of Colombo.

12. The said Havabai Valijee by deed No. 419 dated 12th September 1944 attested by J. P. E. Gragory Notary Public of Colombo conveyed all her interest in the said land and premises to the 4th plaintiff petitioner.

13. The 1st, 3rd 4th plaintiff-petitioners and I accordingly became entitled to the entirety of the said land and premises and were and at all



No. 5.  
Affidavit of  
the 2nd  
Plaintiff  
20-5-50  
—continued.

times since have been and are the sole owners of the same and have been in the exclusive possession of the same. The other plaintiffs petitioners and I further say that the deeds referred to in paragraphs 6, 7, 9 and 12 have been duly registered and that the defendants respondents had at all material times notice of such registration and of our title. We claim the benefit of the registration of the said deeds.

14. I state that the other plaintiffs-petitioners and myself and through our predecessors in title have been in the sole and uninterrupted and undisturbed possession of the said property and premises to the exclusion of all others from at least the 29th day of March 1916 and we have prescribed to the said land and premises.

15. I state that in or about the last week of the month of April 1950 I discovered that the 1st to 7th defendants respondents hereto had instituted partition proceedings in respect of the said land and premises as plaintiffs having cited the 8th to the 43rd defendants-respondents as defendants thereto and without any notice whatsoever to the other plaintiffs-petitioners and me and proceedings are alleged to have been completed for the sale of the said land and premises under the partition ordinance and a decree having been obtained and sale of the said land has been fixed at the instance of the defendants respondents hereto for the 26th day of May 1950.

16. I state that the defendants-respondents should have made the other plaintiffs-petitioners and me parties to the said action and that we should have had and should have been given notice of the same.

17. I state that the defendants-respondents who at all material dates were aware that the other plaintiffs petitioners and I were the owners of and in possession of the said premises acted fraudulently and in collusion with each other in the said Proceedings No. 5706 of this Court and having falsely stated that they and their predecessors in title had been in the undisturbed and uninterrupted possession of the said land and premises and that all improvements are in common between them caused this court to enter a decree for sale of the said land and premises, and have falsely caused the court to declare that the defendants respondents are among themselves the owners of the said land and premises.

18. I state that the defendants-respondents have wrongfully and unlawfully and/or negligently and/or fraudulently and/or in collusion with each other neglected or omitted to make the other plaintiffs petitioners and myself parties to the said action or to give us any notice of the said proceedings in order that a decree might be obtained from this Court without the other plaintiffs petitioners and myself having any knowledge of the same or being parties thereto.

19. I state that there has not been a due or proper investigation into title by this Court in the said partition proceedings No. 5706/P of this court and that the said decree entered by this court on or about the 30th day of March 1950 is not a decree entered in terms of the partition ordinance and is accordingly null and void and of no effect.

No. 5.  
Affidavit of  
the 2nd  
Plaintiff  
20-5-50.  
—continued.

20. The other plaintiffs petitioners and I have effected improvements to the said land and premises and the value of the said improvements is reasonably worth at least Rs. 30,000/-.

21. I state that in these premises the other plaintiffs petitioners and I have been gravely prejudiced and/or have suffered considerable loss and damage.

22. The said land and premises are reasonably worth at least Rs. 100,000/-

23. I state that the other plaintiffs-petitioners and myself are entitled to a declaration that the decree entered by this court in the said partition proceedings No. 5706 on the 30th day of March 1950 is null and void and of no effect in law and/or that the same be and that we are entitled to have the same set aside by this Court and in the alternative for damages against the defendants respondents hereto in a sum of at least Rs. 100,000/-, and a cause of action has accordingly accrued to us to sue the defendants respondents.

24. I state that the other plaintiffs-petitioners and I will suffer grave and irreparable injury loss and damage if the said land and premises are sold or permitted to be sold and I state in these premises we are entitled to an injunction from this court restraining or staying the sale of the said land and premises as aforesaid. To the best of my information and belief the defendants respondents are persons who are incapable of satisfying any decree that we may obtain against them.

L. Gulamhussein.

Affirmed to at Colombo  
this 20th day of May 1950.

Before me:

Sgd.....

J. P

**No. 6,  
Amended Petition of the Plaintiffs**

On this 20th day of May 1950.

No. 6.  
Amended  
Petition of  
the Plaintiffs  
20-5-50.

The Amended Petition of the Plaintiffs-Petitioners abovenamed appearing by Geoffrey Thomas Hale, Frederick Claude Rowan, Joseph Francis Martyn and Henric Theodore Perera carrying on business in Partnership in Colombo under the name, style and firm of Julius and Creasy and their Assistants Alexander Nereus Wiratunga, John Peter

No. 6.  
Amended  
Petition of  
the Plaintiffs  
20-5-50.  
—continued.

Edmund Gregory, James Arelupar Naidoo, Alexandar Richard Naville de Fonseka, Behram Kaikhushroo Billimoria, Lena Charlotte Fernando, Mohamed Shereeff Mohamed Shabdeen and Rex Harbert Sebastian Phillips, Proctors, states as follows:—

1. The Plaintiffs-petitioners and the defendants-respondents reside and the cause of action pleaded herein arose at Colombo within the local limits of the jurisdiction of this Court.

2. The land which is described in the Schedule to this petition is situated in Colombo within the local limits of the jurisdiction of this Court.

3. One I. L. Idroos Lebbe Marikar was the owner and was lawfully entitled to the land and premises described in the schedule to this petition.

4. The said I. L. Idroos Lebbe Marikar died on or about the 8th day of May 1876 leaving a Last Will bearing No. 7130 dated the 12th December 1872 attested by S. M. P. P. S. Goonetilleke, Notary Public, which Will was admitted to probate in Testamentary Proceedings No. 3909 of the District Court of Colombo on or about the 29th day of May 1876.

5. In terms of the said Last Will the said property and premises were allotted and conveyed to Savea Umma a daughter of the said deceased by Deed No. 2575 dated 14th September 1888 attested by D. Simon Lewis, Notary Public.

6. In Proceedings No. 40152 of the District Court of Colombo against the said Savea Umma and her husband Lewana Marikar Samsudeen Hadjiar decree was entered and the said property was sold by the Fiscal Western Province and the same was purchased by Leonora Fonseka and Fiscal's Conveyance dated the 29th day of March 1916 was executed conveying the same to the said Leonora Fonseka.

7. By deed No. 6186 dated the 16th day of August 1919 attested by Arthur Alvis Notary Public the said Leonora Fonseka sold conveyed and transferred the said land and premises to Adamjee Luckmanjee who possessed and enjoyed the same thereafter.

8. The said Adamjee Luckmanjee died intestate on the 20th day of February 1927 leaving him surviving his widow and two sons the 1st Plaintiff-petitioner and Gulamhussein Adamjee and his said widow accordingly became entitled to one-eighth part or share of the said land and premises and the 1st Plaintiffs-petitioner and Gulamhussein Adamjee each to seven-sixteenth parts or shares of the same.

9. By Deed No. 452/437 dated 21st September 1931 and 15th January 1932 attested by G. T. Hale Notary Public and J. F. Martyn Notary Public respectively the administrator of the intestate estate of the

deceased abovenamed conveyed the said land and premises to the heirs of the said deceased and his widow conveyed and transferred her said one eighth share or part of the same to the 1st Plaintiff-petitioner and Gulamhussein Adamjee.

No. 6.  
Amended  
Petition of  
the Plaintiffs.  
20-5-50.

—continued.

10. The said Gulamhussein Adamjee died on the 15th day of July 1937 leaving a Last Will and testament which was duly proved in Testamentary Proceedings No. 8526 of the District Court of Colombo and his undivided half share of the land and premises vested in his four sons 2nd, 3rd and 4th Plaintiffs-petitioners and Taherbhoy Gulamhussein who became each entitled to an undivided eighth part or share in the said land and premises.

11. The said Taherbhoy Gulamhussein died on or about the 10th day of August 1941 intestate and unmarried and leaving him surviving as his heirs his grandmother Havabai Valijee and his full brother the 4th Plaintiff-petitioner and his estate was duly administered in Testamentary Proceedings No. 10871 of the District Court of Colombo.

12. The said Havabai Valijee by deed No. 419 dated 12th September 1944 attested by J. P. E. Grogory Notary Public of Colombo conveyed all her interest in the said land and premises to the 4th Plaintiff-Petitioner.

13. The Plaintiff-petitioners accordingly became entitled to the entirety of the said land and premises and were and at all times since have been and are the sole owners of the same and have been in the exclusive possession of the same. The Plaintiffs-petitioners further say that the deeds referred to in paragraphs 6, 7, 9 and 12 have all been duly registered and that the Defendants-respondents had at all material times notice of such registration and of the Plaintiffs-petitioners' title. The Plaintiffs-petitioners claim the benefit of the registration of the said deeds.

14. The Plaintiffs-petitioners plead that by themselves and through their predecessors in title they have been in the sole and uninterrupted and undisturbed possession of the said property and premises to the exclusion of all others from at least the 29th day of March 1916 and the Plaintiffs-petitioners have prescribed to the said land and premises.

15. The Plaintiffs-petitioners plead that in or about the last week of the month of April 1950 they discovered that 1st to 7th Defendants-respondents hereto had instituted Partition Proceedings in respect of the said land and premises as plaintiffs having cited the 8th to the 43rd defendants respondents as defendants thereto and without any notice whatsoever to the plaintiffs-petitioners and proceedings are alleged to have been completed for the sale of the said land and premises under the partition Ordinance and a decree having been obtained and sale of the said land has been fixed at the instance of the Defendants-respondents hereto for the 26th day of May 1950.

No. 6.  
Amended  
Petition of  
the Plaintiffs  
20-5-50.  
—continued.

16. The Plaintiffs-petitioners plead that the Defendants-respondents should have made the Plaintiffs-petitioners parties to the said action and that they should have had and should have been given notice of the same.

17. The Plaintiffs-petitioners plead that the Defendants-respondents who at all material dates were aware that the Plaintiffs-petitioners were the owners of and in possession of the said premises acted fraudulently and in collusion with each other in the said proceedings No. 5706 of this Court and having falsely stated that they and their predecessors in title had been in the undisturbed and uninterrupted possession of the said land and premises and that all improvements are in common between them caused this Court to enter a decree for sale of the said land and premises, and have falsely caused the Court to declare that the Defendants-respondents are among themselves the owners of the said land and premises.

18. The Plaintiffs-petitioners plead that the Defendants-respondents have wrongfully and unlawfully and/or negligently and/or fraudulently and/or in collusion with each other neglected or omitted to make the Plaintiffs-petitioners parties to the said action or to give the Plaintiffs-petitioners any notice of the said proceedings in order that a decree might be obtained from this Court without the Plaintiffs-petitioners having any knowledge of the same or being parties thereto.

19. The Plaintiffs-petitioners plead that there has not been a due or proper investigation into title by this Court in the said Partition Proceedings No. 5706-P of this Court and that the said decree entered by this Court on or about the 30th day of March 1950 is not a decree entered in terms of the Partition Ordinance and is accordingly null and void and of no effect.

20. The Plaintiffs-petitioners have effected improvements to the said land and premises and the value of the said improvements is reasonably worth at least Rs. 30,000/-.

21. The Plaintiffs-petitioners plead that in these premises the Plaintiffs-petitioners have been gravely prejudiced and/or have suffered considerable loss and damage.

22. The said land and premises are reasonably worth at least Rs. 100,000/-.

23. The Plaintiffs-petitioners plead that they are entitled to a declaration that the decree entered by this Court in the said partition proceedings No. 5706 on the 30th day of March 1950 is null and void and of no effect in law and/or that the same be and that they are entitled to have the same set aside by this Court and in the alternative

for damages against the Defendants-respondents hereto in a sum of Rs. 100,000/- and a cause of action has accordingly accrued to the Plaintiffs-petitioners to sue the Defendants-respondents.

No. 6.  
Amended  
Petition of  
the Plaintiffs  
20-5-50.  
—continued.

24. The Plaintiff-petitioners plead that they will suffer grave and irreparable injury loss and damage if the said land and premises are sold or permitted to be sold and the Plaintiffs-petitioners plead that in these premises they are entitled to an injunction from this Court restraining or staying the sale of the said land and premises as aforesaid or in the alternative for an injunction and an order restraining and enjoining the Defendants-respondents from making any application for the withdrawal of or drawing or receiving payment of the proceeds of any sale of the premises which proceedings may be deposited in Court or any share or part thereof. To the best of the information and belief of the Plaintiffs Petitioners the Defendants Respondents are persons who are incapable of satisfying any decree that the Plaintiffs-petitioners may obtain against them.

Wherefore the Plaintiffs-petitioners pray:—

- (a) that this Court do set aside or vacate the decree entered in Partition Proceedings No. 5706 on or about the 30th day of March 1950.
- (b) for a declaration that the decree entered by this Court in Partition Proceedings No. 5706 on or about the 30th day of March 1950 is null and void and of no force or effect in law.
- (c) or in the alternative for damages against the Defendants-respondents jointly and severally in the sum of Rs. 100,000/-.
- (d) for an injunction against the Defendants-respondents restraining any sale of the said property and premises and for an enjoining order to accompany the summons enjoining the Defendants-respondents to the said effect or in the alternative for an injunction and for an order restraining and enjoining the Defendants-respondents from making any application for the withdrawal of or drawing or receiving payment of the proceeds of any sale of the premises which proceedings may be deposited in Court or any share or part thereof.
- (e) for an order on the Commissioner appointed by Court for the sale of the said premises to stay the sale of the same.
- (f) for costs and for such other and further relief as to this Court seems meet.

Sgd. Julius & Creasy,  
Proctors for Plaintiffs-Petitioners.

No. 6.  
Amended  
Petition of  
the Plaintiffs  
20-5-50.  
—continued.

THE SCHEDULE ABOVE REFERRED TO

All that allotment of land with the buildings and plantations standing thereon bearing assessment No. 26 situated at Kollupitiya within the Municipality and District of Colombo Western Province bounded on the North by premises bearing assessment No. 25, belonging to O. H. M. Sheriff and the passage, on the East by premises bearing assesment No. 1, belonging to Ana Ravanna Mana Chetty, on the South by Muhandiram's Road and on the West by High Road, from Colombo to Galle, containing in extent one rood and twenty 26/100 square perches according to the Figure of Survey bearing No. 222 dated the 1st day of March 1906 and made by H. G. Dias Licensed Surveyor and Leveller which bears present assessment Nos. G7, (1-5) to 37 Muhandiram's Road, and 153 and 155 and 157 Galle Road, Kollupitiya.

Sgd. Julius & Creasy,  
Proctors for Plaintiffs.

Settled by,  
S. J. Kadirgamar  
N. E. Weerasooriya K.C.  
Advocates.

No. 7.  
Petition of  
the Plaintiffs  
1-11-50.

No. 7.

Petition of the Plaintiffs.

IN THE DISTRICT COURT OF COLOMBO.

No. 5951/L.

1. MOHAMEDALY ADAMJEE
  2. LUKMANJEE GULAMHUSSEIN
  3. TAIYABHAI GULAMHUSSEIN AND
  4. ABBASBHOY GULAMHUSSEIN
- all of Colombo.  
Petitioners.

Vs.

1. Mohamed Mahroof Sithy Nawceewa
2. Mohamed Mahroof Mohamed Khalid, appearing by their guardian-ad-litem.
3. M. L. M. M. Shariff of 164, New Moor Street Colombo.
4. Abdul Mawahib Nakeem.
5. Sithy Safia Nakeem.
6. Ummu Vojeeda Nakeem.

7. Hassen Jiffry Nakeem.
  8. Mohamed Ismail Nakeem.
  9. Mohamed Samsudeen Nakeem.
  10. Mohamed Milhar Nakeem appearing by their guardian-ad-litem.
  11. M. Y. M. Hamza of Castle Street, Borella, Colombo.
  12. Mohamed Sameer Mohamed Alavi.
  13. Miss S. Z. Sameer appearing by their guardian-ad-litem.
  14. M. I. M. Sameer of Castle Street, Borella, Colombo.
  15. M. S. Farook and
  16. Miss M. R. S. Hanoon appearing by their guardian-ad-litem.
  17. M. Z. F. Cassim of Castle Street, Borella.
  18. Hadija Ghouse Cassim.
  19. Ayn Safia Ghouse Cassim.
  20. Shuhaib Ghouse Cassim.
  21. Ameer Faizer Ghouse Cassim.
  22. Falil Ghouse Cassim appearing by their Guardian-ad-litem.
  23. M. Ghouse Cassim of Castle Street, Borella, Colombo.
- Respondents.

No. 7,  
Petition of  
the Plaintiffs.  
1-11-50.  
—continued.

This 1st day of November, 1950.

The Petition of the Petitioners.....

1. On or about the 20th day of May 1950 the petitioners as plaintiffs instituted this action against all the persons including the respondents abovenamed as defendants praying for the relief set forth in the plaint a copy of the which is herewith filed marked letter 'A'

2. The 9th and 10th, 14th to 20th, 32nd and 33rd, 35th and 36th, 38th to 42nd defendants are minors and it is necessary that Guardian-ad-litem should be appointed to represent them in this case.

3. The 11th defendant who is the 3rd respondent to this application is the Grand father of the 1st and 2nd minors respondents (who are the 9th and 10th defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 1st and 2nd respondents minors and he has no interest adverse to that of the said minors.

4. The 21st defendant who is the 11th respondent to this application is the uncle of the 4th to 9th minors respondents (who are the 14th to 20th defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 4th 9th minors and he has no interest adverse to that of the said minors.



No. 7.  
Petition of  
the Plaintiffs.  
1-11-50.  
—continued.

5. The 34th defendant who is the 14th respondent to this application is the uncle of the 12th and 13th minor respondents (who are the 32nd and 33rd defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 12th and 13th minors and he has no interest adverse to that of the said minors.

6. The 37th defendant who is the 17th respondent to this application is the uncle of the 15th and 16th minor respondents (who are the 35th and 36th defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 15th and 16th minors and he has no interest adverse to that of the said minors.

7. The 43rd defendant who is the 23rd respondent to this application is the father of the 18th to 22nd minors-respondents (who are the 38th to 42nd defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 18th to 22nd minors and he has no interest adverse to that of the said minors.

Wherefore the petitioners pray that the 11th defendant who is the 3rd respondent abovenamed the 21st defendant who is the 11th respondent abovenamed, the 34th defendant who is the 14th respondent abovenamed, the 37th defendant who is the 17th respondent abovenamed and the 43rd defendant who is the 23rd respondent abovenamed be appointed Guardian ad-litem over the 1st and 2nd minors, 4th to 10th minors, 12th and 13th minors, 15th and 16th minors and 18th to 22nd minors respectively, for costs of this application and for such other and further relief in the premises as to this court shall seem meet.

Julius & Creasy,  
Proctors for petitioners.

No. 8.  
Affidavit of  
the 2nd  
Plaintiff.  
31-10-50.

---

**No. 8.**

**Affidavit of the 2nd Plaintiff.**

I, Lukmanjee Gulamhusein of Colombo, not being a Christian do hereby solemnly, sincerely and truly declare and affirm as follows:

1. I am the 2nd petitioner abovenamed.

2. On or about the 20th day of May 1950 the petitioners as plaintiffs instituted this action against all the persons including the respdts. abovenamed as defendants praying for the relief set forth in the plaint a copy of which is produced herewith marked letter 'A'

3. The 9th and 10th, 14th to 20th, 32nd and 33rd, 35th and 36th, 38th to 42nd defendants are minors and it is necessary that Guardian-ad-litem should be appointed to represent them in this case.

4. The 11th defendant who is the 3rd respdt. to this application is the Grand-father of the 1st and 2nd minors respondents (who are the 9th and 10th defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 1st and 2nd respondents minors and he has no interest adverse to that of the said minors.

No. 8.  
Affidavit of  
the 2nd  
Plaintiff.  
31-10-50.  
—Continued

5. The 21st defendant who is the 11th respondent to this application is the uncle of the 4th to 9th minors respondents (who are the 14th to 20th defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 4th to 9th minors and he has no interest adverse to that of the said minors.

6. The 34th defendant who is the 14th respondent to this application is the uncle of the 12th and 13th minor respondents (who are the 32nd and 33rd defendants in this case) is a fit and proper persons to be appointed Guardian-ad-litem over the said 12th and 13th minors and he has no interest adverse to that of the said minors.

7. The 37th defendant who is the 17th respondent to this application is the uncle of the 15th and 16th minor respondents (who are the 35th and 36th defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 15th and 16th minors and he has no interest adverse to that of the said minors.

8. The 43rd defendant who is the 23rd respondent to this application is the father of the 18th to 22nd minors-respondents (who are the 38th to 42nd defendants in this case) is a fit and proper person to be appointed Guardian-ad-litem over the said 18th to 22nd minors and he has no interest adverse to that of the said minors.

Signed and affirmed to at )  
Colombo this 31st Octo- L. GULAMHUSSEIN.  
ber 1950. )

Before me: Sgd.....  
C. O.

**No. 9.**

**Answer of the 22nd to 27th Defendants.**

No. 9.  
Answer of  
the 22nd to  
27th defend-  
ants.  
7. 3. 51.

On This 7th March 1951.

The Answer of the 22nd, 23rd, 24th, 25th, 26th, and 27th defendants respondents appearing by E. W. Seneviratne, their Proctor, states as follows:—

1. These defendants respondents (hereinafter referred to as defendants) admit the averments in paras 1, 2, 3, and 4 of the plaint.

2. Answering para. 5 of the plaint these defendants state that they are unaware of the conveyance of the said property by the said deed, but even if that were true, these defendants state that their interests as

No. 9  
 Answer of  
 the 22nd to  
 27th Defen-  
 dants.  
 7-3-51.

beneficiaries under the said last Will cannot be affected as the said last Will created a valid fidei commissum in their favour.

3. As regards para. 6 of the plaint, these defendants state they are unaware of the happenings set out therein, and deny that their interests as fidei commissary heirs had been affected by the alleged sale.

4. These defendants further state that they are also unaware of the happenings referred to in paras. 7, 8, 9, 10, 11, 12 and 13 of the plaint and plead that their interests in the said property as fidei commiaary heirs have not been affected by the said transactions.

5. Replying to para. 14 of the plaint, these defendants state that after the death of Savia Umma the possession of others claiming title under the said Fiscal's sale referred to in para. 6 of the plaint, became male fide.

6. Replying to paras. 15, 16, 17 and 18 of the plaint these defendants state that partition proceedings in D. C. Colombo case No. 5706 were not initiated by them, and that they had no hand in the constitution of the said action.

7. Replying to para 19 of the plaint, these defendants put the plaintiffs-petitioners (hereinafter referred to as the plaintiffs) to strict proof of the averments made therein.

8. Replying to paras. 20, 21, 22, 23 and 24 of the plaint, these defendants state that the plaintiffs in the above action are not entitled to notice of the partition action in D. C. Colombo case No. 5706 as they are mala fide possessors. They further state that the plaintiffs being mala fide possessors are only entitled to claim compensation for necessary improvements. These defendants, however, plead that they are entitled to set off against such a claim the rents and profits enjoyed by the plaintiffs during the period of their mala fide possession.

Wherefore these defendants pray as follows:

- (a) that the Court do dismiss the plaintiffs petitioners action with costs.
- (b) for such other and further relief as to the court shall seem meet.

E. W SENEVIRATNE

Proctor for the 22nd, 23rd, 24th, 25th, 26th  
 and 27th defendants respondents.

**No. 10.****Answer of the 8th, 11th, 21st, 29th, 30th, 31st, and 37th, Defendants.**

No. 10.  
Answer of  
the 8th, 11th,  
21st, 29th,  
30th, 31st  
and 37th  
Defendants.  
2-5-51.

On this 2nd day of May 1951.

The answer of the 8th, 11th, 21st, 29th, 30th, 31st, and 37th defendants appearing by K. Rasanathan their Proctor states as follows:—

1. The defendants admit the averments contained in paragraphs 1 to 5 of the plaint, save and except that any cause of action whatsoever has accrued to the plaintiffs against the defendants.

2. These defendants are unaware of the truth of the averments contained in paragraphs 6 to 12 and 20 and 21 of the plaint.

3. These defendants deny the averments contained in paragraphs 13 to 19 and 23 and 24 of the plaint and specially deny the allegations of fraud and collusion therein contained.

4. By way of further answer these defendants state that the said partition proceedings No. 5706/P of this Court were conducted with all the due publicity usually observed in similar proceedings and that a decree for sale of the land and premises described in the schedule to the plaint was duly and regularly entered on the 30th day of March 1950 in the said case.

5. Further answering these defendants state that in any event, the plaintiff cannot in law have and maintain this action to set aside the said decree for sale entered in the said case No. 5706/P of this Court.

6. Still further answering these defendants state that there is a misjoinder of cause of action and that the plaint is bad in law.

Wherefore these defendants pray:

- (a) that plaintiffs' action be dismissed with costs,
- (b) for such other and further relief as to this court shall seem meet.

K. Rasanathan

Proctor for 8th, 11th, 21st, 29th,  
30th, 31st, and 37th defendants.

**No. 11.****Objections of the 8th, 11th, 21st, 29th, 30th, 31st and 37th Defendants.**

No. 11.  
Objections  
of the 8th,  
11th, 21st,  
29th, 30th,  
31st and 37th  
Defendants.  
2-5-51.

On this 2nd day of May 1951.

The Objections of the 8th, 11th, 21st, 29th, 30th, 31st and 37th defendants abovenamed appearing by K. Rasanathan their Proctor states as follows:—

No. 11.  
Objections of  
the 8th, 11th,  
21st, 29th,  
30th, 31st  
and 37th  
Defendants.  
2-5-51.

1. These respondents state that the petitioners' application for injunction is misconceived and not maintainable in the circumstances averred by them in their petition.

2. These respondents further submit that there is no provision of law which enable this Court in the proceedings to stay proceedings in case No. 5706/P or to pass any other restraining orders whatsoever against these respondents.

Wherefore these respondents pray:

- (a) that the petitioners' application for injunction be refused.
- (b) for cost and
- (c) for such other and further relief as to this court shall seem meet.

K. RASANATHAN  
Proctor for 8, 11, 21, 29,  
30, 31 & 37 defendants.

---

**No. 12**

**Answer of the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 13th, 29th, 30th 31st  
and 37th Defendants.**

No. 12.  
Answer of  
the 1st, 2nd,  
3rd, 4th, 5th,  
6th, 7th,  
13th, 29th,  
30th, 31st  
and 37th,  
Defendants.  
19-9-51.

This 19th day of September 1951.

Answer of the 1, 2, 3, 4, 5, 6, 7, 13, 29, 30, 31 and 37th defendants above-named appearing by K. Rasanathan their Proctor states as follows:—

1. The defendants admit the averments contained in paragraphs 1 to 5 of the plaint, save and except that any cause of action whatsoever has accrued to the plaintiffs against the defendants.

2. These defendants are unaware of the truth of the averments contained in paragraphs 6 to 12 and 20 and 21st of the plaint.

3. These defendants deny the averments contained in paragraphs 13 to 19 and 23 and 24 of the plaint, and specially deny the allegations of fraud and collusion therein contained.

4. By way of further answer these defendants state that the said partition proceedings No. 5706/P of this Court were conducted with all the due publicity usually observed in similar proceedings and that a decree for sale of the land and premises described in the schedule to the plaint was duly and regularly entered on the 30th day of March 1950 in the said case.

5. Further answering these defendants state that in any event, the plaintiff cannot in law have and maintain this action to set aside the said decree for sale entered in the said case No. 5706/P of this Court.

No. 12.  
Answer of  
the 1st, 2nd,  
3rd, 4th, 5th,  
6th, 7th,  
13th, 29th,  
30th, 31st  
and 37th,  
Defendants  
19-9-51.  
---continued.

6. Still further answering these defendants state that there is a misjoinder of cause of action and that the plaint is bad in law.

Wherefore these defendants. prays:

- (a) that plaintiffs' action be dismissed with costs.
- (b) for such other and further relief as to this Court shall seem meet.

Sgd. K. RASANATHAN  
Proctor for 1-7, 13, 29-31 &  
37th defendants.

**No. 13.**

**Objections of the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 13th, 29th,  
30th, 31st and 37th Defendants.**

No. 13.  
Objections of  
the 1st, 2nd,  
3rd, 4th, 5th,  
6th, 7th, 13th,  
29th, 30th,  
31st and 37th  
Defendants.  
19-9-51.

This 19th day of September 1951.

The objections of the 1, 2, 3, 4, 5, 6, 7, 13, 29, 30, 31 and 37th defendants abovenamed appearing by K. Rasanathan their Proctor states as follows:—

1. These respondents state that the petitioners' application for injunction is misconceived and not maintainable in the circumstances averred by them in their partition.

2. These respondents further submit that there is no provision of law which enable this Court in the proceedings to stay proceedings in case No. 5706/P or to pass any other restraining orders whatsoever against these respondents.

Wherefore these respondents pray.

- (a) that the petitioners' application for injunction be refused.
- (b) for costs and,
- (c) for such other and further relief as to this Court shall seem meet.

Sgd. K. RASANATHAN  
Proctor for 1-7, 13, 29-31 & 37th defendants.

No 14.  
Answer of  
the 34th  
Defendant.  
19-9-51.

**No. 14.**  
**Answer of the 34th Defendant.**

This 19th day of September 1951.

The Answer of the 34th defendant appearing by N. M. Zaheed, his Proctor, states as follows:—

1. This defendant admits the averments contained in paragraphs 1 to 5 of the plaint, save and except that any cause of action whatsoever has accrued to the plaintiffs against the defendants.

2. This defendant is unaware of the truth of the averments contained in paragraphs 6 to 12 and 20 and 21st of the plaint.

3. This defendant denies the averments contained in paras. 13 to 19 and 23 and 24 of the plaint and specially denies the allegations of fraud and collusion therein contained.

4. By way of further answer this defendant states that the said partition proceedings No. 5706/P of this court were conducted with all due publicity usually observed in similar proceedings and that a decree for sale of the land and premises described in the schedule to the plaint was duly and regularly entered on the 30th day of March 1950 in the said case.

5. Further answering this defendant states that in any event the plaintiffs cannot in law have and maintain this action to set aside the said decree for sale entered in the said case No. 5706/P of this court.

6. Still further answering this defendant states that there is a misjoinder of cause of action and that the plaint is bad in law.

Wherefore this defendant prays:

- (a) that plaintiffs' action be dismissed with costs:
- (b) for such other and further relief as to this court shall seem meet.

N. M. ZAHEED  
Proctor for 34th defendants.

**No. 15.**  
**Issues Framed.**

No. 15.  
Issues  
Framed.

31st October 1951.

Mr. Advocate N. E. Weerasooriya K. C. with Mr.  
Advocate Kadirgamar for the plaintiffs petitioners  
instructed.

Mr. Advocate E. B. Wickramanayaka, K. C. with  
 Mr. Advocate Arulambalam for 1st to 8th, 11th, 13th, 21st,  
 29th, 30th, 31st and 36th. defendants respondents instructed. No 15.  
Issues  
Framed.  
—continued.

Mr. Seneviratne for 22nd to 27th defendants respondents.

Those defendants who are not represented at this inquiry are not present in Court.

Mr. Weerasooriya states that this inquiry is on a petition by his clients in which they ask for an injunction restraining the sale of the premises referred to in the schedule to the plaint, and in the alternative, if the premises be sold that the defendants be restrained from withdrawing the proceeds of the sale or any portion of it. He refers to the plaint and states that in action No. 5706/P of this Court the 1st to 7th defendants in this case, who are also the 1st to 7th respondents of this inquiry, brought an action under the partition ordinance for the sale of the premises referred to in this action, decree for the sale was entered on 30. 3. 50, the sale of the premises is fixed for 20th November 1951. Plaintiffs petitioners' complaint is that they had been in possession of these premises to the knowledge of the defendants respondents since March 1916; they should have been made parties to that action but were not made parties. His contention in this case is that the decree in 5706/P is null and void because it was entered without proper investigation: certainly, it was entered without plaintiffs petitioners being made parties when they were, to the knowledge of the defendants, persons who should have been made parties.

I ask Mr. Weerasooriya what facts he has in mind in regard to his plea that there was no proper investigation of title in this case; he states that this application in the first instance is that this inquiry be stayed for the present and that it be heard along with the trial which has been fixed for 5th March 1952.

Mr. Wickramanayaka objects to a postponement of this inquiry; he states that the sale has been fixed for 20th November and that there is no merit whatsoever in the petition submitted to court by the petitioners.

Mr. Weerasooriya states that his request for a postponement has been actuated by the fact that it would save going into matters which could well be disposed of at the trial; otherwise, it would mean going over the same ground twice over. He states he has no objection to the trial date being advanced.

Mr. Wickramanayaka has no objection to the trial date being advanced but states that his clients will not consent to the sale being stayed.



No. 15.  
Issues  
Framed.  
—continued.

Mr. Seneviratne states that the Court might make any order that would seem just in regard to the postponement of the inquiry and the adjournment of the sale.

I hear both Counsel in regard to this matter and I make the following order.

ORDER:

I advance the hearing of the trial from 5th March to 5th, 6th, 7th and 8th February 1952; the inquiry is postponed for the same dates and the hearing is specially fixed for these dates.

Mr. Wickramanayaka has no objection to the trial of this case being advanced. Having agreed to the advance of the trial date it does seem to me unreasonable that the sale of the premises should take place before this matter is heard; it might result in substantial damage to the petitioners if perchance, they succeed in the action; a postponement of the sale for a few months may not cause any loss to the respondents; on the other hand, if the present conditions continue, the chances are that the adjournment of the sale may result in the substantial appreciation of the price. I therefore direct the sale fixed for the 20th November do not take place. I wish to emphasise that the petitioners are not entitled to the adjournment of the sale as a matter of right; but I have nevertheless granted them this, as a matter of indulgence, and also because having regard to all the circumstances, it is in the interests of justice to make such an order.

The petitioners will pay all sale charges that have been incurred and also 50 Guineas being costs of the day, to Mr. Wickramanayaka's clients, and 3 Guineas to Mr. Seneviratne's clients.

N. SINNETHAMBY

A. D. J.

31-10-51.

5th February 1952.

2nd plaintiff and 21st and 22nd defendants are present.

Mr. Advocate N. E. Weerasooriya K. C. with Mr. Advocate S. J. Kadirgamar with Mr. Advocate B. F. C. Ratwatta instructed by Messrs Julius & Creasy for the plaintiffs.

Mr. Advocate E. B. Wickramanayaka, K. C. with Mr. Advocate Arulambalam instructed by Mr. Rasanathan for the 1 to 8, 13, 21, 29, 30, 31 & 37th defendants.

Mr. Advocate M. Samsudeen Mohamed instructed by Mr. E. W. Seneviratne for the 22nd to 27th defendants.

Mr. Advocate Arulambalam instructed by Mr. Zaheed for 32nd to 34th defendants.

No. 15.  
Issues  
Framed.  
—continued.

Mr. Advocate Weerasooriya opens his case for the plaintiffs and submits that the plaintiffs say that they were the owners of the property at Kollupitiya which originally bore the assessment No. 26 and in extent 1 rood and 26 perches. The present Assessment Nos. are G7 (1 to 5) to 37, Muhandiram's road, Kollupitiya and 153, 155 & 157 Galle Road Kollupitiya. He submits that the plaintiffs were the owners of the property described in the schedule to the plaint. The plaintiffs have valued the property in question at one lakh of rupees, and they claim the property. Plaintiffs' predecessors-in-title, Saviya Umma owned this property. There was a sale in execution of decree entered in Case No. 40152 against Saviya Umma. There was a sale and the Fiscal's conveyance No. 11174 dated 29. 3. 1916 was registered in folio A123/317. At this sale Leonora Fonseka purchased this property and three years later conveyed the same to Adamjee Lukmanjee by deed No. 6186 of 1919, the deed being registered in the same folio. Plaintiffs are the heirs of the said Adamjee Lukmanjee. Plaintiffs' case is that their predecessors in title were in possession of this property at all material dates: from 1916 they were in possession until now.

In 1949 an action for partition was filed in D. C. Colombo Case No. 5706 by the 1st to 7th defendants in this case. They were the plaintiffs. The balance shares were allotted to the other defendants; namely 36 defendants, who the present 8th to 43rd defendants in this case. The first date of trial was on 9. 3. 50, and the learned Judge made a certain order on 29. 3. 50 in respect of a dispute in regard to the shares of certain defendants and he directed that a statement of shares be filed. On the following day, on 30. 3. 50, the statement of shares was filed and the Judge said "I ho'd that the parties are entitled to the land shown in Plan "X" No. 947 of 1. 12. 1949" The present plaintiffs to this action were not given notice of that action nor were they made parties to the action. It was decreed in that case that the premises be sold and the sale was fixed for 26. 5. 50, and in the meantime the present plaintiffs applied for an injunction asking for a stay of sale and other reliefs on 22. 5. 50. The sale was, however, stayed. No sale has taken place yet. In the meantime the plaintiffs filed this action on 20. 5. 1950. Refers to the prayer in the plaint.

Apart from the partition decree 22nd to 27th defendants have pleaded that they were unaware of the fact that the plaintiffs were the owners or that the plaintiffs had any rights and that they (22nd to 27th defendants) are now the owners being fidei commissari heirs. On the other hand the 7th defendant pleads the partition decree. Defendant's title is that Idroos Lebbe Marikkar was the son of and that he died leaving his Last Will. No. 7130 of 12. 12. 1872 of which probate was admitted in case No. 3909 D. C. Colombo (Testamentary) on 29. 5. 1876.

No. 15.  
Issues  
Framed.  
—continued.

After the Last Will was proved there was an Executor's Conveyance No. 2575 of 14. 9. 1888 and the property was sold in favour of Saviya Umma. As far as that Last Will is concerned it is true that we bought a title. The plaintiffs have been in possession from 1916 exclusively against all others. On the documents, Saviya Umma is an heir of Idroos Lebbe Marikkar. Plaintiffs' deeds are registered in a folio, which I claim to be the right folio. My title is one that would prevail by prior registration.

He submits that the plaintiffs have a title per se by Idroos Marikkar, secondly even if there was a fidei commissum plaintiffs have a title by prior registration in that the plaintiffs' deeds have been registered in the proper folio and thirdly the plaintiffs have a title by prescription.

In the partition case 5706 the title of Saviya Umma was given as the Deed No. 246 of 19. 2. 1878. In the partition case the date of the death of Saviya Umma has not been disclosed, it is unknown. No where has it been stated whether the plaintiffs or the defendants in that partition case were in possession of the property in question. He submits that the decree entered in that partition case is bad, and it is not a decree entered under section 9 of the partition ordinance. Re:damages he submits that in the partition case the present defendants must have known and they knew that the present plaintiffs were the owners of this property, and solely in possession. Yet they did not make us parties to the partition action. They acted collusively among themselves to cause the Court to give them a decree against the present plaintiffs.

He submits that even assuming that there was a fidei commissum the plaintiffs' position is that they have acquired a prescriptive title; we have been 40 years in possession.

Mr. Advocate Weerasooriya suggests the following issues:—

1. Were the plaintiffs at all material dates the owners of the land in question on the title pleaded in the plaint?

1 (a) Does the title of the plaintiffs, if any, prevail over the title of the defendants, if any, by reason of due and prior registration of the deeds in plaintiffs' chain of title?

2. Were the plaintiffs at all material dates in sole and exclusive possession of the premises in question.?

3. Had the plaintiffs at all material dates acquired title to the premises in question by prescription?

4. Were the defendants at all material dates aware (a) that the plaintiffs were the legal owners of the premises, or (b) that the plaintiffs were in sole and exclusive possession of the premises in question?

No. 15.  
Issues  
Framed.  
—continued.

5A. Were the defendants under a duty (a) to make the plaintiffs parties to Case No. D. C. Colombo 5706, or (b) to give the plaintiffs notice of case No. 5706?

5B. Did the defendants wrongfully, unlawfully, and/or negligently, and/or fraudulently, and/or in collusion with each other neglect or (a) to make the plaintiffs parties to action No. 5706, or (b) to give the plaintiffs any notice of the proceedings in case No. 5706 in order to obtain a decree from the Court without the plaintiffs having any knowledge of the same.

6. Did the defendants obtain a decree in case No. 5706 (a) without notice to the plaintiffs, (b) acting in fraud and collusion (c) without disclosing plaintiffs' title, (d) without disclosing the fact that plaintiffs were in possession?

7 (a) Was there a due and proper investigation in case No. 5706 of the title to the premises in question (b) Was the decree entered in case No. 5706 a decree given as hereinbefore provided within the meaning of section 9 of Chapter 56?

8. Are the plaintiffs entitled (a) to have the decree in the said case 5706 set aside, or (b) to have the said decree declared null and void, or (c) to be declared owners of the premises in question?

9. are the plaintiffs entitled in the alternative (a) to damages, (b) if so, in what amount?

10. Are the plaintiffs entitled to an injunction restraining the sale of the premises in question and payment of the proceeds of sale to all or any of the defendants?

11. What is the value of the premises in question?

12. What improvements, if any, were effected by the plaintiffs or their predecessors in respect of the said premises?

13. What sum, if any, are the plaintiffs entitled to for compensation?

14. Are the plaintiffs entitled to remain in possession of the premises until such compensation, if any, is paid?

Mr. Advocate Arulambalam objects to issue/(a) on the ground that it has not been pleaded. Mr. Advocate Weerasooriya refers him to para. 13 of the plaint. Mr. Advocate Arulambalam withdraws his objection to issue No. 1 (a). He states that he has no objection to issues framed. He frames the following issues.

No. 15.  
Issues  
Framed.  
—continued.

15. Are the plaintiffs entitled to have and maintain this action to set aside the decree for sale entered in Case No. 5706 in view of section 9 of the partition Ordinance (Cap. 56) ?

Mr. Advocate Samsudeen Mohamed states that he has no objection to the issues framed. He suggests:

16. Are the plaintiffs mala fide possessors?

17. If so, are the plaintiffs entitled to any money realised by the sale of the portion of the property for road widening?

At this state he moves to withdraw Issue No. 17.  
Allowed.

Mr. Advocate Wickramanayaka submits that the last will of Idroos Lebbe Marikar created a Fidei commissum in favour of the grandchildren of his children and that Saviya Umma had a fiduciary interest in the property, which ceased at her death.

I think it is desirable to raise issues on this point.

17. Did the Last Will No. 7130 dated 12. 12. 1872 of Idroos Lebbe Marikkar create a Fidei Commissum in favour of the grandchildren of his children?

18. If so, was Saviya Umma only entitled to a fiduciary interest in the property in question?

19. Is the said Saviya Umma dead?

20. Are the defendants in the present case the grand children of the said Saviya Umma?

21. If so, have the plaintiffs acquired a title by prescription as against them in the event of there being a fidei commissum created by the Last Will of Idroos Lebbe Marikkar?

Mr. Advocate Weerasooriya suggests the following further issues:

22. What share, if any, would Saviya Umma have inherited from Idroos Lebbe Marikkar on the basis of an intestacy?

Mr. Advocate Wickramanayaka objects to the last issue No. 22. He submits that the question of intestacy does not arise at all. I allow the issue No. 22 to stand.

I accept all these issues.

Sgd.....

A. J. D.

5. 2. 52.

**No. 16.****Plaintiffs' Evidence.**No. 16.  
Plaintiffs  
Evidence

Plaintiff's case.

Mr. Advocate Weerasooriya calls:

LUKMANJEE GULAMHUSSEIN. affirmed 39 years, Merchant,  
102 Thurstan Road, Colombo.

L. Gulam-  
hussein  
Examination

I am the 2nd plaintiff in this case. I have brought this action together with the other plaintiffs in respect of the premises, described in the schedule to the plaint, in Muhandiram's Road and Galle Road, Kollupitiya. Myself and the other plaintiffs claim to be the owners of entire premises. We have valued these premises at one lakh of rupees. It was a fair value at the time I brought this action.

Adamjee Lukmanjee was my grandfather. He bought this property from Leonora Fonseka by Deed No. 6186 dated 16. 8. 1919 P1. who had purchased this property at a Fiscal's sale against Saviya Umma and her husband Samaudeen Hadjar, and obtained Conveyance No. 11174 of 29. 3. 1916, P2. That sale was in execution of a decree entered in D. C. Colombo case No. 40152 against Saviya Umma and her husband Samsudeen Hadjar.

My grandfather Adamjee Lukmanjee died intestate and his estate was administered in D. C. Colombo case No. 3486. He left his widow and two sons, namely the 1st plaintiff in this case, Mohamed Ali Adamjee and Gulam Hussein Adamjee who is now dead. There was an Administer's Conveyance by the Administrator No. 452437 of 21. 3. 31 and 15. 1. 32. P3, to his heirs. My grandmother joined in the Deed P3 conveying her 1/8th share to the 1st plaintiff and Gulam Hussein Adamjee. My father was Gulam Hussein Adamjee. He died on 15. 7. 1937 leaving a last will which was admitted to probate in Case No. D. C. Colombo 8526. I mark the Last Will, P4, Probate, P5, and Inventory P5 A. My father's heirs were the 2nd to the 4th plaintiffs and my brother T. Gulam Hussein, who died on 10. 8. 1941 intestate. His estate was administered in D. C. Colombo. Case No. 10871. I produce the Letters of Administration P6. Inventory, P7, and his heirs were my grandmother H. Vellichi and the 4th plaintiff who had a full brother. My grandmother conveyed her interests to the 4th plaintiff on Deed No. 419 of 12. 9. 1944, P8. I also mark the Letters of Administration in my grandfather's Testamentary case No. 3486 of the District Court of Colombo, P9 and Inventory P10.

I have known the property in question since 1919. It consists of shops and tenements. When I first came to know the property we were in possession; that is, my grandfather Adamjee Lukmanjee. Since then

No. 16.  
 Plaintiffs  
 Evidence.  
 L. Gulam-  
 hussein  
 Examination  
 —continued.

we have been in possession up to date. My grandfather and the persons who got title through him were in possession. To my knowledge anyone else did not lay a claim to this property until these proceedings were commenced. We were in possession, we rented out the possession right through the period and we collected the rents through our rent collectors. Those rent collectors are in my list of witnesses and they will be called later.

After my grandfather purchased these premises alterations were made to the premises. The first alterations were made in 1923 when drainage work was installed. Other alterations were also made. They were made by our own contractors and we spent for such alterations. I will be calling the men who attended to the alterations. They are my witnesses.

I made application in case No. 5706 D. C. Colombo, which was a partition action, for the stay of a sale decreed in that case. Certain parties had obtained a decree in that case in respect of these premises. I made an application on 22. 5. 50 in that case; D. C. Colombo 5706, for an injunction restraining the sale and claiming other reliefs. I produce a certified copy of my petition marked P11 and affidavit P12. That sale which had been fixed for the 26th May 1950 was postponed and has not yet taken place. (Petition P11 and Affidavit P12 are referred to.) It was shortly before I filed my application. Before April 1950 I was not aware that a partition action had been filed in respect of these premises or of any proceedings in Court in respect of this property. About that time I filed this present action. I have since had the partition proceedings examined by my Lawyers and I produce the journal entries P13, the plaint P14, the abstract of title P15, the decree P16, the statement of the 15, 16, 17 and 20th defendants P17, the proceedings of 9. 3. 50 P18, and the order of 29. 3. 50, P19 in that case, D. C. Colombo 5706.

The journal entry against 30. 3. 1950 in P13 gives the judgment of the learned Judge. I also mark the decree dated 30. 4. 50, P20 in the same case. An appeal had been filed in that case. I produce marked P21 the proceedings of 23. 5. 1950 in respect of my application for an injunction. The journal entries show further proceedings.

In the partition action, in the plaint P14, the parties claimed through Idroos Lebbe Marikkar and stated the property came to Saviya Umma through the vendor. In para 5 of the plaint they stated that the property came to Saviya Umma on deed 246 dated 19. 2. 1872, a certified copy of which I produce marked P22. The deed refers to another land and it does not refer to Saviya Umma. It is a conveyance by an executor to Idroos Lebbe Marikkar Istou. I was not made a party to the partition action D. C. Colombo 5706 and nobody claiming

from my grandfather downwards was made a party to the action. Any one of us did not have notice of the action. In para. 19 of the plaint it has been averred that the parties to that action and their predecessors in title have been in the undisturbed and uninterrupted possession of these premises; it is all false. From the time I knew this property from 1919 anyone else did not have a day's possession except the members of our family.

No. 16.  
Plaintiffs  
Evidence  
L. Gulam-  
hussein  
Examination  
—continued

The evidence given in that partition case was the evidence of M. Sadoon, the 1st plaintiff in the case. The plaintiffs in that case were the 1st to 7th defendants in this action and 8th to 43rd defendants in this action were the defendants in that action. 1st plaintiff M. Sadoon gave evidence in that case. I point to the fact that except a deed of 1868 in favour of Idroos Lebbe Marikkar and his Last Will of 1872 and the Executor's Conveyance 2575 of 14-9-1888 no other documents had been produced in that case. I point out that there is no evidence in that case that the plaintiffs were in possession. No marriage certificates or death certificates were produced in that case. Attached to the Conveyance P2 is also a Plan No. 222 of 1-3-1907, which I produce marked P2A.

We paid all taxes for this property all through out and the assessment notices were usually sent to the occupants of the houses, who send them to us. We paid the taxes in respect of every building standing on the whole of these premises in question. The taxes were invariably paid by us for the whole of the premises in dispute. I mark as P23 an extract from the Assessment Register relevant to this property for the years from 1947 to 1951 where the owners are given as Gulam Hussein Adamjee, my father, and Mohamed Ali Adamjee my uncle.

The Fiscal's Transfer in favour of Leonora Fonseka is registered in Folio A 123/317. I produce an extract of encumbrances, P24, showing the registration of the Deed P2 and the subsequent registrations. I point to the fact that on 28-7-1949 the Partition Action 5706 was registered in Folio A 319/231 which is in a continuation of the Folio A 123/317. Between the registration of the Fiscal's Conveyance P2 and the registration of the Lispendens of the Partition action a series of deeds are registered; executed by Adamjee Lukmanjee and his successors in title, giving registration of P1.....

Sgd.....

A. D J

5-2-52.

At this stage Court adjourns for lunch.



No. 16.  
Plaintiffs  
Evidence.  
L. Gulam-  
Hussein  
Examination  
—continued

5th February 1952.

After lunch. Same appearances. Trial continued.

L. GULAM HUSSEIN. recalled. affirmed.

In 1924 I point to the fact that P1 is registered in A123/317, and subsequently leased by Adamjee Lukmanjee. Thereafter, P8 is registered before the registration of lis pendens in 5706. P24 is brought forward from A216/274. I produce marked P25 the extract of encumbrances relating to A126/274 and the previous folios. The first folio is A3/45 which is continued to A51/46 which is continued to A88/240 which is continued to A111/124 which is continued to A216/274. I point to the fact that deed 1647 of 25th August 1868 is registered in A3/45 which is transferred in favour of Idroos Lebbe Marikar and is the deed recited in A5706 para. 2 of the plaint P14. Several documents are registered but neither the Will of Idroos Lebbe Marikar nor the probate of the Will are registered.

I said already that I had no notice of these proceedings in the partition action.

Q. Assuming you are not declared entitled to the property in this case what would be the damages you would suffer by way of value of the land which has been partitioned among the parties in the partition case?

A. All improvements I value at approximately Rs. 40,000/-. The land itself and the buildings, apart from the improvements, I would value at about Rs. 160,000/-.

I myself own a considerable amount of property in Colombo and I have a fair knowledge of the value of property in Colombo, being a house owner. I own considerable house property and I have a fair knowledge of the value of house property in Colombo. In 1950 the value of this property, including the improvements effected by me, was approximately over a lakh of Rupees and in 1949 about the same. Today the value would be about Rs. 160,000/-, including the improvements.

The improvements effected by me were the installation of drainage, boundary wall, trellis work to the houses, re-roofing of houses, putting in new rafters and reepers. Four old boutiques were broken down and two new shops were built. About Rs. 18,000/- was spent in putting up the two new shops. For the installation of drainage it cost about Rs. 10,000/- there were about three baths and four lavatories. For the boundary wall I spent about Rs. 10,000/- I am not sure of this figure but I will be calling the person who effected these repairs.

I have seen certain Muslim names as parties to the partition action. I have not seen any one of them at any time on these premises. Not one of them at any time made any claim to these premises.

I have the receipts for rates paid in 1947 for the four quarters in respect of the premises in question which I produce marked P26a to P26d; for 1948 marked P27a to P27d, for 1949 marked P28a to P28d; for 1950 marked P29a, to P29d and for 1951 marked P30a to P30c up to the third quarter.

No. 16.  
Plaintiffs  
Evidence.  
L. Gulam-  
hussain  
Examination.  
—continued.

I have books of accounts in respect of these premises showing the names of tenants and the amount of rent collected, and I have prepared from my books an extract for the period 1946/51 which I produce marked P31. These rents were paid from time to time to me and my co-owners.

If I had any notice of these proceedings I would have certainly gone into court and made my claim.

Cross-examination by Mr. Advocate Wickramanayaka,

I am 39 years old. I left school in 1933. Thereafter I attended the Law College till about 1935. After that I joined my business. We are coconut oil merchants. Most of my time is spent in the office.

L. Gulam-  
hussain  
Cross-  
Examination

As far as these premises are concerned, they consist of shops and tenements. There are two large shops and about 38 tenements. The rents are collected by the rent collector, I myself do not usually go down to collect the rents. We receive payments. I did not visit these premises very often. We had from time to time various people as rent collectors.

My grandfather bought these premises on P1 from Mrs. Fonseka. I do not know the exact figure he paid for it. Mrs. Fonseka bought the property at a sale in execution against a lady called Saviya Umma. I have seen the title deeds myself.

Q.—Do you know how Saviya Umma got this property?

A.—It was on a fidei commissum.

I know that the original owner of this property was Idroos Marikar Lebbe. I am not aware that he left a large number of properties in Colombo. I am not aware of his leaving a last will. The plaint was drawn up on my instructions. In paragraph 8 of the plaint I said Idroos Marikar Lebbe. I have a copy of that last Will in my title deeds. I was aware that this last Will created a fidei commissum.

Q.—If that last will created a fidei commissum, then your title comes to an end on the death of this lady?

(Mr. Advocate Weerasooriya states that the witness should not be questioned on intricate legal problems with regard to the creation of a fidei commissum on the last Will.

Mr. Advocate Wickramanayaka states that he questioned the witness to find out his view of the last Will.

No 16.  
 Plaintiffs  
 Evidence  
 L. Gulam-  
 hussein  
 Cross  
 Examination  
 —continued.

Whether he is right or wrong is a different matter.).

I know what a fidei commissum is.

Q.—If this document created a fidei commissum, then sometimes your title would be extinguished?

A.—Yes, I know that.

My predecessor in title was this lady Saviya Umma. My title would go back to this lady.

Q.—Assuming that this last Will created a fidei commissum, then on the death of Saviya Umma you would have no further action at all?

A.—No. I was not aware of that.

We thought we were the rightful owners of that property. I have a general idea of what a fidei commissum is. I have taken a great deal of trouble to examine the partition action and I produced a number of documents which my lawyers examined.

Q.—That title was drawn up by the grandchildren of Saviya Umma on the footing that on her death, by virtue of the fidei commissum, the property would devolve on them? A. Yes.

I produced a document P22, deed No. 246, and I pointed out that the deed did not convey the property to anybody else but Saviya Umma. I am not aware that the number of the deed was a mistake and that the mistake was corrected in the evidence. I am aware that on deed 2575 this property was conveyed by Idroos Lebbe Marikar, the executor, to Saviya Umma. I am not aware that in that partition case the deed was produced in time and marked. I had no notice of these partition proceedings. I first came to hear of this when this property was advertised for sale in the press. I am not aware that the surveyor in this partition action surveyed this land. My tenants and rent collector did not tell me that. My tenants may have been on the premises. I have a care taker on the premises. I am not aware that the surveyor took three days to survey this land.

With regard to the amount spent on improvements to this land, I have assessed it at Rs. 30,000/-. I myself are not personally aware of how the money was spent. I myself kept no accounts of the amounts spent, it was kept in the office. From 1916 upwards I have taken the rents. A part of this land was acquisitioned by the Government for road widening and a compensation of about Rs. 18,000/- was paid to me, that is the approximate figure. I am not aware of the exact figure. That was about the year 1923. I am not aware that there had been litigation over the last Will or Idroos Lebbe Marikar.

Q.—You do not deny that there was a survey of this property by the Surveyor in the partition action?

A.—I am not aware of that, it may have been surveyed.  
Cross-examined by Mr. Advocate Mohamed Nil.

No. 16.  
Plaintiffs  
Evidence  
L. Gulam-  
hussain  
Cross-  
Examination  
—continued.

Re-Examined:

My grandfather was the owner of the property earlier and he died in 1927. After that my grandmother, father and uncle were the owners. My father died in 1937, so that I acquired rights only after my father died. Before my father's death I did not interest myself in regard to the title of this property. The title deeds first came into my possession when I joined the office about 1937. I do not claim to be able to construe any of those documents.

L. Gulam  
Hussein  
Re-  
Examination

The last improvements to the premises was completed in 1930.

I did not know Saviya Umma personally. Neither do I know any of the parties to the partition case nor the persons who claimed to be children or grandchildren of Saviya Umma. I have produced the plaint in the partition action P14. In the plaint there were statements that certain persons died leaving children. I do not know the relationship of any of these parties one to the other. I was questioned on the footing that the tile was drawn up by the children and grandchildren of Saviya Umma only. I do not know that for a fact except for what is stated in the plaint. I cannot state what the legal conditions are of the last Will and who is to get that property and at what time.

I referred to a road widening acquisition. Neither of these alleged children of Saviya Umma made any claims at that time.

L. B. DE SILVA,

A. D. J.

5-2-52.

JAFFERJEE HASSENBHAI Affirmed 56—Copra Storekeeper under Adamjee Lukmanjee & Son.

J. Hassen-  
bhai  
Examination

I know the premises in respect of which this action has been brought. I first came to know of these premises in 1919. It was bought by Adamjee Lukmanjee, the 2nd plttf's grandfather. When I first came to know this land there were four small boutiques in front and thirty tenements. When Adamjee Lukmanjee bought the property he took it with people in occupation. The rents were then paid to Adamjee Lukmanjee. I collected the rents. All the tenants paid rent to me. The rents I collected were paid by me to Adamjee Lukmanjee. I collected the rents for about twenty years. After that Mr. Saly collected the rents.

No. 16.  
Plaintiffs  
Evidence  
J. Hassen-  
bhai  
Examination  
—continued.

Q.—Did anybody other than Adamjee Lukmanjee or his son, during the period you knew the property, make any claim to it? A. No.

After I ceased collecting rents I have not gone to this property. During the time I was collecting rents certain improvements were effected. The four boutiques that were on the road side were demolished and two big shops were put up. That was done about 1923. The two shops were put up with kitchen, stores, etc. I supervised that work. Adamjee Lukmanjee paid for all that work. Apart from that, in 1925 drainage was put in and two bathrooms and six lavatories were put up. Adamjee Lukmanjee paid for that. Apart from that, the boundary wall was put up in 1929. The length of that wall was about 120 ft. I saw it being put up. Adamjee Lukmanjee paid for that wall. In 1935 all the houses were given a complete repair by painting, cementing, re-roofing etc. I was present when this was done. Adamjee Lukmanjee paid for that work. About Rs. 10,000/- was spent on that repair work. In my time nobody made any claim to this property or collected any rents.

J. Hassen-  
bhai  
Cross-  
Examination

Cross-examination by Mr. Advocate E. B. Wickramanayaka.

I was the rent collector and looked after the premises also. I was looking after all the properties and collecting rents. I was paid Rs. 125/-. I was living at Adamjee Lukmanjee's, Bankshall Street. The watcher was there and he collected the rents and I took the rents from the watcher. I know who pays the rents because I was supervising all the repairs. Adamjee Lukmanjee was paying the money for the repairs and the work was done under Adamjee Lukmanjee. The cheque was paid by Adamjee Lukmanjee. I do not know about the cheque. I write out the chits and hand over to the office. I say the repairs were extensive. I submitted bills only. I get the money from Adamjee Lukmanjee, pay for the goods and get the things.

According to the requirements I get two, three or five thousand rupees. I have no account in the Bank. I get cash from Adamjee Lukmanjee. These repairs were not done by one Contractor. They were done by our Department. If there were any repairs to be done I attended to those repairs. The extensive repairs were not done by any contractor, they were done by me. The work was done by our Department. I buy the materials and pay for it.

I collected the rents and supervised the repairs for Adamjee Lukmanjee. Besides rent collecting I had house repairs and odd jobs. I buy materials for the mills. These repairs, I say, were done by me. I paid big sums of money. I cannot remember the amount I paid because I have been doing all this for the last fifty years. Any repairs to the roof and windows I do. Cementing and painting and any carpentry work to be done on the premises was done by me. I did all this drainage work. Adamjee Lukmanjee paid for that work. Adamjee

Lukmanjee paid Rs. 4,000/-. That sum was paid in 1925. I write out all chits and hand over to the office. I had my Baas named Waham to do the work. The plan for the drainage was submitted to the Municipality in the name of Waham.

No. 16.  
Plaintiffs  
Evidence  
J. Hassen-  
bhai  
Cross-  
Examination  
—continued.

(To Court. I employed the necessary men to get whatever repairs done, not that I attended to the carpentry, drainage and so on).

Cross-examined: by Mr. Advocate Mohamed-Nil.

Re-examined.

J. Hassen-  
bhai  
Re-  
Examination

Apart from collecting rents I had other business also at that time. Apart from collecting rents I attended to the repairs. When that work had to be done in regard to this property, I bought the material. Apart from repairs, if any constructional work had to be done O. L. Abdul Raheem bought the material. In regard to the constructional work, I first found out what was necessary to be done. The chits I referred to were the bills for the purchase of material. I used to take those bills to Adamjee Lukmanjee and when the money was given I paid those bills. I had an account for labourers which I handed to the office and the office gave me the money which I paid to the labourers. During this time I was the person who attended to all that work and I know personally what happened.

Sgd. L. B. DE SILVA,

A. D. J.

5-2-52.

ABDUL RAHAMAN MOHAMED SALY Affirmed 55—Supervisor under Adamjee & Sons. As Supervisor I collect the rents and look after the houses. I know the premises in question. I collect the rents and look after the houses. I have been doing this since 1940 up to date. There are now 27 tenements and two shops. When I first took charge in 1940 these two shops were there at that time. The occupants of those shops and the tenements were paying rents to Jafferjee Bhai before me. After that I have been collecting the rents and the rents have been paid to me up to date. Abdul Gaffoor, my Assistant, also collects rents. Apart from us, nobody else collects rents. Nobody made any claim to these rents. I collected the rents and paid them to Adamjee Lukmanjee. They have other house property also. I attend to those also.

A. R. M. Saly  
Examination

Cross-Examined: by Mr. Advocate E. B. Wickramanayaka.

A. R. M. Saly  
Cross-  
Examination

I am still the rent collector. I go to these premises once a month. If there is a shortage of rents collected by my assistant I used to go for it. The main collection is done by me.

Cross-Examined: by Mr. Advocate Mohamed-Nil.

No. 16.  
Plaintiffs  
Evidence  
A. R. M. Saly  
Cross-  
Examination  
—continued.

(To Court: The amount of rent collected from the premises in dispute is Rs. 700/- a month)

Re-examination: Nil.

Sgd. L. B. DE SILVA

A. D. J.

5-2-52.

M. I. A. Gaf-  
foor  
Examination

MOHAMED ISMAIL ABDUL GAFFOOR. Affirmed 41-Rent Collector 34/3 Cooper Street. I know the premises which are the subject matter of this action. I have been collecting rents from this property since 1946. I know all the tenants since 1946. From the time I started collecting these rents I collected rents from all the tenants in occupation. I have done so up to date. I pay all the rents collected to Adamjee Luckmanjee & Sons.

I know the last witness Saly. He is the Supervisor of all properties belonging to Adamjee Luckmanjee. In respect of this property I collect rents and the other repairs and any other business arising out of the premises is attended to by Saly. No one else other than myself collected the rents from these premises after I began to collect, or made any claim at all to these properties.

The buildings consist of tenements and two big hotels. I carry my rent collecting book. From 1942 up to date I have books of accounts and I have kept accounts from 1946. Account Book up to 2nd April 1947 is produced by me marked P32, from 13th April 1947 up to 5th April 1949 is produced is marked P33; from 7th April 1949 up to date is produced marked P34. I issue receipts signed by my Principals. From 1948 counterfoils are available, but the previous ones are tied up and kept in the Stores. I have with me the counterfoils from 1948 up to date. (The counterfoil books are brought up from the car).

I produce 11 counterfoil books marked P35 for the years 1948 to 1952 in respect of these premises.

M. I. A. Gaf-  
foor.  
Cross-  
Examination

Cross-Examined: by Mr. Advocate E. B. Wickramanayaka.

I go to these premises once a week on a Sunday. I never go on a week day.

Cross-Examined: by Mr. Advccate Mohamed—Nil.

Re-Examined: Nil.

Sgd. L. B. DE SILVA

A. D. J.

5-2-52.

Trial to be resumed tomorrow.

Sgd. L. B. DE SILVA

A. D. J.

5-2-52.

6th February 1952.

Appearances as before. Trial continued. 21st defendant present. Other parties absent. Plaintiff's case continued.

No. 16.  
Plaintiffs  
Evidence  
A. Wahab  
Examination

Mr. Advocate Weerasooriya calls:—

ABDUL WAHAB. Affirmed 52-contractor-No. 162/67 Skinners Road South. I know the premises in respect of which this action is brought. I have known these premises since 1922. I did work on these premises for Adamjee Lukmanjee. From 1922 to 1940 I have been working for him. In 1923 I demolished four small boutiques and put up two big boutiques. That cost about Rs. 15,000/-. Apart from putting up those two new shops later I put up drainage for six lavatories and two bath rooms. I myself did that work somewhere in 1925. That cost about Rs. 4,000/-. Adamjee Lukmanjee paid for all that work. After that I put up a parapet wall somewhere in 1929. The length of that wall is 120 ft. and the height 7ft. Adamjee Lukmanjee paid for that work. I also did some repairs. I repaired some tenements. I removed the roof and pulled down some walls and built new walls. All the lavatories were demolished and new lavatories were put up. They cost about Rs. 10,000/- and this was paid for by Adamjee Lukmanjee.

When I first came to know the premises they were in a very bad state. These improvements were necessary to keep the premises occupied. The tenants would not have occupied these premises without improvements.

Cross-Examined: by Mr. Advocate E. B. Wickramanayaka. Nil.

Cross-examination by Mr. Advocate Mohamed.

A. Wahab  
Cross-  
Examination

The two new shops were built after I demolished the old buildings. I do not know if the Municipality demolished any buildings for road widening. Some of the boutiques were damaged but I was not aware that they were pulled down on account of road widening. All the boutiques were pulled down and then new boutiques built. A row of kitchens also were constructed behind. Excavation work was also done for the foundation. The wall cost about Rs. 1,500/-.

During that time I had no licence as a contractor. For drainage I got my licence only this year. O. L. M. Abdul Rahim, my brother-in-law had a licence and the drainage was put up under his licence.

Cross-Examined: by Mr. Advocate V Arulambalam.—Nil.

Re-Examined: Nil.

Sgd. L. B. DE SILVA,

A. D. J.

6 - 2 - 52.



No. 16.  
Plaintiffs  
Evidence  
A. D. Dayaratne  
Examination

A. D. DAYARATNE affirmed 20 Clerk Municipal Assessor's Department. Colombo.

In this Department there are books in respect of the assessment numbers, owners, annual values and rates in respect of the properties in Colombo. These are kept under the Municipal Ordinance. I have been requested to supply a certified statement from the Assessment Register dealing with the property in question at Galle Road and Muhandirams Road, Colpetty. I have prepared such a Statement.

(Mr. Weerasooriya marks letter dated 6-2-52. from the Municipal Assessor to Messrs Julius & Creasy P36 and the statement attached to the letter P36a).

The statement gives the particulars in respect of the assessment numbers, street and owner as well as the annual value and the rates for the years 1916 to 1946. In that statement, from 1920 Adamjee Lukmanjee is entered as the registered owner, and the quarterly rates were payable by him on the annual value. He continued to be given as that of owner until 1932. In 1932 the owners' names were given as Gulam Hussein Adamjee and Mohamed Aly Adamjee.

(Gulam Hussein Adamjee is the father of 2nd plaintiff. Mohamed Aly Adamjee is the 1st plaintiff). Those names have continued up to 1946. The rates in P23 is also a certified copy of the statement in the Registers from 1947 to 1951.

Cross-examined: by Mr. Advocate E. B. Wickramanayaka: Nil.

Cross-examined: by Mr. Advocate Mohamed: Nil.

Cross-examined: by Mr. Advocate Arulambalam: Nil.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

G. Palewanderam  
Examination

G. PALEWANDERAM. sworn-35 clerk-Deputy Food Control Office, Colombo. I attend to the House Holders' Lists. Certain forms have to be filled up by householders and submitted to the Department, and the forms give certain particulars with regard to persons who are entered as householders.

(The witness objects to giving evidence with regard to the particulars asked for and refers to Gazette No. 10186 of 8th December 1950, Regulations under the Food Control Act No. 25 of 1950, part IV. F3.

Mr. Advocate Weerasooriya states that this regulation applies to voluntary disclosure of information by officers and does not refer to evidence in Court.

I question Mr. Advocate Weerasooriya as to the purpose for which this evidence is called. He states that this evidence is being called to prove that certain defendants were residents at No. 47 Castle Street and to prove their ages.

No. 16.  
Plaintiffs  
'Evidence  
G Palawan-  
deram  
Examination  
—continued

Quite apart from the question of privilege raised by this witness, I hold that the evidence is inadmissible for the purpose for which it is led. The statement made by the chief householder in his return to the householder's list would not be admissible except as against him, as an admission made by him and unless he is called as a witness in support of the statement made by him. It is not necessary in this case to give a ruling with regard to the question of privilege raised by the witness.)

Cross-examined: by Mr. Advocate E. B. Wickramanayaka-Nil.

Cross-examined: by Mr. Advocate Mohamed-Nil.

Cross-examined: by Mr. Advocate Arulambalam-Nil.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

CHARLES H. PERIS, sworn. 65 Auctioneer and Broker, Colombo. I know the premises at Muhandirams Road and Galle Road in respect of which this action is brought. I visited the property on 1st February 1952 and I have made a report and valuation of same. The premises at Galle Road consist of Nos. 153 and 155, a shop and a sundry boutique. I have also enumerated the tenements of Muhandirams Road, giving the number of rooms they have, the square feet occupied by each and also the rent. I have also stated the material of which they have been built and I have given a valuation. The valuation is a true valuation. I produce my report and valuation marked P37. The monthly rental is Rs. 696/50. On the basis of sale in the open market I have valued the property at Rs. 165,000/- on a rental basis and on an investment basis it will give a net return of 3 per cent. On a rental basis in March 1950 the value would have been the same.

C. H. Peris  
Examination

Cross - Examined: by Mr. Advocate E. B. Wickramanayaka - Nil.

Cross - Examined: by Mr. Advocate Mohamed Nil.

Cross - Examined: by Mr. Advocate Arulambalam Nil.

(To Court-Because the law of supply and demand is there the demand for property is greater in this area. In Colombo town the value depends on the situation of the property. The situation of the property is to be taken into consideration and the condition of the property. I have not taken into consideration the condition of the property in my valuation, it is only on a rental basis.

No. 16.  
Plaintiff's  
Evidence  
C. H. Peris  
Examination  
—continued

Q. If you are going on a rental basis, what would be the valuation? on how many years purchase would you place valuation on a rental basis?

A.—If it is a good residential bungalow at Colpetty I will value it at 50 years purchase, on a net return of 2 per cent, but these being shops and tenements, I would value at 33-1/3 years purchase on a net rental.)

Re - Examined: Nil.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

P. B. Robert  
Examination

P B. ROBERT. affirmed 52 - presently unemployed - Colpetty.

I occupy premises No. 35/17, Muhandirams Road, Colpetty. I have been in occupation of those premises for the last 21 years. I came into occupation under Buhari, the Lessor, who had taken a lease from A. G. Adamaly. I paid rent to Buhari for about four or five years. I paid rent to the rent collector. I do not know his name. He was in Court yesterday. He has not given evidence in Court. Up to date I have paid him rent. He was employed under Adamjee Lukmanjee. I pay a rent of Rs. 16/30 odd. The premises have been assessed at Rs. 16/30 recently. From time to time I have been paying different rents.

P. B. Robert  
Cross-  
Examination

Cross Examined: by Mr. Advocate E. B. Wickramanayaka.

I still live in these premises. I know a surveyor came to this land in December 1950 or January 1951. I do not know if he surveyed for three days. I saw him surveying the land.

Cross - Examined: by Mr. Advocate Mohamed, Nil.

P. B. Robert  
Re-  
Examination

Cross - Examined: by Mr. Advocate Arulambalam Nil.

Re-Examined:

(Shown witness Gaffoor) - I know this man. This is the present rent collector. I pay rent to him.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

T. de Silva  
Examination

TIMOTHY DE SILVA. affirmed 44 - Colpetty.

I now occupy premises No. 25/8 Muhandirams Road. I have been occupying these premises for the last 27 years, since I got married.

I occupy the premises under Adamjee Lukmanjee. Up to date, rent has been paid by me to Adamjee Lukmanjee. I pay the rent to the collector appointed by the Bhai. The rent collector is known as Gaffoor. (Shown Gaffoor). He is the rent collector.

Cross-Examined: by Mr. Advocate E. B. Wickramanayaka.

I do not know if this land was surveyed two years ago. I did not see the surveyor surveying the land.

No. 16,  
Plaintiffs  
'Evidence  
T. de Silva  
Cross-  
Examination  
—continued.

Cross-Examined: by Mr. Advocate Mohamed.

Repairs have been done to my house year after year. It is true the house was repaired but I did not leave the premises during repairs. The house was cemented. A portion of the titles were shifted and the beams were attended to. That is what is usually done to the houses every year.

Cross-Examined: by Mr. Advocate Arulambalam Nil.

Re-Examined Nil.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

P FRANCINA HAMY affirmed 65 Colpetty.

I occupy premises No. 25/5 of Muhandirams Road for the last 30 years. I pay no rent because I look after the property. I pay no rent for the last 20 or 25 years. I look after the property for Adamjee Lukmanjee. Some other premises are occupied by my relations but I cannot say which premises. Other than the premises I live in I pay rent for the house occupied by my son; I do not know the number of that house.

Francina-  
Hamy  
Examination

(To Court. That house is in the same property). I pay rent to the same Bhai. I have been paying rent for my sons' house for the last 12 years. I pay a rent of Rs. 16/- odd for my son's house.

Cross-Examined:—Nil.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

J. S. AMBANI. affirmed 42 - Accountant of Adamjee Lukmanjee & Sons. I have been employed at Adamjee Lukmanjee as Accountant for about 12 years. The account books contain the accounts of this property. They also show who paid the rates and taxes. The rates and taxes were paid by the firm. From the books I can show the rates and taxes paid to the Municipal Council. I have prepared an extract from the books of accounts which I produce marked P38 for the years 1919 to 1952. P38 shows the rates and taxes paid for the premises in question. This statement shows the rents collected and I have shown the total rents

J. S. Ambani  
Examination

No. 16.  
Plaintiffs  
'Evidence  
J. S. Ambani  
Examination  
—continued.

for a particular year. For the years 1928/29 to 1935/36 our ledgers are missing. Although the ledgers are not available, the cash books are available from which P38 could be verified. The cash books for the years 1928/29 to 1935/36 are available. In respect of the other years the ledgers and cash books are in Court. In respect of repairs to this property, payments were made by the firm. Those payments were entered in the books but do not appear in the extract P38. I know from the office that payments were made.

J. S. Ambani  
Cross-  
Examination

Cross-Examined by: Mr. Advocate E. B. Wickramanayaka-Nil.  
Cross-Examined by: Mr. Advocate Mohamed.

Q.—Would it be correct to say that on an average you received Rs. 500/- a month as rent?

A.—I cannot say that because the average rent varies for every year.

The minimum rent received was about Rs. 2,500/3,000 a year. The maximum rent received for a year was about 8,569/-, gross income, for the year 1948/49.

Cross-Examined by: Mr. Arulambalam Nil.  
Re-Examined. Nil.

Sgd. L. B. DE SILVA.  
A. D. J.

6-2-52.

Mr. Advocate Weerasooriya closes his case reading in evidence P1 to P38.

No. 17.  
Defendants  
Evidence

---

**No. 17.**  
**Defendant's Evidence.**

**DEFENCE**

Mr. Advocate E. B. Wickramanayaka calls.

H. Mahroof  
Examination

HAMZA MAHROOF, affirmed 31 Manager of N. A. Hamid, Main Street, Colombo. I am the 8th defendant in this case. I was the 1st defendant in Partition action 5706. That was an action to partition the land in dispute in this case. That land originally belonged to Idroos Lebbe Marikar. I am one of his descendants. Idroos Lebbe Marikar left a Last Will 7130 a certified copy of which I produce marked 8D1.

Q.—Idroos Lebbe Marikar had a large number of properties in Colombo?

A.—I am aware of that.

There has been litigation in respect of other property belonging to Idroos Lebbe Marikar. I cannot give the names of the property in respect of which there was litigation. The Last Will of Idroos Lebbe Marikar was admitted to probate in D. C. Testamentary 3909 (8D2). In terms of the Last Will, the Executor conveyed the whole property to Idroos Lebbe Marikar's daughter Saviya Umma by deed 2575 of 14th September 1888 (8D3). Saviya Umma died leaving eleven children who are all dead. The parties to the partition action were the grandchildren of Saviya Umma. Sadood was the plaintiff in that partition action. He is my brother. In the plaint in the partition action reference was made to deed No. 246 by which Saviya Umma got title. Sadood gave evidence in that case. He referred to the correct deed No. 2575 and it was produced in that case. Decree was entered in the partition case for sale of the property. There was an appeal from that decree on the question of shares. The Supreme Court decided that matter on 6th September 1951. I produce a certified copy of that judgment marked 8D4.

No. 17.  
Defendants  
Evidence  
H. Mahroof  
Examination  
—continued.

Cross-Examined: by Mr. Advocate Mohamed-Nil.

H. Mahroof  
Cross-  
Examination

Cross-Examined: by Mr. Advocate Arulambalam-Nil.

(To Court. I am related to Saviya Umma through my father Mohamed Mahroof.

My father died in 1934. My father was Saviya Umma's son. The last of Saviya Umma's children died in 1946 or 1947. She was Aysha Umma. She left five children; three males and two females. They were Kadija Cassim, Falih, Suheb. I do not remember the names of the girls. One Ein Saffia. I do not remember the other name.

(Mr. Advocate E. B. Wickramanayaka states they are 38th to 42nd defendants in this action).

Noor Zahira, another daughter of Saviya Umma, died after my father's death. She died about 1948. She left four children, Hussein Sakaff, Fulail Cassim, Umma Zulaha and Hibishi.

Mohamed Latiff who was the son of Saviya Umma, died after my father in 1944. Latiff left seven children, Abdul Mohahib, Hassen, Jiffrey, Mohamed Ismail, Mohamed Samsudeen, Sithi Saffia, Ummul Ogida. I forget the youngest child's name.

Mohamed Nilam, also a son of Saviya Umma, died after my father. He died somewhere in 1942 or so. He left no children. Mohamed Affan, another son of Saviya Umma, died after my father. He died in 1944 leaving no children.

No. 17,  
Defendants  
Evidence  
H. Mahr of  
Cross-  
Examination.  
--continued.

Noor Haffila, a daughter of Saviya Umma, died after my father. She died about 1942 or 1943. She left two children, Alami and a female whose name I do not know.

(The other children of Saviya Umma died before my father died).  
Cross-Examined—by Mr. Advocate Weerasooriya.

I now live at Layards Broadway. I have been there for 10 years. Before that I was at Castle Street since my childhood. I have been Manager of Hamids for three years. Before that I was a dispenser at Dr. Kaleel's Dispensary for 1½ years. Before that I had no employment.

I was educated at Zahira College. I might have left College just after my father's death. I was at Zahira College for 7 years. I cannot remember how old I was when I entered College. When I left Zahira College I must have been about 11 or 12 years. After leaving College I did not join any other school. When I left College I did not get my Birth Certificate. After I left school my relations looked after me. I at no time tried to get my Birth Certificate after that.

In the partition case my Proctor filed an answer. My Proctor was Mr. Rasanathan. I was the 1st defendant in that case. When the case was heard I was in Court. I did not give evidence. Plaintiff gave evidence. The Plaintiff was H. Sadoon. When I was questioned by Court about the descendants of Saviya Umma I tried to refer to a date of death. I have that document.

(Mr. Advocate Weerasooriya marks that document P39) I wrote the particulars on P39 last night. I just wrote the particulars down. There were no reasons for my writing them down. I wrote down these particulars after 6 o'clock last night. I cannot say before what time in the night I wrote it. I remember it was after 6 o'clock when I wrote this documents.

(To Court: It was written by me before I had dinner). I had dinner about 7 or 7-30 p. m. So that I wrote P39 after 6 and before 7 or 7-30 p. m. My children were with me at the time I wrote P39. The eldest child is 10 years old.

Nobody else was present. No other party to this case was present. I just thought it necessary to write all this.

The reference to Leonora in P39 was Dr. Leonora whom I was thinking of at the time. The words "Children Saviya Umma 1930" was written because she died in 1930. The figures "930" in 1930 is written over something else.

Q.—Did you write some other figures and over these figures write 1930?

(No answer)

Q.—You have written here “Children Sadoon died-192 and two other figures and written 6 over the last figure”?

A.—That is due to a faulty nib.

I say that ‘6’ was the original figure there. I made no correction.

Against Ogida I have written 1931 first and corrected the 9 to 0, that is also due to the bad nib.

Q.—Against Mahroof you have written ‘193’ over which you have written ‘194’?

A.—All these alterations are due to a faulty nib and also due to my daughter pulling the pen when writing. (To Court: It is a fact that these dates have been altered. I do not admit that I have written certain dates and corrected them. These alterations are not due to my changing the dates).

After putting down the dates I have put the number of males and females. For instance against Sadoon I have put up four males and three females. That refers to the children. I continue like that and against M. Nilam I have first put “intestate” struck it out, and written “without issue”, that was an alteration. In the case of the others I have stated whether they died leaving males and females or without issue.

Last night I did not know that I had to give evidence in this case. Till I was called into the witness box this morning I am sure that I did not know that I had to give evidence.

I have written these particulars on a telegram sent to Hamza a relation of mine. He is not a party to this case. He lives at Castle Street, Borella. He was not a party to the partition action. He is a guardian. I got that telegram addressed to Hamza, when I went to speak to him. He did not give me the telegram. It was on the table. I just went through the telegram and put it into my pocket. I had no discussion with Hamza about this case.

(Mr. Advocate Weerasooriya marks reverse of P39, P39a). I do not know what case is referred to in P39a. I know only my Proctor Rasanathan. I do not know any other Rasanathan. I do not know whether it must be Mr. Rasanathan who sent this telegram.



No. 17.  
 Defendants'  
 Evidence  
 H. Mahroof  
 Cross-  
 Examination  
 --continued

(Mr. Rasanathan says he sent the telegram on his own.) M. Y. M. Hamza is the 21st defendant in this case.

Q.—The figure 1926 is given as the date of Sadoon's death - how do you fix that date?

A.—I found all those dates in my father's note book.

No, that is not correct. I found only the date of Sadoon's death in my father's note book. The date of Ogida's death in 1930 also I found in my father's note book. I found about three dates in my father's note book. The other dates I got by inquires from other people at various times. When I got these dates from various people I entered them in pieces of paper at the time they gave me that information. I kept those pieces of paper with me and last night I took three dates from my fathers' note book and the information I got from others, which I wrote on pieces of paper, I entered in a book, and it was from that book that I got these dates. I was collecting those dates for no particular reason. I cannot remember now who gave me those dates. They were given by different people at different times. I have not got that book in which I have entered these dates nor have I brought my father's note book.

At the time I entered the dates in that book I did it myself, so that the dates were quite clear.

Q.—There was no reason for you to alter a date which you have written in P39 because the dates were clear and you could have seen those dates?.

A.—Yes.

The Proctor I retained in the partition case was Mr. Rasanathan. I cannot definitely say that I filed answer. I remember I told court I filed answer. I do not know whether I filed answer in that case. I gave a proxy in that case.

Q.—No proxy and no answer has been filed by Mr. Rasanathan?

A.—I do not know.

I did not inquire from him whether he had filed answer or proxy. I did not instruct Mr. Rasanathan to file my answer. My brother, the plaintiff, instructed him. I gave no instructions to Mr. Rasanathan.

My brother is older than myself. He is about 33 years old. He is not older than 33. Being the plaintiff he ought to know more about that case. Plaintiff Sadoon is not my own brother. He is my cousin. I said I was present in court at the trial.

Q.—You did not come up when your name was called?

A.—I was told it was not necessary for me to stay. When my name was called I did not answer. I cannot say whether I was present in Court or not when the trial took place.

Q.—Isn't it a fact that these names which you have put on P39 is mere guess work on your part last night, and that you have advanced the dates as nearer as now as possible?

A.—I deny.

I have now no document to show at what date any of these people died. I have a document at my place which I did not bring to court. I have nothing to show that any of them are in point of fact dead. I have not taken any Death certificate or any Birth certificates of any of these people.

Re-examination: Nil.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

Mr. Advocate Wickramanayaka moves to call the Surveyor.

Mr. Weerasooriya objects to the witness being called because he is not listed.

I allow the witness to be called.

V. KARTHIGESU. affirmed. 62 - Licensed Surveyor, Colombo.

I have been a surveyor of this court for the last 40 years. I have executed commissions before. I got a commission in D. C. Partition action No. 5706 to survey the land at Muhandirams Road. I surveyed that land on 1st December 1949. That is the land in dispute in this case. I went to the land only once. The land consists of buildings and tenements. I made my Report in that case. I produce a certified copy of that Report marked 8D5.

Cross-Examined: by Mr. Advocate Mohamed-Nil.

Cross-Examined: by Mr. Advocate Weerasooriya-Nil.

Cross-Examined: by Mr. Advocate Arulambalam-Nil.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-52.

Mr. Adv. Wickramanayaka closes his case reading in evidence 8D1 to 8D5.

Mr. Advocate Mohamed is not calling evidence.

Mr. Advocate Arulambalam is not calling evidence.

Addresses on 12. 2. 52.

Sgd. L. B. DE SILVA.

A. D. J.

6-2-62.

No. 18.  
Addresses to  
Court.

**No. 18.**  
**Addresses to Court.**

14th February 1952.

Same appearances.

Addresses.

Mr. E. B. Wickramanayaka, K.C. addresses Court. He submits that this is an action to set aside the decree entered in the partition case D. C. Colombo 5706, for a declaration of title, for alternative damages against the defendants in a sum of Rs. 1,000,000/- and for an injunction against the defendants restraining the sale of the property under the Partition Decree.

As regards the question of setting aside the decree, he submits that it is not open to a person who is not a party to the action to get the decree set aside. Admittedly the present plaintiffs were not parties to the partition action D. C. 5706. This decree is res judicata between the parties to it. This decree is a decree in rem. It will bind persons other than the parties to the action. There is no provision under the law, under the partition ordinance, for the plaintiffs to ask this court to set aside the decree, as this Court has no jurisdiction to set aside the decree. That can only be done by the Court of appeal. It has been so held. A decree cannot be declared null and void unless of course it is a decree entered by a Court, which has no jurisdiction. All the persons who are not parties to the proceedings of such a case can say that the decree so entered is not binding on them. This court has no jurisdiction whatever to declare this decree null and void. Plaintiffs in this action have not prayed for a declaration of title to this property. Their remedy is an action for their title, if the decree does not bind them. A partition decree is binding on the whole world and not only on the parties to the action.

That decree derives conclusiveness by its own inherent authority, a partition decree is conclusive. This decree is in rem. One reason why plaintiffs ask this Court to set aside this decree is apparently because they were not made parties to the partition action. He submits that it is not a ground on which this Court can declare a decree null and void of its conclusive character. It might be a ground for damages if other conditions are satisfied. He cites 50 N. L. R. page 162, and submits that the first ground is unsubstantial, that the plaintiffs have not been made parties to the partition action is no ground.

Re: the question of fraud and collusion, he submits that there is no evidence at all of any fraud or collusion. From the mere fact that the plaintiffs in the partition action did not make the present plaintiffs parties to that action, it is not open to this Court to infer fraud or

collusion. It must be proved beyond any shadow of doubt. There is no evidence at all from which fraud or collusion could be inferred, except for the fact that the present plaintiffs were not made parties to the partition action. He cites 1940 A. I. R. page 98. He submits that there is no fraud. Assuming that there is fraud, it is no ground to set aside the partition decree, the only remedy is an action for damages. Cities 23 N. L. R. page 370 and 4 C W R page 406.

No. 18.  
Addresses to  
Court.  
—continued.

He submits that there is no evidence in this case that the provisions of the partition Ordinance have not been complied with in the partition action, 5706. The burden is on the plaintiffs to lead that evidence, they have not led that evidence. No suggestion has been made when the surveyor was called that things which should have been done have not been done. It was suggested that no proper investigation of title has been made in that no death or birth certificates were produced in the partition action. He submits that there is no provision of the law that either birth or death of a person has to be proved by the production of a birth certificate or a death certificate. He refers to the Supreme Court judgment, 8D4, and submits that the Supreme Court goes on the footing that evidence is sufficient in proof of title; that evidence of birth or death is sufficient for the investigation of title. Sufficiency of evidence is a matter for the trial judge. Supreme Court has held that there must be a proper investigation of title and that is in reference to cases where there was no investigation of title at all-judgment given of consent. Cites 40 N. L. R. page 92. Even if there is no proper investigation of title the decree is binding inter partes, but it does not have a conclusive character. The decree is not null and void. No partition decree is null and void. Plaintiffs' remedy is to bring an action for declaration of title, and not an action to have the partition decree declared null and void. This Court has no jurisdiction to declare any decree null and void. It is open for the plaintiffs to prove their title. Refers to Supreme Court judgment 8D4. The only remedy for the plaintiffs is an action for damages under Section 9 of the partition ordinance. In any event no grounds have been adduced to declare the decree null and void. An action for damages will not lie in this case, because plaintiffs have no title.

The property admittedly belonged to Idroos Lebbe Marikkar originally. He executed a Last Will, which was admitted to Probate. The Executor duly executed a conveyance to a daughter in this property. The Last Will has been construed by the Privy Council. Cites 45 N. L. R. page 265(5 Judges-Supreme Court) and 47 N L R page 171 (Privy Council) It has been held that the Last Will created a fidei commissum.

He submits that Saviya Umma's interests are fiduciary interests. On her death plaintiffs' title came to an end. Plaintiffs have no title to this property, unless of course they have acquired some other title. There was no obligation on the part of the plaintiffs in the partition action to

No. 18.  
Addresses to  
Court.  
---continued.

make the present plaintiffs parties to the partition action. He concedes that he is not denying that the plaintiffs were in possession Assuming. that the plaintiff were in possession up to date why should they be joined as parties in the partition action. Cites 6 N L R page 1. This land is subject to a fidei commissum in favour of the grandchildren of Saviya Umma. It is quite obvious to all that the title is in the grandchildren of Saviya Umma. The plaintiffs in the partition action were perfectly entitled in ignoring the rights of the present plaintiffs even if the plaintiffs had been in possession. Cites 30 N L R page 11. An action for damages under section 9 will lie only where there is a breach of legal duty. Plaintiffs have no rights to this property, and as such they cannot maintain an action for damages, because the partition decree has not interfered with their rights. The partition case has proceeded on the basis that Saviya Umma is dead, although her death certificate was not produced in the partition case proceedings. Plaintiffs have not proved that she is alive.

Re: Title by registration, he submits that plaintiffs tried to prove that they have title to this property by reason of due and proper registration; vide title pleaded in the plaint. Title pleaded is a title coming from Idroos Lebbe Marikar, and it is not open to the plaintiffs to establish any other title. That is the only title Saviya Umma had and that is the title pleaded by the plaintiffs.

Even if the plaintiffs had title by registration either paper title or otherwise that title had been wiped off by the partition decree. Saviya Umma's title on the Last Will came to an end on the death of Saviya Umma. Any title which she had not been proved. She was not entitled by inheritance to the whole land. There is no evidence in this case to show to what Saviya Umma was entitled to. There is no evidence as to what Saviya Umma was entitled to by inheritance. He submits that prescription does not run against fidei commissary till vesting of title. He cites 28 N L R page 92. The burden is on the plaintiffs to prove when the title vested in the fidei commissary and that they have prescribed against them. There is no such burden cast on the defendants. The legal title is in the defendants; vide Privy Council judgment. The burden is on the plaintiffs to show that they have acquired prescriptive title; they have failed to do so. Refers to S. C. judgment 8D4 and submits that it has been held that the fidei commissum was a joint fidei commissum and the time of vesting in the fidei commissari was on the death of the last child of Saviya Umma (vide pages 8 and 11 of 8D4). The evidence is that last child died in 1948. Hence there is no possibility for a prescriptive title. There is no paper title, no prescriptive title and there is no title at all. Can the plaintiffs come to this court and ask damages because they were not made parties to the partition action? Plaintiffs have no title whatever. Therefore no damages will lie, assuming that there had been fraud and collusion. They are not entitled to damages. Plaintiffs must prove adverse title against the defendants. They must prove when the title began.

Re: Compensation for improvements, he submits that in the plaint there is no claim for compensation for improvements. Refers to para. 20 of the plaint. Plaintiff admitted that this property was a fidei commissum property. He is not a bona fide possessor. Assuming that he was a bona fide possessor he must prove the compensation, either actual cost or the improved value, which should have been the less. Plaintiffs' books of accounts were not produced. Plaintiff's evidence is he spent some money, it is worthless evidence.

No. 18.  
Addresses to  
Court.  
—continued.

A portion of this property was acquired by the Crown and plaintiffs got Rs. 18,000/- by way of compensation. Under sec. 37 of the Land Acquisition Ordinance, he submits where the property acquired is subject to a fidei commissum the money so paid is also subject to the fidei commissum. In any event plaintiffs must set off this sum of Rs. 18,000/- from his claim of Rs. 30,000/-.

Re: Injunction he submits that this Court has no jurisdiction to stay by injunction the decree in another case except in the case of a superior Court. When one Court enters a decree no Court with concurrence jurisdiction can stay by injunction the decree of that Court. Injunction does not lie when plaintiffs claim compensation by damages. Application should be made in the partition case not to pay out the money.

Mr. Advocate Mohamed is heard. Re: liability of his clients for damages he submits 52 N. L. R. Page 426. Plaintiffs cannot claim damages at all. On the question of compensation, Rents and profits should be set off. 22nd to 27th defendants in the partition case. They contested the rights of the plaintiffs in the partition case with regard to shares. They were not acting in fraud or collusion with the plaintiffs in that case. His clients cannot be made liable for the plaintiffs acts or commissions. They are not liable to pay damages. Cites 9 N. L. R. page 403. He submits that there is no legal duty on his clients (22nd to 27th defendants) to disclose parties.

Mr. Advocate Arulambalam does not address Court.

Mr. N. E. Weerasooriya, K. C. is heard in reply. He submits that the first question to be decided is as to who was the owner of the property at the date the partition case was filed. Plaintiffs claim ownership on deeds as well as prescription. Though there is no prayer for declaration of title, Plaintiffs' action is based on that footing. Refers to Issues 1 to 5. I have put the title in issue, firstly on the title pleaded, secondly by prescription and thirdly by registration. I rely on deeds, and if I fail on that I rely on due and prior registration and apart from those two I rely on prescriptive possession. From 1919 plaintiffs have been in possession. Refers to section 110 of the Evidence Ordinance. If I prove that I have been the owner and in possession

No. 18.  
Addresses to  
Court.  
Continued—

since 1919 for a period of 30 years at the time of the partition action the burden shifts immediately on the defendants to show that I am not the owner. Refers to para. 13 of the plaint, two alternative titles have been pleaded - title by deeds and title and due and prior registration. Cites 20 N. L. R. 97, 24 N. L. R. 175, 30 N. L. R. 317 and 32 N. L. R. 353.

What interests did Saviya Umma have? Refers to 8D3. According to which Idroos Lebbe left 8 children and Saviya Umma would get a certain share at least. In 8D3 in 1888 according to the distribution of properties of Idroos, as stated in the deed, Saviya Umma got the entirety of this property. Who are the people who could claim against the plaintiffs on this basis? In 1888 there was a valid distribution of property. Saviya Umma only became entitled to the property from 1888 to 1916. For a period of 28 years, Saviya Umma must necessarily have been in possession. She got, whatever the share may be, and she by arrangement between the heirs got a certain share and entered into that, and I purchased the property in 1916 in its entirety. According to Muslim Law, sons get twice. Saviya Umma got a certain share as an intestacy. I purchased the entirety of Saviya Umma's interests, and it cannot be said that the heirs of Saviya Umma can attack my title. Plaintiffs claim the whole of Saviya Umma's interests. Her children and grandchildren cannot claim against them. By arrangement Saviya Umma had been given this whole land.

He submits that defendants' evidence and pedigree are unreliable. When the plaintiffs are in possession and if someone wants to break such possession into different periods, on whom is the burden? Saviya Umma's death must be proved. Defdts. must prove that my prescription ceased on the death of Saviya Umma and that on the Will Saviya Umma's children got a right. Defendants have not proved these. There is no reliable evidence as to the death of Saviya Umma and her children. Refers to Sec. 3 of the prescription Ordinance (Cap 55). The person in possession is presumed to be the owner. Defence must prove Saviya Umma's death and the death of the children. Refers to Sec. 101 to 104 of the Evidence Ordinance. Cites 15 Calcutta page 555, 1927 Appeal cases at page 520. He also cites Ameer Ali on the Law of Evidence 9th edition page 774. Cites 46 C. L. W page 27 at page 31,

Vide section 13 of the prescription Ordinance, he submits that the proviso to section 3 is an exception as in sec. 13.

Re: Damages he submits that the plaintiffs in the partition case came into Court on the footing that they were in possession and had acquired a prescriptive title. Refers to para. 19 of the plaint in partition case. Every defendant in a partition case is in the position of a plaintiff. They knew the present plaintiffs were collecting the rents. All these persons knew that the plaintiffs were in possession. The persons in possession were not even noticed nor were the persons who

effected improvements. Only answer was filed, and that was also with regard to a dispute in respect of the distribution of shares. The S. C. judgment 8D4 is purely on question of law. Plaintiffs in the partition action got the Court to enter a decree in respect of a property which they knew was in the possession of the present plaintiffs. Re: damages he cites 50 N L R 162, 20 N L R 410 at page 412 and 414, 49 N L R 257 and 25 N L R 477- In 30 N L R breach of legal duty.

No. 18.  
Addresses to  
Court.  
—continued.

He submits that it was not a bona fide partition action, it was a trick by persons who were never in possession. They joined in a conspiracy. It was their duty to have made the present plaintiffs parties to that partition action. In those circumstances an action for damages lies.

Decree: There must be a proper investigation of title. Cites 32 N. L. R. 337 and 43 N. L. R. 265 at 267. The case cited by the defence, 40 N. L. R. at page 92 is strongly in favour of the plaintiffs' case. There is no evidence on possession. In the pedigree there are no dates. Plaintiffs were in possession on a registered title. The Lispendens in the partition case was registered is the same folio. As such, the plaintiffs in the partition action knew that we were in possession. He cites 32 N. L. R. page 81 and submits that they have known everything about plaintiffs' title. He also cites 36 N. L. R. Page 38 and submits that the defence must prove that they were entitled to the property at the dates material to the action.

Re: the sum of Rs. 18,000/- received from the Crown under the Land Acquisition Ordinance, he submits that even if the plaintiff did receive this sum it is for some part of this property. This amount cannot be deducted from the compensation.

Re: compensation he cites 47 N. L. R. page 361 and 48 N. L. R. 193. In regard to the measure of damages and value of land he cites 50 N. L. R. page 162. Re: investigation of title he cites 45 N. L. R 332.

He submits that there is no proof that the defendants had knowledge of the fidei commissum in 1919.

In case of a purchaser without notice of a fidei commissum, he cites 33 N. L. R. 265 at 270 and 273, 42 N. L. R. page 436 and 46 N. L. R. page 385.

Mr. Advocate Weerasooriya states that the Inventory P7, in D. C. Colombo case No. 10871 has not been filed in the case. It will not be filed in this case as the estate is still being administered. This document P7 is withdrawn.



No. 18.  
Addresses to  
Court.  
—continued.

Re: Injunction he submits that if the partition decree is bad the sale cannot proceed. If the Court holds that I am entitled to damages the sale must be stayed. An injunction can always be brought to prevent a judgment of a Court being rendered ineffectual. If the sale takes place and the money is taken it will be an inquiry within the meaning of the ordinance.

I reserve judgment for 4th March 1952.

Sgd. L. B. DE SILVA.  
A. D. J.  
14-2-52.

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.

**No. 19.**

**Judgment of the District Court.**

**JUDGMENT.**

Plaintiffs claim to be the owners of the premises described in the schedule to the plaint bearing Assessment No. 26 Kollupitiya and presently bearing Assessment Nos. G7 (1-5) to 37 Muhandiram's Road and 153, 155 and 157 Galle Road, Kollupitiya.

They state that the defendants fraudulently and collusively filed partition action No. 5706 of this Court without any notice to the plaintiffs, though they were aware that the plaintiffs were the owners and were in possession of the said premises and obtained a Decree for sale in that case.

Plaintiffs are seeking amongst other relief to set aside that decree or for a declaration that it is not a Decree that has a conclusive character under section 9 of the partition Ordinance.

In the alternative they claim Rs. 100,000/- as damages from the defendants under proviso to section 9 of the partition Ordinance.

I feel satisfied in this case that the plaintiffs are not entitled to have the decree for sale in D. C. Partition No. 5706 set aside in this case or to a declaration that the said decree is null and void.

The jurisdiction of this court to enter a decree for sale under the partition ordinance, has not been questioned in this case.

In a case reported at 4 C W R at 406, Wood Renton C. J. has held "It is well settled as any part of our law can be that a partition decree is conclusive against all persons whatsoever and that a person owning an interest in the land partitioned, whose title even by fraudulent collusion between the parties, have been concealed from the court in the partition proceedings, is not entitled on that ground to have the same set aside, his only remedy being an action for damages"

It has been urged in this case on behalf of the plaintiffs that the Decree for sale entered into in D. C. Partition case No. 5706, has not been entered into after proper investigation of title by the Court and is not a Decree entered into "as hereinbefore provided" in terms of Sec. 9 of the partition Ordinance. No. 19,  
Judgment of  
the District  
Court.  
4-3-52.  
—continued,

Mr. Advocate Weerasooriya Q. C. has argued for plaintiffs that there was no evidence in the partition case that the parties to that action were in possession, though the plaint (P14) alleged that the parties to the action were in undisturbed and uninterrupted possession of the said premises (vide para. 19 of P14). The proceedings at the trial in that case are marked (P18), the judgment in that case is in dispute on a point of law as to the devolution under the fidei commissum created by the Last Will of the original owner Idroos Lebbe is marked P19, the abstract of title and pedigree in that case are marked P15 & P16 and the Journal entries (P13). After the judgment (P19) was pronounced, the Court gave a date for a statement of shares—vide J. E. of 29. 3. 50 in P13.

On 30. 3. 50. the Proctor for the plaintiffs in that case filed the statement of shares and the learned A. D. J. gave judgement as follows. "I hold parties entitled to the land shown in plan 'X' according to the statement of shares. As a partition is impracticable, I decree a sale. Costs pro rata. Issue a commission for 5/4. Commission to issue to M/s R. C. MCHIYZER & Co.," vide J. E. dated 30. 3. 50 in P13.

It has been held by 3 Judges in a case reported at 6 N. L. R. at page 1 that a person who claims to be the owner of an undivided share of a land and to be therefore entitled to possession of it, is competent to maintain a partition action, though neither he nor his predecessor has had possession and although the defendants wholly deny his title.

The fact that no evidence of possession was led in this partition case, will not affect the validity of the Decree.

There is no doubt that in a series of cases, it has been held by our Courts that a partition decree should be entered after a proper investigation of title by Court.

In a case reported in 40 N. L. R. at 92 Lyall Grant J held "It is the duty of the Court before entering a Decree to satisfy itself that the parties appearing before it have a title to the land."

In a full bench case reported in 6 N. L. R. at page 246 it was held "A paramount duty is cast upon the court by the (Partition) ordinance to ascertain they were the actual owners of the land before entering up a Decree which is good and conclusive against the world"

No. 19.  
 Judgment of  
 the District  
 Court.  
 4-3-52.  
 —continued.

It was further argued on behalf of the plaintiffs that the birth or death certificates had been produced to prove the pedigree in the case. The only documents that were produced were (1) deed 1647/1868 in favour of Idroos Lebbe for this property (2) Last Will of Idroos Lebbe No. 7130/1872 (8D2) creating the fidei commissum (3) Probate re the estate of Idroos Lebbe (8D2) and (4) Deed 2575/1888 (8D3) by which the execution conveyed the property in question to one of the daughters of Idroos Lebbe to wit Saviya Umma.

These documents were marked P1 to P4 in that case. It was pointed out that in the plaint in the partition case (P14) the executing conveyance to Saviya Umma was referred to as Deed 246/19-2-1878-(P22 in this case). That deed has no reference to this land and is in favour of a son of Idroos Lebbe - i. e. Mohammado Isboe.

There is no doubt that the reference to deed 246 in the plaint (P14) is a mistake and the proper deed 2575/1888 had been produced in evidence in that case.

Having considered carefully the proceedings in the case - P18, the judgment P19 and the Journal entries P13, I am unable to hold that the Decree filed was entered in the case without a proper investigation of title. It was not necessary to produce the birth or death certificate to prove the pedigree as there was no contest in the case re the pedigree.

There was sufficient evidence before the Court to declare the parties entitled to the land. After adjudication on a question of law involved in the case, the Judge called for a statement of shares - i. e. in terms of his Order and on the evidence led in the case.

It is a common practice adopted by our Courts to seek the assistance of the Proctor for the plaintiff to work out the schedule of shares according to the evidence led - then the Court enters a Decree in a partition case, declaring the parties entitled to the shares according to that statement filed by the proctor for plaintiff, it is presumed to have satisfied itself that the statement is prepared in terms of the evidence led in the case. I am not prepared to hold that the partition decree has not been properly entered just because a Judge decreed the parties to be entitled to the shares according to the statement filed by the proctor for plaintiff.

I hold that the Decree for sale entered in D. C. partition case No. 5706 has been entered after proper investigation of title by the court and is a decree entered as hereinbefore provided in terms of Section 9 of the partition Ordinance.

I must however point out one unsatisfactory feature in the final proceedings in that case (vide P18). There is nothing to show that the witness Sadeen who gave evidence has been tendered for cross-

Examination or that the plaintiffs case was closed. There is also nothing in P18 to show that the defendants have been given an opportunity to call evidence in the case or that they were not calling evidence.

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.  
—continued.

I have not considered whether these irregularities would vitiate the trial held on 9. 3. 50 in that case as the proceedings in P18 do not show that the requirements of the Civil Procedure Code re the conduct of a trial have been complied with in this case. As no objection to the proceedings (P18) have been raised on that ground I give no finding on that matter.

The next point for consideration is whether the plaintiffs are entitled to claim damages from the defendants under the proviso to Sec. 9 of the Partition Ordinance. To establish such a claim for damages, the plaintiffs must satisfy this court (inter alia) that they were the owners of the property or had interests therein which were wiped out by the Decree for sale entered in that case.

In this case the plaintiffs have led evidence that since 1919, their predecessors in title and they have been in exclusive possession of this property, they have collected the rents, paid taxes and effected improvements to the property during this period. The defence has not challenged the evidence of such possession and I am quite satisfied that since 1919 the plaintiffs and their predecessors in title have been in exclusive possession of the premises in question.

The plaintiff came to court on the footing that Idroos Lebbe Marikkar was the owner of this property. He died in 1876 leaving a Last Will No. 7130/12. 12. 1872 (8D1) which was admitted to Probate in D. C. 3909 Testy. of this court (8D2). Under a division effected in terms of that Last Will this property was conveyed to Saviya Umma (a daughter) by deed 2575/14. 9. 1888 (8D3). (Vide paragraphs 3, 4 & 5 of the plaint). The property in question was sold (in execution) against Saviya Umma and her husband and was purchased by Mrs. Leonora Fonseka on deed of conveyance 11174/29. 3. 1916 (P2). He by deed 6186/16. 8. 1919 (P1) conveyed the same to Adamjee Lukmanjee (the grandfather of the plaintiffs). His rights have now devolved on the plaintiffs as set out in the evidence of 2nd plaintiff (vide P3-P10).

This devolution of title on the plaintiffs is not in dispute except the defendants take up the position that the Last Will 7130/1872 (8D1) created a fidei commissum in favour of the children and grand children of Idroos Lebbe's children.

Under the Executor's conveyance 2575/1888 (8P3) the property in question was conveyed to Saviya Umma under a division of Idross Lebbe's property in terms of his Last Will, subject to the Fidei Commissum created by a Last Will 8D1.

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.  
—continued.

The case for the defence is that Saviya Umma is dead and her children are also dead and the defendants in this case are the grand children of Saviya Umma - the ultimate Fidei Commisarii under the Last Will 8D1. This was the position taken up by them in the Partition case No. 5706 of this Court.

The question whether this Last Will (8D1) created a fidei commissum, has been considered in a number of reported cases. Conflicting judgments have been given by the Hon. The Supreme Court in these cases and the matter was finally decided by the Privy Council in a case reported in 47 N. L. R. 171. It was held that the Last Will created a fidei commissum in favour of the children and grand children of the immediate beneficiaries under the Last Will i. e. of the children of Idroos Lebbe and his widow.

In this case the learned counsel for plaintiffs did not question the construction of the Last Will as decided by the Privy Council.

The 8th defendant a grandson of Saviya Umma has given evidence in this case. He has stated that his grandmother Saviya Umma and all the children are now dead and the present defendants are the grand children of Saviya Umma. No evidence has been called by the plaintiffs to prove that Saviya Umma is alive or that any of her children are still alive.

The 8th defendant is not a reliable witness for reasons which I shall state hereafter but in spite of this, I have no reason to doubt that the defendants in this case are the grand children of Saviya Umma and that Saviya Umma and her children are all dead. The partition action D. C. 5706 has provided on that footing.

Providing on the footing that the Last Will of Idroos Lebbe (8D1) and the executor's conveyance (8D3) in favour of Saviya Umma created a valid fidei commissum in favour of the children and grand children of Saviya Umma re this property, the plaintiffs and their predecessors held a definite title that terminated on the death of Saviya Umma.

Apart from the question of prescription and registration which have been raised in this case, I hold that the plaintiffs are not entitled to any rights in this property qua owners, as Saviya Umma is dead. On the question whether the plaintiffs have acquired a title by prescription to this property against the defendants I hold that the plaintiffs, their predecessors have been in the exclusive and uninterrupted possession of this property since 1919.

But as the defendants are entitled to this property as fidei commisarii, no length of prescriptive possession prior to the accrual of their rights has any effect on them-*vide* the proviso to Sec. 3 of the Prescriptive Ordinance. It was held in 28 N. L. R. at page 92 that possession

which commenced before the accrual of the fidei commissari's right is not adverse to the fidei commissarii.

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.

—continued.

The fact that the plaintiff had possession for over 30 years prior to the decree for sale in the partition action No. 5706, has no bearing in this case. Such a proviso will give a prescriptive title in spite of the disabilities mentioned in Sec. 13 of the prescription ordinance. It has no application to fidei commissum. Those rights are governed by the proviso to Sec. 3 of prescription ordinance.

To establish a prescriptive title, the question was argued in this case on whom lay the onus to prove when the rights of the fidei commissarii accrued. It was urged for the plaintiffs that once the plaintiffs found that they were in possession for over 30 years the burden shifted to the defendants to prove that their rights as fidei commissarii accrued within a period of ten years and no prescriptive title has been acquired against them.

Learned Counsel for plaintiffs relied on a case reported at 46 C L W at page 27 vide judgment of Gratiaen J at page 31 where he held "Where a party invokes the provision of Sec. 3 of the prescription ordinance in order to defeat the ownership of an adverse claimant to immovable property, the burden of proof rests fairly and squarely on him to establish a starting point for his or her acquisition of prescriptive rights. If that onus has prima facie being discharged, the burden shifts to the opposite party to establish that, by reason of some disability recognised by section 13, prescription did not run from the date on which adverse possession first commenced. Once that has been established, the onus shifts once again to the other side to show that the disability had ceased on a subsequent date and that adverse possession relied on had uninterruptedly continued thereafter for a period of 10 years."

In this case, the proviso to section 3 applies and the case cited is not exactly in point. We are not dealing with a disability as contemplated in section 13. However the proviso is an exception to the general rules of prescription as provided in Sec. 3. The burden of proving that the defendants are fidei commissarii is on them, as they are relying on this proviso or exception. That is in keeping with a ratio decidendi in the case reported at 46 C. L. W at page 27.

But is the burden of proving when their rights as fidei commissarii accrued on the defendants? Once the defendants established that they are fidei commissarii it is for the plaintiffs to establish that as against them qua fidei commissarii plaintiffs have acquired a title by prescription. To do so, the plaintiffs must prove under the proviso to sec. 3 of the prescription ordinance, that they have acquired a title

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.  
—continued.

by prescription, subsequent to the accrual of the rights of the defendants as fidei commissarii.

As the plaintiffs are claiming the prescriptive title against the defendants the burden is fairly and squarely on them (i. e. the plaintiffs) to prove such title. It is therefore necessary for the plaintiffs to prove when the rights of the defendants as fidei commissarii accrued and that they have, subsequent thereto, had undisturbed and uninterrupted possession for over 10 years.

In this case the plaintiffs have not proved when the rights of the defendants as fidei commissarii accrued.

On the other hand the defendants relied on the S. C. judgment (8D4)- In the judgment in appeal in D. C. Colombo No. 5706 (in the partition case), where it was held that the Last Will in question created a joint fidei commissum and that the rights of the grandchildren of Savia Umma accrued on the death of the last surviving child of Savia Umma.

Gunasekara J. held in 8D4 (page 11) "In the present case, upon the view that there was a single fidei commissum, the time of the gift over was the death of the last of Savia Umma's children".

The only evidence called in this case with regard to the deaths of Savia Umma's children was the evidence of Hamza Mahroof the 8th defendant. He stated in answer to Court that the last of Savia Umma's children died in 1946 or 1947. She was Aysha Umma. Later he stated that Noor Zubaira another daughter of Savia Umma, died in 1948.

This witness produced a document P39 in cross examination. He wanted to refer to this document, when he was questioned by me about the children of Savia Umma and their deaths. P39 refers to particulars re the children of Savia Umma, their deaths and their issue.

He submitted that he wrote down P39 the previous night. When questioned about the alterations in the dates in P39, he gave very unsatisfactory and evasive answers - He was obviously giving false evidence when questioned about P39. It transpired in cross examination that he had gathered the information noted down in P39 from various people. I find that I can place no reliance on the evidence of Hamza Mahroof (8th defendant) re the dates of death of Savia Umma's children.

Apart from the fact that what is noted in P39 is mostly hearsay and inadmissible, I hold that Hamza Maroof is an unreliable witness and is quite capable of giving false evidence to suit his case.

If the burden was on the defendants to prove when their rights as fidei commissarii accrued, I would hold on the evidence led in this case,

that they have failed to discharge that burden. It would have been quite easy and simple for them to produce the death certificate of the last child of Savia Umma, to prove when that child died. However in view of my finding that the burden was on the plaintiffs on this point, I hold that the plaintiffs have failed to prove that they have acquired a title by prescription to this property against the defendants.

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.  
—continued.

Plaintiffs have also taken up the position that the probate of the Last Will of Idroos Lebbe Marikar (8D2) and the executor's conveyance 2575/1888 (8D3) have not been (duly) registered. They have produced the extracts of Encumbrances P24 & P25.

In P25 the deed in favour of Idroos Lebbe Marikar-in deed 1647/5. 3. 1867 for this property has been registered in Division A-Vol. 3 - Folio 345. The registrations are contained in A51/46, A88/240, A111/124, and A116/274.

Thereafter the registrations are shown in P24 - From A116/274 the Registrations are continued to A123/317, A147/288 and A319/231 (Vide P24) The Fiscal's Transfer 11174/29. 3. 1916 (P2) in favour of Leonora Fonseka and the subsequent deeds in favour of the plaintiffs and their predecessors in title are registered in P24.

As the Probate (8D2) and the Executor's Conveyance (8D3) have not been duly registered, the plaintiffs take up the position that on their chain of title from P2, they are entitled to claim the intestate rights of Savia Umma, as a child of Idroos Lebbe Marikar and this title will be free of the Fidei Commisum created by the Last Will (8D1) of Idroos Lebbe Marikar.

Mr. Advocate Weerasoriya Q. C. relied on the cases reported in 30 N. L. R. 317, 20 N. L. R. 97, 24 N. L. R. 175, and 32 N. L. R. 353 in support of his argument.

In the case reported in 20 N. L. R. 97, it was held that the Probate of a Last Will is an instrument within the meaning of Sec. 17 of the Registration Ordinance 1891 and the non-registration of the Probate of a Will affecting immovable property under section 16, renders it void as against a person claiming an adverse interest under a duly registered deed of subsequent date. This is a decision of three Judges.

I am satisfied that plaintiff's contention is entitled to prevail and that the plaintiffs are entitled to claim the intestate rights of Savia Umma from Idroos Lebbe Marikar free of the fidei commissum created by his Last Will (8D1) by virtue of due and prior registration.

It was further argued on behalf of the plaintiffs that this priority extended not only to the intestate share of Savia Umma but to the entirety of the property in question that was allotted to Savia Umma at the division of Idroos Lebbe Marikar's property amongst his heirs.



No. 19.  
Judgment of  
the District  
Court  
4-3-52.  
—continued

No authority has been submitted by the learned Counsel for the plaintiffs for this proposition. I am personally not aware of any case where the title that has accrued to a person by virtue of due and prior registration of a deed, has been so extended.

In this instance, the division of Idroos Lebbe's property has been effected by the executors in terms of the Last Will of Idroos Lebbe Marikar. It was not a division effected by his intestate heirs.

Even if the division took place amongst the intestate heirs, I am not satisfied that there is any justification for the extension of the rights that a person is entitled to by virtue of due and prior registration of his deeds, beyond the provisions of the Registration Ordinance.

According to the recitals in the deed 2575/1888 (8D3) Idroos Lebbe Marikar left him surviving his widow and 8 children - i. e. 6 sons and two daughters - On this footing the widow will be entitled to 1/8 and Savia Umma as a daughter will be entitled to 1/14 of 7/8 - a 1/16th share.

It is to be noted that Idroos Lebbe's father had predeceased him according to 8D3 - The accounts in para. 3 of the plaint in the partition case 5706 P (P14) as to the heirs of Idroos Lebbe Marikar are not quite correct.

I hold that by virtue of due and prior registration of their deeds the plaintiffs are entitled to a 1/16th share of this property free of the fidei commissum.

Evidence has been led for the plaintiff to prove that after plaintiffs' grand father Adamjee Lukmanjee purchased this property in 1919, certain major improvements have been effected on this property.

I accept the evidence for the plaintiff that the following improvements have been effected.

(1) Four old boutiques were pulled down and two new shops were erected. This was done about 1923.

(2) Installation of drainage - two bath rooms and six lavatories were built. This was about 1925.

(3) A boundary wall - 120 feet long - was built. This was about 1929.

(4) A fairly complete repair was given to the tenements about 1935 - The houses were re-roofed, painted and cemented - Trellis work was put in to the tenements.

The 2nd plaintiff has given evidence re the cost of the improvements. He has given an approximate value of the cost of those

improvements-but his evidence is some what indefinite. He has called certain employees and contractors to testify to the cost of those improvements.

No. 19.  
Judgment of  
the District  
Court  
4-3-52.

—continued.

The accountant of the plaintiffs' firm Mr. Ambani has stated that the expenses incurred for those improvements are entered in the books of accounts kept in the firm but no evidence has been led to prove the amount expended for the improvements as shown in the account books.

A statement could have been prepared from the books similar to the statement P38 regarding the payment of rates and taxes, showing the amounts expended for the improvements and the books could have been produced in support if necessary.

I am unable to place too much reliance on the evidence of Jafferjee Hassenbhai and Abdul Wahab regarding the money spent for these repairs.

In para. 20 of the plaint, the improvements were stated to be reasonably worth Rs. 30,000/-. The 2nd plaintiff valued the improvements at Rs. 40,000/-. Abdul Wahab valued the cost of demolishing the four old boutiques and the erection of the two big boutiques at Rs. 15,000/-. The costs of installing drainage was fixed by him at about Rs. 4,000/-. He valued the other improvements at Rs. 10,000/- i. e. a total of Rs. 29,000/-.

I think it would be fair to value the costs of all the improvements at Rs. 25,000/-.

The entire property was valued in the plaint at Rs. 100,000/-. The 2nd plaintiff stated that since the action was filed in May 1950 values of Colombo property have improved considerably and the property is now worth Rs. 160,000/-.

Mr. Charles Peiris, an auctioneer and broker, has valued the property in February 1952 at Rs. 165,000/-. He says he valued the property on a rental basis at 33,1/3 years purchase. According to him the value would have been the same in March 1950.

I prefer to accept the 2nd plaintiff's evidence that the value of Colombo property has risen considerably since this action was filed. I think the property was reasonably worth Rs. 100,000/- in May 1950 and that it is probably worth Rs. 150,000/- today.

No evidence has been led to prove the present value of the improvements or the extent by which the present values of the property has been increased as a result of the improvements effected by plaintiffs predecessors in title.

No. 19.  
Judgment of  
the District  
Court  
4-3-52.  
—continued.

I think, however, that I can safely conclude that the present value of the improvements is much more than the amount spent at the time the improvements were effected. The cost of building operations has risen by leaps and bounds since the 1920's.

I would value the improvements effected by the plaintiff's predecessors in title at Rs. 25,000/- for purposes of their claims to compensation-with respect to the entire land.

I hold that the plaintiffs were entitled to claim compensation as bona fide possessors. The question whether the Last Will of Idroos Lebbe created a fidei commissum was quite unsettled till the matter was set at rest by the Privy Council decision in the case reported at 47 N. L. R. page 171.

I hold that when the improvements were effected the plaintiff's predecessors in title were not aware that the property was subject to a fidei commissum and as such they are entitled to claim compensation as bona fide possessors- (vide 47 N. L. R. 361 and 48 N. L. R. 193). In the latter case it was held that a purchaser from a fiduciary was entitled to claim compensation for improvements effected by him, if he was unaware of the fidei commissum.

In this case the plaintiffs are co-owners of the property by virtue of registration and as such they are entitled to claim compensation for improvements as the other co-owners stood by and made no protest. The improvements effected by the plaintiffs' predecessors were mostly necessary improvements to the property.

It was urged on behalf of the 22-27th defendants that the rents and profits received by the plaintiffs should be set off against any compensation claimed by them. Any claim to such set off can only be from the time the rights of the defendants as fidei commissarii accrued. It has not been satisfactorily proved in this case when such rights accrued.

Mr. Advocate Mohamed relied on the case reported at 52 N. L. R. at page 426, where it was held that when a bona fide possessor makes a claim to compensation for necessary improvements made by him, the rents and profits which have been received from the property should be set off against the expenses incurred in making the improvements.

In this case Dias S. P. J. cites with approval a passage at pages 52-53-Walter Pereira-Law of Ceylon-where he states—"He is liable to deduct therefrom (i. e. for the compensation) the amount of the income from the property except the income from the improvements themselves."

Similarly in 47 N. L. R. at 280, Canagaratne J. held "Though the bona fide possessor must reduce his claim by the value of the profits received by him, he cannot be made to include the fruits of the fruits-on the advantage derived from his improvements".

In this case I hold that there would be no income from this property today, if not for the extensive improvements effected by the plaintiffs' predecessors. In these circumstances, the defendants are not entitled to claim a set off of Income as against the compensation.

No 19.  
Judgment of  
the District  
Court  
4-3-52.  
—continued.

A sum of Rs. 18,000/- was paid by the Municipality for the acquisition of a portion of this property about 1920 to plaintiffs predecessors in title. No others made any claim to that compensation. It was argued in this case for the defence that this sum should be set off against the claim to compensation. I am unable to accept this contention. Any claim to that money or a part of it, should be the subject of a specific and separate claim. The defence has made no such claim in this case.

The plaintiffs claim damages against the defendants under the proviso to section 9 of the Partition ordinance as they have been deprived of their rights under the Decree for sa'e in the partition action.

1-7th defendants in this case were the plaintiffs in the partition action and the other defendants were the defendants in that case. All the defendants in this case were fully aware that the plaintiffs and their predecessors came in possession of this property for several years-i. e. at least from 1919 onwards-they paid all the taxes. They had effected considerable improvements to the property and claimed to be in possession of the property as owners. The deeds in their favour have been duly registered in the same folios of registration as the registration of the Lis Pandens in the partition action.

Under the partition ordinance section 2- it was the duty of the plaintiffs in that action to set out the improvements effected on the property, so far as they are known to them.

It has been held that before an action for damages under the proviso to sec. 9 of the partition Ordinance can be maintained, a breach of legal duty on the part of the defendants must be proved, vide 49 N. L. R. 257 - Dias J held in that case that the plaintiffs should prove that the defendants have been guilty of some fault or unfairness, lack of care or inquiry which they were under an obligation to make.

In 20 N. L. R. 410 where the defendants obtained a partition decree without disclosing the mortgage rights of another, though he was aware of them, it was held that the mortgagee was entitled to recover damages from him.

Bertram C. J. said in that case- "taking these to be the facts, I come to the conclusion that prima facie the plaintiffs have a cause of action under section 9 on the ground that the defendants knowingly omitted to disclose the interests of Pedro (mortgagor) and of the plaintiffs in that particular case"

No. 19.  
Judgment of  
the District  
Court  
4-3-52.  
—continued.

Vide also 25 N. L. R. 477 where A knowing that B claimed to be the owner of lot 'X', instituted a partition action including that lot and obtained a partition decree without making B a party, it was held that B was entitled to claim damages from A under section 9 of the partition ordinance.

In this case I hold that it was clearly a breach of duty on the part of the defendants not to have made the plaintiffs parties to the partition action and not to have disclosed to Court that the plaintiffs have been in possession of the premises for a considerable period, paying the taxes for the premises, collecting the rents, effecting improvements and otherwise claiming to be the owners of this property.

The duty to disclose the claim of the plaintiffs to this property in the partition action, lay not only on the plaintiffs in the partition action but also on the defendants in that action. The defendants in a partition action stand in the position of plaintiffs and owe the same duty to the Court.

I feel satisfied that the parties to the partition action deliberately suppressed from the court the claims of the plaintiffs with a view to obtaining a decree conclusive under section 9 of the partition ordinance, behind their backs. They knew that the plaintiffs who were wealthy and powerful could thereby fight for their rights if they were made parties to that case. The defendants have acted fraudulently and collusively in the partition action to deprive the plaintiffs of their rights to this property by obtaining a decree from court without their knowledge.

I hold that the plaintiffs are entitled to claim damages from the defendants under the proviso to section 9 of the partition ordinance. The question of damages that they are entitled to claim, is the value of the rights which they have been deprived of, by the decree for sale in the partition action.

The damages must be assessed as at the time when the plaintiffs were deprived of the rights - ie the decree for sale was entered in the partition action - ie on 30. 3. 1950. I assess the damages payable to plaintiffs as follows:

(1) 1/16th of the value of property i. e. 1/16th of Rs. 100,000/- as they were entitled to a 1/16th share of the the property	...	Rs. 6250.00
(2) 15/16th share of the value of improvements effected by the plaintiffs i. e. 15/16th of Rs. 25,000/-	...	23437.50
	Total	Rs. <u>29687.50</u>

I award the plaintiffs a sum of Rs. 29,687/50 as damages against the defendants under the proviso to section 9 of the partition Ordinance.

No. 19.  
Judgment of  
the District  
Court  
4-3-52  
—continued.

Plaintiffs ask for an injunction restraining the defendants from deriving the proceeds of sale in the partition case. The sale has not yet taken place.

The plaintiffs are entitled to a decree for damages in this case. I do not think that they can ask for an injunction as claimed. It cannot be said that the defendants are doing an act to entitle the plaintiffs to an Injunction under the provisions of section 86 (b) or (c) of the Courts Ordinance (chapter 6). Plaintiffs can take other steps to safeguard their rights under this action.

I answer the issues as follows:

1. No.

1. (a) Plaintiffs were entitled to a 1/16th share of the property in question prior to the Decree for sale by reason of due and prior registration of their deeds.

2. Yes.

3. No.

4. a No.

4. b. Yes.

5. a. Yes.

5. b. Yes.

5. (B) (a)Yes) ) They acted wrongfully, unlawfully

5. (B) (b)Yes) ) fraudulently and collusively

6. a. Yes.

b. Yes.

c. Yes

d. Yes

7. a. Yes

b. Yes

8. a, b, & c - No.

9. a. Yes.

b. Rs. 29,687/50

10. No.

11. Rs. 100,000/- at date of action - It is worth Rs. 150,000/- now.

12. a. They demolished 4 old boutiques and put up 2 new shops.

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.  
—continued.

- b. They installed drainage and erected 2 Bath rooms and 6 lavatories.
- c. They erected a boundary wall - 120 feet long.
- d. They effected improvements to the tenements by re-roofing the tenements, by putting up trellis work, by cementing the floors and painting the premises.

12. Rs. 23,437 . 50 with respect to 15/16th shares of the property-  
Total value of improvements Rs. 25,000/-.

14. No. Their rights to possession as bona fide possessors has been wiped out by the Decree for sale - They are only entitled to claim damages under the Proviso to section 9 of the partition Ordinance.

- 15. No.
- 16. No.
- 17. Yes.
- 18. Yes.
- 19. Yes.
- 20. Yes.
- 21. No.
- 22. 1/16th share.

I enter judgment for plaintiffs for Rs. 29,687/50 as damages under the proviso to section 9 of the partition Ordinance against all the defendants. The Decree against the defaulting defendants i. e. 9th, 10th, 12th, 14th - 20th, 28th and 35th, 36th, 38th to 40th defendants will be a Decree Nisi in the first instance.

The defendants will pay the plaintiffs 1/2 costs of the action as the defendants have partially succeeded in their defence.

L. B. DE SILVA.

A. D. J.

I am indebted to the learned Counsel who appeared in this case for the concise manner in which they presented this case and for lucid and able arguments on the many questions of law involved in this case. The many authorities which they have cited in the course of their arguments, have been most helpful to this Court in arriving at a decision in this case.

No. 19.  
Judgment of  
the District  
Court.  
4-3-52.  
—continued.

Sgd: L. B. DE SILVA  
A. D. J. 4. 3. 52.

**No. 20.**  
**Decree of the District Court.**  
**DE C R E E.**

No. 20.  
Decree of  
the District  
Court.  
4-3-52.

**IN THE DISTRICT COURT OF COLOMBO.**

No. 5951/L

1. MOHAMEDALY ADAMJEE
  2. LUKMANJEE GULAMHUSSEIN
  3. TAIYABHAI GULAMHUSSEIN
  4. ABBASBHOY GULAMHUSSEIN
- all of Colombo.  
Plaintiffs.

Vs.

1. Hadad Sadeen
2. Abdul Cader Sadeen
3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street Borella, Colombo.
8. Mohamed Hamza Mahroof of 158 Layards Broadway, Colombo.
9. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
10. Mohamed Mahroof Mohamed Khalid (9th and 10th) by their guardian-ad-litem
11. M. L. M. M. Shariff both of 164 New Moor Street, Colombo, and
12. Noorul Hidayah Abdeen of Reid Avenue, Colombo.
13. Muzaira Akbar of Reid Avenue, Colombo.
14. Abdul Mawahib Nakeem of Castle Street, Borella, Colombo.
15. Sithy Safia Nakeem
16. Ummu Vojeeda Nakeem
17. Hassen Jiffry Nakeem
18. Mohamed Ismail Nakeem
19. Mohamed Samsudeen Nakeem
20. Mohamed Milhar Nakeem (14th to 20th by their guardian-ad-litem)



No. 20.  
Decree of  
the District  
Court.  
4-3-52.  
—continued.

21. M. Y. M. Hamza
22. Mrs. Noor Himaya Mohideen and
23. M. Awn Marikar all of Castle Street, Borella, Colombo.
24. M. Mohamed Thahir of Messenger Street, Colombo.
25. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella, Colombo.
26. Mrs. Sithy Zavahira Zubair, Kirillapone.
27. M. M. Nuhman
28. M. H. Sakaf
29. M. Z. F. Cassim
30. Mrs. Ummu Zulaiha Ameen
31. Miss. H. M. Mohideen
32. Mohamed Sameer Mohamed Alavi all of Castle Street, Borella, Colombo.
33. Miss S. Z. Sameer (32nd & 33rd by their guardian-ad-litem)
34. M. I. M. Sameer.
35. M. S. Farook
36. Miss. M. R. S. Hanoon (35th & 36th by their guardian-ad-litem)
37. M. Z. F. Cassim
38. Hadija Ghouse Cassim
39. Ayn Safia Ghouse Cassim
40. Shuhaib Ghouse Cassim
41. Ameer Faizer Ghouse Cassim
42. Falih Ghouse Cassim (by their guardian-ad-litem)
43. M. Ghouse Cassim all of Castle Street, Borella.

Defendants.

This action coming on for final disposal before L. B. de Silva, Esquire, Additional District Judge of Colombo on this 4th day of March 1952 in the presence of Mr. Advocate N. E. Weerasooria Q. C. with Mr. Advocate S. J. Kadirgamar instructed by Messrs. Julius and Creasy, Proctors on the part of the Plaintiff, and of Mr. Advocate E. B. Wickremanayaka Q. C. with Mr. Advocate Arulambalam instructed by Mr. K. Rasanathan, Proctor on the part of the 1st to 8th, 13th, 21st 29th, 30th, 31st and 37th Defendants, Mr. Advocate M. Samsudeen Mohamed instructed by Mr. E. W. Seneviratne, Proctor on the part of the 22nd to 27th Defendants, Mr. Advocate Arulambalam instructed by Mr. N. M. Zaheed, Proctor on the part of the 32nd to 34th Defendants, and the 9th, 10th, 14th to 20th, 28th and 35th, 36th, 38th to

40th Defendants not appearing either in person or by Proctor, or by Counsel, although they were duly served with the summons together with copies of the plaint, as appears by the affidavit of the Process Server filed of record; It is ordered and decreed that the Defendants do pay to the Plaintiffs the sum of Rs. 29,687/50 as damages under the proviso to Section 9 of the Partition Ordinance.

No. 20.  
Decree of  
the District  
Court.  
4-3-52.  
—continued.

It is further ordered and decreed that the Defendants do pay to the Plaintiff 1/2 costs of the action.

It is further ordered and decreed that this decree will be made absolute as against the 9th, 10th, 14th to 20th, 28th and 35th, 36th, 38th to 40th Defendants, unless sufficient cause be shown to the contrary on a day appointed by Court.

Sgd. M. C. SANSONI  
Additional District Judge.

The 4th day of March, 1952.  
Drawn by,  
Sgd: JULIUS & CREASY.  
Proctors for Plaintiffs.

---

**No. 21.**

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

S. C. No. 72 of 1953

D. C. Colombo No. 5951/L

No. 21.  
Petition of  
Appeal to  
the Supreme  
Court.  
13-3-52.

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN, AND
4. ABBASBHOY GULAMHUSSEIN

all of Colombo.

Plaintiffs-Appellants.

Vs.

1. Hadad Sadeen
2. Abdul Cader Sadeen
3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella, Colombo.

No. 21.  
 Petition of  
 Appeal to  
 the Supreme  
 Court.  
 13-3-52.  
*Continued—*

8. Mohamed Hamza Mahroof of 158 Layards  
 Broadway, Colombo.
9. Mohamed Mahroof Sithy Naseewa of 168 New Moor  
 Street, Colombo.
10. Mohamed Mahroof Mohamed Khalid (9th and 10th)  
 appearing by their Guardian-ad-litem
11. M. L. M. M. Shariff both of 164 New Moor Street,  
 Colombo.
12. Noorul Hidayah Abdeen of Reid Avenue, Colombo.
13. Muzaira Akbar
14. Abdul Mawahib Nakeem of Castle Street, Borella,  
 Colombo.
15. Sithy Safia Nakeem
16. Ummu Vojeeda Nakeem
17. Hassen Jiffry Nakeem
18. Mohamed Ismail Nakeem
19. Mohamed Samsudeen Nakeem
20. Mohamed Milhar Nakeem (14th to 20th by their  
 Guardian-ad-litem)
21. M. Y. M. Hamza
22. Mrs. Noor Himaya Mohideen and
23. M. Awn Marikar all of Castle Street, Borella, Colombo.
24. M. Mohamed Thahir of Messenger Street, Colombo.
25. Mrs. Ummu Hazeema Mohideen of Castle Street,  
 Borella, Colombo.
26. Mrs. Sithy Zavahira Zubair, Kirillapona.
27. M. M. Nuhman
28. M. H. Sakaf
29. M. Z. F. Cassim
30. Mrs. Ummu Zulaiha Ammeen
31. Miss. H. M. Mohideen
32. Mohamed Sameer Mohamed Alavi all of Castle Street,  
 Borella, Colombo.
33. Miss. S. Z. Sameer (32nd & 33rd by their Guardian-  
 ad-litem)
34. M. I. N. Sameer
35. M. S. Farook
36. Miss. M. R. S. Hannon (35th & 36th by their Guardian-  
 ad-litem)

37. M. Z. F Cassim
38. Hadija Ghouse Cassim
39. Ayn Safia Ghouse Cassim
40. Shuhaib Ghouse Cassim
41. Ameer Faizer Ghouse Cassim
42. Falih Ghouse Cassim (by their Guardian-ad-litem)
43. M. Ghouse Cassim all of Castle Street, Borella.

No. 21.  
Petition of  
Appeal to  
the Supreme  
Court.  
13-3-52.  
—continued.

Defendants respondents.

This 13th day of March 1952.

The Petition of appeal of the appellants.

1. The 1st to 7th respondents instituted partition proceedings in the District Court of Colombo bearing No. 5706 of that Court and having cited the 8th to the 43rd respondents as defendants thereto and without any notice whatsoever to the appellants completed the proceedings and caused the said Court to enter a decree for sale and to declare that the respondents are among themselves the owners of the said property.

2. The appellants are the owners of the said property according to the title pleaded by the appellants in their plaint, and the appellants and their immediate predecessors in title have been in the actual possession and enjoyment of the said property to the exclusion of all others at least from March 1916.

3. The appellants pleaded that the respondents who at all material dates were aware that the appellants were the owners of and in possession of the said property acted fraudulently and in collusion with each in the said proceedings No. 5706 of the District Court of Colombo and having falsely stated that they and their predecessors in title had been in the undisturbed and uninterrupted possession of the said property and that all improvements are in common between them caused the District Court to enter a decree for sale.

4. Upon the several grounds pleaded in the plaint the appellants prayed:

- (a) that the Court to set aside or vacate the decree entered in partition proceedings No. 5706.
- (b) for a declaration that the decree entered by the Court in said proceedings No. 5706 is null and void and of no force or effect in law.
- (c) in the alternative for damages against the respondents jointly and severally in the sum of Rs. 100,000/-.

No. 21.  
Petition of  
Appeal to  
the Supreme  
Court.  
13-3-52  
—continued.

(d) for an injunction against the respondents restraining a sale of the property etc.

5. Answer was filed by the 1st to 7th respondents the 13th, 29th, 30th, 31st and 37th respondents, 8th, 11th, 21st respondents, 22nd to 27th respondents and 34th respondent.

6. The action went to trial upon several issues of fact and law suggested by Counsel for the appellants and respondents.

7. After the evidence led on behalf of the appellants and respondents, the learned Additional District Judge of Colombo delivered judgment and made order on 4th March 1952 in favour of the appellants in a sum of Rs. 29,687/50 as damages under the proviso to Section 9 of the partition Ordinance and half the costs of the action.

8. The learned Additional District Judge held on the evidence that the respondents were under a duty to make the appellants parties to the said partition action No. 5706 and to give the appellants notice of the same that the respondents wrongfully, unlawfully and/or negligently and/or fraudulently and/or in collusion with each neglected or omitted to make the appellants parties to the said action or to give them notice of the said proceedings in order to obtain a decree without their knowledge and that the respondents obtained a decree without notice to the appellants, acting in fraud or collusion, without disclosing the appellants title and without disclosing the fact that they were in possession.

9 (a) The learned Judge however held that there was due and proper investigation of title in the said partition case No. 5706 and that the decree entered in the said case was given as provided by section 9 of the Partition Ordinance and that the appellants are not entitled to have the said decree set aside or to have the same declared null and void or to be declared owners of the property in question.

(b) The learned Judge held that although the appellants had been in the sole and exclusive possession of the property at least from March 1916 they had not acquired title to the property by prescription, and that the appellants were entitled only to a 1/16th share of the property in question prior to the decree in partition case No. 5706 by reason of due and prior registration of their deeds.

10. Being aggrieved with the said judgment and order of the learned Judge, the appellants beg to appeal therefrom on the following among other grounds that Counsel may urge before Your Lordships' Court at the hearing of this appeal.

(a) that the said judgment is contrary to law and the evidence led in the case.

(b) by virtue of due and prior registration of their deeds it is submitted that the appellants had title to the entirety of the property free of the fidei commissum and not only to a 1/16th share as held by the learned Judge, and that the title of the appellants prevails over that of the respondents.

No. 21.  
Petition of  
Appeal to  
the Supreme  
Court.  
13-3-52.  
—continued.

(c) the evidence led by the appellants clearly established that they had acquired title by prescription to the entirety of the said property. The appellants having proved sole, exclusive and uninterrupted possession of the property at least from the year 1916, the burden was not in law upon the appellants to prove the date of the accrual of the rights, if any of any fidei commissary, the burden of which was in law upon the latter.

(d) the evidence led established that the plaintiffs were the successors in title of a bona fide purchaser for value of the premises in question without notice of the fidei commissum, if any, alleged to have been created by a Will which was not registered and of which the probate was also unregistered.

(e) the learned Judge should have held that both in law and upon the facts the appellants were the legal owners of the premises in question and that therefore the appellants were entitled at least to damages in the sum of Rs. 100,000/- by reason of the respondents' having failed in the manner pleaded in the plaint, in the manner proved at the trial and held by the Judge, to make the appellants parties to the said partition case.

(f) upon the evidence led it cannot be held that there was a due and proper investigation into title, or that the decree entered in Case No. 5706 was given as provided for in the partition Ordinance.

(g) that both on the facts and in law the appellants are entitled to have the decree in the said case No. 5706 set aside, or to have the same declared null and void, and to be declared the owners of the said property and that in the alternative the appellants are entitled in law at least to damages in the sum of Rs. 100,000/-.

Wherefore the appellants pray that Your Lordships' Court be pleased to reverse and set aside the said order and judgment of the learned Additional District Judge, and that your Lordships' Court be pleased:

(a) to set aside or vacate the decree entered in partition case No. 5706 of the District Court of Colombo.

(b) to declare the decree entered by the said Court as null and void, and of no force or effect in law.

(c) or in the alternative to award damages against the respondents jointly and severally at least in the sum of Rs. 100,000/-.

(d) to order an injunction against the respondents restraining a sale of the property, and restraining the respondents from drawing or

No. 21.  
Petition of  
Appeal to  
the Supreme  
Court.  
13-3-52.

—continued.

receiving payment of the proceeds of any sale of the property which proceeds may be deposited in Court or any share or part thereof.

(e) to order that the appellants are entitled to remain in possession of the property either until payment or recovery of damages in full or at least until payment of compensation.

(f) for costs and for such other and further relief as to your Lordships' Court seem fit.

Sgd: JULIUS & CREASY

Proctors for appellant.

Settled by

S. J. KADIRGAMAR

N. E. WEERASOORIYA, Q. C.

Advocates.

No. 22.  
Petition of  
the Plaintiffs  
25-3-52

---

**No. 22.**

**Petition of the Plaintiffs.**

This 25th day of March 1952.

The Petition of the plaintiffs-petitioners.

1. The plaintiffs - petitioners have appealed to the Supreme Court from the judgment and decree of this court dated 4th day of March 1952 and the plaintiff petitioners have prayed that the Supreme Court be pleased:

(a) to set aside or vacate the decree entered in partition case No. 5706 of the District Court of Colombo.

(b) to declare the decree entered by the said Court null and void and of no force or effect in law.

(c) or in the alternative to award damages against the defendants-respondents jointly and severally at least in the sum of Rs. 100,000/-.

(d) to order an injunction against the defendants respondents restraining a sale of the property, and restraining the defendants-respondents from drawing or receiving payment of the proceeds of any sale of the property which proceeds may be deposited in court or any share or part thereof.

(e) to order that the plaintiffs-appellants are entitled to remain in possession of the property either until payment or recovery of damages in full or at least until payment of compensation.

2. The defendants respondents are about to have or cause the said property to be sold in pretended pursuance of the decree entered in the said case No 5706 and are preparing and are taking steps to do so, and the same will be sold unless the defendants respondents are restrained by an order of this court.

No. 22.  
Petition of  
the Plaintiffs  
25-3-52  
—continued.

3. Grave and irreparable damage will be caused to the plaintiffs petitioners if the said property is sold. If the Supreme Court is pleased to give judgment in favour of the plaintiffs petitioners as prayed for by them, the said judgment will be rendered null and ineffectual and of no force or effect in the event of the said property being sold by the defendants respondents as aforesaid.

4. The defendants respondents are persons who are incapable of satisfying any decree that the plaintiffs petitioners may obtain against them.

5. The plaintiffs petitioners have in these proceedings prayed for an injunction restraining any sale of the said property. The plaintiffs petitioners plead that in all the circumstances the plaintiffs petitioners are entitled to an order of this court restraining the sale of the said property and/or for an order of detention of the said property until the final determination of this action.

Wherefore the plaintiffs petitioners pray that this court do by order or injunction restrain any sale of the said property and/or by order or injunction restrain the defendants-respondents from selling or causing or attempting to sell or to have the said property sold until the final determination of this action, and/or for an order of detention of the same until the final determination of this action, for costs and for such other and further relief as to this Court seems meet.

Sgd: JULIUS & CREASY  
Proctors for plaintiffs petitioners.

Settled by

S. J. KADIRGAMAR  
N. E. WEERASOORIYA, Q. C.  
H. V PERERA, Q. C.  
Advocates.

---

**No. 23.**

**Affidavit of the 2nd Plaintiff.**

I, Lukmanjee Gulamhussein of Colombo not being a Christian do hereby solemnly, sincerely and truly declare and affirm as follows;

1. I am the 2nd plaintiff petitioner abovenamed.

No. 23.  
Affidavit of  
the 2nd  
Plaintiff.  
24-3-52.



No. 23.  
Affidavit  
of the 2nd  
Plaintiff.  
24-3-52.  
--continued.

2. The plaintiffs petitioners have appealed to the Supreme Court from the judgment and decree of this Court dated 4th day of March 1952 and the plaintiffs petitioners have prayed that the Supreme Court be pleased:

(a) to set aside or vacate the decree entered in partition case No. 5706 of the District Court of Colombo.

(b) to declare the decree entered by the said Court null and void and of no force or effect in law,

(c) or in the alternative to award damages against the defendants respondents jointly and severally at least in the sum of Rs. 100,000/-.

(d) to order an injunction against the defendants respondents restraining a sale of the property, and restraining the defendants-respondents from drawing or receiving payment of the proceeds of any sale of the property which proceeds may be deposited in Court or any share or part thereof.

(e) to order that the plaintiffs-appellants are entitled to remain in possession of the property either until payment or recovery of damages in full or at least until payment of compensation.

3. The defendants respondents are about to have or cause the said property to be sold in pretended pursuance of the decree entered in the said case No. 5706 and are preparing and are taking steps to do so, and the same will be sold unless the defendants respondents are restrained by an order of this Court.

4. Grave and irreparable damage will be caused to the plaintiffs petitioners if the said property is sold. If the Supreme Court is pleased to give judgment in favour of the plaintiffs-petitioners as prayed for by them, the said judgment will be rendered null and ineffectual and of no force or effect in the event of the said property being sold by the defendants respondents as aforesaid.

5. The defendants respondents are persons who are incapable of satisfying any decree that the plaintiffs petitioners may obtain against them.

6. The plaintiffs petitioners have in these proceedings prayed for an injunction restraining any sale of the said property. The plaintiffs petitioners plead that in all the circumstances the plaintiffs petitioners are entitled to an order of this court restraining the sale of the said property and/or for an order of detention of the said property until the final determination of this action,

Sgd: L. GULAMHUSSEIN.

Affirmed to at Colombo this  
24th March 1952.

Before me

Sgd: J. H. FORBES  
J. P

**No. 24.****Inquiry and Order regarding application for an injunction  
restraining the sale of property.**

No. 24  
Inquiry and  
Order  
Regarding  
Application  
for an  
Injunction  
restraining  
the sale of  
property.  
5-5-52.

5th May 1952.

Mr. Advocate N. E. Weerasooriya Q. C. with Mr. Advocate Kadirgamar instructed by Messrs. Julius and Creasy for plaintiffs.

Mr. Advocate E. B. Wickramanayaka Q. C. with Mr. Advocate Arulambalam instructed by Mr. Rasanathan for the 1-8, 11, 13, 21, 29, 30, 31 and 37th defendants.

Mr. E. W. Seneviratne for 22 to 27th defendants.

Mr. Advocate Weerasooriya addresses Court. He submits that this is an application for an order or injunction restraining the sale of the property in question under the Decree for sale entered in Partition case, D. C. Colombo 5706. Decree for sale has been entered in that case and the present action has been filed to set aside that decree or to have that decree declared null and void, or in the alternative for damages and for an injunction restraining the sale of the said property under that decree.

Application for an interim injunction has been made, after filing the instant case, and order has been made for the trial of this case be fixed for an early date. The present case has been heard and judgment delivered on 4th March 1952, and the said judgment has been appealed from.

Refers to the judgment. Plaintiffs have been declared entitled to 1/16th share of the land in question and compensation. It has been held, during the course of the judgment, that the parties to the partition action D. C. Colombo 5706 deliberately suppressed the claims of the plaintiffs. The defendants have acted fraudulently and collusively in the partition action to deprive the plaintiffs of their rights to this property by obtaining a decree for sale without their knowledge.

The sale under the partition action has been fixed for the 14th May 1952. He submits that as soon as the property is sold under that decree even assuming that the plaintiffs would succeed in their appeal, the property must necessarily pass on to the hands of third parties. He submits that the plaintiffs have been in exclusive possession since 1919 and it would not amount to anything too much in asking that the sale be stayed pending the final determination of this action.

He cites Chitale Vol. 1 page 1253 at 1254 and submits that this Court has inherent powers to change or alter the order of the other Court, which made order in D. C. Colombo 5706 refusing the application to stay the sale under the partition decree. He submits the District

No 24.  
Inquiry and  
Order  
Regarding  
Application  
for an  
Injunction  
restraining  
the sale of  
Property.  
5-5-52.  
—continued.

Court of Colombo is one Court, though it has three or four separate Courts. He also submits that the plaintiffs were not parties to the other case and they had no status in that case. But, in this case all parties are before Court. We have made an application in this case originally for the stay of the sale, and the matter was fixed for inquiry in the action itself. We went into the main action, and that application has not been dealt with.

As this Court has held that the parties to the partition action D. C. 5706 have acted fraudulently and collusively in obtaining the decree for sale of the property in question, this Court has inherent power to make order for stay of sale under that decree.

Mr. Advocate Wickramanayaka is heard in reply. He submits that this is an extraordinary application. He asks under what provision of law this application has been made. He states that no authority has been cited to show under what provision of law this application has been made. Refers to section 839 of the Civil Procedure Code, and submits that it has no application at all to the present application. He submits that the subject matter of this action is not land, affecting land. The action is to set aside a decree, or in the alternative the plaintiffs have asked for compensation. They have got compensation. Application to stay the sale under the partition decree has been made to the Court that passed the decree and that application has been refused. A sale in a partition action is not a sale by the parties, it is a sale by the Court. Application has been made to the Court that entered the decree for sale of the property and that Court has refused the application. This Court cannot stay the sale, this Court has no power to do so. He submits that this Court has no power to take action in a case dealt by another Court. He also submits that by the stay of this sale irreparable damage would be caused to his clients. This application does not fall within the provisions of section 86 of the Courts Ordinance. Section 839 of the C. P. C. has no application, because this Court has no jurisdiction in respect of the order made in D. C. Colombo 5706 (Partition). No damages would be caused to the plaintiffs by the sale taking place, but on the other hand irreparable damage would be caused to the defendants if the sale be stayed. He submits that this is not an application made under any provision of law. This is an extraordinary application, and it must be refused.

## ORDER

In this case the plaintiffs are moving for an order or injunction restraining the sale of the property in question under Decree for sale entered in partition case D. C. Colombo 5706. Decree for sale has been entered in that case and this action has been filed to set aside that decree or to have that decree declared null and void, or in the alternative for damages and for an injunction restraining the sale of the said

property under that decree. After trial this Court has awarded damages to the plaintiffs but has decided against the plaintiffs with regard to the application to set aside that decree for sale or to have that decree declared null and void. The decree entered in this case is now in appeal. An application has been made in D. C. Colombo 5706 (Partition) to issue commission for sale under that decree. An application had been made in that case to stay the execution of that commission, but that application has been refused by that Court. In view of that refusal the present application is made in this case.

No 24.  
Inquiry and  
Order  
Regarding  
Application  
for an  
Injunction  
restraining  
the sale of  
Property.  
5-5-52.  
—continued.

I am prepared to deal with this application on the footing that the decree of this Court may be set aside in appeal. If the plaintiffs succeed in their appeal, they will be entitled to a decree setting aside the decree for sale entered in the partition case, or declaring such decree for sale null and void. If so, no rights would flow under the sale, which will take place under the decree though third parties might purchase at such sale and may get involved in litigation. If the plaintiffs fail in the appeal they will not be entitled to a stay of the decree for sale in the partition action. As this Court has already declined to allow the application for an injunction, I am not satisfied that the plaintiffs are entitled to maintain this application. It has been urged that this court is entitled to make an order staying the sale in the partition action, in view of provisions of section 839 of the Civil Procedure Code. I am not satisfied that under this section this court is entitled to make an order staying the proceedings in a separate case. I may state that if I was dealing with the application made in the partition action, I would have been inclined to stay the sale pending the final adjudication of this case to prevent third parties being involved in litigation as a result of purchasing rights under that sale, if the plaintiffs succeed in this action. But, I am not prepared to hold that under the provisions of section 839 of the Civil Procedure Code this court can give orders binding the action of the District Court in other cases. It would have been desirable in the interests of all parties if the status quo was maintained without further steps being taken in the partition action to sell the property under the decree for sale, but it is quite a different proposition to state that this court in exercising its jurisdiction in this case is entitled to pass an order restraining the actions of the court in another case. Though this Court has held that the parties in the partition action have been guilty of fraud and collusion, I do not think this court is entitled to act under the provisions of section 839 on the footing that action taken in that case to execute the decree for sale amounts to abuse of the process of Court. The plaintiffs in this case have been awarded damages, because this court has held that the parties to the partition case have been guilty of fraud and collusion.

I refuse the application of the plaintiffs for an order or injunction restraining the sale in the partition action. I award the defendants

No. 24.  
Inquiry and  
Order  
Regarding  
Application  
for an  
Injunction  
restraining  
the sale of  
Property.  
5-5-52  
—continued.

represented by Mr. Rasanathan a sum of sum of Rs. 105/- as costs of this inquiry as against the plaintiffs

Sgd. L. B. DE SILVA,  
A. D. J.  
5-5-1952.

---

**No. 25.**

**Judgment of the Supreme Court.**

IN THE SUPREME COURT OF CEYLON.

S. C. 72-L/'53.  
with Application  
No. 203/1952.

D. C. (F) Colombo 5951/L.

MOHAMEDALY ADAMJEE et al  
Appellants.

Vs.

HADAD SADEEN et al  
Respondents.

**Present:** Gunasekara J. and K. D. de Silva J.

**Counsel:** H. V. Perera Q. C., with S. J. Kadirgamer and B. S. C. Ratwatte for Appellants.

E. B. Wickramanayake Q. C., with V. Arulambalam for 1st to 8th, 13th, 21st, 29th to 31st. and 37th Respondents.

**Argued:** 1st, 2nd and 3rd September, 1953.

**Decided:** 10th February, 1954.

**GUNASEKARA J.**

In District Court Colombo Case No. 5706/P, which was an action under the Partition Ordinance (Cap. 56), a decree was entered on the 30th April, 1950, declaring the respondents entitled to certain immovable property in Kollupitiya and directing a sale of the property under the Ordinance. On the 20th May, 1950, the appellants, who had not been parties to that action, instituted in the district court the action out of which this appeal arises, claiming title to the entire property and alleging that the respondents had obtained the decree in the partition action by fraud. They prayed that the district court should “set aside or vacate” that decree and declare that it was “null and void

and of no force or effect in law"; or, in the alternative, award them damages in a sum of Rs. 100,000. The learned district judge held that the appellants were entitled (up to the time of the decree in the partition action) to an undivided 1/16th share of the property and to compensation for certain improvements effected by them, and that the respondents "wrongfully, unlawfully, fraudulently and collusively" omitted to make them parties to the partition action or give them notice of it and that they obtained the decree in question by fraud. Upon this footing he awarded the appellants damages in a sum of Rs. 29,687/50 and ordered the respondents to pay them half the costs of the action. He held that the appellants were not entitled to have the decree in the partition case set aside, or to have it declared null and void, or to be declared owners of the premises in question.

No. 25.  
Judgment  
of the  
Supreme  
Court.  
10-2-54.  
—continued.

The property was originally part of the estate of one Idroos Lebbe Marikar, who died in 1876 and whose last will was admitted to probate on the 29th May of that year. In accordance with directions contained in the will the estate was divided among those who would have been the intestate heirs in such a manner that each received the equivalent in value of what would have been his or her share upon an intestacy. In that division this property was conveyed by the executor, by the deed No. 2575 of the 14th September, 1888, attested by Don Simon Lewis, Notary Public, to Saviya Umma, a daughter of the testator. The conveyance was made subject to conditions that were set out in certain clauses of the will, which were also reproduced in the deed. It has been held by the Privy Council in *SITTI KADIJA V. DE SARAM* (where the same will was construed) that the effect of these clauses was to create a fideicommissum in favour of the children and grandchildren of the devisees. Later, in an appeal in the partition action, it was held by this court that the property was subject to a single fideicommissum and that the time of the gift-over was the death of the last of Saviya Umma's children. The learned district judge holds that Saviya Umma and her children are all dead, and that the respondents are her grandchildren. The appellants have not canvassed this finding of fact or the view that the property was subject to a fideicommissum from which it was freed only upon the death of Saviya Umma and all her children.

In January, 1916, the property was sold in satisfaction of a mortgage decree entered against Saviya Umma and her husband, and was purchased by the mortgagee, Leonora Fonseka, to whom it was conveyed by a fiscal's conveyance dated the 29th March, 1916. This conveyance describes the property by reference to a "diagram or map annexed to the deed No. 2575 dated 14th September, 1888, attested by Don Simon Lewis of Colombo, Notary Public" Leonora Fonseka sold the property on the 16th August, 1919, to Adamjee Lukmanjee, whose interests have devolved on the appellants.

No. 25.  
 Judgment  
 of the  
 Supreme  
 Court.  
 10-2-54.  
 —continued.

The fiscal's conveyance of 1916 and the other deeds in the appellants' chain of title have been duly registered, and the probate of 1876 and the executor's conveyance of 1888 have not been registered. Upon this ground the learned district judge holds that the probate is void as against parties claiming an adverse interest under the fiscal's conveyance and therefore the appellants were "entitled to claim the intestate rights of Saviya Umma from Idroos Lebbe Marikar free of the fidei commissum created by his Last Will by virtue of due prior registration", and that the interest to which they were so entitled was a 1/16th share of the property. He rejected a contention that what they were entitled to upon this view was "the entirety of the property in question that was allotted to Savia Umma at the division of Idroos Lebbe Marikar's property amongst his heirs"

If the learned judge is right in his view that the Last Will is void as against the appellants, it seems to me that he is also right in holding that the interest they became entitled to was no more than the share that Savia Umma would have inherited (free of the fideicommissum) from Idroos Lebbe Marikar if the latter had died intestate. It was held in *FONSEKA V. CAROLIS*<sup>2</sup> upon a point of law reserved for consideration by a Bench of three Judges, that the non-registration of the probate of a will affecting immovable property will render it void as against a person claiming an adverse interest under a duly registered deed of a subsequent date. Referring to this decision de Sampayo J. said in the same case<sup>3</sup>.

"The effect of the decision on the point referred to the Full Bench, so far as this case is concerned, is that where property of the estate is disposed of by a devisee, who is also an heir of the deceased, or is sold against him in execution, upon an instrument which is registered prior to the probate of the will, the transferee obtains, in respect of any share or interest to which the devisee would have been entitled by law but for the will, a superior title to that of the executor or a party claiming under him."

There is no dispute as to the extent of the share of her father's estate to which Savia Umma would have been entitled but for the will. It is contended for the appellants, however, that that by virtue of the fiscal's conveyance of 1916 they are entitled to claim not merely the share that Saviya Umma would have inherited in this property as an intestate heir but the shares of the other heirs as well, upon the footing that there had been cross-conveyances among all the heirs at the division of the estate. It is also argued, upon the authority of the decision in *FONSEKA V. FERNANDO*<sup>4</sup>, that the will is void only quoad the adverse interest claimed by the appellants, and that Saviya Umma must be regarded as having been allotted the property in question free of the fidei commissum in a division of the estate among the intestate heirs.

It seems to me that to treat the executor's conveyance of the property to Saviya Umma as being in effect a conveyance by the other heirs of a 15/16ths share to her would be to take an altogether unreal view of the transaction. I am therefore unable to accept the appellant's contention on this point.

No. 25.  
Judgment  
of the  
Supreme  
Court.  
10-2-54.  
—continued.

Mr. Wickremanayake has argued that the interest that can be claimed by virtue of the fiscal's conveyance is not adverse to the probate, and that therefore the learned judge has erred in holding that the Will is void against the appellants. In the view that I take of the effect of this finding it is not necessary to consider the argument that the Will is not void against the appellants. The respondents have not appealed from the learned District Judge's decision that the appellants became entitled to a 1/16th share of the property.

The appellants have also set up a title by prescription. The learned District Judge holds that they and their predecessors have been in exclusive and uninterrupted possession of the property from 1919, but that they have failed to prove a title by prescription in as much as they have not proved possession for a period of ten years after the accrual of the respondents' right of possession. The latter were fidecommissaries, and, in terms of the proviso to section 3 of the Prescription Ordinance (Cap. 55), the period of ten years "shall only begin to run against parties claiming estates in remainder or reversion from the time when the parties so claiming acquired a right of possession to the property in dispute" The time when the respondents acquired this right has not been established, and the learned judge holds that the burden of proof on that issue lay on the appellants. It is contended for the appellants that this finding is erroneous.

The argument for the appellants is that it was not necessary for them to prove that their possession was adverse to any particular person, but that it was sufficient to prove as regards the character of their possession that it was possession *ut dominus*; and when they had proved that they had such possession for a period of ten years or more, the burden shifted to the respondents to prove that the appellants did not have possession for ten years after the respondents had acquired their right of possession.

I am unable to accept this argument. Section 3 of the Prescription Ordinance provides that the possession by a defendant for ten years that must be proved in order to entitle him to a decree in his favour is possession "by a title adverse to or independent of that of the claimant or plaintiff;" and, conversely, that the possession by a plaintiff for ten years that must be proved to entitle a plaintiff to a decree in his favour is possession "by a title adverse to or independent of" that of the defendant. It seems to me, therefore, that before it can be held that the appellants have established a title by prescription there must be



No. 25.  
Judgment  
of the  
Supreme  
Court.  
10-2-54.  
--continued.

proof that they possessed the property adversely to the respondents for a period of ten years or more. There appears to be support for this view in two cases that were cited to us; while no authority was cited in support of the appellants' contention. IN RAKI V LEBBE<sup>5</sup> a decision that the predecessor of the respondents in that case had a title by prescription was based on a finding that his possession was adverse as against the appellants. In ABDUL CADER V HABIBU UMMA<sup>6</sup> it was held that (to quote the head note) "possession which commenced before the accrual of a fidei commissary's right is not adverse against the fidei commissary. Mr. H. V Perera contends that the headnote is misleading where it uses the expression "adverse against the fidei-commissary" with respect, I disagree. The idea that the possession that had to be proved by the defendants who were setting up a title by prescription was possession that was adverse to the plaintiffs (who had been fideicommissaries) is implicit in both the judgments delivered in that case. Lyall Grant J. said<sup>7</sup> "It seems to us clear on the Ordinance that a fidei commissarius does not become an adverse claimant under the second proviso of section 14<sup>8</sup> until he acquires a right of possession. If this be so, there is no adverse possession as against the present plaintiffs for thirty years, and there is nothing to take the case out of the ordinary rule that the ten years required to establish a prescriptive possession do not begin to run until the adverse claimant has attained majority" Jayawardene A. J. said<sup>9</sup> "Mr. Hayley's argument requires that adverse possession commenced before the accrual of the fidei-commissary's right should be regarded as adverse possession against the fideicommissary himself. That would certainly be a contravention of the principle laid down in CASIM V. DINGIHAMY<sup>10</sup>

If the possession that had to be proved before the appellants could get judgment was possession that was adverse as against the respondents, then, both under section 101 and under section 103 of the Evidence Ordinance (Cap. 11), the burden of proving such possession lay on the appellants. As possession could be adverse as against the respondents only from the time of the accrual of their right of possession, it follows, I think, that the burden of proving when that right accrued was on the appellants. As was pointed out in CHELLIAH V WIJENETHAN<sup>11</sup>, "where a party invokes the provisions of section 3 of the Prescription Ordinance in order to defeat the ownership of an adverse claimant to immovable property, the burden of proof rests fairly and squarely on him to establish a starting point for his or her acquisition of prescriptive rights." I agree with the learned district judge's view that the appellants have failed to prove a title by prescription.

A further contention that was urged in support of the appeal was that the decree in the partition action was a nullity or at any rate was not binding on the appellants as a decree that was conclusive in terms of section 9 of the Partition Ordinance. It was urged that it had not been given in the manner provided in the Ordinance, in that there had

been no proper investigation of the title to the property. In our opinion the learned district judge was right in his conclusion that the decree was not open to this criticism, and we therefore did not call upon the learned counsel for the respondents to address us on this ground of appeal. Nor did we call upon him to reply to a further argument, that the finding of fraud and collusion on the part of the respondents entitled the appellants to an order setting aside the decree in the partition action. Mr. Perera submitted that it was a General principle of the Roman-Dutch Law that fraud Vitiates any transaction that is tainted by it, and that a decree that has been obtained by fraud can be set aside on that ground where no other remedy is available. This common law remedy, he argued, had not been taken away by statute: section 9 of the Partition Ordinance did not provide that the decree must stand notwithstanding that it may have been obtained by fraud, but only made it conclusive against all persons while it stood, and the proviso merely saved the common law right of a party who might be prejudiced by a partition or sale to recover damages in certain circumstances in those cases in which the decree was not aside. This view of the effect of section 9 is in conflict with a current of authority that is binding on this court. It is sufficient to refer to one of the series of decisions on the point, JAYAWARDENE V WEERASEKERA <sup>12</sup>, where Sir Alexander Wood Renton said:

No. 25.  
Judgment  
of the  
Supreme  
Court.  
10-2-54.  
—continued.

“It is as well settled as any point of law can be that a partition decree is conclusive against all persons whomsoever, and that a person owning an interest in the land partitioned whose title even by fraudulent collusion between the parties had been concealed from the court in the partition proceedings, is not entitled on that ground to have the decree set aside, his only remedy being an action for damages.”

The appeal must be dismissed with costs, and application No. 203, which is an application for revision of the proceedings in the partition action, must be refused.

Sgd. E. H. T. GUNASEKERA  
Puisne Justice

de Silva J.

I agree

Sgd. K. D. DE SILVA  
Puisene Justice

1. (1946) A. C. 208: (1946) 47 N. L. R. 171
2. (1917) 20 N. L. R. 97
3. Ibid at page 108
4. (1912) 15 N. L. R. 491

No. 25.  
Judgment  
of the  
Supreme  
Court.  
10-2-54.  
—continued.

5. (1912) 16 N. L. R. 138
6. (1926) 28 N. L. R. 92
7. at page 94
8. Now Section 13
9. at page 96
10. (1906) 9. N. L. R. 257
11. (1951) 46 C. L. W 27 at 31
12. (1917) 4 C. W. R. 406

No. 26.  
Decree of the  
Supreme  
Court.  
10-2-54.

---

**No. 26.**

**Decree of the Supreme Court.**

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF  
HER OTHER REALMS AND TERRITORIES,  
HEAD OF THE COMMONWEALTH  
IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D. C. (F) 72 L  
1953

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN and
4. ABBASABHOY GULAMHUSSEIN all of Colombo  
Plaintiffs - Appellants

against

1. HADAD SADEEN
2. ABDUL CADER SADEEN and others all of Castle  
Street, Borella.

Defendants - Respondents

Action No. 5951/L

District Court of Colombo.

This cause coming on for hearing and determination on the 1st, 2nd & 3rd September & 10th Feby. 1954 and on this day, upon an appeal preferred by the Plaintiffs-Appellants before the Hon. Mr. E. H. T. Gunasekara, Puisne Justice and the Hon. Mr. K. D. de Silva, Puisne Justice of this Court, in the presence of Counsel for the Appellants and 1st to 8th, 13th, 21st, 29th to 31st and 37th Defendants-Respondents.

It is considered and adjudged that this appeal be and the same is hereby dismissed with costs and the application in revision is refused.

No. 26.  
Decree of the  
Supreme  
Court  
10-2-54.  
—continued.

Witness the Hon. Mr. E. F. N. Gratiaen, Q. C. Acting, Chief Justice at Colombo, the 12th day of February, in the year of our Lord One thousand Nine hundred and Fifty Four and of Our Reign the Third.

Sgd. W. G. WOUTERSZ  
Dy. Registrar, S. C.  
Registrar, S. C.

---

**No. 27.**

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

IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

In the matter of an application for Conditional Leave to appeal under the provisions of the Appeals (Privy Council) Ordinance (Chapter 85)

No. 27.  
Application  
for  
Conditional  
Leave to  
appeal to the  
Privy  
Council.  
1-3-54.

No. 72/L (Final)  
of 1953  
D. C. Colombo  
No. 5951/L.

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN, and
4. ABBASBHOY GULAMHUSSEIN all of Colombo.

Petitioners (Plaintiffs- Appellants)

Vs.

1. Hadad Sadeen
2. Abdul Cader Sadeen
3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid.
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella Colombo.

No. 27.  
Application  
for  
Conditional  
Leave to  
Appeal to the  
Privy  
Council.  
1-3-54.  
—continued

8. Mohamed Hamza Mahroof of 158 Layards Broadway, Colombo.
9. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
10. Mohamed Mahroof Mohamed Khalid (9th and 10th) appearing by their Guardian-ad-litem
11. M. L. M. M. Shariff both of 164 New Moor Street, Colombo.
12. Noorul Hidaya Abdeen of Reid Avenue, Colombo.
13. Muzaira Akbar of Reid Avenue, Colombo.
14. Abdul Mawahib Nakeem of Castle Street, Borella Colombo.
15. Sithy Safia Nakeem
16. Ummu Vojeeda Nakeem
17. Hassen Jiffry Nakeem
18. Mohamed Ismail Nakeem
19. Mohamed Samsudeen Nakeem
20. Mohamed Milhar Nakeem (14th to 20th appearing by their Guardian-ad-litem)
21. M. Y. M. Hamza
22. Mrs. Noor Himaya Mohideen and
23. M. Awn Marikar all of Castle Street, Borella, Colombo.
24. M. Mohamed Thahir of Messenger Street, Colombo.
25. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella Colombo.
26. Mrs. Sithy Zavahira Zubair of Kirillapona.
27. M. M. Nuhman
28. M. H. Sakaf
29. M. Z. F. Cassim
30. Mrs. Ummu Zulaiha Ameen
31. Miss. H. M. Mohideen
32. Mohamed Sameer Mohamed Alavi all of Castle Street, Borella, Colombo.
33. Miss. S. Z. Sameer (32nd and 33rd appearing by their Guardian-ad-litem)
34. M. I. M. Sameer
35. M. S. Farook
36. Miss. M. R. S. Hanoon (35th and 36th by their Guardian-ad-litem)
37. M. Z. F. Cassim
38. Hadija Ghouse Cassim
39. Ayn Safia Ghouse Cassim

40. Shuhaib Ghouse Cassim
41. Ameer Faizer Ghouse Cassim
42. Falih Ghouse Cassim (by their Guardian-ad-litem)
43. M. Ghouse Cassim all of Castle Street, Borella, Colombo.

No. 27.  
Application  
for  
Conditional  
Leave  
to Appeal to  
the Privy  
Council.  
1-3-54.  
—continued.

Respondents (Defendants-Respondents)

To,

The Hon'ble the Chief Justice and the other Judges of the Hon'ble the Supreme Court of the Island of Ceylon.

On this 1st day of March, 1954.

The Petition of the Petitioners (Plaintiffs-Appellants) abovenamed appearing by Geoffrey Thomas Hale, Frederick Claude Rowan, Joseph Francis, Martyn, Henric Theodore Perera, James Arelupar Naidoo and Alexander Richard Neville de Fonseka, carrying on business in partnership in Colombo under the name, style and firm of Julius and Creasy and their Assistants John Patrick Rogan, Alexander Nereus Wiratunga Lena Charlotte Fernando, Francis Luke Theodore Martyn, Rex Herbert Sebastian Phillips, Reginald Frederick Mirando, William Henry Senanayake, John Ajasath Rancoth Weerasinghe and Bertram Manson Amarasekera, Proctors, states as follows:-

1. That feeling aggrieved by the Judgment and Decree of this Court pronounced on 10th day of February 1954, the said Petitioners abovenamed are desirous of appealing therefrom to Her Majesty the Queen in Council.

2. The said Judgment is a final Judgment and the matter in dispute on the appeal is far in excess of the value of Rupees five thousand (Rs. 5,000/-) and involves directly or indirectly some claim, or question to or respecting property or some civil right amounting to or in excess of the value of Rupees five thousand (Rs. 5,000/-) The question involved in the appeal is one which by reason of its great general or public importance or otherwise ought to be submitted to Her Majesty the Queen in Council for decision.

3. That notices of the intended application for leave to appeal were served on the Respondents in terms of Rule (2) of the Rules in the schedule to the Appeals (Privy Council) Ordinance and in Pursuance of the Orders of the Honourable the Supreme Court, by :-

- (a) Registered Post
- (b) Ordinary Post
- (c) Personal Service

No. 27.  
Application  
for  
Conditional  
Leave  
to Appeal to  
the Privy  
Council.  
1-3-54.  
—continued.

- (d) Personal service through the Fiscal, Western Province,  
and  
(e) Substituted Service by the Fiscal, Western Province.

Wherefore the Petitioners (Plaintiffs-Appellants) pray that Your Lordships' Court be pleased to grant them Conditional Leave to Appeal against the said Judgment and Decree of this Court dated the 10th day of February 1954 to Her Majesty the Queen in Council and for such other and further relief as to Your Lordships Court shall seem meet.

Settled by,  
S. J. Kadirgamar  
Advocate.

Sgd: JULIUS & CREASY.  
Proctors for Petitioners  
(Plaintiffs-Appellants)

No. 28  
Decree  
Granting  
Conditional  
Leave to  
Appeal to the  
Privy  
Council.  
10-3-54.

---

**No. 28.**

**Decree granting conditional Leave to Appeal to the Privy Council.**

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF  
HER OTHER REALMS AND TERRITORIES,  
HEAD OF THE COMMONWEALTH.  
IN THE SUPREME COURT OF THE ISLAND OF CEYLON

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN and
4. ABBASBHOY GULAMHUSSEIN all of Colombo.  
Petitioners (Plaintiffs - Appellants)

against

1. HADAD SADEEN of Colombo and 42 others  
Respondents (Defendants-Respondents)

Action No. 5951 (S. C. 72 Final)  
District Court of Colombo.

In the matter of an application dated 4th March, 1954 for Conditional Leave to Appeal to Her Majesty the Queen in Council by Plaintiffs - Appellant abovenamed against the decree dated 10th February, 1954.

This matter coming on for hearing and determination on the 10th day of March, 1954 before the Hon. Mr. M. F. S. Pulle, Q. C., Puisne Justice and the Hon. Mr. V. L. St. C. Swan, Puisne Justice: Justice of this Court, in the presence of Counsel for the petitioner.

No. 28.  
Decree  
Granting  
Conditional  
Leave to  
Appeal to the  
Privy  
Council.  
10-3-54.  
—continued.

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

1. Deposit with the Registrar of the Supreme Court a sum of Rs. 3,000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7 (1) of the Appellate Procedure (Privy Council) Order shall on application made after due notice to the other side approve.

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

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

Witness the Hon. Mr. C. Nagalingam, Q. C., Acting Chief Justice at Colombo. the 18th day of March in the year of our Lord One thousand Nine hundred and Fifty Four and of Our Reign the Third.

Sgd. W. G. WOUTERSZ  
Dy. Registrar, S. C.

**No. 29.**

**Application for Final Leave to Appeal to the Privy Council.**

**IN THE SUPREME COURT OF THE ISLAND OF CEYLON**

No. 72/L (Final)  
of 1953  
D. C. Colombo  
No. 5951/L.

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN, and
4. ABBASBHOY GULAMHUSSEIN all of Colombo.

No. 29.  
Application  
for Final  
Leave to  
Appeal  
the Privy  
Council.  
20-3-54.

Petitioners (Plaintiffs-Appellants)



No. 29,  
Application  
for Final  
Leave to  
Appeal to  
the Privy  
Council.  
29-3-54.  
—continued,

Vs.

1. Hadad Sadeen
2. Abdul Carder Sadeen
3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid.
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella, Colombo.
8. Mohamed Hamze Mahroof of 158 Layards Broadway, Colombo.
9. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
10. Mohamed Maharoo Mohamed Khalid (9th and 10th) appearing by their Guardian-ad-litem
11. M. L. M. M. Shariff both of 164 New Moor Street, Colombo.
12. Noorul Hidayat Abdeen of Reid Avenue, Colombo.
13. Muzariya Akbar of Reid Avenue, Colombo.
14. Abdul Mawahib Nakeem of Castle Street, Borella, Colombo.
15. Sithy Safia Nakeem
16. Ummu Vojeeda Nakeem
17. Hassen Jiffry Nakeem
18. Mohamed Ismail Nakeem
19. Mohamed Samsudeen Nakeem
20. Mohamed Milhar Nakeem (14th to 20th appearing by their Guardian-ad-litem)
21. M. Y. M. Hamza
22. Mrs. Noor Himaya Mohideen and
23. M. Awn Marikar all of Castle Street, Borella, Colombo.
24. M. Mohamed Thahir of Messenger Street, Colombo.
25. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella, Colombo.
26. Mrs. Sithy Zavahira Zubair of Kirillapona.
27. M. M. Nuhman
28. M. H. Sakaf
29. M. Z. F. Cassim
30. Mrs. Ummu Zulaiha Ameen
31. Miss. H. M. Mohideen
32. Mohamed Sameer Mohamed Alvai all of Castle Street, Borella, Colombo.
33. Miss. S. Z. Sameer (32nd and 33rd appearing by their Guardian-ad-litem)
34. M. I. M. Sameer

35. M. S. Farook
36. Miss. M. R. S. Hanoon (35th and 36th by their Guardian-ad-litem)
37. M. Z. F. Cassim
38. Hadija Ghouse Cassim
39. Ayn Safia Ghouse Cassim
40. Shuhaib Ghouse Cassim
41. Ameer Faizer Ghouse Cassim
42. Falih Ghouse Cassim (by their Guardian-ad-litem)
43. M. Ghouse Cassim all of Castle Street, Borella, Colombo.

No. 29.  
Application  
for Final  
Leave to  
Appeal to  
the Privy  
Council.  
29-3-54.  
—continued.

Respondents  
(Defendants-Respondents)

To,

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

On this 29th day of March 1954.

The humble Petition of the Plaintiffs-Appellants in the Supreme Court No 72/L (Final) of 1953 and the Petitioners abovenamed appearing by Geoffrey Thomas Hale, Frederick Claude Rowan, Joseph Francis Martyn, Henric Theodore Perera, James Arelupar Naidoo and Alexander Richard Neville de Fonseka carrying on business in partnership in Colombo under the name, style and firm of Julius & Creasy and their Assistants John Patrick Rogan, Alexander Nereus Wiratunga, Lena Charlotte Fernando, Francis Luke Theodore Martyn, Rex Herbert Sebastian Phillips, Reginald Frederick Mirando, William Henry Senanayake, John Ajasath Rancoth Weerasinghe and Bertram Manson Amarasekera, Proctors, states as follows:—

1. That the Plaintiffs-Appellants in Supreme Court Case No. 72/L (Final) of 1953 and the Petitioners abovenamed on the 10th day of March 1954 obtained Conditional Leave from this Honourable Court to appeal to Her Majesty the Queen in Council against the judgment of this Court pronounced on the 10th day of February 1954.

2. That the Plaintiffs-Appellants in Supreme Court Case No. 72/L (Final) of 1953 and the Petitioners abovenamed have in compliance with the conditions on which such leave was granted deposited with the Registrar of this Court a sum of Rs. 3,000/- on the 24th day of March 1954 and has by bond dated the 24th day of March 1954 mortgaged and hypothecated the said sum of Rs. 3,000/- with the said Registrar.

No. 29.  
Application  
for Final  
Leave to  
Appeal to  
the Privy  
Council.  
29-3-54.  
—continued.

3. That the Plaintiffs-Appellants in Supreme Court Case No. 72/L (Final) of 1953 and the Petitioners abovenamed have further deposited with the said Registrar a sum of Rs. 300/- in respect of fees.

Wherefore the Plaintiffs-Appellants in Supreme Court Case No. 72/L (Final) of 1953 and the Petitioners abovenamed pray that they be granted final leave to appeal against the said judgment of this Court dated the 10th day of February 1954 to Her Majesty the Queen in Council, and for such other and further relief in the premises as to Your Lordships' Court shall seem meet.

Sgd. JULUIS & CREASY,  
Proctor for Petitioners  
(Plaintiffs-Appellants)

No. 30.  
Decree  
Granting  
Final Leave  
to Appeal to  
the Privy  
Council.  
9-4-54.

**No. 30.**

**Decree granting Final Leave to Appeal to the Privy Council.**

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF  
HER OTHER REALMS AND TERRITORIES,  
HEAD OF THE COMMONWEALTH  
IN THE SUPREME COURT OF THE ISLAND OF CEYLON.

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN and
4. ABBASBHOY GULAMHUSSEIN all of Colombo.  
Petitioners (Plaintiffs - Appellants)

against

1. Hadad Sadeen of Colombo and 42 others.  
Respondents (Defendants - Respondents)

Action No. 5951 (S. C. 72 Final)

District Court of Colombo.

This matter coming on for hearing and determination on the 9th day of April, 1954 before the Hon. Mr. E. F. N. Gratiaen, Q. C., Puisne Justice and the Hon. Mr. E. H. T. Gunasekara, Puisne Justice of this Court, in the presence of Counsel for the petitioner.

The applicant having complied with the conditions imposed on him by the order of this Court dated 10th March, 1954, granting Conditional Leave to Appeal.

No. 30.  
Decree  
Granting  
Final Leave  
to Appeal  
to the Privy  
Council.  
9-4-54.  
—continued.

It is considered and adjudged that the applicant's application for Final Leave to Appeal to Her Majesty the Queen in Council be and the same is hereby allowed.

Witness the Hon. Sir Alan Edward Percival Rose, Kt., Q. C., Chief Justice at Colombo, the 29th. day of April in the year of our Lord One thousand Nine hundred and Fifty Four and of Our Reign the Third.

Sgd. W. G. WOUTERSZ  
Dy. Registrar. S. C.

**Part II. — EXHIBITS.**

Exhibits  
8D1.  
Last Will  
No. 7130 of  
I. L. I. L.  
Marikar.  
12-12-1872.

**8 D 1.****Last Will No. 7130 of I. L. I. L. Marikar.**

8 D 1.

No. 7130.

I the undersigned Isboo Lebbe Idroos Lebbe Marikar otherwise called Mohamadu Lebbe Marikar, residing at Old Moor street in Colombo do hereby intend to make and publish this my Last Will and Testament whilst I am in sound sense and good mind, considering the uncertainty of this life and as I intend to leave this Island for a short time on a pilgrimage to Mecca. First, I do hereby revoke and cancel all Last Wills and Testaments and all other writings purporting to be of a Testamentary nature which I might have made at any time previous to these presents and declare this to be my Last Will and testament. Second- I do hereby give and bequeath for the benefit and use of the Mosque at New Moor street within the Municipality of Colombo, the house and ground situated at Land Street, in the Pettah of Colombo as per Title deed thereof No. 769 dated 25th May 1860 attested by Mr. H. G. Kelaart Notary and registered A3/313 which land should be transferred at the expense of my estate in favour of the Trustees or Managers of the said Mosque by my executors immediately after demise and until such time they should give the rent or income of the said premises to buy oil for the said Mosque or they should supply oil for the amount of rent they receive.

I do hereby will and desire that my wife Assena Natchia daughter of Seka Marikar, and my children Mohamado Noordeen, Mohamado Mohideen, Slema Lebbe, Abdul Rahiman, Mohamado Usboe, Amsa Natcha and Savia Umma and my father Uduma Lebbe, Usboe Lebbe, who are the lawful heirs and heiresses of my estate, shall be entitled to and take their respective shares according to my religion and Shaffe sect to which I belong but they nor their issues or heirs shall not sell, mortgage or alienate any of the lands, houses, estate or gardens belonging to me at present or which I might acquire hereafter, and they shall be held in trust for the grandchildren of my children and the grandchildren of my heirs and heiresses only that they may receive the rents income and produce of the said lands, houses, gardens and estates without encumbering them in any way or the same may be liable to be seized, attached or taken for any of their debts or liabilities and out of such income, produce and rents after defraying expenses for their subsistence and maintenance of their families, the rest shall be placed or deposited in a safe place by each of the party, and out of such surplus, lands should be purchased by them for the benefit and use of their children and grandchildren as hereinbefore stated, but neither the

executors herein named, or any court of Justice shall require to receive them or ask for accounts at any time or under any circumstances except at times of their minority or lunacy.

Exhibits  
8D1.  
Last Will  
No. 7130 of  
1. L. I. L.,  
Marikar,  
12-12-1872.  
—continued.

I further desire and request that after my death the said heirs and heiresses or major part of them shall appoint along with the executors herein named three competent and respectable persons of my class and get the movable and immoveable properties of my estate divided and apportioned to each of the heirs and heiresses according to their respective shares and get Deeds executed by the Executors at the expense of my estate in the name of each of them subject to the aforesaid conditions.

I further declare and bequeath to my granddaughter Sullaya Umma daughter of Seka Marikar Ismail Lebbe Marikar all the movable and immovable properties which I have given to her mother Haiboo Umma, on the occasion of her marriage as dowry, which are at present left in my possession save and except only therefrom one boutique which I bequeath to my brother Usboe Lebbe Uduma Lebbe Marikar Hadjar, and I declare that my executors should take charge of them and deliver them to the said Sullaya Umma on the occasion of her marriage. And lastly I desire that my heirs and heiresses aforesaid shall annually give the feast called 'Kandiri' in my name and on my account.

I appoint and nominate my younger brother Usboe Lebbe Udumma Marikar Hadjar and my son Mohamedu Mohideen as Executors of my estate and this Last Will and Testament.

In witness whereof I the said Isboe Lebbe Idroos Lebbe Marikar, called Mohamedu Lebbe Marikar have set my hand, published and declared this, as my last Will and Testament at Colombo, on this twelfth day of December, in the year of Our Lord One Thousand Eight hundred and seventy two.

Witnesses:-

Signed:- A. CASIE CHITTY.

Sgd. in Tamil Characters.

Signed:- J. H. E. PERERA.

I, S. M. Paulaus Perera Seneviratne Goonetilleke of Colombo, in the Island of Ceylon, Notary Public, by lawful authority duly admitted do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the said Isboe Lebbe Idroos Lebbe Marikar otherwise called Mohamadu Lebbe Marikar, therein named in the presence of the witnesses Messrs. Anthony Casie Chitty of Cottanchina and J. H. Elias Perera of Dam Street, both in Colombo the same was signed by the said Testator in my presence and in the presence of the said witnesses all of whom are known to me and by me the said Notary in the presence of one another at Colombo on this

Exhibits  
8D1.  
Last Will  
No. 7130 of  
I. L. I. L.  
Marikar.  
12-12-1872  
—continued.

twelfth day of December A. D. 1872. And I do further certify and attest that the said testator was to all appearance at the time of the execution of these presents in sound mind and understanding and capable of doing any act which required judgment or discretion.

Which I Attest.

Sgd. PAULUS PERERA  
Notary Public.

---

8 D 2.

Exhibits  
8D2.  
Probate in  
D. C.  
Colombo  
No. 3909/T  
29-5-1876.

Probate in D. C. Colombo No. 3909/T.

8 D 2.

PROBATE

IN THE DISTRICT COURT OF COLOMBO.

D. C. Colombo No. 3909. (Testy.)

Be it known to all men that on the 19th day of May in the year of 1876 the Last Will and Testament of Isboe Lebbe Idross Lebbe Marikar otherwise called Mohamadu Lebbe Marikar of Old Moor Street in Colombo deceased, a copy of which is hereinto annexed, was exhibited, read, and proved before the Court, and administration of all the property and estate, rights and credits of the deceased was and is hereby committed to Idroos Lebbe Mohamado Mohideen the surviving executor in the said Last Will and testament named, he being first sworn faithfully to execute the said will by paying the debts and legacies of the deceased as far as the property will extent and the law will bind, and also to exhibit into this Court true full and perfect Inventory of the said property on or before the 23rd day of June next and to file a true and just account of your executorship on or before the 25th day of August next.

Given under the seal of the District Court this 29th day of May 1876.

Sgd. T. BERWICK  
District Judge.

P 22.

Deed No. 246.

Exhibits  
P22.  
Deed  
No.246.  
19-2-1878.

P. 22.

No. 246.

To all to whom these presents shall come I Idroos Lebbe Marikar Mohamado Mohideen Executor of the estate of Isbu Lebbe Idroos Lebbe Marikar of Colombo deceased, Send Greeting:

Whereas the said Isboe Lebbe Idroos Lebbe Marikar was during his life time seised and possessed under and by virtue of the annexed title deed No. 2062 bearing date the sixteenth day of July One thousand eight hundred and sixty nine and attested by William Martin Wolff Notary Public of all that slip of land called Nugagahawatta with the buildings standing thereon bearing present assessment Nos. 7, 8, 9 and 10 situate and lying at Marandhan within the Municipality of Colombo and hereinafter morefully described. And whereas the said Isboe Lebbe Idroos Lebbe Marikar whilst being seised and possessed as aforesaid departed this life at Colombo on the eighth day of May One thousand eight hundred and seventy six leaving a Last Will and Testament dated the twelfth day of December One thousand eight hundred and seventy two and attested by Mr. Paulus Perera Seneviratne Goonetilleke Notary Public whereby he nominated and appointed his brother Isboe Lebbe Uduma Lebbe Marikar and me the said Idroos Lebbe Marikar Mohamado Mohideen his son as his executors. And whereas the said Isboe Lebbe Uduma Lebbe Marikar predeceased the said testator and I the said Idroos Lebbe Marikar Mohamado Mohideen as the sole surviving executor having obtained from the Hon'ble the Supreme Court an Order dated the seventeenth day of May One thousand eight hundred and seventysix (a copy of which is hereunto annexed) giving and granting to the District Court of Colombo sole and exclusive testamentary jurisdiction in respect of the estate of said testator proved the said Last Will and testament in the said District Court in the testamentary case No. 3909 and on the twenty ninth day of May One thousand eight hundred and seventy six obtained probate thereof copies of which said Last Will and Probate are also hereunto annexed. And whereas the said Testator willed and desired that his wife Assena Natchia, his eight children hereinafter named and his father Udoma Lebbe Isboe Lebbe as his lawful heirs and heiresses should take their respective shares in his estate according to Mohamedan Law and Shafie Sect to which he belonged, but subject to certain trusts and conditions in the said Will mentioned and hereafter set forth.

And Whereas the said Udoma Lebbe Isobae Lebbe his father predeceased the said Testator and the sole heirs of his Estate now are



Exhibits  
P22.  
Deed  
No. 246.  
19-2-1878.  
—*continued.*

the Testator's widow Assena Natchia, his eight children hereinafter named namely Mohamodo Noordeen, we the said Mohamado Mohideen Slema Lebbe, Abdul Rahamen Mohamado Isobae, Amsa Natchia Savea Umma and Abdul Hameed. And Whereas in terms of the said Last Will and Testamant the major heirs namely, the said Mohamado Noordeen, I the said Mohamado Mohideen and the said Assena Natchia for herself and on behalf of her minor children, the said Slema Lebbe, Abdul Rahaman, Mohamado Isboe, Ansa Natchia, Savea Umma and Abdul Hameed did nominate and appoint three competent and respectable persons of the Testators' Class-namely, Seyado Mohamado Elono Seyado Alli Mawlana, Isobae Lebbe, Sinna Lebbe Marikar and Isobale Mohamado Lebbe Marikar, all belonging to the said Shafie Sect along with One sole surviving Executor as aforesaid, to divide and apportion to each of the aforementioned heirs and heiresses according to his or her respective share the moveable and immovable properties of the said Estate and did join in and consent to the motion made in the said Testamentary Case No. 3909 by me as Executor as aforesaid, for the appointment of the said three persons along with me as such Executor to make division and apportionment as aforesaid, as on reference to the said motion and affidavit both dated the fourteenth day of June One thousand eight hundred and seventy seven (copies whereof respectively are also hereto annexed) will more fully appear. And whereas the said Court by its order dated the fourteenth day of June One thousand eight hundred and seventy seven (a copy whereof is also hereunto annexed) did commission and appoint the said three persons along with me to effect the division of the said Estate as aforesaid and whereas the said Commissioners did accordingly make and effect a division and distribution of the properties of the said estate and made their return to the said commission (a copy whereof is also hereunto annexed). And whereas the said District Court by its Orders dated respectively the eleventh day of September and fifth day of October One thousand eight hundred and seventy seven (copies whereof also annexed) did after due notice to the said major heirs confirm the said return of the Commissioners and ordered and empowered me the said Executor to pass conveyances to the said heirs in terms of the division and return made by the said Commissioners as aforesaid.

Now, Therefore Know Ye And These Presents Witness that I the said Idroos Lebbe Marikar Mohamado Mohideen in my capacity as Executor as aforesaid in consideration of the premises and in pursuance of the said division and of the said order of Court do hereby grant assign transfer and set over into Idroos Lebbe Marikar Mohamado Isoboe, a son of the said Isoboe Lebbe Idroos Lebbe Marikar deceased his heirs executors administrators and signs the following premises to wit:-

All that said slip of land called Nugahahawatte with the buildings standing thereon bearing present assessment Nos. 7, 8, 9 and 10 situate and lying at Marandhn Within the Municipality of Colombo and of the value of Rupees Six thousand (Rs. 6,000/-) bounded on the North by the property of the Mosque on the East by the high road to Cotta on the South by the property of Lewē Kandoo Sergeant Meera Lebbe and on the West by the other part of the same land containing in extent thirteen and five eighth perches according to the figure and survey thereof bearing date the twenty third day of January One thousand eight hundred and sixty nine made by A. L. Van Heer Surveyor, together with all deed and writings relating thereto, To have and to Hold the said premises with all and singular the appurtenances thereunto belonging unto him the said Idroos Lebbe Marikar Mohamado Isboe his heirs executors administrators and assigns for ever. Subject nevertheless to the trusts and conditions in the said Last Will and Testament contained that is to say, that the said Idroos Lebbe Marikar Mohamado Isboe or his issues, or heirs shall not sell mortgage, or alienate the said premises, but that the same shall be held in trust for the grand children of my children and the grand children of my heirs and heiresses only that they may receive the rents income and produce of the said premises without encumbering them in any way, nor shall the same be liable to be seized attached or taken for any of their debts or liabilities and out of such income produce and rents after defraying expenses for their subsistence and maintenance of their families the rest shall be place or deposited in a safe place by each of the Party and out of such surp'us lands should be purchased by them for the benefit and use of their children and grandchildren as hereinbefore stated but neither the executors herein named or any Court of Justice shall require to receive them or ask for accounts at any time or under any circumstances, except at times of their minority and lunacy”

Exhibits  
P.L.  
Deed  
No. 246.  
19-2-1878.  
—continued.

And I the said Idroos Lebbe Marikar Mohamado Mohideen as executor as aforesaid do hereby for myself my heirs executors and administrators covenant with the said Idroos Lebbe Marikar Mohamado Isboe and his aforesaid that I have not as such executor or otherwise made done or committed or been party or privy to any act deed matter or thing whereby or by means whereof the heareby granted and assigned premises or any part thereof are is or may be in anywise impeached encumbered or prejudicially affected in title charge estate or otherwise however, In witness Whereof I the said Idroos Lebbe Marikar Mohamado Mohideen do set my hand and seal to three of the same tenor as these Presents at Colombo aforesaid on this nineteenth day of February One thousand eight hundred and seventy eight.

Witness;  
Sgd. P. R. PULLENAYAGAM  
Sgd. George W. DE RUN

Sgd. I. L. M. MOHIDEEN  
Sgd. John G. L. OHLMUS  
N. P.

Exhibits  
P 22.  
Deed  
No. 246.  
19-2-1878.  
—continued.

I John Gerard Lambert Ohlmus of Colombo Notary Public do certify that the foregoing Deed having been read over and explained by me to Idroos Lebbe Marikar Mohamado Mohideen therein named in the presence of Pasqual Rodrigo Pullenayagam and George William de Run both of Colombo the subscribing witnesses thereto both of whom are known to me, was signed by the said Idroos Lebbe Marikar Mohamado Mohideen and by the said witnesses and by me the said Notary in the presence of one another at Colombo aforesaid on this nineteenth day of February in the year of our Lord One thousand eight hundred and seventy eight.

I do further certify that to the original of the Deed a stamp of One Rupee was affixed and to the counterpart thereof stamps amounting to Ten Rupees.

Which I Attest.

Sgd: John G. L. Ohlmus  
Notary Public.

Seal.

M. S. Fernando Addl. Registrar of Lands Colombo, hereby certify that the foregoing is a true copy of a deed of conveyance by administrator made from the duplicate filed of record in this office and the same is granted on the application of Mr. Julius Creasy.

Sgd. M. S. FERNANDO  
Addl. Registrar of Lands.

Land Registry  
Colombo 5th Jan. 1951

Exhibits  
8D3  
Deed  
No. 2575.  
14-9-1888

**8. D 3.**

**Deed No. 2575.**

8 D 3.

No. 2575.

TO ALL TO WHOM THESE presents shall come Idroos Lebbe Marikar Mohamado Mohideen Executor of the estate of Isboe Lebbe Idroos Lebbe Marikar of Colombo deceased Send Greeting:

Whereas under and by virtue of the annexed deed of conveyance No. 1647 bearing date the twenty fifth August 1868 and attested by

William Martin Wolff Notary Public the said Isboe Lebbe Idroos Lebbe Markar was during his life time seized and possessed of or otherwise well entitled to all that house and garden bearing assessment No. 19 and 19A situated and lying at Barandenia in Colpetty within the gravets of Colombo and hereinafter morefully described and whereas the said Isboe Lebbe Idroos Lebbe Markar whilst being seized and possessed of the said land and premises as aforesaid departed this life at Colombo on or about the eighth day of May 1876 bearing a Last Will and testament dated the 12th December 1872 and attested by Mr. Paulis Perera Seneviratne Goonetilleke Notary Public whereby he nominated and appointed Isboe Lebbe Uduma Lebbe Markar his younger brother and me the said Idroos Lebbe Markar Mohamado Mohideen his son as executor of his estate. And whereas the said Isboe Lebbe Uduma Lebbe Markar predeceased the said Testator and I the said Idroos Lebbe Markar Mohamedo Mohideen as the sole surviving executor having obtained from the Hon'ble the Supreme Court an order dated the 17th day of May 1876 (copy of which is hereunto annexed) giving and granting to the District Court of Colombo sole exclusive Testamentary jurisdiction in respect of the estate of the said testator proved the said Last Will and testament in the said District Court in the Testamentary Case No. 3909 and on the 29th day of May 1876 obtained Probate thereof copies of which said Last Will and probate are also hereunto annexed. And whereas the said Testator willed and desired that his wife Assena Natchia his eight children hereinafter named and his father Uduma Lebbe Isboe Lebbe as his lawful heirs and heiresses should take their respective shares in his estate according to Mohamedan law and Shafie sect. to which he belonged but subject to certain trusts and conditions in the said Will mentioned and hereinafter set forth. And whereas the said Uduma Lebbe Isboe Lebbe his father predeceased the said Testator and the sole heirs of his estate now are the Testator's widow the said Assena Natchia and his eight children namely Mohamado Noordeen me the said Mohamado Mohideen Slema Lebbe Abdul Raheman Mohamado Isboe, Amsa Natchia, Saoea Umma and Abdul Hameed and whereas in terms of the said last will and testament the three major heirs, namely the said Mohamado Noordeen I the said Mohamado Mohideen and the said Assena Natchia for herself and on behalf of her three minor children the said Slema Lebbe Abdul Raheiman, Mohamado Isboe, Amsa Natchia, Sorea Umma and Abdul Hameed did nominate and appoint three competent and respectable persons of the Testators class, namely Segado Mohamado, Ebono Seyado Alli Maulana, Isboe Lebbe Sinne Lebbe Markar and Isboe Lebbe Mohamado Lebbe Markar all belonging to the said Shafie Sect along with me surviving executor as aforesaid to divide and apportion to each of the aforementioned heirs and heiresses according to his or her respective share the movable and immovable properties of the said estate and did join in and consent to the motion made in the said testamentary case No. 3909 by me as executor as aforesaid for the appointment of the said three persons along with me as such executors to make the division and apportionment as

Exhibits  
803  
Died  
No. 2575.  
14-9-1888.  
—continued.

Exhibits  
 SD3.  
 Deed  
 No. 2575.  
 14-9-1888  
 —continued.

aforsaid as on reference to the said motion and affidavit both dated the 14th day of June 1877 (copies where of respectively are also hereto annexed) will more fully appear. And whereas the said Court by its order dated the 14th day of 1877 (a copy whereof is also hereunto annexed) did commission and appoint the said three persons along with me to effect the division of the estate as aforesaid. And whereas the said commissioners did accordingly make and effect a division and distribution of the properties of the said estate and made their return to the said commission (a copy whereof is also hereto annexed) and whereas the said District Court by its orders dated respectively the 11th day of September and 5th day October 1877 (copies whereof are also annexed) did after due notice to the said then majors heirs confirm the said return of the commissioners and ordered and empowered me the said executor to pass conveyance to the said heirs in terms of the division and return made by the said commissioners as aforesaid. Now therefore know ye and these presents witness that I said Idroos Lebbe Marikar Mohamed Mohideen in my capacity as Executor as aforesaid in consideration of the premises and in pursuance of the said division and the said order of Court do hereby grant assign transfer and set over unto the said Savia Umma now the wife of Lebbe Markar Samsudeen her heirs executors administrators and assigns the following premises to wit: All that house and garden bearing assessment No. 19 & 19A situate and lying at Baradeniya in Colpetty within the gravets of Colombo bounded on the north by the garden of Mora Kandoo Pullay Mohamado Lebbe now the property of Mohamado Neyna Aysa Natchia wife of Coope Tampy Wapu Marikar, on the East by another part of the garden of Jacobus Coopinan now the property of Thamby Marikar Seesma Lebbe on the South by a small road and on the West by the high road containing in extent one square rood and twenty one nine tenth square perches as per said deed of conveyance of the twenty fifth August 1868, together with all deeds and writings relating thereto. To have and to hold the said premises with all and singular the appurtenances thereunto belonging of the value of Six thousand and five hundred unto her the said Savea Umma her heirs executors administrators and assigns for ever. Subject nevertheless to the trusts and conditions in the said Last Will and Testament contained that is to say that the said Saviya Umma or her issues or heirs shall not sell mortgage or alienate the said premises but that the same shall be held in trust for the grand-children of my children and the grand children of my heirs and heiresses only that they may receive of the rents income and produce of the said premises without encumbering them in any way nor shall the same be liable to be seized, attached or taken for any of their debts or liabilities and out of such income produce and rents after defraying expenses for their subsistence and maintenance of their families the rest shall be placed or deposited in a safe place by each of the party and out of such surplus lands should be purchased by them for the benefit and use of their children grand children as hereinbefore stated but neither the executors

herein named or any Court of Justice shall require to receive them or ask for accounts at any time or under any circumstances excepted times of their minority or lunacy.

Exhibits  
8D3.  
Deed  
No. 2573.  
14-9-1888.  
—continued.

And I the said Idroos Lebbe Marikar Mohamed Mohideen as executor as aforesaid do hereby for myself my heirs executors and administrators covenant with the said Saviya Umma and her aforewritten that I have not as such executor or otherwise made done or committed or being party or privy to any act deed or matter or thing whereby or by means whereof the hereby granted and assigned premises or any part thereof are is or may be in any wise impeached or prejudicially effected in title charge estate or otherwise howsoever.

In witness whereof I the said Idroos Lebbe Marikar Mohamado Mohideen do set hand and seal to three of the same tenor as there presents at Colombo on this fourteenth day of September One thousand eight hundred and eighty eight.

Witness:  
Sgd: ILLEGIBLY.  
Sgd: ILLEGIBLY.

Sgd: IL. M. M. MOHIDEEN  
Sgd: D. SIMON LEWIS.  
N. P

I, Don Simon Lewis of Colombo in the Island of Ceylon, Notary Public by lawful authority duly admitted do hereby certify that the foregoing instrument having been duly read over and explained by me the said Notary to the said Idroos Lebbe Marikar Mohamadoe Mohideen in the presence of Baba Fajurdin Lye of Vaxhall Street and Don Cornelius Lewis of Maradana both in Colombo the subscribing witnesses thereto both of whom are known to me the same was signed by the said Idroos Lebbe Marikar Mohamadoe Mohideen and also by the said witnesses and by me the said Notary in the presence of one another all being present at the same time at Colombo aforesaid on this fourteenth day of September One thousand eight hundred and eighty eight.

I do hereby further certify that the duplicate of this deed bears stamps of the value of ten rupees and the original a stamp of one rupee received from the said Lebbena Markar Samsudee.

Which I attest.

Date of attestation.  
14th September 1888

(seal) Sgd: D. SIMON LEWIS.  
Notary Public.

Exhibits  
8D3.  
Deed  
No. 2575.  
14-9-1888.  
—continued.

I, K. K. Somapala, Addl. Registrar of Lands, Colombo hereby certify that the foregoing is a true copy of a deed of transfer by executor made from the duplicate filed of record in this office and the same is granted on the application of K. Rasanathan Esqr.

Land Registry,  
Colombo. 7th March 1950.

Sgd: K. K. SOMAPALA.  
Addl. Registrar of Lands.

---

**P 2.**

P2.  
Fiscal's  
Conveyance  
No. 11174  
29-3-1916.

**Fiscal's Conveyance No. 11174.**

P 2. 11174/1916.

Fiscal's Conveyance to purchaser after confirmation of sale by Court.

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

**GREETING:**

Whereas by virtue of an Order issued from the District Court of Colombo in case No. 40152 bearing date the twenty sixth day of January 1915, directed to the Fiscal of the Western Province, he was directed to levy the sum of Rupees thirteen thousand One hundred and seventy nine and cents eighteen and interest by sale of the hereinafter described property mortgaged with the plaintiff by (1) Idroos Lebbe Marikar Hadjar Savea Umma, wife of (2) Lewana Marikar Samsudeen Hadjar both of No. 33 Layard's Broadway Colombo the defendants in the said case.

And whereas the Fiscal of the said Province did cause the property hereinafter described after due notice and publication in manner by law prescribed to be exposed to public sale on the fifteenth (15th) day of January 1916, by J. B. Perera acting under the authority of the said Fiscal, and was sold to Gerald Lionel Coorey Proctor for and on behalf of Leonora Fonseka (widow of C. P. Fonseka) of Panadura, the plaintiff in the said case as the highest bidder at the said sale, for the sum of Rupees Two thousand seven hundred and fifty (Rs. 2750/-).

And whereas the said Leonora Fonseka.....the execution creditor under the said Order has been allowed a sum of Rupees Two thousand six hundred and eighty nine and cents twenty five out of the

said purchase money in reduction of the claim and has produced the Order of Court copy whereof is annexed to the original thereof, has duly paid to the said Fiscal, the sum of Rupees sixty and cents seventy five the balance of the said purchase money, and thus became entitled to a Conveyance to the said property.

Exhibits  
P<sup>2</sup>.  
Fiscal's  
Conveyance  
No. 11174  
29-3-1916.  
—continued.

And Whereas the said Court by an order dated the 17th day of March 1916 copy of which is annexed to the original hereof has duly confirmed the said sale.

Now these presents witness that Walter de Livera Deputy Fiscal for the District of Colombo Western Province, in consideration of the said sum of Rupees two thousand six hundred and eighty nine and cents twenty five so credited to and the sum of Rupees sixty and cents seventy five so paid by the said Leonara Fonseka as aforesaid, the receipt whereof the said Deputy Fiscal doth hereby acknowledge hath sold and assigned and by these presents doth sell and assign, unto the said Leonora Fonseka her heirs executors, administrators and assigns all that allotment of land with the buildings hereon formerly bearing assessment No. 19 and 19A situated at Barandeniya in Kollupitiya within the Municipality of Colombo bounded on the north by the garden formerly of Morakandu Pulle Mohamado Lebbe, afterwards the property of Mohamado Neyna Wanachchia: on the east by another part of the garden of Jacoris Coopman, afterwards the property of Tamby Marikar Sesma Lebbe; on the south by a small road; and on the west by the high road, containing in extent 1 rood and 21, 9/10 perches, which said premises bear present assessment No. 2 (.....) and are bounded on the north by the premises No. 25 belonging to O. L. M. Sheriff and the passage; on the east by Premises No. 1 belonging to Ana Rawanna Muna Chetty; on the south by Muhandiram's Road; and on the west by the high road from Colombo to Galle containing in extent one rood and twenty perches and 26/100 of a perch (A O. R 1. P 20, 26/100) as described in the diagram or map annexed to the deed No. 2575 dated 14th September 1888 attested by Don Simon Lewis of Colombo Notary Public now annexed to the original of these presents, and marked No. 222 dated 1st March 1907 made by H. G. Dias Licensed surveyor.

To have and to hold the same, with their and every of their appurtenances to her the said Leonora Fonseka her heirs executors, administrators, and assigns, for ever.

IN WITNESS WHEREOF the said Deputy Fiscal hath hereunto subscribed his name at Colombo this twenty ninth day of March, 1916.

Sgd: .....

Deputy Fiscal, W. P.

Witnesses:

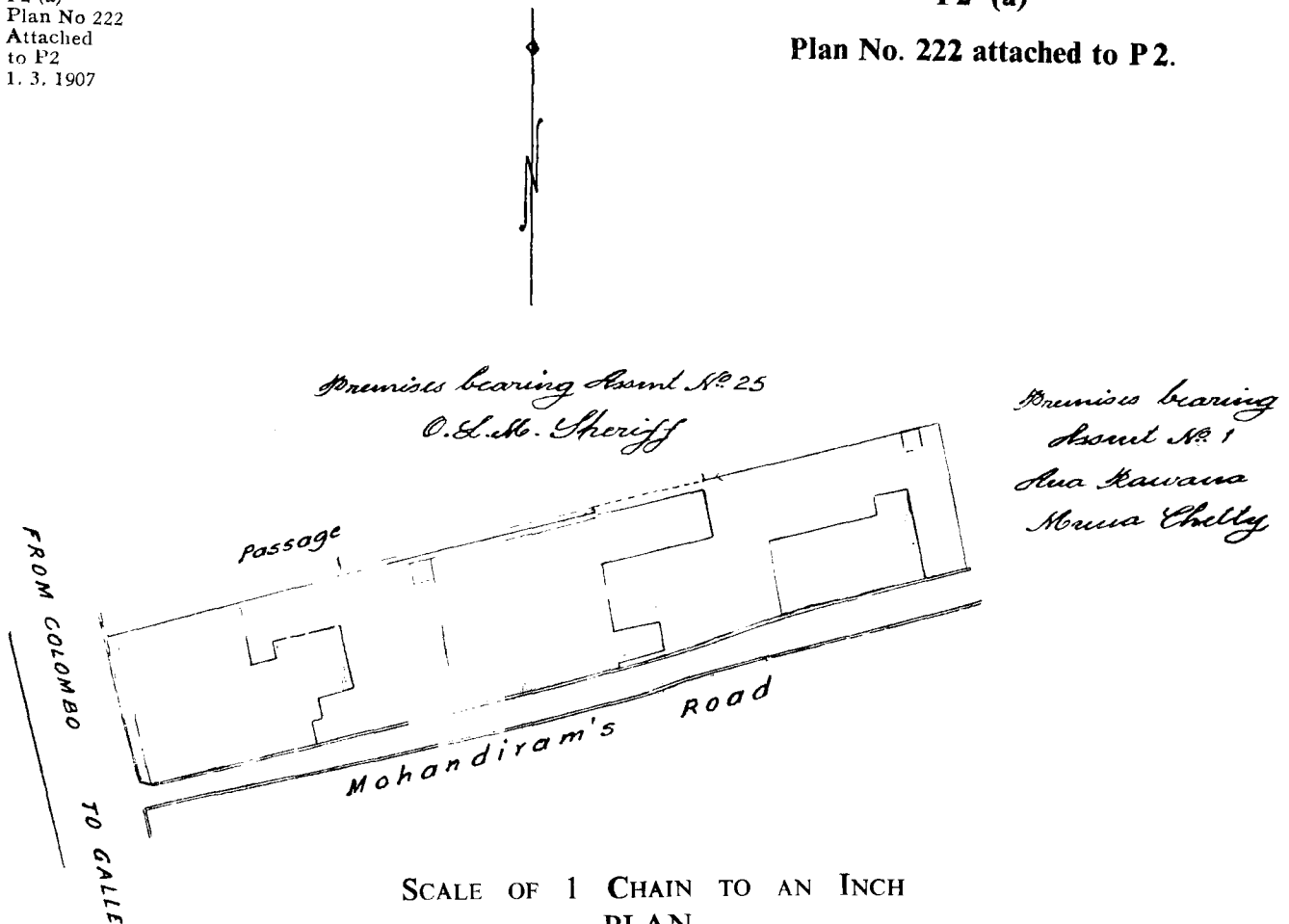
1. Sgd: D. F Jayasekera.
2. Sgd: Gerald Obeyesekere.



Exhibits  
P2 (a)  
Plan No 222  
Attached  
to P2  
1. 3. 1907

P2 (a)

Plan No. 222 attached to P2.



SCALE OF 1 CHAIN TO AN INCH  
PLAN

Of an allotment of land with the buildings thereon bearing Assessment No. 26, Situated at Kollupitiya within the Municipality & District of COLOMBO

WESTERN PROVINCE

Bounded on the:-

North by the premises bearing Assent. No. 25 belonging to O. L. M. Sheriff & the Passage.

East by the premises bearing Assent. No. 1 belonging to Ana Rawana Muna Chetty.

South by Mohandiram's Road.

West by High Road from Colombo to Galle.

A. R. P.

Containing in Extent 0. 1. 20  $\frac{26}{100}$

Only Road One Perches Twenty & Twenty Six hundredths of a Perch

"True Copy"

Sgd. H. G. DIAS

Licensed Surveyor & Leveller.

Temple Road, Maradana, 17th March 1909

Surveyed on the 1st day of March 1907

Sgd. H. G. DIAS,

Licensed Surveyor & Leveller.

## P 25. Extracts of Encumbrances.

Exhibits  
P25  
Extracts of  
Encumbran-  
ces.  
1865-1914

Division: A  
Folio: 345  
T. P. No.  
Lot No.  
Asst: No.

Volume: 3

Brought forward from

Folio.

Volume.

Name of land: A House and Grounds.

Village of Town and Street:

Colpetty.

Pattu

Korale

District

Province

## Boundaries:-

Application No. R. 392. A3/345 A51/46 A88/240 A111/124 A116/274

North by the garden of Mar Candoopulle Mohamado Lebbe now the property of Mohamado Neyna Aiyasa Natchia wife of Kuppe Tamby Wappoo Marikar.  
East by another part of the garden of Jacolis Coopman now the property of Tamby Marikar Seesma Lebbe.  
South by a small road.  
West by the high road.

Extent:- 1 rood 20. 1. 19 sqr. perches.

Date of Registry. (Day Book No. and Date.)	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienation and Incumbran- ces. (To be concisely and clearly stated.)	No. and Date of Deed	Name of Notary Judge &c.	Regn. Stamp Duty	Signature of Registrar.	Remarks
1865 March 28	Mohamade Clipha Lebbe Markar	John William Schokman of Colombo	Mortgage Bond for £150 and 1865 interest at 10 percent payable No. 549 March 25 quarterly.		H. G. Kelaart	10/-	Sgd. G.N.W.M.Ederma	
1867 March 8	do	do	Mortgage Bond for £200 and 739 interest at 12 percent. 5 March 1867		H. G. Kelaart	10/-	Sgd. B. Edwin Alvis	
1868 Sept. 2	do	Isboe Lebbe Adroos Lebbe Marcar	Transfer of the above proper- ty consideration £350. 25 August 1868		W. M. Wolff	15/-	Sgd. B. Edwin Alvis	
1872 Oct. 1	Isboe Lebbe Idroos Lebbe Marikar	Moottootantrige Fran- cisco Peiris alias Andiris Naide and Cader Saibo Pitchai Tamby	Lease for Twenty four years 6959 commencing from 1 October. 12 Sept. 1872 Rent - Rs. 225 per annum.		I. M. Paulus Perera	10/-	Sgd. B. Edwin Alvis	
1888 21 Sept. No. 1527	Idroos Lebbe Marikar Hadjar Safia Umma and Lewana Markar Samsadeen Hajjar.	Idroos Lebbe Markar Hadjar Noordeen Hadjar	Transfer of the lefe or 1216 possessory interest in and to 15 Sept. 1888 the above property.		D.G.M. Wickremesinghe Notary vide A10/90		Sgd. W. H. P. de Saram	With land in folio 13.A10/90 11/134 12/289 22/179 and 37 165 - 167

Carried over to  
Volume  
A 51

Folio.  
46

Division: A  
Folio: 46

*Brought forward from*  
Name of land: An allotment of land with buildings thereon exclusive of the house leased to P. Siyetan Silva  
Village or Town and Street: Kollupitiya.

T P No.  
Lot No.

Asst: No.  
Pattu: Korale  
District: Colombo Province: Western.

Boundaries:- North by the land of Meesa Kandupulle and land belonging to others.  
East by A portion of this land.  
South by A Lane.  
West by High road.

Extent

Date of Registry. (Day Book No. and Date).	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienation and Incumbrances. (To be concisely and clearly stated.)	No. and Date of Deed.	Name of Notary. Judge &c.	Regn. Stamp Duty	Signature of Registrar.	Remarks
1896 20 July No. 9934	Kadar Saibu Pitche Tamby of Kollupitiya.	Mututantrige Pransiku Pieris Alias Andrie Naide of Kollupitiya.	Assignment of the grantors right title and interest in and to one half share of the above under lease No. 6959 dated 12 Sept. 1872 subject to the conditions set forth in this deed and in the deed of agreement No. 6960 dated 12 Sept. 1877 Paulus Perera N. P	6619 8 Decr. 1873.	W Manuwel Perera N. P.	Rs. 10/-	Sgd. R. G. Anthonis.	

For Sub-registration  
See A 88/240  
Carried over to .....

Folio

Volume

Volume: 88

141

Division: A

Volume Folio

Brought forward from

Folio: 240

Name of Land: Land with buildings thereon exclusive of house leased out to P. Sugetan Silva.

Village or Town and Street: Kollupitiya

T. P. No.

Lot No. Pattu

Korale

Asst. No.

District: Colombo

Province: Western

Boundaries: North by Land of Musa Kandapulle and land belonging to others.

East by portion of land.

South by A lane.

West by High road.

Extent:

Date of Registry. (Day Book No. and Date).	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienation and Incumbrances. (To be concisely and clearly stated.)	No. and Date of Deed	Name of Notary. Judge & c.	Regn. Stamp Duty	Signature of Registrar.	Remarks
1906 Decr. 14 17473.	Idroos Lebbe Marikar Hadjiar Noordden Hadjiar of New Moor Street.	Idroos Lebbe Marikar Hadjiar Safia Umma of New Moor Street.	Gift of the life rent or possessory interest in and to the above property value Rs. 1000/- for this and eight other lands.	544 13 Decr. 1906.	W.A.S. de Vos N.P.	Rs. 12/-	Sgd. J.M. Dharmakirti.	For Prior registration see A 51/46 with lands in folios 241-245 and A 68/188 and two other lands are in Kurunegala and one in Kandy.
DB 29756 11 May 1911	I.L.M.H. Safia Umma and Levanna Marikar Samsadeen Hadjiar, wife and husband of No. 33 Layards Broadway Colombo.	George Charles Welsh of Collingwood Flower Road in Colombo.	Mortgage of the above with the buildings thereon for Rs. 6000/- and interest at 10% per annum.	1777 9 May 1911.	Do	Rs. 11/-	Sgd. S. D. Ekanayake.	All that house and garden bearing Asst. No. 19 situate Barandenia. N. Garden of Mana Kandu Pillay Mohamado Lebbe now the property of Mohamadu Naina Sysa Natchia wife of Coppe Tamby Wappu Mari- kar E. Another part of the garden of Jacolis Coopman now property of Tamby Markar Sesma Lebbe. S. Small Road. Extent 1 rood and 21 91/100 perches as per this deed with land in 104/145.
1911 August 26 3433	G. C. Welsh	I.L.M.H. Sophia Umma & Discharge of the mortgage L. M. Samsudeen Hadjiar Bond No. 1777 of 9 May 1911 W. A. S. de Vos N. P.	Discharge. dated 25/8/11			Rs. 2/50	Sgd. S. D. Ekanayake.	Do
4252, 28th Feb'y 1913.	Sanen Umma Levena Marikar Samsudeen Hadjiar and Samsudeen Hadjiar Mohamed Jahafor of Layards Broadway.	Solomon Christoffel Abeysekera of Colombo.	Mortgage of the above with the house thereon Rs. 5000/- with interest at 12% per annum payable monthly with a proviso to accept interest at 8% per annum in case of regular payment.	123 27 Jan'y 1913	H. Rajanathan N.P.	Rs. 7/50	Sgd. S. D. Ekanayake.	Description of land as above. The said premises bear present Asst. No. 26 and are bounded on the North by premises bearing Asst. No. 25 of Osen share of the passage. E. Premises bearing Asst. No. 1 of A.R. M. Chetty. S. Muhandirams Road. W. High Road from Colombo to Galle Extent R.1. P20 26/100.

Carried over to Volume Folio  
A111 124

Division: A  
Folio: 124

142

Brought forward from

Volume A 88 Folio 240  
Volume: 111 Folio 240

Exhibits  
1725.  
Extracts of  
Encumbrances.  
1865-1914  
—continued.

Name of Land: Asst. No. 19 and 19A.  
Village or Town and Street: Barandeniya

T. P. No.

Lot No.

Asst No.

Boundaries:

North by

East by

South by

West by

North by

East by

South by

West by

High road from Colombo to Galle.

Pattu

District Colombo

Gravets.

Korale

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Province: Western.

Date of Registry (Day Book No. and Date.)	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienations and Incumbrances. (To be concisely and clearly stated.)	No. and Date of Deed.	Name of Notary. Judge &c.	Regn. Stamp Duty	Signature of Registrar.	Remarks.
1913 March 20 5676.	Savea Umma Levan Marikar Samsudeen Hadjiar of Layards Broadway	Simon William Ilangakoon of Havelock Town.	Secondary Mortgage of the above with house thereon for Rs. 1250/- and interest at 10% per annum.	132 18 March 1913	H. Rajanathan N. P.	Rs. 5/-	Sgd. S. D. Ekanayake.	Subject to Mortgage Bond No. 123 of 27 Jan. 1913 H. Rajawathan N. P. This is a true copy issued by the Notary.
10226 11 June 1914.	Idroos Lebbe Marikar Hadjiar Sophia Umma and Levenna Marikar Samsadeen Hadjiar both of Layards Broadway, Colombo.	Ranhottage Jamis Fernando of Mahandiram Road in Colpetty.	Lease of the above with the buildings thereon for a term of four years from 10 May 1914. Rent Rs. 110/- per month.	3609 10 May 1913	F. A. Prins N. P.	Rs. 10/-	Sgd. F. W. M. Karunaratne	
14613 3 August. 1914	Sir Solomon Christoffel Obeysekera	Savea Umma Levena Marikar Samsudeen Hadjiar and Samsudeen Hadjiar Mohomed Jahafar.	Discharge of the Mortgage Bond No. 123 dated 27 Jan 1913 by H. Rajanathan N. P.	Discharge dated 17 June 1914.		Rs. 1/-	Sgd. F. W. M. Karunaratne	
14614 3 August. 1914.	Simon William Ilangakoon of Havelock Town	Savea Umma Levenna Marikar Samsudeen Hadjiar of Layards Broadway.	Discharge of the mortgage Bond No. 132 above registered.	Discharge dated 17 July 1914		Rs. 1/-	Sgd. F. W. M. Karunaratne	

Carried over to Volume A 116 Folio 274

Volume: 88

141

Division: A

Volume Folio

Brought forward from

Folio: 240

Name of Land: Land with buildings thereon exclusive of house leased out to P Sugetan Silva.

Village or Town and Street: Kollupitiya

T. P. No.

Patte

Korale

Province: Western

Lot No.

District: Colombo

Boundaries: North by Land of Musa Kandapulle and land belonging to others.

East by portion of land.

South by A lane.

West by High road.

Extent:

Date of Registry. (Day Book No. and Date).	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienation and Incumbrances. (To be concisely and clearly stated.)	No. and Date of Deed of Deed	Name of Notary. Judge & c.	Regn. Stamp Duty	Signature of Registrar.	Remarks
1906 Decr. 14 17473.	Idroos Lebbe Marikar Hadjar Noordden Hadjar of New Moor Street.	Idroos Lebbe Marikar Hadjar Safia Umma of New Moor Street.	Gift of the life rent or possessory interest in and to the above property value Rs. 1000/- for this and eight other lands.	544 13 Decr. 1906.	W.A.S. de Vos N.P.	Rs. 12/-	Sgd. J.M. Dhar- makirti.	For Prior registration see A 51/46 with lands in folios 241-245 and A 68/188 and two other lands are in Kurunegala and one in Kandy.
DB 29756 11 May 1911	I.L.M.H. Safia Umma and Levenna Marikar Samsadeen Hadjar, wife and husband of No. 33 Layards Broadway Colombo.	George Charles Welsh of Collingwood Flower Road in Colombo.	Mortgage of the above with the buildings thereon for Rs. 6000/- and interest at 10% per annum.	1777 9 May 1911.	Do	Rs. 11/-	Sgd. S. D. Eka- nayake.	All that house and garden bearing Asst. No. 19 situate Barandenia. N. Garden of Mana Kandu Pillay Mohamado Lebbe now the property of Mohamadu Naina Sysa Natchia wife of Coppe Tamby Wappu Mari- kar E. Another part of the garden of Jacolis Coopman now property of Tamby Markar Sesma Lebbe. S. Small Road. Extent 1 rood and 21 91/100 perches as per this deed with land in 104/145.
1911 August 26 3433	G. C. Welsh	I.L.M.H. Sophia Umma & L. M. Samsudeen Hadjar	Discharge of the mortgage Bond No. 1777 of 9 May 1911 W. A. S. de Vos N. P.	Discharge. dated 25/8/11		Rs. 2/50	Sgd. S. D. Eka- nayake.	Do
4252, 28th Feby 1913.	Sanen Umma Levena Marikar Samsudeen Hadjar and Samsudeen Hadjar Mohamed Jahafor of Layards Broadway.	Solomon Christoffel Abeysekera of Colombo.	Mortgage of the above with the house thereon Rs. 5000/- with interest at 12% per annum payable monthly with a proviso to accept interest at 8% per annum in case of regular payment.	123 27 Jany 1913	H. Rajanathan N.P	Rs. 7/50	Sgd. S. D. Eka- nayake.	Description of land as above. The said premises bear present Ast. No. 26 and are bounded on the North by premises bearing Asst. No. 25 of Osen share of the passage. E. Premises bearing Asst. No. 1 of A.R. M. Chetty. S. Muhandirams Road. W High Road from Colombo to Galle Extent R1. P20 26/100.

Carried over to Volume Folio  
A111 124

Division: A  
Folio: 124

142

Brought forward from

Volume A 88  
Folio 240

Exhibits  
P. 45.  
Extracts of  
Encumbrances,  
1865-1914  
---continued.

Name of Land: Asst. No. 19 and 19A.  
Village or Town and Street: Barandeniya

T. P. No.

Lot No.

Asst No.

Gravets.

Pattu

District Colombo

Korale

Province: Western.

Boundaries: North by Garden of K. P. Mohamado Lebbe now property of M. K. Aysa Natchia wife of C. T. Wappoo Markar.

East by Another part of the garden of Jacolis Coopman now the property of I. M. Sesma Lebbe.

South by Small road.

West by High road.

Extent: A0. R1. P21 9/10

Also described as follows:— Asst. No. 26 situated at Kollupitiya.

North by Asst. No. 25 belonging to C. L. M. Shereff a passage.

East by Asst. No. 1 belonging to Ana Ravanna Muna Chetty.

South by Muhandirams Road.

West by High road from Colombo to Galle.

Extent: A0. R1. P20 26/100

Date of Registry (Day Book No. and Date.)	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienations and Incumbrances. (To be concisely and clearly stated.)	No. and Date of Deed.	Name of Notary. Judge &c.	Regn. Stamp Duty	Signature of Registrar.	Remarks.
1913 March 20 5676.	Savea Umma Levan Marikar Samsudeen Hadjjar of Layards Broadway	Simon William Ilangakoon of Havelock Town.	Secondary Mortgage of the above with house thereon for Rs. 1250/- and interest at 10% per annum.	132 18 March 1913	H. Rajanathan N. P	Rs. 5/-	Sgd. S. D. Ekanayake.	Subject to Mortgage Bond No. 123 of 27 Jan. 1913 H. Rajawathan N. P
10226 11 June 1914.	Idroos Lebbe Marikar Hadjjar Sophia Umma and Levenna Marikar Samsadeen Hadjjar both of Layards Broadway, Colombo.	Ranhottage Jamis Fernando of Mahandiram Road in Colpetty.	Lease of the above with the buildings thereon for a term of four years from 10 May 1914. Rent Rs. 110/- per month.	3609 10 May 1913	F. A. Prins N. P	Rs. 10/-	Sgd. F. W. M. Karunaratne	This is a true copy issued by the Notary.
14613 3 August. 1914	Sir Solomon Christoffel Obeysekera	Savea Umma Levena Marikar Samsudeen Hadjjar and Samsudeen Hadjjar Mohomed Jahafar.	Discharge of the Mortgage Bond No. 123 dated 27 Jan 1913 by H. Rajanathan N. P.	Discharge dated 17 June 1914.		Rs. 1/-	Sgd. F. W. M. Karunaratne	
14614 3 August. 1914.	Simon William Ilangakoon of Havelock Town	Savea Umma Levenna Marikar Samsudeen Hadjjar of Layards Broadway.	Discharge of the mortgage Bond No. 132 above registered.	Discharge dated 17 July 1914		Rs. 1/-	Sgd. F. W. M. Karunaratne	

Carried over to Volume A 116 Folio 274

Volume 116  
Folio 124

143

Brought forward from

Name of Land: Asst: Nos. 19 and 19A.

Village or Town and Street: Barandenia

Gravets.

Division: A  
Folio: 274

T. P. No.  
Lot No.  
Asst. No.

Korale

Province: Western.

Pattu  
District: Colombo

Boundaries:- North by garden of M. K. P. Mohomado Lebbe Rawther property of M. N. Aysa Natchia wife of C. T Wappoo Marikar.

East by Another part of the garden of Jacolis Coopman now the property of T. M. Sesma Lebbe.

South by Small road.

West by High road.

Extent: A0. R1. P21 9/10

Date of Registry (Day Book No. and Date.)	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienations and Incum- brances. (To be concisely and clearly stated.)	Name of Notary, Judge &c.	Reqn. Stamp Duty.	Signature of Registrar.	Remarks.
14611 3 August 1914.	Idroos Lebbe Marikar Hadjiar Savea Umma and Lavanna Marikar Samsudeen Hadjiar.	Leonora Fonseka of Panadura.	Mortgage of the above with the buildings thereon for Rs. 12,500/- with interest @ 10% p. a. payable quarterly and in default interest @ 12% p. a.	Jes. A.H. Wille N.P	Rs. 20/-	Sgd. F. W. M. Karunaratne.	M. S. Fernando Addl. Registrar of Lands, Colombo, hereby certify that the foregoing is a true copy of the registration entries appearing in the Land Registers A3/345, A51/46 A88/ 240 A 111/124, A 116/274 of this office up to..... and the same is granted on the application of Messrs. Julius & Creasy.

Sgd. M. S. Fernando.  
Addl. Registrar of Lands.

Land Registry,  
Colombo, Feby. 1. 1952.

Carried over to Volume Folio  
A 123 317



**P 24. Extracts of Encumbrances regarding P2.**  
Application No. R 4805. A123/317 A147/288 A319/231

Division: A  
Folio: 317

Volume: 123  
Folio 274

Brought forward from

Volume A 116

Name of Land: 1 -

Village or Town and Street: Barandenia  
Gravets.

T. P. No.

Lot No.

Asst Nos. 19 & 19A

Boundaries:-

North by Gardens of M. K. P Mohamadu Lebbe now the property of M. N. Aysa Natchie.

East by

South by Small Road.

West by High Road.

Korale

Province: Western

Other part of the Garden of Jacobus Copman now the property of T. M. Samen Lebbe.

Extent: a 0. r l. p 21 9/10

Date of Registry. (Day Book No. and Date.)	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienation and Incumbrances. (To be concisely and clearly stated.)	No. and Date of Deed.	Name of Notary, Judge & c.	Reqn. Stamp Duty.	Signature of Registrar.	Remarks.
1916 Sept. 4 D. B. No. 15572	Caveat entered by Levana Marikar Sansudin Hadjiar forbidding the registration of deed affecting the above Now Asst. No. 26. Caveat dated 4th September 1916.							
No. 20597 18 Augt. 1919.	The Deputy Fiscal Colombo Leonora Fonseka of W. P. in Case No. 40152 Panadura. D. C. Colombo.		Transfer of the above with the buildings thereon. Cons. Rs. 2750.00	No. 11174 29 March 1916.	Walter de Livera, Deputy Fiscal.	Rs. 7/50	Sgd. D. R. Cannangara.	N:- Now the property of M. N. Wanachcha. Present Asst. No. 26. Boundaries:- N. Premises No. 25 of O.H. M. Sheriff and the passage. E:- Premises A. R. M. Chetty. S:- Muhandirams Road W:- High Road from Colombo to Galle. Extent A0, R1. P20 26/100 The right title and interest of..... I. L. N. M. H. Savea Umma and L. M. Samsadeen Hadjiar are hereby sold six months from the date of the above regtd Caveat having been Elapsed this deed is regtd.
No. 20598 18 Augt. 1919.	Leonora Fonseka of Panadura.	Adamjee Lukmanjee of Colombo.	Transfer of the above with the buildings thereon Cons. Rs. 18500/-	No. 6186 16 Augt. 1919.	Arthur Alwis N. P		Sgd. D. R. Cannangara.	Asst. No. Boundaries and Extent as per above regtd. deed No. 11174
28046 13 Octr. 1919.	Adamjee Lukmanjee of Colombo.	Seema Meera Saïbo of Pettah, and Seena Samsudeen of Pettah.	Lease of the above with the buildings thereon for a term of 3 years from 1 Sept. 1919. Annual Rent Rs. 2520/-	6217 9 Octr. 1919.	Arthur Alwis N. P		Sgd. D. R. Cannangara.	Asst. Nos. Boundaries and Extent as per deed No. 11174
						Carried over to	Volume A 147	Folio 288

Rs. 10/- Sgd. F. W. M. Karunaratne. Registrar

Brought forward from  
Volume A 123 Folio 317

Name of Land:  
Village or Town and Street: Barandeniya  
Gravets.

Korale  
Province: Western

Pattu  
District: Colombo

T. P. No.  
Lot No.  
Asst Nos. 19 & 19A  
Boundaries:- North by Garden of M. K. P. Mohammado Lebbe now the property of M. N. Aysa Natchia.  
East by Another part of the garden of Jacovis Coopman now the property of T. M. Sesme Lebbe.  
South by Small Road.  
West by High Road.

Extent: A0. R1. P21 9/10.

Date of Registry. (Day Book No. and Date).	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienation and Incumbrances. (To be concisely and clearly stated.)	Name of Notary Judge & c.	Regn. Stamp Duty.	Signature of Registrar.	Remarks.
37375 29 Novr. 1921.	Adamjee Lukmanjee of Colombo.	Chenganeth Aboobacker of Lease of the above with Nos. 1 and 2 Dean's Road the buildings thereon for a term of three years from 1st Novr. 1921. Annual Rent Rs. 2,940/-	397 21 Nov. 1921 and 29 Nov. 1921.	F. Rustomjee N. P.		Sgd. J. S. de S. Jayardana.	Now Asst No. 26. N. by garden formerly of M. K. P. Mohamedo Lebbe afterwards the property of M. N. Aysa Natchia now said to belong to O. L. M. Sharriff bearing Asst No. 25 and a passage. E:- By garden of I. Coopman afterwards of T. M. Sesma Lebbe now said to belong to A. R. Meera Chetty bearing Asst. No. 1. South :- by a Small Road called Mohandiram Road. W:- Hight Road from Colombo to Galle. Extent A0. R1. 20 26/100. Subject to the conditions set for the in the deed.
5970 3 March, 1932.	G. Adamjee of Colombo Administrator of the Estate of Late Lukmanjee and with the consent of H. Valijee.	G. Adamjee and M. Adamjee.	Conveyance of undd. seven eights of the above by the first grantor and Gift of Undd. one eighth of the above by the second grantor and of the buildings thereon. Value Rs. 25,000/-	G. T. Hale N. P.		Sgd. T. de V Goonawardana.	Land Asst. No. 1 (1-4) 1 (1-23), 26, 26C now Asst. No. G7 (1-5) to 37, 153, 155 and 157 Situation Muhandiram Road and Col-petty Road. Boundaries and extent as per deed No. 397. Regd. above with 33 lands. See A145/49.
19810 9 June 1948.	H. Valijee by her Attorney A. Gulamhusein. L. Gulamhusein.	I. P. E. Gregory N. P.	Gift of undd. One Twenty fourth share of the above and of the buildings thereon. Total Value Rs. 146,000/-				Presently Asst Nos. G7 (1-5) to 37 153, 155 and 157. Situ:- Mohandiram Road and Col-petty Road Boundaries and extent as in above remarks. Value Rs. 146,000/- of this and lands in A 312/161 and etc.

Division: A  
Folio: 231

Volume: 319  
Folio: 288  
Volume A 147

146

Brought forward from

Name of Land:

Village or Town and Street: Barandeniya

Gravets.

T. P. No.

Lot No.

Pattu

Korale

District: Colombo

Province: Western.

Asst No. 19 and 19A

Boundaries:- North by Garden of M. K. P. Mohamed Lebbe now the property of M. N. Aysa Natchia.

East by Another part of the garden of Jacovis Coopman now the properties of T. M. Samsa Lebbe.

South by Small Road.

West by High Road.

Extent: A O. R 1. P 21 9/10

Exhibits  
P. 24  
Extracts of  
Encumbr-  
ances  
Regarding  
P. 2,  
1916 - 50,  
---continued

Date of Registry. (Day Book No. and Date.)	Grantors. (Names in full and residence)	Grantees. (Names in full and residence)	Nature and Particulars of Alienation and Incumbrances. (To be concisely and clearly stated.)	No. and Date of Deed.	Name of Notary, Judge & c.	Reqn. Stamp Duty.	Signature of Registrar.	Remarks.
26009 28 July 1949.	(1) Hadad Sadoon and six others  (1) Mohamed Hamza Mahroof and Thirtyfive others		Action as a Lispendence affecting the above with the buildings thereon.	D. C. Col. Case No. 5706/P	K. Rasanathan, Proc- tor for Plaintiff.	Rs. 5/-	Sgd. M. S. Fernando.	Now Asst No. 26.  N:- By Asst No. 25 belonging to O. H. M. Sheriff and the passage. E:- By Asst. No. 1 belonging to Ana Rawanna Mana Chetty. S:- By Muhandirams Road. W:- By High Road from Colombo to Galle. Extent. A0. R1. P20 26/100. Land now being Asst Nos. G7 (1-5) to 37 Mohandirams Road and 153, 155, 157 Galle Road, Kollupitiya. Application dated 26 July 1949.
44536 8 Decr. 1950.	Mohomed Hamza Mohomed Mahroof of Layards of Broadway in Colombo.		Transfer of all that divided share that will be allotted to the grantor under the Final Decree in Case No. 5706/P of the District of Colombo affecting the above with the buildings thereon. Total Cons Rs. 1,250/-	1436 6th Decr. 1950.	K. Rasanathan N. P		Sgd. P. H. de Soysa.	Differences as per above remarks. With lands in A191/32 and 325/194.  M. S. Fernando Addl. Registrar of Lands, Colombo, hereby certify that the foregoing is a true copy of the registration entries appearing in the Land Registers A 123/317, 147/288, 319/231 of this office up to and including the 5. 12. 51 and the same is granted on the application of M/S. Julius & Creasy.  Sgd. M. S. Fernando. Addl. Registrar of Lands.  Land Registry, Colombo. 8th Jan. 1952.

P 1.

**Deed No. 6186.**Exhibits  
P1.  
Deed  
No. 6186.  
16-8-1919.

P 1.

No. 6186.

TO ALL TO WHOM THESE PRESENTS shall come, I Leonora Fonseka of Panadure Widow.

SEND GREETING:

Whereas I am seised and possessed of or otherwise well and sufficiently entitled to All that allotment of land with the buildings thereon at one time bearing assessment Nos. 19 and 19A and now No. 26 situated at Barandenia in Kollupitiya within the Municipality and District of Colombo, Western Province and hereinafter morefully described:

AND WHEREAS I have agreed with Adamjee Lukmanjee of Colombo for the sale and conveyance to him of the said premises free from all encumbrances and charges at or for the price or sum of Rupees Eighteen thousand five hundred. Now Know Ye and these presents witness that I the said Leonora Fonseka in pursuance of the said agreement and in consideration of the said sum of Rupees Eighteen thousand five hundred of lawful money of Ceylon well and truly paid to me by the said Adamjee Lukmanjee (the receipt whereof I do hereby admit and acknowledge) do hereby grant bargain sell assign convey set over and assure unto the said Adamjee Lukmanjee his heirs executors administrators and assigns. All that the said allotment of land with the buildings thereon bearing assessment Nos. 19 and 19A now No. 26 situated at Barandenia in Kollupitiya within the Municipality and District of Colombo, Western Province bounded on the north by the garden formerly of Meera Kandu Pulley Mohammado Lebbe afterwards the property of Mohammado Neyna Aysa Natchia wife of Coopa Tamby Wappoo Marikar now said to belong to O. L. M. Sheriff bearing assessment No. 25 and a Passage on the east by the garden of Jacobus Coopman afterwards Thamby Marikar Sesena Lebbe now said to belong to Ana Rawanna Meera Chetty bearing assessment No. 1 on the south by a small road called Muhandiram's road and on the west by the High road from Colombo to Galle containing in extent one rood twenty perches and 26/100th of a perch according to the Figure of Survey thereof No. 222 dated the first day of March 1907 made by H. G. Dias Licensed surveyor together with all rights privileges servitudes and appurtenances whatsoever to the said premises hereby assured belonging or in anywise appertaining or known held occupied or enjoyed as part parcel or member of the same and all the estate rights title interest claim and demand whatsoever of me the said Leonora Fonseka of in to out of or upon the said land and premises and all deeds and muniments of title relating to the said premises.

Exhibits  
 Pl.  
 Deed  
 No. 6186  
 16-8-1919.  
 —continued.

To Have and to hold the said hereditaments and premises hereby assured or intended so to be with their rights members servitudes and appurtenances unto the said Adamjee Lukmanjee his heirs executors administrators and assigns for ever.

And I the said Leonora Fonseka do hereby for myself my heirs executors administrators and assigns covenant with the said Adamjee Lukmanjee his heirs executors administrators and assigns that I have good right full power and absolute authority to grant and convey the said premises hereby assured or intended so to be and that the said premises are free from all encumbrances and that I shall and will always warrant and defend the title to the same/unto him the said Adamjee Lukmanjee his heirs executors administrators and assigns against any person whomsoever.

And further that I and my heirs executors and administrators shall and will from time to time and at all times hereafter upon every request and at the cost and charges of the said Adamjee Lukmanjee or his heirs executors administrators or assigns make do and execute or cause to be made done and executed all such further and other acts deeds assurances matters and things whatsoever for further better more perfectly or satisfactorily granting and assuring the said premises hereby assured or intended so to be unto the said Adamjee Lukmanjee his heirs executors administrators or assigns for ever according to the true intend and meaning of these presents as by the said Adamjee Lukmanjee or his heirs executors administrators or assigns shall may be reasonably required or be tendered to be so made done and executed.

IN WITNESS WHEREOF I the said Leonora Fonseka have to these presents and to two others of the same tenor set my hand at Colombo, on this Sixteenth day of August One thousand nine hundred and nineteen

Witnesses who hereby declare that they are well acquainted with the Executant Leonora Fonseka and know her proper name residence and occupation.

Sgd. LEONORA DE FONSEKA.

Sgd. CECILIA PERERA  
 Sgd. G. L. COORAY  
 Notary.

No. 6186

I, ARTHUR WILLIAM ALVIS of Colombo in the Island of Ceylon, Notary Public by lawful authority duly admitted, DO hereby

certify and attest that the foregoing Instrument having been duly read over by the withinnamed Leonora Fonseka in my presence. in the presence of Cecilia Perera of Bagatelle Road Colombo and Gerard Lional Cooray of Turret Road Colombo.

Exhibits  
P1.  
Deed  
No. 6186  
16-8-1919  
—continued.

the subscribing witnesses thereto both of whom are known to me and who declared that they are well acquainted with the said Leonora Fonseka the same was signed by the said Leonora Fonseka who signed her name as "Leonora de Fonseka"

and also by the said witnesses and by me the said Notary in the presence of one another all being present at the same time at Colombo aforesaid on this Sixteenth day of August One Thousand Nine Hundred and Nineteen. I further certify that six stamps of the Value of Rupees two hundred and ninety five and a stamp of one Rupee which were supplied by me were affixed respectively to the counterpart and original of this Instrument. I also certify that the consideration withinnamed was paid in my presence by a cheque drawn by the Purchaser in my favour on the Hong Kong and Shanghai Banking Corporation and by me endorsed to the Vendor.

Date of attestation  
16th August 1919...)

Sgd. ARTHUR ALWIS.  
Notary Public.

(SEAL)

P 9.

**Letters of Administration in D. C. Colombo No. 3486.**

P9.

Nett value of Estate Rs. 3,640,637/70  
Estate Duty Rs. 300,432/52

P9.  
Letters of  
Administra-  
tion in  
D. C.  
Colombo  
No 3486  
28-2-29.

Letters of Administration (with the Will annexed and otherwise) in D. C. Colombo No. 3486 (Testy.)

To: Gulamhusein Adamjee, Colombo.

Whereas Adamjee Lukmanjee of 'Laksmagiri' Thurstan Road, Colombo, who died there on the 20th day of February 1927, without leaving any will.

You are therefore fully empowered and authorised by these presents to administer and faithfully dispose of the property and estate, rights and credits of the said deceased, and to demand and recover whatever debts may belong to his estate, and to pay whatever

Exhibits  
P9.  
Letters of  
Administration in  
D. C.  
Colombo  
No. 3486  
28-2-29.  
—continued.

debts the said deceased did owe, so far as such property and estate, rights and credits shall extend, you having been already affirmed well and faithfully to administer the same, and to render a true and perfect Inventory of all the said property and estate, rights, and credits to this Court on or before the 29th day of August 1929, next and also a true and just account of your administration thereof on or before the 27th day of February 1930. And you are therefore by these presents deputed and constituted Administrator of all the property and estate, rights, and credits of the said deceased.

(You are, nevertheless, hereby prohibited from selling any immovable property of the estate unless you shall be specially authorized by the Court so to do.)

And it is hereby certified that the Declaration and Statement of Property under Estate Duty Ordinance have been delivered, and that the value of the said estate on which estate duty is payable, as assessed by the Commissioner of Stamps, amounts to Rs. 3,640,637/70.

And it is further certified that it appears by a Certificate granted by the Commissioner of Stamps, and dated the 28th day of February, 1929, that Rs. 300,433/52 on account of Estate Duty (and interest on such duty) has been paid.

Given under my hand and the Seal of the Court this 28th day of February 1929.

Signed. V M. FERNANDO.  
District Judge.

“True Copy” of Letters of Administration issued in D. C. Colombo Case No. 3486/Testamentary.

Sgd. illegible  
Asst. Secretary.  
District Court of Colombo.

Certified this 5th day of February 1952.  
Typed: illegible  
Compared: illegible.





Exhibits  
P10.  
Inventory  
Filed in  
D. C.  
Colombo  
No. 3486/T.  
25-2-30.  
—continued.

27 shares in Pelmadulla Valley Tea & Rubber Co. Ltd.	756 00
500 shares in Rubli Rubber Co. Ltd.	7,750 00
100 shares in Sittagama Rubber Co. Ltd.	1,200 00
20 shares in Udabage Tea & Rubber Co. Ltd.	1,760 00
50 shares in Usk Valley (Kalutara) Rubber Co. Ltd.	1,000 00
137 shares in Kongsi Rubber Co. Ltd.	6,165 00
100 shares in Selinsing Rubber Co. Ltd.	12,250 00
3000 shares in British Ceylon Corporation Ltd.	22,000 00
35 shares in Sir Henry Dias' Coconut Estates Ltd.	2,625 00
Premises bearing No. 55 (Tilton) Ward Place, Colombo	82,500 00
Premises bearing No. 26 (26C Mohandirams Road, Colombo	30,000 00
Premises bearing No. 131 and 131A (Gairloch & Palmera) Colpetty, Colombo	100,000 00
Premises bearing No. 114, 109B School Lane, Colombo	18,000 00
Premises bearing No. 10 Union Place, Colombo	90,000 00
Premises bearing No. 60 Prince Street & 9 Michos Lane, Colombo	25,000 00
Premises bearing No. 50 Fourth Cross Street, Colombo	100,000 00
Premises bearing No. 51 Fourth Cross Street, Colombo	72,000 00
Premises bearing No. 47 Bankshall Street, Colombo	4,500 00
Premises bearing No. 52 Bankshall Street, Colombo	45,000 00
Premises bearing Nos. 139-41-43-45-47-49 Deans Road, Colombo	20,000 00
Premises bearing Nos. 51-53-55-57-59 Baseline Road, Colombo	31,500 00
Premises bearing No. 70 Skinners Road, Colombo	44,500 00
Premises bearing Nos. 87-89-91-93-16-18-to 34 (2-13) Piachauds Lane & Panchikawatta, Colombo	28,000 00
Premises bearing Nos. 33'33 (2-13) & 35- 37 Lockgate Lane, Colombo	17,000 00
Premises bearing No. 19 (43) to 19 (69) Jampettah Street, Colombo	27,000 00
Premises bearing No. 39/41 Layards Broadway, Colombo	60,000 00
Premises bearing No. 183 Grand Pass Road, Colombo	45,000 00
Premises bearing No. 184 (5) Grand Pass Road, Colombo	17,500 00
Premises bearing No. 185/186 Grand Pass Road, Colombo	60,000 00
Premises bearing No. 187 Grand Pass Road, Colombo	10,000 00
Premises bearing No. 3 Kuruwe Street, Colombo	25,000 00
Premises bearing No. 15 Fifth Cross Street, Colombo	35,000 00
Irnville Estate, Madampe (Chilaw District)	425,000 00
Mary Mount Estate, Marammalla (Kurunegala District)	191,750 00
St. John Estate (Santhiakele) Mangleliya Mundel (Puttelam District)	130,000 00
Mohomedi Oil Mills No. 188-193 Grand Pass Road, Colombo	225,120 00
Rent outstanding at date of death	7,542 50
	<hr/>
	3,782,333 16
Less debts as allowed by Commissioner of Stamps	333,833 18
	<hr/>
Rs.	3,448,499 98

I, GULAMHUSEIN ADAMJEE of Colombo, Administrator of the Estate of Adamjee, Lukmanjee, deceased, so solemnly, sincerely and truly declare and affirm as follows:-

Exhibits  
P10.  
Inventory  
Filed in  
D. C.  
Colombo  
No. 3486/T.  
25-2-30  
---continued.

1. To best of my knowledge information and belief the above written Inventory contains a full, true and correct account of all the property movable and immovable and rights and credits of the said Adamjee Lukmanjee deceased so far as I have been able with due diligence to ascertain the same.

2. I have made a careful valuation of all the property, the particulars of which are set forth and contained in the said Inventory and to the best of my judgment and belief the several sums respectively set opposite to the several items in the said Inventory fully and fairly represent the values of the items to which they are so respectively set opposite.

Signed and affirmed to at Colombo  
this 25th day of February, 1930.

Signed. Gulamhusain Adamjee.

Before me.

Signed. Illegible.  
J. P.

“True Copy of the Inventory filed or record in  
D. C. Colombo Case No. 3486/Testamentary.

Sgd.....  
Asst. Secretary,  
District Court, Colombo.

Certified this 9th day of February, 1952

P 3.

Deed Nos. 452/437.

P3.

No. 452/No. 437.

P3.  
Deed  
Nos. 452/437  
21-9-31.  
15-1-32

THIS INDENTURE made the twenty first day of September One thousand nine hundred and thirty one Between Gulamhusein Adamjee of Colombo in the Island of Ceylon, the Administrator of the Intestate estate of Adamjee Lukmanjee of Colombo aforesaid deceased

Exhibits  
P3.  
Deed  
Nos. 452/437  
21-9-31  
15-1-32  
—continued.

(hereinafter sometimes referred to as 'the Administrator' which expression shall where the context so admits or requires mean and include the said Gulamhussein Adamjee his executors and administrators and the Administrator and Administrators for the time being of the Intestate estate of the said Adamjee Lukmanjee deceased) of the First part Havabai Valijee of Colombo aforesaid, the Widow of the said Adamjee Lukmanjee deceased (hereinafter sometimes referred to as 'the Donor' which expression shall where the context so requires or admits mean and include the said Havabai Valijee her heirs executors and Administrators) of the Second Part and the said Gulamhusein Adamjee and Mohamedaly Adamjee of Colombo aforesaid (hereinafter sometimes collectively referred to as 'the Transferees' which expression shall where the context so requires or admits mean and include them the said Gulamhusein Adamjee and Mohamedaly Adamjee and their and each of their heirs Executors administrators and assigns) of the said Third Part..

Whereas the said Adamjee Lukmanjee a Shiah Muhammadan domiciled in Ceylon (hereinafter referred to as 'the said deceased') was during his lifetime seised and possessed of or otherwise well and sufficiently entitled to All that and those the properties and premises in the Schedule hereto fully described.

AND WHEREAS the said deceased died at Laksmagiri Thurston Road in Colombo aforesaid on the Twentieth day of February One Thousand Nine Hundred and Twenty Seven intestate leaving him surviving him his widow the Donor and his two sons Gulamhussein Adamjee and Mohamedaly Adamjee the Transferees.

AND WHEREAS the said Gulamhusein Adamjee as the elder son of the said deceased duly applied to the District Court of Colombo for a grant of Letters of Administration to the Intestate Estate of the said deceased and such grant was duly made to him the Administrator on the Twenty Eight day of February 1929 in Testamentary Proceedings No. 3486 of the said Court.

AND WHEREAS both under the Shiah Muhammadan Law of Succession and under the Mohamadan Law of Inheritance in Ceylon as published on the Fifth day of August 1806 the Donor as widow of the said deceased is entitled to one eighth part or share of the Estate of the said deceased and the Transferees as sons of the said deceased are each entitled to seven sixteenth parts or shares of the Estate of the said deceased.

AND WHEREAS the Donor is not desirous of taking possession of her one eight part or share of that part of the said Estate which is fully described in the Schedule hereto being otherwise well provided for and in consideration of the love and affection which she bears to her sons the Transferees is desirous of transferring and conveying the same by way of gift unto the Transferees.

AND WHEREAS the Administator is now desirous of transferring and conveying the said properties and premises fully described in the Schedule hereto to the heirs of the said deceased and the Donor has agreed to transfer her said one eighth share thereof to the Transferees by these Presents.

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31/  
15-1-34  
—continued.

NOW THIS INDENTURE WITNESSETH that the Administrator as Administator of the Estate of the said deceased and by virtue of all powers and provisions him hereunto enabling doth hereby grant transfer convey assign setover and assure unto the Transferees ALL that undivided Seven Eighth parts or shares of and in all that and those the properties and premises in the Schedule hereto fully described together with undivided seven eighth parts or shares of and in all the buildings bungalows machinery fixtures furniture tools implements cattle and other the dead and live stock crops produce privileges advantages servitudes and appurtenances whatsoever to the said properties and premises and each of them belonging or used or enjoyed therewith or reputed or known as part and parcel thereof or appurtenant thereto and undivided seven eighth parts or shares of and in all the estate right title interest property claim and demand whatsoever of him the said deceased and of him the Administator as such Administator as aforesaid of in to upon or out of the said properties and premises being the share of that part of the Intestate Estate of the said deceased wich is described in the Schedule hereto to which the Transferees are entitled as heirs of the said deceased.

TO HAVE AND HOLD the said undivided Seven eighth parts or shares of and in the said properties and premises together with all and singular the appurtenances thereto belonging unto and to the use of the Transferees in the proportions of an undivided Seven sixteenth parts of shares thereof unto the said Gulamhusein Adamjee his heirs executors administrators and assigns absolutely for ever and the remaining undivided seven sixteenth parts or shares thereof unto the said Mohamedaly Adamjee his heirs executors administrators and assigns absolutely for ever.

AND THIS INDENTURE FURTHER WITNESSETH that the Administrator as Administrator of the Estate of the said deceased and with the consent of the Donor and by virtue of all powers and provisions him hereunto enabling doth hereby grant transfer convey assign set over and assure unto the Transferees and the Donor in consideration of the love and affection which she bears towards her sons the transferees and for divers other good causes and consideration her hereunto moving doth hereby freely and voluntarily give grant transfer convey assign set over and assure unto the transferees by way of Gift absolute and irrevocable All that undivided one eighth part or share and all the right title and interest of the Donor of and in all that and those the properties and

Exhibits

P3.

Deed

Nos. 452/437.

21-9-31/

15-1-32

—continued.

premises in the Schedule hereto fully described together with one undivided eighth part or share of and in all the buildings bungalows machinery fixtures furniture tools implements cattle and other the dead and live stock crops produce priveleges advantages servitudes and appurtenances whatsoever to the said properties and premises and each of them belonging or used or enjoyed therewith or reputed or known as part and parcel thereof or appurtenant thereto together with an undivided one eighth part or share of and in all the Estate right title interest property claim demand whatsoever of him the said deceased and of him the Administrator as such Administrator as aforesaid and all the right title and interest whatsoever of her the Donor of in to upon or out of the said properties and premises being the share of that part of the Intestate Estate of the said deceased which is described in the Schedule hereto to which the Donor as widow is entitled as an heir of the said deceased which share is hereby gifted to the Transferees.

TO HAVE AND TO HOLD the said undivided one eighth part or share of and in the said properties and premises together with all and singular the appurtenance thereunto belonging unto and to the use of the Transferees in the proportions of an undivided one sixteenth part or share thereof unto the said Gulamhusein Adamjee his heirs executors administrators and assigns absolutely for ever and the remaining undivided one sixteenth part or share thereof unto the said Mohamedaly Adamjee his heirs executors administrators and assigns absolutely for ever which said premises hereby gifted are of the value of Rupees One hundred and eighty six thousand three hundred and twelve and cents fifty (Rs. 186,312/50).

AND the Administrator doth hereby covenant with the Transferees that he has not at any time heretofore made done or committed or been party or privy to any act deed matter or thing whatsoever whereby or by reason or means whereof the said properties and premises hereby granted and conveyed or expressed or intended so to be are is can shall or may be impeached or encumbered in title charge estate or otherwise howsoever (save and except by a Mortgage of the premises described in the Ninth and Thirty - third parts of the Schedule hereto dated the 9th day of March 1929 executed by the Administrator in favour of His Majesty the King His Successors and Assigns for the purpose of securing the payment of Estate Duty charged in respect of the Estate of the said deceased) but the Administrator does not further or otherwise warrant the title to the said properties aud premises.

AND the Donor doth hereby covenant with the Transferees that the Donor and all persons having or lawfully claiming any estate or interest in the said one undivided eighth part or share of and in the said properties and premises from under or in trust for the Donor shall and will always warrant and defend the same and the title thereof against any person or persons whomsoever and shall and will at the request

and cost of the Transferees do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things whatsoever as shall or may be reasonably required for further and more perfectly assuring the said one undivided eighth part or share of and in the said properties and premises to the Transferees.

Exhibits  
P3.  
Deed  
Nos. 452/457.  
21-9-31/  
15-1-32  
--continued.

AND THIS INDENTURE ALSO WITNESSETH that the Transferees do hereby thankfully accept the foregoing Gift of the said one undivided eighth part or share of and in the said properties and premises.

#### THE SCHEDULE ABOVE REFERRED TO:-

1. ALL that allotment of land with all the buildings thereon bearing former Assessment No. 55 presently bearing Assessment No. 30 at one time called and known as "Bleak House" now called and known as "Tilton" situated at Ward Place, Cinnamon Gardens within the Municipality and District of Colombo Western Province bounded on the North by Ward Place, on the East by the property of T. Muttukumarasamy, bearing Assessment No. 54 on the South by the property owned by D. Muttuswamy and on the West by the property of the Honourable Mr. P Ramanathan bearing Assessment No. 56 containing in extent one acre one rood twenty seven perches and 77/100th of a perch according to the Plan thereof No. 4258 dated the Nineteenth day of November One thousand nine hundred and Nineteen made by G. P. Weeraratne Surveyor and Registered A 135/221 in the Colombo District Land Registry Office, which said premises is of the value of Rupees Fifty thousand (Rs. 50,000/-).

2. ALL that allotment of land with the buildings thereon bearing formerly Assessment Nos. 1 (1-4), 1 (7-23), 26, 26C now bearing Assessment Nos. G7(1-5) to 37, 153, 155 and 157 situated at Mohandiram Road and Colpetty Road within the Municipality and District of Colombo aforesaid, bounded on the North by the garden formerly of Meran Kandoo Pulley Mohamado Lebbe afterwards the property of Mohamado Neyna Aysa Natchia wife of Coopa Tamby Wappoo Marikar now said to belong to O. L. M. Sheriff bearing Assessment No. 25 and a Passage on the East by the garden of Jacobus Coopman afterwards of Tamby Marikar Sesma Lebbe now said to belong to Ana Rawanna Meera Chetty bearing Assessment No. 1 on the South by a small road called Mohandiram's Road and on the West by High Road from Colombo to Galle containing in extent one rood twenty perches and 26/100th of a perch (0-1-20-26/100) according to the Figure of Survey thereof No. 222 dated the First day of March 1907 made by H. G. Dias Licensed Surveyor. Registered A123/317 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Twenty five thousand (Rs. 25,000/-).

Exhibits  
P3.  
Dec 1  
Nos. 452 437.  
21-9-31/  
15-1-32  
continued.

3. ALL that house and ground called and known as Palmyra Cottage formerly bearing Assessment No. 238/131 and now bearing Assessment Nos. 6, 10, 12, 14, 16, 18, 20, 22, 24 and 26 at Palmyrah Avenue and all that house and ground called and known as "Gairloch" formerly bearing Assessment No. 131A and now bearing Assessment No. 690 Colpetty Road within the Municipality and District of Colombo aforesaid and now forming one property comprising all those two parts of the garden called "Bernawatte" bounded on the North by property bearing Assessment No. 133 belonging to R. D. A. Perera, on the East by Colombo Galle Road on the South by the property bearing Assessment No. 130 belonging to I. L. M. H. Abdul Rahaman and on the West by the Railway Line containing in extent two acres one rood and three perches and two one hundredth of a perch (2-1-3, 2/100) according to the Figure of Survey thereof dated the Nineteenth day of March One thousand nine hundred and Eighteen made by A. H. Fernando of Moratuwa Special Licensed Surveyor. Registered A. 131/224 in the Colombo District Land Registry Office, which said premises is of the value of Rupees One hundred and Seventy five thousand (Rs. 175,000/-).

4. ALL that allotment of land with the buildings thereon formerly bearing Assessment Nos. 1025/109 B1, 1025 A/109 B1a, 1025 A/109B2 1026/109B2 and 1024A/114 10 now bearing Assessment Nos. 33, 35, 37 and 39 situated along School Lane in Colpetty within the municipality and District of Colombo aforesaid bounded on the North by Lot D on the East by Lot C4 allotted to B. C. Perera on the South by a Road reservation ten feet wide (now called School Lane) and on the West by the other portion of Lot C 3 containing in extent one rood (0-1-0) according to the Plan thereof dated 28th March 1907 made by A. E. Van Rooyen Licensed Surveyor. Registered A 133/150 in the Colombo District Land Registry Office, and which said premises is of the value of Rupees Eighteen thousand (Rs. 18,000/-).

5. ALL that allotment of land (being a portion of the Lot No. 40 in Government Title Plan No. 48036 of the First day of February 1845) with the buildings thereon formerly bearing Assessment No. 10 now bearing Assessment No. 79 situated at Union Place Slave Island within the Municipality and District of Colombo aforesaid bounded on the North by the stores at one time of Sabonadier and Company on the East by Lot No. 8 of Ibrahim Lebbe Samsalla Marikar on the South by the High Road seventy feet wide and on the West by Lot No. 22 belonging to Casala Marikar Sinna Lebbe containing in extent two roods thirty Seven perches and fifty one one hundredth of a perch according to the figure of Survey dated the Thirteenth day of July 1877 made by C. H. Schwalli Surveyor. Registered A124/204 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Fifty thousand (Rs. 50,000/-).

6. An allotment of land comprising all those the houses and premises formerly bearing Assessment No. 69 Prince Street and No. 9A Mitho's Lane now bearing Assessment Nos. 36 and 40 Prince Street in Pettah and the adjoining ground situated at Fishers Street, Pettah within the Municipality and District of Colombo aforesaid bounded on the North by Prince Street, on the East by lands bearing Assessment No. 59 Prince Street and No. 10 Mitcho's Lane, South by Mitcho's Lane and on the West by lands bearing Assessment No. 61 Prince Street and No. 9 Mitcho's Lane containing in extent eleven perches and 97/100 of a Perch according to Plan No. 41187 dated 15th February 1916 made by J. Rodrigo Fiscal's Licensed Surveyor. Registered A 125/324 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Twenty thousand (Rs. 20,000/-).

Exhibits  
P3,  
Deed  
Nos. 452/437,  
21-9-32  
15-1-32  
—continued.

7. ALL that allotment of land with the buildings thereon formerly bearing Assessment Nos. 50, 13A, 15 to 20 presently bearing Assessment Nos. 78 and 80 situated at Fourth and Fifth Cross Street Pettah within the Municipality and District of Colombo aforesaid bounded on the North by the property of Cornelis Fernando bearing Assessment No. 49, on the East by the Fifth Cross Street on the South by the property of F. C. Perera now of S. P. Singho Appu bearing Assessment No. 51 and on the West by the Fourth Cross Street containing in extent 26 94/100 square perches more or less. Registered A79/268 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Seventy thousand (Rs. 70,000/-)

8. ALL that house and ground situated and lying at Fourth and Fifth Cross Streets Pettah within the Municipality and District of Colombo aforesaid formerly bearing Assessment Nos. 51 and 13A resently bearing Assessment No. 72 comprising the following lots now forming one property to wit:- All that allotment of land situated at Fourth and Fifth Cross Streets aforesaid bounded on the North and South by the house of Philippu Britto on the East by the Government Ground and on the West by Fourth Cross Street containing in extent eight perches and forty two one hundredth of a perch and the annexed piece of ground situated in the First Division between the Dam and the New Canal and the house and ground of D. J. Figera within the Pettah of Colombo aforesaid bounded on the North by the House of Johannes Jansz on the East by the aforesaid Dam on the South by the House of D. J. Figera and on the West by the other portion containing in extent nine perches and one tenth of a perch. Registered A 106/266 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Seventy thousand (Rs. 70,000/-).

9. ALL that allotment of land called and known as Ingurupatte-pallewatte with the buildings thereon bearing formerly Assessment Nos. 2421/37 (1-6) 2421a/37 and 2422/37 and presently bearing Assessment Nos. 139, 20-30, 141, 143, 145, 147, 149 situated at Deans Road within the Municipality and District of Colombo aforesaid



Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

bounded on the North by the part of the property of Galamsa Bawajee on the East by the garden of Paekeer Tamby Tai Marikar on the South by the garden of Goorujapp Chetty and on the West by the road leading to the Cinnamon Gardens called Deans Road containing in extent Thirty four perches and sixty one hundredths of a perch according to the figure of survey dated the first day of December 1900. Registered A 132/79 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Seventeen thousand (Rs. 17,000/-).

10. ALL that divided Southern portion called "Winter" (from and out of the remaining portion of and from all those two allotments of land marked Nos. 11 and 12 in the Title Plan Nos. 52044 and 51180) called Karlsruhe premises and formerly bearing Assessment No. 15 presently bearing Nos. 53, 55, 51, 55 (1-3) 55/9, 44, 57, 59 situated at Welikadde within the Municipality and District of Colombo aforesaid which said divided Southern portion called "Winter" is bounded on the North by the portion of land called "Autumn" on the East by North and South Baseline Road, on the South by Wesleyan Church Mission property and on the West by lot marked No. 10 in Mr. Van Rooyen's Plan containing in extent one rood and eighteen perches (0-1-18) according to the figure of Survey thereof dated 25th June 1903 made by C. H. Frida Licensed Surveyor. Registered A 134/169 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Twenty nine thousand (Rs. 29,000/-).

11. ALL that block of land with the buildings thereon formerly bearing Assessment No. 320/11 Piachaud's Lane and presently bearing Assessment No. 70 Skinners Road South situated in the Maradana Ward within the Municipality and District of Colombo aforesaid bounded on the North by the property of Avoo Lebbe Marikar bearing Assessment No. 321/11 on the East by the property of Sesimal Lebbe bearing Assessment No. 321/11 on the South by a Common passage and on the West by the properties of Mohamado Ibrahim Saibo and Gula Mohideen bearing Assessment No. 153/13 Skinners Road South containing in extent three Seventeen one hundred perches (0-0-3, 17/100) Registered A 211/31 in the Colombo District Land Registry Office, and which said premises is of the value of Rupees Five thousand (Rs. 5,000/-).

12. ALL those blocks of lands with the buildings thereon formerly bearing Assessment Nos. 321/11 2, 2a and 2b and 322/11 (3) and presently bearing Assessment Nos. 87 (50-52) 89, 91, 93 Piachauds Lane situated in the Maradana Ward within the Municipality and District of Colombo aforesaid described as follows:-

(a) A block of land with the buildings thereon bearing Assessment No. 321/112, 2a and 2b Piachauds Lane situated in the Maradana Ward within the Municipality of Colombo aforesaid bounded as follows:- on the North by property of A. Avoo Lebbe Marikar bearing Assessment

No. 323/9 (1-2) and 333/9 on the East by property of Sesma Lebbe bearing Assessment No. 322/11 on the South by a passage and on the West by property of U. M. R. Nagappa Chetty bearing Assessment No. 320/11 containing in extent six perches and seventy nine one hundredth of a perch (0-0-6, 79/100) according to Plan No. 1559 dated 16th April 1919 made by Municipal Surveyor T. E. De S. Wijeratne.

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

(b) A block of land with the buildings thereon bearing Assessment No. 322/11 (3) Piachauds Lane situated in the Maradana Ward aforesaid bounded as follows:- on the North by the property of A. Avoo Lebbe Marikar bearing Assessment No. 323/9 (1-2) on the East by Piachauds Lane on the South by a passage and on the West by the property of Sesma Lebbe bearing Assessment No. 321/11 (2, 2a and 2b) containing in extent four perches and eighty six one hundredth of a perch (0-0-4, 86/100) according to Plan No. 1558 of 16th April 1919 made by the said Municipal Surveyor T. E. De S. Wijeratne Registered A123/35 in the Colombo District Land Registry Office, and which said premises are of the value of Rupees Five thousand (Rs. 5,000/-).

13. (a) ALL those several contiguous allotments of land now forming one property with all the buildings thereon formerly bearing Assessment Nos. 153 to 157/10, 11a, 13 and 13a situated at Panchikawatta in Skinners Road South and presently bearing Assessment No. 87 (1-49) Piachauds Lane in the Maradana Ward of the Municipality and District of Colombo aforesaid bounded on the North by the property of I. L. Meira Lebbe Marikar and part of premises No. 13 on the East by a part of the premises bearing Assessment No. 13 and a road called Panchikawatta Lane, on the South by the property formerly of Juanis Appu and Amala Lebbe now belonging to Mei Nachia, Raman Chetty and Cader Tamby Mamaly Marikar and on the West by the property of Dassenaike Mudaliyar containing in extent one rood and twenty two perches and two one hundredth of a perch according to the figure of Survey thereof bearing dated the Eighteenth day of July 1907 made by C. A. O. Buyzer Surveyer and in extent one rood twenty perches and eight one hundredth of a perch according to the Plan No. 4296 of the Twenty Seventh day of February 1920 made by G. P. Weeraratne Surveyor. Registered A 138/92 in the Colombo District Land Registry Office.

(b) ALL those several contiguous allotments of land forming one property marked A, B and C in the Plan thereof with all the buildings thereon formerly bearing Assessment No. 134/15B presently bearing Assessment No. 87 (1-49) situated at Piachauds Lane First Division Maradana within the Municipality and District of Colombo aforesaid bounded on the North by the property of Uduma Lebbe Marikar Slema Lebbe Marikar on the East by a Lane and the portion marked D allotted to Sariffa Umma, on the South by the property of Mamala Marikar Aysa Natchia and on the West by the property of Uduma Lebbe Marikar containing in extent seventeen perches and eleven one hundredth

Exhibits  
P3.  
Deed.  
Nos. 452/437.  
21-9-31  
15-1-32  
---continued.

of a perch according to the figure of Survey thereof No. 4297 dated the Twenty Seven day of February 1920 made by the said G. P. Weeraratne Surveyor. Registered A 138/103 in the Colombo District Land Registry Office.

Which said two allotments of lands (a) and (b) are of the value of Rupees Twenty three thousand (Rs. 23,000/-).

14. ALL that portion of an allotment of land with the buildings standing thereon formerly bearing Assessment No. 49 presently bearing Assessment Nos. 43 (1-7) to 63, 16 (1-13) 18-34 Panchikawatte Road and Piachauds Lane within the Municipality and District of Colombo aforesaid bounded on the North by the premises bearing Assessment Nos. 57 and 58 belonging to Hadji Marikar Lebbe and No. 56 belonging to Mohamradu Haniffa and Saibo Dore East by land acquired by Government for the widening of Panchikawatte Road and now forming part of the said road South by the other part of premises bearing Assessment No. 49 and on the West by Piachaud's Lane containing in extent twenty nine perches and ninety one hundredth of a perch (0-0-29, 90/100) according to Plan No. 668 dated the 30th day of June 1909 made by H. G. Dias Surveyor and twenty nine square perches and fifty one hundredths of a square perch (0-029,50/100) and marked A according to Plan No. 2375 dated 13th January 1920 made by the said H. G. Dias Surveyor, which said premises presently form part of premises formerly bearing Assessment Nos. 396/49, 397/49A, 398/49, 399/49, 401/49 and 402/49 Piachaud's Lane. Registered A 133/243 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Thirty nine thousand (Rs. 39,000/-).

15. ALL that allotment of land formerly bearing Assessment Nos. 14/19 now bearing Assessment Nos. 15, 6, 12, 16-24, to 70 with the buildings standing thereon situated at Jampettah Street within the Municipality and District of Colombo aforesaid bounded on the North-east by the property of the Hindu Temple, formerly belonging to Bernadu de Silva Mudaliyar on the South-east by the property of Mr. Aserappa formerly belonging to Mello Mudaliyar on the South-west by Jampettah Street formerly called Road to Lascorreen Village and on the North-west by Lot No. 2 allotted to John Francis Perera containing in extent two roods and twenty one perches (0-2-21) according to the Survey and description thereof dated the 10th day of March 1904 made by George C. de Saram Licensed Surveyor. Registered A 80/314 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Twenty two thousand (Rs. 22,000/-).

16. ALL those contiguous allotments of land formerly bearing Assessment Nos. 39-41 Layards Broadway and presently bearing Assessment Nos. 195/217 Layards Broadway, 16. 16(1-7) Prakrama Road and 185-187 Prince of Wales Avenue within the Municipality and

District of Colombo aforesaid and comprising the following allotments of land to wit:—

Exhibits  
P3,  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

(a) ALL that allotment of land marked Lots “A” and “B” in the Plan thereof No. 1649 of the 22nd day of February 1920 made by J. H. W. Smith Surveyor with all the buildings thereon bearing Assessment Nos. 39, 39A and 39B situated at Layards Broadway within the Municipality of Colombo aforesaid bounded on the North-east by the property bearing Assessment Nos. 40, 40A, 40B, 40C, 41 and 41A (hereinafter described) on the South-east by Layards Broadway, on the South-west by the grass field and the house and ground of Levena Candu Marikar now of L. C. Marikar and his wife and on the North-west by the grass field of O. L. Marikar containing in extent (exclusive of the Mansergh Avenue and the reservation thereof) one rood and thirtythree perches according to the said Plan No. 1649 of the 22nd day of February 1920. Registered A 137/180 in the Colombo District Land Registry Office.

(b) ALL that part of the garden and field excluding certain portions acquired by Government for opening the new Road called Mansergh Avenue consisting of the portions marked Letters C and D in the Plan thereof No. 1648 of the 22nd day of February 1920 made by the said J. H. W. Smith together with all the buildings thereon bearing Assessment Nos. 40, 40A, 40B, 40C, 41 and 41A situated at Layards Broadway aforesaid bounded on the North-east by the grass field and ground formerly of S. L. O. Lebbe now of S. L. M. Mohamed Hadjar and wife on the South-east by Layards Broadway, on the South-west by the land and buildings Nos. 39, 39A and 39B (above described) and on the North-west by the Grass field of Oduma Lebbe Marikar containing in extent one rood and thirty six and half perches (0-1-36½) according to the said Figure of Survey No. 1648 of the 22nd day of February 1920. Registered A128/76 in the Colombo District Land Registry Office.

Which said two allotments of land A and B are of the value of Rupees Fifty thousand (Rs. 50,000/-).

17. ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 3/744 and now bearing Assessment Nos. 3(1-20) situated at Kuruwe Street within the Municipality of Colombo aforesaid bounded on the North by the limit of the land said to belong to Natchia Umma and Sinne Lebbe Packeer, and the East by the wall of the property of J. L. Perera and others and Kadar Saibo, on the South by the wall of the property of Johara Umma and on the West by Kuruwe Street containing in extent thirty one square perches according to the Plan dated the 21st day of October 1901 made by Francis M. Perera Surveyor. Registered A135/169 in the Colombo District Land Registry Office, and which said premises is of the value of Rupees Twenty five thousand (Rs. 25,000/-).

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

18. ALL those the lands fields and buildings formerly bearing Assessment Nos. 183/958. 959 and 960 now bearing Assessment Nos. 183 (1-25) 183 Grandpass Road within the Municipality of Colombo aforesaid and are in the Figure of Survey thereof dated 23rd January 1888 made by Fred Bartholomeusz Surveyor described as being bounded on the North-west by the high road now called Grandpass Road on the North-east by the garden and field formerly belonging to Manuel Perera and now of Leechman and Company bearing Assessment No. 182 seperated therefrom by a Wall on the South-east by the field formerly belonging to Miguel de Rosayroe now of Leechman and Company and on the South-West by the garden formerly of the widow of Assen Lebbe and now belonging to the Estate of Segoe Sayboe Meera Lebbe Marikar deceased bearing Assessment No. 184 seperated therefrom by a wall one thousand links in length from the high road on the North-west and continued by live fence one hundred and fifty links in length to the South western boundry containing in extent two acres six perches and 14/100th of a perch. Registered A126/335 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Thirty five thousand (Rs. 35,000/-),

19. ALL that divided portion of land with the buildings thereon formerly bearing Assessment No. 184 (5) and now bearing No. 184 situated at Grandpass Road within the Municipality of Colombo aforesaid, bounded on the North by portions or lots marked A and B in the Plan No. 440 of 13th April 1917 made by S. S. Ratnam Licensed Surveyor, on the East by the premises bearing Assessment No. 183 formerly belonging to the Estate of the Late Samuel Perera Jaytilleke now belongs to late Mr. Adamjee Lukmanjee on the South by the grass field belonging to Framjee Bhikajee and Company and on the West by the premises bearing Assessment No. 186 formerly of Samsie Lebbe Aboo Salih now belonging to the said Late Adamjee Lukmanjee containing in extent three roods and fifteen perches and seventy two one hundredths of a perch according to the said Plan No. 440 of 13th April 1917. Registered A 128/183 in the Colombo District Land Registry Office, which said premises is of the value of Rupees Fifteen thousand (Rs. 15,000/-).

20. ALL that property and premises formerly bearing Assessment Nos. 185/6 now bearing No. 185 (35-42) 185 (1-6) Grandpass Road within the Municipality of Colombo aforesaid and bounded on the North by Grandpass Road formerly called Pass Nakelgam, on the East by premises bearing Assessment No. 184 of M. L. M. Mohamado Ismail on the South by fields belonging to Messrs. Leechman and Company and Framjee Bhikajee and on the West by the property Bearing Assessment No. 187 now of Abdul Aziz and Abdul Cader formerly of Ommal Kaeltal Nacha and containing in extent one acre two roods twenty three perches and three one hundredths of a perch (1-2-23, 3/100) according to Plan No. 3963 dated 19th May 1917 made by

G.P. Weeraratne Licensed Surveyor. Registered A126/46 in the Colombo District Land Registry Office, and which said premises is of the value of Rupees Sixty thousand (Rs. 60,000/-).

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

21. ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 952/187 now bearing Nos. 187 (1-10) situated at St. Joseph's Street, Grandpass within the Municipality of Colombo aforesaid bounded on the North-east by the Passage leading to J. Kotellawala's property on the South-east by the property of Babu now said to belong to John Kotelawala bearing Assessment No. 186, on the South west by the property of S. L. Abdul Azeez and his wife Aiysa Umma bearing Assessment No. 188 and on the North-west by Grandpass Road containing in extent twelve perches and sixty three one hundredth of a perch according to the Plan thereof No. 1231 dated the 15th day of May 1906 made by Francis M. Perera Surveyor. Registered A 124/13 in the Colombo District Land Registry Office and which said premises is of the value of Rupees Ten thousand (Rs. 10,000/-).

22. ALL that part of the garden with the buildings standing thereon formerly bearing Assessment No. 985/15-20 now bearing Assessment No. 101 situated at Fifth Cross Street in the Pettah within the Municipality of Colombo aforesaid bounded on the North by the property of Mrs. Madalana Pedris formerly of Mr. Hedling bearing Assessment No. 21 on the East by Fifth Cross Street formerly by the lake on the South by the property of W E. Bastian formerly of Mr. Freymer bearing Assessment No. 14 and on the West by the property presently belonging to N. M. Packeer containing in extent six perches and sixty seven one hundredths of a perch (0-0-6,67/100) as per figure of Survey thereof dated 17th August 1918 made by C. H. Frida Licensed Surveyor. Registered A133/183 in the Colombo District Land Registry Office, and which said premises is of the value of Rupees Twenty eight thousand (Rs. 28,000/-).

23. ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 188 now bearing Assessment No. 188 and the field attached thereto situated at Grandpass Road within the Municipality of Colombo aforesaid forming the plot marked "B" in the plan thereof dated the 1st July 1885 made by P Fonseka Surveyor, bounded on the North by Pass Nagalam alias Grandpass Street and by the property of Setumma now of Pattumuttu on the East and South east by the property of Samsadeen now of Mohamado Ismail Mohamdo Haniffa on the South by the field of Baker and Jacob and on the West and South-west by the other half part marked letter A belonging to Muttu Natchia wife of Casie Lebbe Marikar Tamby Rasa containing in extent one rood and thirty six and a quarter square perches according to the said Plan dated 1st July 1885. Registered A126/57 in the Colombo District Land Registry Office.

Exhibits

P3.

Deed

Nos 452/437.

21-9-31

15-1-32

—continued

24. ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 188A now bearing No. 188A and field attached thereto situated at Pass Nagalgam Street now called Grandpass Street or Grandpass Road within the Municipality of Colombo aforesaid and marked letter "A" in the Plan thereof dated the 1st July 1885 made by P Fonseka Surveyor bounded on the North and North-east by the other half part marked B belonging to Aysha Umma, on the South by the fields of Baker and Jacob on the South-west by the property of Amidal Lebbe Samsi Lebbe subsequently of Tai Marikar and on the North-west by the part of the property belonging to Neyna Marikar Suleyma Lebbe and Pass Nagalgam alias Grandpass Street containing in extent one rood thirty six perches and a quarter of a perch according to the said Plan dated 1st July 1885. Registered A83/338 in the Colombo District Land Registry Office.

25. ALL that allotment of land or part of a garden with the buildings thereon formerly bearing Assessment No. 189 now bearing No. 189 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North-east by property purchased by Harmanis Lodowyke, on the South by the field of Joseph Jacobs on the South-west by the garden of Sezma Lebbe and on the North-west by Pass Nagalgam Street containing or reputed to contain in extent one square rood sixteen perches and twenty nine one hundredth of a square perch, which said premises are according to the Figure of Survey thereof No. 1625 dated the 25th day of October 1914 made by H. G. Dias Licensed Surveyor bounded on the North by Grandpass Road, on the East and South by premises bearing Assessment No. 188 of Tambirasah Zubaida Umma and on the West by premises bearing Assessment No. 190 of T. M. Neina Marikar and containing in extent one rood eleven perches and 50/100ths of a perch. Registered A 120/37 in the Colombo District Land Registry Office.

26. ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 190 now bearing No. 190 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by the Grandpass Road on the East by the House and ground of Haramanis Lodowyke, on the South by the field of Joseph Canghan of Baba Aracchi and on the West by the other half part of Aysa Natchia containing in extent one square rood and twenty nine perches and 50/100ths of a square perch. Registered A 111/149 in the Colombo District Land Registry Office.

27. ALL that allotment of land with all the buildings thereon formerly bearing Assessment No. 191 now bearing No. 191 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by the high road on the East by the property at one time of Harmanis Ludowyke subsequently the property of Kader Tamby Tai Marikar and now belonging to late Adamjee Lukmanjee bearing

Assessment No. 190 on the South by the field of Joseph Kangan and Joseph Aratchy and on the West by the land at one time belonging to Ibrahim Lebbe bearing Assessment No. 192 containing in extent one rood and twenty eight perches. Registered A 121/111 in the Colombo District Land Registry Office.

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

28. ALL that piece of ground with the buildings standing thereon and the piece of low ground attached thereto formerly bearing Assessment No. 192 now bearing No. 192 situated at Grandpass within the Municipality of Colombo aforesaid bounded on the North by the road leading to Grandpass on the East by the property of Samsie Lebbe on the South by the Government low ground and on the West by the property formerly of Gooroonanse now of the Ceylon Company Limited containing in extent the ground and buildings three perches and fifteen one hundredths of a perch (0-0-3, 15/100) and the low ground thirty two and sixty one one hundredth square perches (0-0-32, 61/100) which said premises are according to Plan No. 1245 dated the 17th day of October 1912 made by H. G. Dias Registered Licensed Surveyor and Leveller described as follows to wit:- ALL that high ground and field with the buildings thereon formerly bearing Assessment No. 192 and now bearing Assessment No. 192 situated at Grandpass aforesaid and bounded on the North-east by premises bearing Assessment No. 191 of Avo Lebbe Marikar Abdul Cader on the South-east by the field said to belong to late Adamjee Lukmanjee on the South-west by premises bearing Assessment No. 193 of the said late Adamjee Lukmanjee and on the North-west by Grandpass Road containing in extent one rood and twenty seven perches (0-1-27) Registered A 109/326 in the Colombo District Land Registry Office.

29. ALL that garden and annexed field and the houses out houses and store rooms and all other buildings standing thereon formerly bearing Assessment No. 193 now bearing Assessment No. 193 situated and lying at Pass Nakelgam Street at Vander Meydens Polder now called Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by Pass Nakelgam Street now called Grandpass Road on the East by the garden of Kaentje Lebbe Kay Natchia on the South by Government field and on the West by the garden of Swaris Beker containing in extent two acres three roods twenty perches and fifteen one hundredths of a perch (2-3-20, 15/100) Registered A 87/65 in the Colombo District Land Registry Office.

The above mentioned lands and premises Nos. 23, 24, 25, 26, 27, 28 and 29 are of the value of Rupees Two hundred and twenty five thousand (Rs. 225,000/-).

30. ALL that allotment of land Called Wattaboda Kumbura formerly bearing Assessment No. 20 subsequently No. 33 and now bearing Assessment Nos. 33 (1), 33 (2-13), 35 and 37 and all the buildings



Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

standing thereon situated in that part of St Sebastian called Lockgate Lane within the Municipality of Colombo aforesaid bounded on the North by the Canal on the East by the paddy field of Reverend J. H. de Saram, on the South by a Lane and on the West by the part of Wattedoda Cumbura belonging to Susana Dorathea de Saram containing in extent two roods and twenty seven perches according to the figure of Survey thereof dated the 28th April 1842 made by P. W. D. Straat Surveyor and according to a recent Plan No. 4745 dated 10th February 1924 made by G. P. Weeraratne Licensed Surveyor is described as follows:- All that portion of an allotment of land with the buildings thereon called Wattedoda Kumbura bearing present Assessment Nos. 33 and 37 old Assessment No. 20 situated at Lockgate Lane in San Sebastian within the Municipality of Colombo aforesaid bounded on the North by San Sebastian Canal on the East by the field and garden bearing new Assessment No. 43 of the late Revd. J. H. de Saram, on the south by a lane now called Lockgate Lane and on the West by another part of the same Wattedoda Kumbura of the late Susana Dorothea de Saram containing in extent three roods three perches and three fourths of a perch (0-0-3 $\frac{3}{4}$ ). Registered A 134/255 in the Colombo District Land Registry Office, and which said premises are of the value of Rupees Seventeen thousand (Rs. 17,000/-).

31. ALL that property and premises formerly bearing Assessment No. 52 now bearing Assessment No. 172 situated at Bankshall Street in the Pettah within the Municipality of Colombo aforesaid and comprising the following allotments of land to wit:-

(a) ALL that undivided two third parts or shares of all that Bankshall and ground attached thereto situated at Sea Street now called Bankshall Street in the Pettah within the Municipality of Colombo aforesaid and bearing Assessment No. 52 bounded on the North by Sea Street on the East by Bankshall of Wappoo Marikar on the South by the House of Mr. de Hann and on the West by the Bankshall of Walikoe Saibo containing in extent Seven square perches and thirty eight one hundredths of a square perch according to the figure of Survey thereof dated the 7th day of June 1824. Registered A107/330 in the Colombo District Land Registry Office.

(b) ALL that Eastern portion of premises No. 51 situated at Bankshall Street Pettah within the Municipality of Colombo aforesaid (Marked letter "A" in the plan thereof No. 3679 dated 19th July 1915 made by G. P. Weeraratna Surveyor) bounded on the North East and South by the Bankshall bearing Assessment No. 52 at one time belonging to Omeroo Neyna Marikar and now belonging to late Mr. Adamjee Lukmanjee and on the West by the remaining part of the said premises No. 51 marked "B" in the said Plan containing in extent fifty six one hundredth of a perch. Registered A 119/378 in the Colombo District Land Registry Office.

Which said premises are of the value of Rupees Thirty thousand  
(Rs. 30,000/-)

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—*continued.*

32. ALL that allotment of land and premises with the buildings thereon formerly bearing Assessment No. 47 now bearing Assessment No. 154 situated at Bankshall Street in the Pettah and within the Municipality of Colombo aforesaid comprising the following allotments of land to wit:-

(a) ALL that one undivided half part or share of and in all that Bankshall marked No. 10 in the Plan bearing Assessment No. 47 situated at Sea Street now called Bankshall Street in the Pettah within the Municipality of Colombo aforesaid bounded on the North-east by the Bankshall of Packeer Pulle on the South-east and South-west by the other parts and on the North-west by the Sea Street now called Bankshall Street containing in extent 59/100 of a perch according to the figure of Survey thereof No. 25548 dated the 7th January 1824 authenticated by G. Schneider Surveyor General and Registered A 81/22 in the Colombo District Land Registry Office.

(b) ALL that portion of land Marked "A" in the Plan with the buildings thereon of the premises bearing Assessment No. 45 situated at Bankshall Street in Pettah within the Municipality of Colombo aforesaid and which said portion marked A is bounded on the North by the property of Abubacker Lebbe Ibrahim Lebbe bearing Assessment No. 49 (but now No. 46 the property of Abubacker Lebbe Ibrahim Lebbe and No. 47 the property of Kachchai Mohamado) on the East by the property bearing Assessment No. 48 on the South by the other part of the same property belonging to the Moorish Mosque and on the West by remaining portion of the same land bearing Assessment No. 45 containing in extent ninety one hundredth (90/100) of a perch according to the said Figure of Survey thereof dated the first day of May 1824 made by Frederick Bartholomeusz Surveyor. Registered A 82/121 in the Colombo District Land Registry Office.

Which said premises are of the value of Rupees Two thousand five hundred (Rs. 2,500/-).

33. ALL that and those the Estate Plantation and premises called and known as "IRANWILA" situate in the village Iranvila in the Yatakalam Pattu of Pitigal-Korale Central in the District of Chilaw North Western Province and bounded on the North by the Village Limit of Ambakandawila on the East by Kadupitioya on the South by the village limit of Taduwawa and on the West by the Sea containing in extent Eight hundred and twenty one acres two roods and fourteen perches according to the Figure of Survey thereof made by F. J. N. Murray Licensed Surveyor dated the 6th day of October 1902 (excluding

Exhibits  
P3,  
Deed  
Nos 452/437.  
21-9-31  
15-1-32  
—continued.

therefrom the following two lots (1) the Northern portion in extent four acres and twenty nine perches sold to Mr. E. Namasivayam and (2) ALL that allotment of land marked A in the Plan thereof No. 1438 dated the 21st November 1911 and signed by Jumeaux A. C. Corea Licensed Surveyor being in extent two roods and sixteen perches on the Western side of the said Estate. Registered M77/159 in the Chilaw District Land Registry Office, and which said Estate is of the value of Rupees Two hundred thousand (Rs. 200,000/-).

34. ALL that and those the Estate plantation and premises called and known as “MARY MOUNT ESTATE” situated in the Villages Digandeniya, Kandahapola, Ginigathpitiya and Liniyawatte in the Udukaha Korale of Dambadeni Hat Pattu in the District of Kurunegala North Western Province and bounded on the North by Crown Forest land claimed by the natives and the road from Madampe to Narammala, on the North-east by the road from Madampe to Narammala and land belonging to Weragala Menika, on the East by lands claimed by villagers the road from Madampe to Narammala and Kotatuwewahena belonging to D. J. Subasinghe Appuhamy, on the South by the property of Rengaswamy, a road leading from Digandeniya to Madampe Narammala Road, lands claimed by Mohamadoo Tambi, Crown Forest, Ela, lands claimed by Nonhami and others, paddy field claimed by villagers and land claimed by villagers and on the West by Crown Forest and containing in extent two hundred and eighty seven acres two roods and twenty five square perches (287-2-25) Registered F176/93 in the Kurunegala District Land Registry Office, and which said Estate is of the value of (Rs. 100,000/-).

35. ALL that and those the Estate Plantation and premises called and known as “ST. JOHN’S ESTATE” situated at Mangalaweli in Puttalam Pattuwa in the District of Puttalam North Western Province being the Lot marked “A” in the Plan No. 2038 of the 22nd day of June 1916 and forming a part of the land described and comprised in the said Government Title Plan No. 183346 bounded on the North by the portion of Mangalawelikadu gifted to the Roman Catholic Church, and by reservation for a road on the East by land described in Title Plan No. 6803, of Don Philip Wijewardene, on the South by the portion of Mangalawelikadu marked Lot “B” in the said Plan No. 2038 now the property of E. J. Samarawickreme, on the West by the reservation along the high road to Puttalam containing in extent one hundred and seventy two acres one rood fourteen perches and two third of a perch (172-1-14-2/3) Registered F 13/85 in the Puttalam District Land Registry Office and which said Estate is of the value of Rupees Seventy five thousand (Rs. 75,000/-).

IN WITNESS WHEREOF the said parties have hereunto and to two others of the same tenor and date as These Presents set their hands the said GULAM HUSEIN ADAMJEE as Administrator of the intestate Estate of Adamjee Lukmanjee and in his personal capacity at Colombo

this Fifteenth day of January one thousand nine hundred and Thirty two, the said HAVABAI VALIJEE at Colombo this Twenty First day of September and the said MOHAMEDALY ADAMJEE at Colombo this Twenty First day of September One thousand nine hundred and Thirty One.

Exhibits  
P3.  
Dead  
Nos. 452/437.  
21-9-31  
13-1-32  
—continued.

Witnesses:-

Sgd./ F DADABHOY.  
Sgd./ E. C. FORD.

This is the Signature of

Sgd./ In Arabic  
HAVABAI VALIJEE.

We do hereby declare that we are well acquainted with the executant therein named Havabai Valijee and know her proper name occupation and residence

Sgd./ M. ADAMJEE.

Sgd./ F. DADABHOY.  
Sgd./ E. C. FORD.

Sgd./ G. T. HALE.  
Notary Public.

Read over and explained by me to the therein named Havabai Valijee.

Sgd./ F. DADABHOY.

Witnesses to the signature of the said Gulamhusein Adamjee.

Sgd./ Gulamhusein Adamjee.

Sgd./ E. C. FORD.  
Sgd./ E. A. PERERA.

Sgd./ JOS F. MARTIN.  
Notary Public.

I, GEOFFREY THOMAS HALE of Colombo in the Island of Ceylon, NOTARY PUBLIC do hereby certify and attest that the foregoing Instrument having been duly read over and explained by Framroze Dadabhoy of Colombo aforesaid a Justice of the Peace in Gujerati to the therein named Havabai Valijee (who signed this Instrument in Arabic characters and who is not known to me but who is known to the subscribing witnesses thereto) and by the therein named Mohamedaly Adamjee (who is known to me) the same and two others of the same tenor and date were signed by the said Havabai Valijee and Mohamedaly Adamjee and by the said Framroze Dadabhoy and Ernest Charles Ford also of Colombo aforesaid the subscribing witnesses thereto (and both of whom are known to me) in my presence and in the presence of one another all being present at the same time at Colombo aforesaid this Twenty first day of September One thousand nine hundred and thirty one and I do further certify and attest that in the Original page 3 line 5 the words "and each of them" in

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—*continued.*

page 4 line 6 the words “and each of them” and in lines 23 and 25 the words “his heirs executors administrators and assigns” in page 9 line 25 the words and figures “and 2422/37” in page 13 line 17 the figures “398/49” were respectively interpolated in page 5 line 3 the words “Ninth” and “thirty third” in page 7 line 6 the letter “of” in the word “thereof” in page 10 line 8 the word “on” in line 11 the words “containing in” and in line 31 the words “Colombo District Land Registry Office” in page 12 line 12 the words “Piachauds Land” in page 16 line 5 the word “continued” in page 23 line 12 the words “three roods three perches” in page 27 line 25 the word “Estate” were respectively written on erasure and in page 11 line 30 the words “Panchikawatte in Skinner’s Road South” were deleted and in the Duplicate page 1 line last the words “fully described” in page 5 line 23 the words “forever which said” in page 15 line 5 the letters and words dated at” and in line 28 the word “Panchikawatte” were respectively written on erasure in page 2 line 3 the word “intestate” in page 4 line 11 the word “other” in page 5 line 19 the words “his heirs executors administrators and assigns” in page 15 line 5 the words “Piachauds Lane” in page 19 line 31 the letters “ing” in page 23 line 25 the letters “ing” and in line 31 the words “and District” in page 24 line 12 the word “of” in page 25 line 8 the words “sixty one” in page 27 line 22 the words and letters “and thirty eight one hundredth of a perch” in page 28 line 19 the word “Street” in page 30 line 6 the words “two” were respectively interpolated in page 5 line 35 the words “eleventh” and “twenty fourth” were deleted and “ninth” and “Thirty third” written above them in page 17 line 18 the word “secondly” in page 18 line 8 the word “firstly” and in page 31 line last the word “own” were respectively deleted before the same was read over and explained as aforesaid and that six stamps of the value of Rupees Three thousand and thirty two are impressed on and one stamp of the value of One Rupee supplied by me is affixed to the Duplicate of this Instrument and one stamp of the value of One Rupee on the Original thereof.

WHICH I ATTEST

Sgd. G. T. HALE,  
Notary Public.

Dated 21st September 1931.

(SEAL)

No. 437.

I, JOSEPH FRANCIS MARTYN of Colombo, in the Island of Ceylon Notary Public do hereby certify and attest that the foregoing Instrument having been duly read over by the therein named Gulamhusein Adamjee the same and two others of the same tenor and date were signed by the said Gulamhusein Adamjee and by

Ernest Charles Ford and Eleperumaaratchige Abraham Perera both of Colombo aforesaid the subscribing witnesses thereto (and all of whom are known to me) in my presence of one another all being present at the same time at Colombo aforesaid this Fifteenth of January One thousand nine hundred and thirty two. And I do further certify and attest that in the original page 27 line last the words "One thousand nine hundred and thirty two" were interpolated and in the duplicate page 32 line 1 the word "September" was deleted and "January" written above it and in the same line the words "One thousand nine hundred and thirty two" were interpolated before the same was read over as aforesaid.

Exhibits  
P3.  
Deed  
Nos. 452/437.  
21-9-31  
15-1-32  
—continued.

WHICH I ATTEST.

Dated 15th January 1932.

Sgd./ JOS. F. MARTYN.  
Notary Public.

**P 4.**

**Last Will No. 682 of G. Adamjee.**

P4.  
Last Will  
No. 682 of  
G. Adamjee.  
16. 6. 37.

P 4.

No. 682.

This is the last will and testament of me Gulam Hussein Adamjee presently residing at "Lakshmagiri" Thurstan Road, Colombo in the Island of Ceylon.

I hereby revoke all former Wills, Godicils, and testamentary disposition whatsoever, heretofore made by me and declare this to be my Last Will and Testament.

I appoint my brother Mohamedaly Adamjee and my eldest son Lukmanjee Gulam Hussein to be the Executors of this my Will.

I give and devise unto the two sons and one daughter of my deceased brother all my property in Deans Road known as 'Fountain House' including the premises at present occupied by the United Motor Finance Corporation subject to the condition that they shall not sell mortgage or otherwise alienate the said premises during their lives but that after the death of each one of them his or her one third share thereof shall vest in the child or children of such deceased if more than one in equal shares absolutely Provided that should any one or more of such three children die without leaving any child him or her surviving the one third share of such deceased child shall vest in the surviving child or children of my deceased brother subject to the terms of this devise.

Exhib:ts  
P4.  
Last Will  
No. 682. of  
G. Adamjee.  
16. 6. 37.  
—*continued.*

I direct that my Executors shall choose such portion of my estate as they shall in their absolute discretion think fit for the purpose of establishing or endowing such charities for the needy and poor and in aid of any religious or educational object as my Executors shall think fit such charities to be named after me and in my memory and I declare that in connection with the residue of my property and statement in writing by my Executors that any particular property or any part thereof is not required for the aforesaid charities shall absolutely free and discharge such property from any claim or charge for payment of such charities.

I give and devise and bequeath all my interest as a partner in the Firm Adamjee & Sons to my four sons in equal shares with the request that they shall carry on the business with my brother in the same manner as heretofore,

I give devise and bequeath all the rest residue and remainder of my estate wheresoever situate and of whatsoever nature the same may be and of which I have power to dispose at my death unto my four children in equal shares share and share alike absolutely. In connection with the division of my reside among my four sons I declare that my Executors may arrange such scheme of distribution of my immovable property as will enable each of my children to receive, if my executors think fit and with the approval of such children, divided shares of such immovable property lieu of sharing the property of in undivided shares and any such scheme which shall be in writing and signed by my executors and my four children or their legal representations shall be effective and my immovable property shall in such event be divided by my executors in accordance with such scheme.

IN WITNESS whereof I have hereunto set my hand at Colombo this Sixteenth day of June, One thousand nine hundred and thirty seven.

Signed and declared by the said Gulam Hussein Adamjee as and for his Last Will and Testament in the presence of us who at his request in this presence and in the presence of one another all being present at the same time have subscribed our names as

Signed. GULAMHUSSEIN  
ADAMJEE.

Witness.....

Sgd. J. H. F JAYASURIYA.  
Sgd. N. S. O. MENDIS.

Sgd. J. F. MARTYN.  
N. P

I, Joseph Francis Martyn of Colombo in the Island of Ceylon, Notary public do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the hereinnamed Gulam Hussein Adamjee the same was signed by the said Gulam Hussein Adamjee and by Doctor Joseph Hubert Fernando Jayasuriya and Noel Servulus Oswald Mendis, Proctor both of Colombo aforesaid the subscribing witnesses thereto and all of whom are known to me in my presence and in the presence of one another all being present at the same time at Colombo aforesaid this sixteenth day of June One Thousand Nine Hundred and Thirty Seven.

Exhibits  
P4.  
Last Will  
No. 682. of  
G. Adamjee.  
16. 6. 37.  
—continued.

And I do further certify and attest that in the original page 1 line 3 the letters "Magiri" in the word "Lakshmagiri" and page 2 line 21 the word "wheresoever" were written on erasure before the same was read over and explained as aforesaid.

WHICH I ATTEST

Date: 16th June, 1937

Signed. J. F. MARTYN.  
Notary Public.

SEAL.

"True Copy" of Last will No. 682 dated  
16. 6. 1937 filed of record in D. C.  
Colombo Case No. 8526/T.

Signed; Illegible.  
Asst. Secretary.  
District Court, Colombo.

Certified this 5th day of February 1952.

**P 5.**

**Probate in D. C. Colombo No. 8526/T.**

P 5.

Nett Value of estate Rs. 1,439,068-00  
Estate Duty Rs. 133,793-82.

P5.  
Probate in  
D. C.  
Colombo  
No 8526/T  
26-10-38

PROBATE

D. C. Colombo No. 8526 (Testy)

IN THE DISTRICT COURT OF COLOMBO.

In the matter of the estate of the late Gulam Hussein Adamjee late of 'Lakshmagiri' Thurstan Road, Colombo in the Island of Ceylon who died on the 15th day of July 1937 at Bombay in India, domiciled in Ceylon.



Exhibits  
P5.  
Probate in  
D. C.  
Colombo  
No. 8526/T  
26-10-38  
—continued.

Be it known to all men that on the twelfth day of August, 1938, the Last Will and Testament of Gulam Hussein Adamjee deceased, a copy of which is hereunto annexed, was exhibited, read, and proved before this Court, and administration of all the property and estate, rights, and credits of the deceased was and is hereby committed to Mohamedaly Adamjee and Lukmanjee Gulam Hussein both of Colombo in the Island of Ceylon the Executors in the said Last Will and Testament named, the said Mohamedaly Adamjee and Lukmanjee Gulam Hussein being first affirmed faithfully to execute the said Will by paying the debts and legacies of the deceased Testator as far as the property will extent and the law will bind, and also to exhibit into this court a true, full, and perfect Inventory of the said property on or before the 30th day of March 1939, and to file a true and just account of their executorship on or before the 28th day of September, 1939.

And it is hereby certified that the Declaration and statement of property under the estate Duty Ordinance have been delivered, and that the value of the said estate on which estate duty is payable, as provisionally assessed by the Commissioner of Estate Duty, amounts to Rs. 1,486,598-00.

And it is further certified that it appears by a provisional certificate granted by the Commissioner of Estate Duty, and dated the 5th day of October 1938, that Rs. 134,115-10 on account of estate duty and interest on such duty has been paid.

Give under my hand and the seal of the Court this twenty sixth day of October 1938.

Sgd. W SANSONI,  
District Judge.

“True Copy” of Probate issued in D. C.  
Colombo Case No. 8526/Testamentary.

Signed. ILLEGIBLE.  
Assistant Secretary,  
District Court, Colombo.

Certified this 5th day of February 1952.

## P 5 (a)

Exhibits  
P5. (a)  
Inventory  
filed in D. C.  
Colombo  
No. 8526/T  
24. 10. 46.

## Inventory filed in D. C. Colombo No. 8526/T.

P 5 A.

## IN THE DISTRICT COURT OF COLOMBO.

Testamentary Jurisdiction No. 8526. In the Matter of the Last will and Testament of Gulam Hussein Adamjee late of "Lakshmagiri" Thurston Road, Colombo in the Island of Ceylon, deceased.

A TRUE, FULL AND PERFECT AMENDED INVENTORY  
OF THE ESTATE OF THE ABOVENAMED DECEASED.

	Rs.	Cts.
100 shares in Opalagalla Tea & Rubber Co. Ltd.	650	00
13 shares in Hatbawe Rubber Co. Ltd.	84	50
Deceased's half share as a Partner in the Firm of Adamjee Lukmanjee & Sons	461,841	00
An undivided share of St. John Estate Mundel, Puttalam	19,035	00
Less reliefs as allowed by Commissioner of Estate Duty	<u>3,494</u>	00
	15,541	00
An undivided half share of Irnaville Estate, Madampe, Chilaw	60,000	00
Less reliefs as allowed by Commissioner of Estate Duty	<u>11,241</u>	00
	48,759	00
An undivided half share of Poththods Estate, Negombo	37,613	00
Less reliefs as allowed by Commissioner of Estate Duty	<u>7,047</u>	00
	30,566	00
An divided half share of Mary Mount Estate, Kurunegala	30,432	00
Less reliefs as allowed by Commissioner of Estate Duty	<u>5,720</u>	00
	24,712	00
An divided half share of Arapolakande Estate, Tebuwana, Neboda	102,920	00
Less reliefs as allowed by Commissioner of Estate Duty	<u>16,355</u>	00
	86,565	00
An undivided half share of the following:- Fourth and Fifth Cross Street bearing Assessment Nos. 72/73 & 75 (Shops & Houses.)	27,500	00
Less 10 per cent for undivided share	<u>2,750</u>	00
	24,750	00
Carried over		

Exhibits P5. (a) Inventory field in D. C. Colombo No. 8526/T 24. 10. 46. —continued.	Brought forward			
	Fourth and Fifth Cross Street			
	bearing Assessment Nos. 78/80/79/81,			
	83 & 85 (Shops & Houses,)	37,500 00		
	Less 10 per cent for undivided share	<u>3,750 00</u>	33,750 00	
	Fifth Cross Street bearing Assessment			
	No. 101 (Shop)	11,750 00		
	Less 10 per cent for undivided share	<u>1,175 00</u>	10,575 00	
	Third Cross Street bearing Assessment			
	No. 56/58 (Shops & Houses.)	11,000 00		
	Less 10 per cent for undivided share	<u>1,100 00</u>	9,900 00	
	Third Cross Street & Keyzer Street			
	bearing Assessment Nos. 59, 63, 65, 67,			
	73GI, 2/12/2, 77 & 202, 206 (Houses)	52,500 00		
	Less 10 per cent for undivided share	<u>5,250 00</u>	47,250 00	
	Keyzer Street bearing Assessment			
	Nos. 154, 156, 158, 160/1/1, 3/1 & 162			
	(Shops & Houses.)	12,500. 00		
	Less 10 per cent for undivided share	<u>1,250 00</u>	11,250 00	
	Keyzer Street bearing Assessment			
	No. 188 (Shop)	22,500 00		
	Less 10 per cent for undivided share	<u>2,250 00</u>	20,250 00	
	Keyzer Street & 1st Cross Street			
	bearing Assessment Nos. 35, 37, 39, 41,			
	43, 45, 47, 138/140, 138/1/1 to 1/8 (Shops)	30,000 00		
	Less 10 per cent for undivided share	<u>3,000 00</u>	27,000 00	
	Bankshall Street bearing Assessment			
	No. 154 (Shop)	1,500 00		
	Less 10 per cent for undivided share	<u>150 00</u>	1,350 00	
	Bankstall Street bearing Assessment			
	No. 109 (Office)	12,500 00		
	Less 10 per cent for undivided shares	<u>1,250 00</u>	11,250 00	
	Bankshall Street bearing Assessment			
	No. 172 (Stores)	17,500 00		
	Less 10 per cent for undivided shares	<u>1,750 00</u>	15,750 00	
	Main Street bearing Assessment Nos. 81,			
	83 & 85 (Shops)	34,250 00		
	Less 10 per cent for undivided share	<u>3,425 00</u>	30,825 00	
	Prince Street & Mitcho's Lane bearing			
	Assessment Nos. 36/40 & 25 (Stores)	5,750 00		
	Less 10 per cent for undivided share	<u>575 00</u>	5,175 00	
	Carried over			

Brought forward			
Tilton Bungalow, Ward Place bearing Assessment No. 30	22,500 00		
Less 10 per cent for undivided share	<u>2,250 00</u>	20,250	00
York Street & Chatham Street bearing Assessment Nos. 72, 74, 76, 78, 82 & 109, 111, 113, 115, 117, 119 & 121 (Shops)	110,000 00		
Less 10 per cent for undivided share	<u>11,000 00</u>	99,000	00
Palmyrah Avenue Colpetty bearing Assessment Nos. 690, 6, 10, 12, 14, 16, 18, 20, 22, 24 & 26 (Bungalows)	66,640 00		
Less 10 per cent for undivided share	<u>6,664 00</u>	59,976	00
School Lane bearing Assessment Nos. 33, 35, 37 & 39 (Bungalows)	10,500 00		
Less 10 per cent for undivided share	<u>1,050 00</u>	9,450	00
Adam Avenue & Thurston Road (Bungalows) bearing Assessment Nos. 4, 6, 8, 10, 12, 13 15, 16, 112	81,760 00		
Less 10 per cent for undivided share	<u>8,176 00</u>	73,584	00
Laksmigiri Thurston Road (Bungalow) bearing Assessment No. 102	75,000 00		
Less 10 per cent for undivided share	<u>7,500 00</u>	67,500	00
Grandpass Mills, Grandpass Road bearing Assessment No. 140	125,000 00		
Less 10 per cent for undivided share	<u>12,500 00</u>	112,500	00
Deans Road (houses) bearing Assessment Nos. 336, 326, 342 & 344.	24,500 00		
Less 10 per cent for undivided share	<u>2,450 00</u>	22,050	00
Grandpass Road & Lukmanjee Square (Tenements) bearing Assessment Nos. 196, 196/1/1, 198, 200, 204, 206, 208, 210, 214, 220, 222, 224, 226, 228, 234, 236, 238, 240, 243, 244, 248 and 1/77, 128-80, 78/2, 165, 167, 169, 171, 173 & 175	87,500 00		
Less 10 per cent for undivided share	<u>8,750 00</u>	78,750	00
Jampettah Street (Tenements) bearing Assessment Nos. 57/16/31, 19, 23 to 30 32, 35, 37, 38, 39/45, 40/44, 46 to 56, 58 to 70, 41, 42, & 43	9,128 00		
Less 10 per cent for undivided share	<u>913 00</u>	8,215	00

Carried over

Exhibits  
P5. (a)  
Inventory  
filed in D. C.  
Colombo  
No. 8526/T  
24. 10.46.  
—continued.

Exhibits  
P. 5 (a)  
Inventory.  
filed in D. C.  
Colombia.  
No. 8526/T  
24-10-46.  
—continued.

Brought forward

Green Street (Tenements) bearing Assessment Nos. 100, 102/104, 104 (1-4) (5-10) (12-15) (17-18) (32-36) (37-39) (40--46) (47-48) (49-51) (52-56) (57-58) 106& 108.	13,250 00	
Less 10 per cent for undivided share	<u>1,325 00</u>	11,925 00
Kuruwe Street (Tenements) bearing Assessment Nos. 30, 32, 34 (2-14), 36 1/1, 1/7		
38 & 40,	7,868 00	
Less 10 per cent for undivided share	<u>787 00</u>	7081 00
Layards Broadway & Prakrama Road (Tenements) bearing Assessment Nos. 195, 197, 199 (1) (2-5)& 16, 16 (1-7)	4,500 00	
Less 10 per cent for undivided share	<u>450 00</u>	4,050 00
Grandpass Road (Tenements) bearing Assessment Nos. 172, 172 (1-8), 174,	2,000 00	
Less 10 per cent for undivided share	<u>200 00</u>	1,800 00
Grandpass Road (Tenements) bearing Assessment Nos. 176, 178, 180, 180 (37-53) (72-134) (135)	16,500 00	
Less 10 per cent for undivided share	<u>1,650 00</u>	14,850 00
Grandpass Road (Tenements) bearing Assessment Nos. 180 (1-20) (21-35) 182, 184,	8,750 00	
Less 10 percent for undivided share	<u>875 00</u>	7,875 00
Grandpass Road (Tenements) bearing Assessment Nos. 186, 188, 190, 192 (1-108) (109-151)	14,250 00	
Less 10 percent for undivided share	<u>1,425 00</u>	12,825 00
Princess Gate (Tenements) bearing Assessment Nos. 41, 43, (2-23), 45, 49, 51 (1-12), 53, 55, 57, 59, 61, 63, 65, 67, 69, 71 73, 75, 77, 79, 81, 83, 85, 87, 89, 91, 93, 95, 97, 99, 101, 103, 105, 107, 109, 111, 113, 121, 124	28,168 00	
Less 10 percent for undivided share	<u>2,817 00</u>	25,351 00
Lockgate Lane (Tenements) bearing Assessment Nos. 81, 83, 83 (14-15) (21-32) 83, (1-16), 85, 87	8,484 00	
Less 10 percent for undivided share	<u>848 00</u>	7,636 08

Carried over

Brought forward			
Skinner's Road (Tenements) bearing Assessment Nos. 162 (62-69)	2,250 00		
Less 10 percent for undivided share	<u>225 00</u>	2,025	00
Piachuds Lane (Tenements) bearing Assessment Nos. 177 (1-6) (7-22) (23-40), (41-44) (45-50), (52-53)	10,250 00		
Less 10 percent for undivided share	<u>1,025 00</u>	9,225	00
Deans Road and Rudds Lane (Tenements) bearing Assessment Nos. 322, 324 & 126, 124, 122, 120, 118, 116, 114, 112, 110, 108, 106, 104, 102, 100 (including Fountain House Nos. 11 & c)	33,516 00		
Less 10 percent for undivided share	<u>3,352 00</u>	30,164	00
Baseline Road (Tenements) bearing Assessment Nos. 177, 179, 181, 181 (2-37) 185, 187	13,804 00		
Less 10 percent for undivided share	<u>1,380 00</u>	12,424	00
Union Place (Tenements) bearing Assessment Nos. 207, 213 (3-23)	9,828 00		
Less 10 percent for Undivided share	<u>983 00</u>	8,845	00
Dam Street & Price Place (Tenements) bearing Assessment Nos. 154, 156, 158 & 66 (1-10)	5,250 00		
Less 10 percent for undivided share	<u>525 00</u>	4,725	00
St. Sebastian Street & St. Sebastian Lane (Tenements) bearing Assessment Nos. 112, 114 & 7 (1-24)	4,424 00		
Less 10 percent for undivided share	<u>442 00</u>	3,982	00
Layards Broadway & Prince of Wales' Avenue (Tenements) bearing Assessment Nos. 201, 203, 203 (1) (2-8) (9-11) (12-14) (15-17) (18-20) (21-23) (24-29) 207, 213, 213 (1-8) (9-21) (22) 217 & 183, 185 & 187.	19,500 00		
Less 10 percent for undivided share	<u>1,950 00</u>	17,550	00
Piachauds Lane (Tenements) bearing Assessments Nos. 177 (55-57), 179, 181, 183.	1,500 00		
Less 10 percent for undivided share	<u>150 00</u>	1,350	00
Piachauds Lane (Tenements) bearing Assessment Nos. 121, 123 & 125.	1,750 00		
Less 10 percent for undivided share	<u>175 00</u>	1,575	00

Exhibits  
P5, (a)  
Inventory  
filed in D. C.  
Colombo  
No. 8526/T  
24. 10. 46.  
—continued.

Carried over

Exhibits  
Pj. (a)  
Inventory  
filed in D.C.  
Colombo  
No. 8, 26/T  
24. 10. 46  
—continued.

## Brought forward

Piachauds Lane & Panchikahawatte Road (Tenements) bearing Assessment Nos. 127 143, (1-20) (21-38) 129, 133, 137, 141 & 128 (1-5) (7-16), 130, 134, 138, 140, 144, 146, 148, 150, 152 & 103 (1-7) 105, 107, 109, 111 113, 115, 117, 119, 123, 125 (1-2) (5-8) 125 (4) 127.	23,072 00	
Less 10 percent for undivided share	<u>2,307 00</u>	20,765 00
 Deans Road (Tenements) bearing Assessment Nos. 181 (28-41) 183, 185, 187, 189, 191.	 9,604 00	
Less 10 percent for undivided share	<u>960 00</u>	8,644 00
 Forbes Lane (Tenements) bearing Assessment Nos. 67 (1-57) 71, 71 (1) part 73.	 9,500 00	
Less 10 percent for undivided share	<u>950 00</u>	8,550 00
 Muhandiram's Road & Colpetty Road (Tenements) bearing Assessment Nos. 7 (1-5) (11) (13) (17) (19) (21) (23) (25) 25 (1-9) (15-21) 31, 33, 35, 37, 155 & 157.	 15,120 00	
Less 10 percent for undivided share	<u>1,512 00</u>	13,608 00
 Pansala Road Bandarawela (Bungalow)	 2,500 00	
Less 10 percent for undivided share	<u>250 00</u>	2,250 00
		<u>1,708,143 50</u>
Less Debts as allowed by Commissioner of Estate Duty.		<u>21,563 00</u>
		<u>1,686,580 50</u>

We, Mohamedaly Adamjee presently of India and Lukmanjee Gulam Hussein of Colombo Executors of the Last Will and Testament of Gulam Hussein Adamjee deceased do solemnly, sincerely and truly declare and affirm as follows:—

f. To the best of our knowledge, information and belief the above-written Amended Inventory contains a full, true and correct account of all the property moveable and immoveable and rights and credits of the said Gulam Hussein Adamjee deceased, so far as we have been able with due diligence to ascertain the same.

2. We have made a careful valuation of all the property, the particulars of which are set forth and contained in the said Amended Inventory, and to the best of our judgment and belief the several sums respectively set opposite to the several items in the said Amended Inventory fully and fairly represent the values of the items to which they are so respectively set opposite.

Exhibits  
P5. (a)  
Inventory  
filed in D. C.  
Colombo  
No. 8526/T  
24. 10. 46  
—continued.

Signed and affirmed by the  
said Mohamedaly Adamjee  
at Colombo this 24th day  
of October 1946.

Signed M. ADAMJEE.

Before me

Signed and affirmed by the  
said Lukmanjee Gulam  
Hussein at Colombo this  
24th day of Oct., 1946.

Signed JOHN WILSON.  
J. P.

Before

True copy  
Sdg. illegible  
Asst. Secy. D. C. Colombo.  
9. 2. 52.

Signed. JOHN WILSON.  
J. P.

P 8.

Deed No. 419.

P 8.  
Deed No 419  
19-10-44.

P 8.  
Julius & Creasy,  
Solicitors, Proctors,  
& Notaries Public,  
Colombo.

No. 419.

THIS INDENTURE is made the twelfth day of September One thousand nine hundred and forty four BEWTEEN HAWABAI VALIJEE of Colombo in the Island of Ceylon, presently residing in Bombay India (hereinafter referred to as "the Donor" which term shall where the context so requires or admits mean and include the said Havabai Valijee her heirs executors and administrators) of the one part and ABBASBHAI GULAMHUSSEIN of Colombo aforesaid - (hereinafter sometimes referred to as "the Donee" which term shall where the context so requires or admits mean and include the said Abbasbhai Gulamhussen his heirs executors administrators and assigns) of the other part.



Exhibits  
P 8.  
Deed No. 419  
19-10-44  
—son:inued.

WHEREAS Taherbhai Gulamhussen late of Colombo aforesaid a grandson of the Donor died on the ninth day of August one thousand nine hundred and forty one intestate and unmarried, where upon the Donor became entitled as one of his heirs at law and next of kin to (inter alia) one undivided twenty fourth part or share of and in all that and those property and premises in the Schedule hereto particularly described (which said share is hereinafter referred to as “the said property and premises.”)

AND WHEREAS the Donor is desirous of giving and granting the said property and premises to the Donee the said Abbasbhai Gulamhussen her grandson by way of Gift absolute and irrevocable.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said desire and in consideration of the natural love and affection which the Donor hath and bears unto the Donee her grandson the said Abbasbhai Gulamhussen and divers other good causes and – considerations her hereunto specially moving she the Donor doth hereby freely and voluntarily give grant assign transfer convey assure and set over unto the Donee the said Abbasbhai Gulamhussen his heirs executors administrators and assigns all the said - right title and interest inherited by the Donor from the said Taherbhai Gulamhussen deceased to wit:— One undivided twenty fourth part or share of an in all that and those property and premises in the Schedule hereto particularly described – together with all the buildings standing thereon and all rights ways essements servitudes and appurtenances whatsoever to the said property and premises belonging and all the estate right title interest property claim and demand whatsoever of the Donor of in to upon or out of the said property and premises.

TO HAVE AND TO HOLD the said property and premises together with all and singular the appurtenances thereto belonging unto the Donee absolutely for ever which said property and premises are of the value of Rupees One hundred and forty six thousand (Rs. 146,000/-)

AND the DONOR doth hereby covenant with the Donee that the Donee shall and may at all times hereafter peaceably and quietly possess and enjoy the said property and premises and receive the rents and profits thereof without any interruption or disturbance from or by the Donor and that free of all encumbrances and that the Donor and all persons claiming under her shall and will – warrant and defend the title to the said property and premises and shall and will at the request and cost of the Donee do and execute or cause to be done and executed all such further and other acts deeds assurances matters and things whatsoever as shall or may be reasonably required for further and more perfectly assuring the said property and premises to the Donee.

AND THIS INDENTURE FURTHER WITNESSETH that the said Abbadbhai Gulamhussen doth hereby thankfully accept the foregoing Gift.

Exhibits  
P 8.  
Deed No 419  
19-10-44.  
—continued.

THE SCHEDULE ABOVE REFERRED TO:

PART 1.

1. ALL that allotment of land with the buildings thereon bearing former Assessment No. 55 presently bearing Assessment No. 30, 30 (2-5) and 32 at one time called and known as "Bleak House" now called and known as "Tilton" situated at Ward Place Cinnamon Gardens within the Municipality and District of Colombo Western Province bounded on the North by Ward Place and on the East by the property of T. Muttukumaraswamy bearing Assessment No. 54 on the South by the property owned by D. Muttuswamy and on the West by the property of the Honourable Mr. P Ramanathan bearing Assessment No. 56 containing in extent one acre one rood twenty seven perches and seventy seven one hundredth of perch according to the Plan thereof No. 4258 dated the nineteenth day of November One thousand nine hundred and nineteen made by G. P Weeraratne, Surveyor and Registered A135/221 in the Colombo District Land Registry Office excluding therefrom (1) Lot 2 known as Bleak House now known as Tilton bearing Assessment No. 30 Ward Place and in extent sixteen perches (A0. R0. P16) and (2) Lot C in extent one and seventy five hundredths of a perch (A0. R0. P175) which said allotment of land after excluding therefrom the said Lots 2 and C is described as an allotment of land with the buildings standing thereon bearing Assessment Nos. 30, 30 (2-5) and 32 Ward Place situated at Ward Place aforesaid bounded on the North by Ward Place on the East by Lot No. 2 and property bearing Assessment No. 54 belonging to T. Muttu Cumaraswamy on the South by Lot C the property belonging to M. Nagamma and on the West by the property bearing Assessment No. 56 belonging to P. Ramanathan containing in extent one acre one rood and ten decimal nought two perches (A1. R1. P10.02)

2. ALL that allotment of land with the buildings thereon bearing formerly Assessment Nos. 1 (1-4), 1 (7-23) 26, 26C now bearing Assessment Nos. G7 (1-5) to 37, 153, 155 and 157 situated at Mohandiram's Road and Colpetty Road within the Municipality and District of Colombo aforesaid bounded on the North by the garden formerly of Meran Kandoo Pulley Mohamado Lebbe afterwards the property of Mohamadu Neyna Aysa Natchia wife of Coppatamby Wappoo Marikar now said to belong to O. L. M. Sheriff bearing Assessment No. 25 and a Passage on the east by the garden of Jacobus Coopman afterwards of Tamby Marikar Sesma Lebbe now said to belong to Ana Rawanna Meera Chetty bearing Assessment No. 1 on the South by a small road

Exhibits  
P. 8  
Deed No. 419  
19-10-44.  
—continued.

called Mohamdiram's Road and on the West by high road from Colombo to Galle containing in extent one rood twenty perches and twenty six hundredth of a perch (A0. R1. P20,26/100) according to the Figure of Survey thereof No. 22 dated the First day of March 1907 made by H. G. Dias Licensed Surveyor, Registered A 123/317 in the Colombo District Land Registry Office.

3. ALL that house and ground called and known as "Palmyra Cottege" formerly bearing Assessment No. 238/131 and now bearing Assesment Nos. 6, 10, 12, 14, 16, 18, 20, 22, 24 and 26 at Palmyrah Avenue and all that house and ground called and known as "Gairloch" formerly bearing Assessment No. 131A and now bearing Assessment No. 690 Colpetty Road within the Municipality and District of Colombo aforesaid and now forming one property comprising all those two parts of the garden called Bernawatte bounded on the North by property bearing Assessment No. 133 belonging to R. D. A. Perera on the East by the Colombo Galle Road on the South by the property bearing Assessment No. 130 belonging to I. L. M. H. Abdul Rahaman and on the West by the Railway Line containing in extent two acres one rood and three perches and two one hundredth of a perch (A2. R1. P3, 2/100) according to the Figure of Survey thereof dated the nineteenth day of March One thousand nine hundred and eighteen made by A. H. Fernando of Moratuwa, Special Licensed Surveyor. Registered A131/224 in the Colombo District Land Registry Office.

4. ALL that allotment of land with the buildings thereon formerly bearing Assessment Nos. 1025/109B1, 1025 A/109 Bla, 1025A/109B2/1026/109B2 and 1024 A/114 10 now bearing Assessment Nos. 33, 35, 37, and 39 situated along school Lane in Colpetty within the Municipality and District of Colombo aforesaid bounded on the North by Lot D on the East by Lot C4 allotted to B. C. Perera on the South by a road reservation ten feet wide (now called School Lane) and on the West by the portion of Lot C3 containing in extent one rood (A0. R1. P0.) according to the Plan thereof dated 28th March 1907 made by A. E. Van Rooyen Licensed Surveyor Registered A 133/150 in the Colombo District Land Registry Office.

5. ALL that allotment of land (being a portion of the Lot No. 40 in Government Title Plan No. 48035 of the First day of February 1845) with the buildings thereon formerly bearing Assessment No. 10 recently bearing Assessment No. 79 now bearing Assessment Nos. 209 (1-10) 203, 209, 211, 217 situated at Union Place, Slave Island within the Municipality and District of Colombo aforesaid bounded on the North by the stores at one time of Sabonadier and Company on the East by lot No. 8 of Ibrahmin Lebbe Samsalla Marikar on the South by the high road seventy feet wide and on the West by lot No. 22 belonging to Casala Marikar Sinna Lebbe containing in extent two roods thirty

seven perches and fifty one one hundredth of a perch according to the figure of Survey dated the thirteenth day of July 1877 made by C. H. Schwalle Surveyor. Registered A124/204 in the Colombo District Land Registry Office.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

6. An allotment of land comprising of all those the houses and premises formerly bearing Assessment No. 60 Prince Street and No. 9A Mitcho's Lane recently bearing Assessment Nos. 36 and 40 Prince Street in Pettah and the adjoining ground situated at Fishers Street Pettah and presently bearing Assessment Nos. 36 1/1, 36 1/2, 38, 40 Prince Street and No. 25 Mitcho's Lane within the Municipality and District of Colombo aforesaid bounded on the North by Prince Street on the East by lands bearing Assessment Nos. 59 Prince Street and No. 10 Mitcho's Lane South by Mitcho's Lane on West by the lands bearing Assessment Nos. 61 Prince Street and No. 9 Mitcho's Lane containing in extent eleven perches and 97/100 of a perch according to Plan No. 41187 dated 15th February 1916 made by J. Rodrigo Fiscal's Licensed Surveyor Registered A125/324 in the Colombo District Land Registry Office.

7. ALL that allotment of land with the buildings thereon formerly bearing Assessment Nos. 50, 13A, 15 to 20 and recently bearing Assessment Nos. 78 and 80 and now bearing Assessment Nos. 76, 78, 80 Fourth Cross Street 79, 81, 83, 85 Fifth Cross Street situated at Fourth and Fifth Cross Street Pettah within the Municipality and District of Colombo aforesaid bounded on the North by the property of Cornelis Fernando bearing Assessment No. 49 on the east by the Fifth Cross Street on the South by the property of F. C. Perera now of S. P. Singho Appu bearing Assessment No. 51 and on the West by the Fourth Cross Street containing in extent twenty six ninety four one hundredth square perches more or less Registered A79/268 in the Colombo District Land Registry Office.

8. ALL that house and ground situated and lying at Fourth and Fifth Cross Street Pettah within the Municipality and District of Colombo aforesaid formerly bearing Assessment Nos. 51 and 13A and presently bearing Assessment Nos. 72 Fourth Cross Street and 73, 75 Fifth Cross Street comprising the following lots now forming one property to wit:- All that allotment of land situated at Fourth and Fifth Cross Street aforesaid bounded on the North and South by the house of Philippu Brito on the East by the Government Ground and on the West by Fourth Cross Street containing in extent eight perches and forty two one hundredth of a perch and the annexed piece of ground situated in the First Division between the Dam and the new canal and the house and ground of D. J. Figera within the Pettah of Colombo aforesaid bounded on the North by the house of Johanies Jansz on the East by the aforesaid Dam on the South by the house of D. J. Figera

Exhibits  
P S.  
Deed No. 419  
19-10-44.  
—:ontinued

and on the West by the other portion containing in extent nine perches and one tenth of a perch Registered A106/266 in the Colombo District Land Registry Office.

9. ALL that allotment of land called and known as Ingurupatte-pallewatte within the buildings thereon bearing formerly Assessment Nos. 2421/37 (1-6) 2421a/37 recently bearing Assessment Nos. 139/20-30, 141, 143, 145, 147, 149 now bearing Assessment Nos. 181 (31-44), 183, 185, 187, 189, and 191 situated at Deans Road within the Municipality and District of Colombo aforesaid bounded on the North by the part of the property of Galamsa Bawajee on the East by the garden of Packeer Tamby Tai Marikar on the South by the garden of Goorujappa Chetty and on the West by the road leading to Cinnamon Gardens called Deans Road containing in extent thirty four perches and sixty one hundredth of a perch according to the figure of Survey dated the 1st day of December 1900. Registered A132/79 in the Colombo District Land Registry Office.

10. ALL that divided Southern portion called "Winter" (from and out of the remaining portion of and from all those two allotments of land marked Nos. 11 and 12 in the Title Plans Nos. 52044 and 51180 called Karlsruhe premises and formerly bearing Assessment No. 15, recently bearing Nos. 53, 55, 51, 55 (1-3) 55 (9-44) 57, 59 now bearing Assessment Nos. 177, 179, 181, 181(2-37) 185, 187 situated at Welikada Baseline Road within the Municipality and District of Colombo aforesaid which said divided Southern portion called "Winter" is bounded on the North by the portion of land called "Winter" is bounded on the North by the portion of land called "Autumn" on the East by North and South Baseline Road on the South by Wesleyan Church Mission property and on the West by Lot marked No. 10 in Mr. Van Rooyen's Plan containing in extent one rood and eighteen perches (A0. R1. P18.) according to the Figure of Survey thereof dated 25th June 1903 made by C. H. Frida Licensed Surveyor. Registered A134/169 in the Colombo District Land Registry Office.

11. ALL that block of land with the buildings thereon formerly bearing Assessment No. 320/11 Piachauds Lane and recently bearing Assessment No. 70 and now bearing Assessment Nos. 162 (62-69) Skinners Road South situated in Maradana within the Municipality and District of Colombo aforesaid bounded on the North by the property of Avoo Lebbe Marikar bearing Assessment No. 323/9 on the East by the property of Sesimal Lebbe bearing Assessment No. 321/11 on the South by a Common Passage and on the West by the properties of Mohamado Ibrahim Saibo and Gula Mohideen bearing Assessment No. 153/13 — skinners Road South containing in extent three seventeen one hundredth perches (A0. R0. P3, 17/100) Registered A211/31 in the Colombo District Land Registry Office.

12. ALL those blocks of land within the buildings thereon formerly bearing Assessment Nos. 321/11-2a and 2b and 322/11 (3) and recently bearing Assessment Nos. 87 (50-52) 89, 91, 93 and now bearing Assessment Nos. 177 (55 to 57) 179 181, 183 situate in Piachauds Lane in Maradana within the Municipality and District of Colombo aforesaid described as follows:-

Exhibits  
P S.  
Deed No. 419  
19-10-44  
—continued.

(a) A block of land with the buildings thereon bearing Assessment No. 321/112 2a and 2b situate in Piachauds Lane in Maradana Ward within the Municipality of Colombo aforesaid bounded as follows:- on the North by property of A. Avoo Lebbe Marikar bearing Assessment No. 323/9 (1-2) and 333/9 on the East by property of Sesma Lebbe bearing Assessment No. 322/113 on the South by a passage and on the West by property of U. M. R. Nagappa Chetty bearing Assessment No. 320/11 containing in extent six perches and seventy nine one hundredth of a perch (A0. R0. P6, 79/100) according to Plan No. 1559 dated 16th April 1919 made by Municipal Surveyor T. E. De S. Wijeratne.

(b) A block of land with the buildings thereon bearing Assessment No. 322/11 (3) situate in Piachauds Lane in Maradana Ward aforesaid bounded as follows:- on the North by the property of A. Avoo Lebbe Marikar bearing Assessment No. 323/9 (1-2) on the East by Piachauds Lane on the South by a passage and on the West by the property of Sesma Lebbe bearing Assessment No. 321/11 (2, 2a and 2b) containing in extent four perches and eighty six one hundredth of a perch (A0. R0. P4, 86/100) according to Plan No. 1558 of 16th April 1919 made by the said Municipal Surveyor T. E. De S. Wijeratne Registered A125/35 in the Colombo District Land Registry Office.

13. (a) ALL those several contiguous allotments of land now forming one property with all the buildings thereon formerly bearing Assessment Nos. 153 to 157/10, 11a, 13 and 13a situate at Panchikawatte in Skinners Road South and recently bearing Assessment Nos. 87 (1-49) presently bearing Assessment Nos. 177 (1-53) Piachauds Lane in Maradana within the Municipality and District of Colombo aforesaid bounded on the North by the property of I. L. M. Meira Lebbe Marikar and part of premises of No. 13 on the East by a part of the premises bearing Assessment No. 13 and a road called Panchikawatte Lane on the South by the property formerly of Juanis Appu and Amala Lebbe now belonging to Mei Natvhia Ramen Chetty and Cader Tamby Mamala Marikar and on the West by the property of Dassanaikie Mudaliyar containing in extent one rood twenty two perches and two one hundredth of a perch according to the figure of survey thereof bearing date the eighteenth day of July 1907 made by C. A. O. Buyzer Surveyor and in extent one rood and twenty Perches and eight one hundredth of a perch according to Plan No. 4296 of the twenty seventh day of February 1920 made by G. P. Weeraratne Surveyor Registered A 138/92 in the Colombo District Land Registry Office.

Exhibits  
F 8.  
Deed No. 419  
19-10-44.  
— *continued.*

(b) ALL those several contiguous allotments of land forming one property marked A, B and C in the Plan thereof with all the buildings thereon formerly bearing Assessment No. 134/15B recently bearing Assessment No. 87 (1-49) now bearing Assessment Nos. 177 (1-53) situated at Piachauds Lane First Division Maradana within the Municipality and District of Colombo aforesaid bounded on the North by the property of Uduma Lebbe Marikar Slema Lebbe Marikar on the East by a Lane and the portion marked D allotted to Sheriffa Umma on the South by the property by Mamala Marikar Rysa Natchia and on the West by the property of Uduma Lebbe Marikar containing in extent seventeen perches and eleven one hundredth of a perch according to the figure of survey thereof No. 4297 dated the twenty seventh day of February 1920 made by the said G. P. Weeraratne Surveyor Registered A138/103 in the Colombo District Land Registry Office.

14. ALL that portion of an allotment of land with the buildings standing thereon formerly bearing Assessment Nos. 49 recently bearing Assessment No. 43(1-7) to 63, 16 (1-13) 18, 34 and presently bearing Assessment Nos. 103 (1-7), 105 to 119, 123, 125 (1-8) 127 Panchikawatte and 128 (1-16) 130, 134, 138, 140, 144, 146, 148, 150, 152 Piachauds Lane situated at Panchikawatte Road and Piachaud's Lane within the Municipality and District of Colombo aforesaid bounded on the North by the premises bearing Assessment Nos. 57 and 58 belonging to Hadji Marikar Lebbe and Nos. 56 belonging to Mohamad Haniffa and Saibo Dore East by land acquired by Government for the widening of Panchikawatte Road and now forming part of the said road South by the other part of the premises bearing Assessment No. 49 and on the West by Piachauds Lane containing in extent twenty nine perches and ninety one hundredth of a perch (A0. R0 P29. 90/100) according to Plan No. 668 dated the 30th day of June 1909 made by H. G. Dias Surveyor and twenty nine square perches and fifty one hundredths of a square perch (A0. R0. P29 50/100) and marked A according to Plan No. 2375 dated 13th January 1920 made by the said H. G. Dias Surveyor which said premises presently form part of premises formerly bearing Assessment Nos. 396/49, 397/49A, 398/49, 399/49, 401/49 and 402 or 49 Piachauds Lane Registered A 133/243 in the Colombo District Land Registry Office.

15. ALL that allotment of land formerly bearing Assessment Nos. 15, 6, 12, 16-24 to 70 with the buildings standing thereon now bearing Assessment Nos. 57 (16-70) situated at Jampettah Street within the Municipality and District of Colombo aforesaid bounded on the North East by the property of the Hindu Temple formerly belonging to Bernandus de Silva Mudaliyar on the South East by the property of Mr. Aserappa formerly belonging to Mella Mudliyar on the South West by Jampettah Street formerly called road to Lascoreen village and on the North West by lot No. 2 allotted to John Francis Perera containing in extent two roods and twenty one perchs (A0. R2. P21) according to

the survey and description thereof dated the 10th day March 1904 made by George C. de Saram Licensed Surveyor Registered A 80/314 in the Colombo District Land Registry Office.

Exhibits  
P 8.  
Deed No 419  
19-10-44.  
—continued.

16. ALL those contiguous allotments of land formerly bearing Assessment Nos. 38-41 Layards Broadway and recently bearing Assessment Nos. 195/217 Layards Broadway 16, 16(1-7) Prakrama Road and 183-187 Prince of Wales' Avenue now bearing Assessment Nos. 199 (2-5) 195-197 Layards Broadway 16, 16(1-7) Prakrama Road 183 to 187 Prince of Wales' Avenue 201, 203, 203 (1-29), 207, 213, 213 (1-22), 217, Layards Broadway situated as aforesaid within the Municipality and District of Colombo aforesaid and comprising the following allotments of land to wit:-

(a) ALL that allotment of land marked Lots A and B in the Plan thereof No. 1649 of the 22nd day of February 1920 made by J. H. W. Smith Surveyor with all the buildings thereon bearing Assessment Nos. 39, 39A and 39B situated at Layards Broadway within the Municipality of Colombo aforesaid bounded on the North East by the property bearing Assessment Nos. 40, 40A, 40B, 40C, 41, and 41A (herein after described) on the South East by Layards Broadway on the South West by the grassfield and the house and ground of Levena Candu Marikar now of L. C. Marikar and his wife and on the North West by the grassfield of O. L. Marikar containing in extent (exclusive of the Mansergh Avenue and the reservation thereof) one rood and thirty three perches according to the said Plan No. 1649 of the 22nd day of February 1920 Registered A137/180 in the Colombo District Land Registry Office.

(b) ALL that part of the garden and field excluding certain portions acquired by Government for opening the new road called Mansergh Avenue consisting of the portions marked letters C and D in the Plan thereof No. 1648 of the twenty second day of February 1920 made by the said J. H. W. Smith together with all the buildings thereon bearing Assessment Nos. 40, 40A, 40B, 40C, 41, and 41A situated at Layards Broadway aforesaid bounded on the North East by the grassfield and ground formerly of S. L. O. Lebbe now of S. L. M. Mohamadu Hadjiar and wife on the South East by Layards Broadway on the South West by the land and buildings Nos. 39, 39A, and 39B (above described) and on the North West by the grassfield of Oduma Lebbe Marikar containing in extent one rood and thirty six and half perches (A0. R1. P36½) according to the said Figure of Survey No. 1648 of the 22nd day of February 1920 Registered A128/76 in the Colombo District Land Registry Office.

(c) ALL that allotment of land with the buildings thereon bearing Assessment No. 343/38 situated at Layards Broadway in the Kotehana Ward within the Municipality and the District of Colombo Western Province bounded on the North East by the land of Meera



Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

Lebbe Marikar Wappu Lebbe Marikar deceased and his brother Meera Lebbe Marikar Ahamado Mohideen now the property of N. Pitchy and on the South by the road known as Layards Broadway on the South West by the property of E. Mohamado Mohideen and the grass field of E. Mohamado Mohideen and on the North West by the grass field of Mohammoonia Pulle Marikar Uduma Lebbe Marikar now said to belong to Edoris Baas containing in extent exclusive of the road and reservation known as Mansergh Avenue passing through the land one rood two and twenty three one hundredth perches (A0. R1. P2 23/100) according to the Survey No. 3025 dated the 13th day of September 1917 made by C. Henry J. Leembruggen Licensed Surveyor, Registered A168/142 in the Colombo District Land Registry Office.

17. ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 3/744 and recently bearing Assessment Nos. 3 (1-20) now bearing Assessment Nos. 30, 32, 34, 34 (1/1-1/7) and (2-14) 36, 38, and 40 situated at Kuruwe Street within the Municipality of Colombo aforesaid bounded on the North by the limit of the land said to belong to Natchia Umma and Sinne Lebbe Packeer on the East by the wall of the property of J. L. Perera and others and Kader Saibo on the South by the wall of the property of Johara Umma and on the West by Kuruwe Street containing in extent thirty one square perches according to Plan dated the 21st day of October 1901 made by Francis M. Perera Surveyor Registered A135/169 in the Colombo District Land Registry Office.

18. ALL those the lands fields and buildings formerly bearing Assessment Nos. 183/958, 959, and 960 recently bearing Assessment Nos. 183 (1-25) 183 now bearing Assessment Nos. 186, 188, 190, 192, 192 (1-151) situated at Grandpass Road within the Municipality of Colombo aforesaid and are in the Figure Survey thereof dated 23rd January 1888 made by Fred Bartholomeusz Surveyor described as being bounded on the North West by the High Road now called Grandpass Road on the North East by the garden and field formerly belonging to Manuel Perera and now of Leechman and Company bearing Assessment No. 182 separated therefrom by a wall on the South East by the field formerly belonging to Migel D. Rosayroo now of Leechman and Company and on the South West by the garden formerly of the widow of Assena Lebbe and now belonging to the Estate of Sagoe Meera Lebbe Marikar deceased bearing Assessment No. 184 separated therefrom by a wall one thousand links in length from the High Road on the North West and continued by Live Fence one hundred and fifty links in length to the South Western Boundaries containing in extent two Acres six perches and fourteen hundredth of a perch Registered A126/335 in the Colombo District Land Registry Office.

19. ALL that property and premises formerly bearing Assessment Nos. 185/6 recently bearing Nos. 185 (35-42) 185(1-6) now bearing

Assessment Nos. 176, 178, 180, 180(29-34) 180 (37-134) 180/135 situated at Grandpass Road within the Municipality of Colombo aforesaid and bounded on the North by the Grandpass Road formerly called Pass Nakelgam on the East by premises bearing Assessment No. 184 of M. L. M. Mohamado Ismail on the South by fields belonging to Messrs. Leechman and Company and Framjee Bhikajee and on the West by the property bearing Assessment No. 187 now of Abdul Aziz and Abdul Cader formerly of Ommal Kaeltal Napha and containing in extent one acre two roods and twenty three perches and three one hundredth of a perch (A1. R2. P23 3/100) according to Plan No. 3963 dated 19th May 1917 made by G. P. Weeraratne Licensed Surveyor Registered A126/46 in the Colombo District Land Registry Office.

Exhibits  
P8.  
Deed No. 419  
19-10-44.  
—continued.

20. ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 952/187 recently bearing Nos. 187 (1-10) now bearing Assessment Nos. 172, 174, 175 (1-8) situate at St. Joseph's Street Grandpass within the Municipality of Colombo aforesaid bounded on the North East by the passage leading to J. Kotalawala's property, on the South East by the property of Babu now said to belong to John Kotalawala bearing Assessment No. 186 on the South West by the property of S. L. Abdul Azees and his wife Aiysa Umma bearing Assessment No. 188 and on the North West by Grandpass Road containing in extent twelve perches and sixty three one hundredth of a perch according to the Plan thereof No. 1231 dated the 15th day of May 1906 made by Francis M. Perera Surveyor Registered A 124/13 in the Colombo District Land Registry Office.

21. ALL that part of the garden with the buildings standing thereon formerly bearing Assessment No. 985/15-20 now bearing Assessment No. 101 situate at Fifth Cross Street in Pettah within the Municipality of Colombo aforesaid bounded on the North by the property of Mrs. Madelena Pedris formerly of Mr. Hedling bearing Assessment No. 21 on the East by Fifth Cross Street formerly by the lake on the South by the property of W. E. Bastian formerly of Mr. Freymer bearing Assessment No. 14 and on the West by the property presently belonging to N. M. Packer containing in extent six perches and sixty seven one hundredths of a perch (A0. R0. P6 67/100) as per Figure of Survey thereof dated 17th August 1918 made by C. H. Frida Licensed Surveyor Registered A 133/183 in the Colombo District Land Registry Office.

22. ALL those contiguous allotments of land formerly bearing Assessment Nos. 188, 188A, 189, 190, 191, 192 and 193 now bearing Assessment No. 140 Grandpass Road within the Municipality and District of Colombo aforesaid known as Mohamedi Oil Mills comprising the following allotments of land to wit:-

Exhibits  
P 8.  
Deed No. 419  
89-10-44.  
—continued.

(a) ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 188 recently bearing Assessment No. 188 and the field Attached thereto situated at Grandpass Road within the Municipality of Colombo aforesaid forming the Plot marked B in the Plan thereof dated the 1st July 1885 made by P. Fonseka Surveyor bounded on the North by Pass Nagalagam alias Grandpass Street and by the property of Setumma now of Pattumuttu on the East and South East by the property of Samsadeen now of Mohamed Ismail Mohamado Haniffa on the South by the field of Baker and Jacob and on the West and South West by the other half part marked Letter A belonging to Muttu Natchir alias Pattuma Natchia wife of Cassie Lebbe Marikar Tamby Rasa containing in extent one rood and thirty six and a quarter square perches according to the said Plan dated 1st July 1885 Registered A126/57 in the Colombo District Land Registry Office.

(b) ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 188A recently bearing Assessment No. 188A and the field attached thereto situated at Pass Nagalagam Street now called Grandpass Street or Grandpass Road within the Municipality of Colombo aforesaid and marked Letter A in the Plan thereof dated 1st July 1885 made by P. Fonseka Surveyor bounded on the North and North East by the other half part marked B belonging to Aysha Umma on the South by the fields of Baker and Jacob on the South West by the property of Amidal Lebbe Samsi Lebbe subsequently of Tai Marikar and on the North West by the part of the property belonging to Meyna Marikar Suleyma Lebbe and Pass Nakalagam alias Grandpass Street containing in extent one rood thirty six perches and a quarter of a perch according to the said Plan dated 1st July 1885. Registered A83/338 in the Colombo District Land Registry Office.

(c) ALL that allotment of land or part of a garden with the buildings thereon formerly bearing Assessment No. 189 presently bearing Assessment No. 189 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North East by property purchased by Haramanis Lodowyke on the South by the field of Joseph Jacobs on the South West by the garden of Sesman Lebbe and on the North West by Pass Nakalagam Street containing or reputed to contain in extent one square rood sixteen perches and twenty nine one hundredth of a square perch which said premises are according to the Figure of Survey thereof No. 1625 dated the 25th day of October 1914 made by H. G. Dias Licensed Surveyor bounded on the North by Grandpass Road on the East and South by premises bearing Assessment No. 188 of Tambirasah Zubaida Umma and on the West by premises bearing Assessment No. 190 of T. M. Neina Marikar and containing in extent one rood eleven perches and fifty hundredths of a perch Registered A120/37 in the Colombo District Land Registry Office.

(d) ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 190 recently bearing Assessment

No. 190 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by the Grandpass Road on the East by the house and ground of Haramanis Lodowyke on the South by the field of Joseph Canghan of Baba Aratchi and in the West by the other half part of Aysa Natchia containing in extent one square rood and twenty nine perches and fifty hundredths of a square perch Registered A11/149 in the Colombo District Land Registry Office.

Exhibits  
Pg.  
Deed No. 419  
19-10-14.  
---continued.

(e) ALL that allotment of land with all the building thereon formerly bearing Assessment No. 191 recently bearing 191 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by the High Road on the East by the property at one time of Haramanis Lodowyke subsequently the property of Kader Tamby Tai Marikar and now belonging to late Adamjee Lukmanjee bearing Assessment No. 190 on the South by field of Joseph Kangan and Joseph Aratchy and on the West by the land at one time belonging to Ibrahim Lebbe bearing Assessment No. 192 containing in extent one rood and twenty eight perches Registered A121/111 in the Colombo District Land Registry Office.

(f) ALL that piece of ground with the buildings standing thereon and the piece of low ground attached thereto formerly bearing Assessment No. 192 recently bearing Assessment No. 192 situated at Grandpass within the Municipality of Colombo aforesaid bounded on the North by the road leading to Grandpass on the East by the property of Samsie Lebbe on the South by the Government low ground and on the West by the property formerly of Gooroonanse now of the Ceylon Company Limited containing in extent the ground and buildings three perches and fifteen one hundredths of a perch (A0. R0. P3. 15/100) and the low ground thirty two and sixty one one hundredth square perches (A0. R0. P32 61/100 which said premises are according to Plan No. 1245 dated the 17th day of October 1912 made by H. G. Dias, Registered Licensed Surveyor described as follows to wit:- All that high ground and field with the buildings thereon formerly bearing Assessment No. 192 and recently No. 192 situated at Grandpass aforesaid and bounded on the North East by premises bearing Assessment No. 191 of Avo Lebbe Marikar Abdul Cader on the South East by the field said to belong to late Adamjee Lukmanjee on the South West by premises bearing Assessment No. 193 of the said late Adamjee Lukmanjee and on the North West by Grandpass Road containing in extent one rood and twenty seven perches (A0. R1. P27) Registered A109/326 in the Colombo District Land Registry Office.

(g) ALL that garden and annexed field and the houses outhouses and store rooms and all other buildings standing thereon formerly bearing Assessment No. 193 recently bearing Assessment No. 193 situated and lying at Pass Nakelgam Street at Vander Meydens Polder now called Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by Pass Nakelgam Street now called

Exhibits  
P8.  
Deed No. 419  
19-10-41.  
—continued.

Grandpass Road on the East by the garden of Kaentje Lebbe Kay Natchia on the South by Government field and on the West by the garden of Swaris Beker containing in extent two acres three roods twenty perches and fifteen one hundredths of a perch (A2. R3. P20. 15/100) Registered A87/65 in the Colombo District Land Registry Office.

23. ALL that allotment of land called Wattaboda Kumbura formerly bearing Assessment No. 20 subsequently No. 33 and recently bearing Assessment Nos. 33 (1) 33 (2-13) 35 and 37 now bearing Assessment Nos. 81, 83, 83(1-6) 83 (14, 15) 83(21-32) 85 and 87 Lockgate Lane and all the buildings standing thereon situated in that part of St. Sebastian called Lockgate Lane within the Municipality of Colombo aforesaid bounded on the North by the Canal on the East by the paddy field of Reverend J. H. de Saram on the South by a Lane and on the West by the part of Watteboda Kumbura belonging to Susana Dorothea de Saram containing in extent two roods and twenty seven perches according to figure of survey thereof dated the 28th April 1842 made by P. W. D. Street Surveyor and according to a reason Plan No. 4745 dated 10th February 1924 made by G. P. Weeraratne, Licensed Surveyor is described as follows:- All that portion of an allotment of land with the buildings thereon called Watteboda Kumbura bearing present Assessment No. 33 and 37 old Assessment No. 20 situated at Lockgate Lane in San Sebastian within the Municipality of Colombo aforesaid bounded on the North by San Sebastian Canal. On the East by the field and garden bearing New Assessment No. 43 of the Late Reverend J. H. de Saram, on the South by the Lane now called Lockgate Lane and on the West by another part of the same Watteboda Kumbura of the Late Susana Dorothea de Saram containing in extent three roods three perches and threefourth of a perch (A0. R3. P3 $\frac{3}{4}$ ) Registered A134/255 in the Colombo District Land Registry Office.

24. ALL that property and premises formerly bearing Assessment No. 52 now bearing Assessment No. 172 situated at Bankshall Street in the Pettah within the Municipality of Colombo aforesaid and comprising the following allotments of land to wit:-

(a) ALL that undivided two third parts or shares of all that Bankshall and ground attached thereto situated at Sea Street now called Bankshall Street in the Pettah within the Municipality of Colombo aforesaid and bearing Assessment No. 52 bounded on the North by Sea Street on the East by Bankshall of Wappoo Marikar on the South by the house of Mr. de Hann and on the West by the Bankshall of Walikoe Saibo containing in extent seven square perches and thirty eight one hundredths of a square perch according to the figure of Survey thereof dated the 7th day of June 1824 Registered A107/330 in the Colombo District Land Registry Office.

(b) ALL that Eastern portion and premises No. 51 situated at Bankshall Street Pettah within the Municipality of Colombo aforesaid (marked letter "A" in the Plan thereof No. 3679 dated 19th July 1915, made by G. P. Weeraratne Surveyor) bounded on the North East and South by the Bankshall bearing Assessment No. 52 at one time belonging to Omeroo Neyna Marikar now belonging to late Mr. Adamjee Lukmanjee and on the West by the remaining part of the said premises No. 51 marked B in the said Plan containing in extent Fifty six one hundredth of a perch. Registered A119/378 in the Colombo District Land Registry Office.

Exhibits  
P8.  
Deed No. 419  
19-10-44.  
—continued.

25. ALL that allotment of land and premises with the buildings thereon formerly bearing Assessment No. 47 now bearing Assessment No. 154 situated at Bankshall Street in the Pettah and within the Municipality of Colombo aforesaid comprising the following allotments of land to wit:—

(a) ALL that Bankshall marked No. 10 in the Plan bearing Assessment No. 47 situated at Sea Street now called Bankshall Street in the Pettah within the Municipality of Colombo aforesaid bounded on the North East by the Bankshall of Packeer Pulle on the South East and South West by the other parts and on the North West by the Sea Street now called Bankshall Street containing in extent Fifty Nine one hundredths of a perch according to the figure of Survey thereof No. 25548 dated the 7th January 1824 authenticated by G. Schneider Surveyor General and Registered A81/22 in the Colombo District Land Registry Office.

(b) ALL that portion of land marked "A" in the Plan with the buildings thereon of the premises bearing Assessment No. 45 situated at Bankshall Street in Pettah within the Municipality of Colombo aforesaid and which said portion marked "A" is bounded on the North by the property of Abubacker Lebbe Ibrahim Lebbe bearing Assessment No. 49 (but now No. 46 the property of Abubacker Lebbe Ibrahim Lebbe and No. 47 the property of Kachchi Mohamado) on the East by the property bearing Assessment No. 48 on the South by the other part of the same property belonging to the Moorish Mosque and on the West by remaining portion of the same land bearing Assessment No. 45 containing in extent ninety one hundredth (90/100P) of a perch according to the said figure of Survey thereof dated the 1st day of May 1894 made by Frederick Bartholomeusz Surveyor. Registered A82/121 in the Colombo District Land Registry Office.

26. ALL that and those the Estate plantation and premises called and known as Iranwila situated in the village Iranwila in the Yatakalam Pattu of Pitigal Korale Central in the District of Chilaw North Western Province and bounded on the North by the village limit of Ambakandavila on the East by Kadupitiya on the South by the village limit of Taduwwa and on the West by the Sea containing in

Exhibits  
P8.  
Deed No. 419  
19-10-44.  
—continued.

extent eight hundred and twenty one acres two roods and fourteen perches according to the figure of Survey thereof made by F J. N. Murray Licensed Surveyor dated the 7th day of October 1902 (excluding there from the following two lots (1) the Northern portion in extent four acres and twenty nine perches sold to Mr. E. Namasivayam and (2) all that allotment land marked A in the Plan thereof No. 1438 dated 21st November 1911 and signed by Jumeaux A. C. Corea Licensed Surveyor being in extent two roods and sixteen perches on the said Estate. Registered M77/159 in the Chilaw District Land Registry Office. WHICH said Iranwila Estate after excluding therefrom the aforesaid two lots in extent Four Acres and twenty nine perches and two roods and sixteen perches is bounded on the North by the portion of the said Estate sold to Mr. E. Namasivayam and the village limit of Ambakandawila on the East by Kadupitiya Oya on the South by the village limit of Taduwawa and on the West by the portion of the said Estate marked A in Plan No. 1438 and by the Sea containing extent eight hundred and sixteen acres two roods and thirty nine perches (A816. R2. P39.)

27. ALL that and those the Estate plantation and premises called and known as Mary Mount Estate situated in the villages Digadeniya Kandahapola Ginigathpitiya and Liniyawatte in the Udukaha Korale of Dambadeni Hat Pattu in the District of Kurunegala North Western Province bounded on the North by Crown forest lands claimed by natives and the road from Madampe to Narammala on the North East by the road from Madampe to Narammala and the land belonging to Weragala Menika on the East by the lands claimed by villagers the road from Madampe to Narammala and Kotatuwewahena belonging to D. J. Subasinghe Appuhamy on the South by the property of Rengaswamy a road leading from Digandeniya to Madampe Narammala Road lands claimed by Mohamadco Tambi Crown Forest Ela lands claimed by Nonhami and another paddy field claimed by villagers and land claimed by villagers and on the West by the Crown Forest and containing in extent two hundred and eighty seven acres two roods and twenty five perches (A287. R2. P25.) Registered F176/93 in the Kurunegala District Land Registry Office.

28. ALL that and those the Estate plantation and premises called and known as St. John's Estate situated at Mangalaweli in Puttalam Pattuwa in the District of Puttalam North - Western Province being the lot marked "A" in the Plan No. 2038 of the twenty second day of June 1916 and forming a part of the land described and comprised in the Government Title Plan No. 183346 bounded on the North by the portion of Mangalawelikadu gifted to the Roman Catholic Church and by reservation for a road on the East by land described in Title Plan No. 6803 of Don Philip Wijewardene on the South by the portion of Mangalawelikadu marked Lot "B" in the said Plan No. 2038 now the property of E. J. Samarawickreme and on the West by the

reservation along the high road to Puttalam containing in extent one hundred and seventy two acres one rood fourteen perches and two third of a perch (A172. R1. P14 2/3) Registered F 13/85 in the Puttalam District Land Registry Office.

Exhibits  
Pg.  
Deed No. 419  
19-10-44.  
---continued.

## PART II.

ALL that and those the property and premises called and known as "The Colombo Oil Mills" comprising the following premises formerly bearing Assessment Nos. 962/174-182; 964/171 (1-2) 172 (1-4) Grandpass Road and bearing Assessment Nos. 196, 196 1/1, 198, 200, 204, 206, 208, 210, 214, 220, 222, 224, 226, 228, 234, 236, 238, 240, 242, 244, 248 Grandpass Road and Nos. 1-77, 80 to 128, 2 to 78, 165, 167, 169, 171, 173 and 175 Lukmanjee Square within the Municipality and District of Colombo aforesaid to wit:-

1. ALL that garden with the buildings constructed thereon situated and lying on the high road leading to Pass Nakalagam at Vender Meydens Polder within the Gravets of Colombo Western Province bounded on the North by the said high road on the East by the house and ground of Sanda Natchia and on the South and West by the garden of Michael de Rosayro containing in extent two acres two square roods and twenty one and three fourths square perches according to the figure and survey bearing date the first day of October 1804 duly authenticated by Jonwille Esquire Surveyor General and which said premises have recently been surveyed and according to Plan No. 1696 dated the sixteenth April 1915 made by H. G. Dias Licensed Surveyor and Leveler are described as follows:— All that land with the buildings standing thereon bearing Assessment Nos. 171 and 172 situated at Grandpass within the Municipality and District of Colombo Western Province bounded on the North by the Grandpass Road East by premises bearing Assessment No. 170 of M. L. M. Zainudeen Hadjar South by premises belonging to Messrs Framjee Bhikhajee and Company and West by premises bearing Assessment Nos. 174 to 177 belonging to Messrs Framjee Bhikhajee and Company and premises bearing Assessment No. 173 belonging to Mohamed Ali J. P. and containing in extent two acres two roods and twenty nine perches (A2. R2. P29) Registered A197/245 in the Colombo District Land Registry Office.

2. ALL that part of a garden with the annexed piece of field and all the buildings standing thereon situated at Vender Meydens Polder within the Gravets of Colombo now within the Municipality and District of Colombo Western Province and bounded or reputed to be bounded on the North by the high road on the East by a small road on the South by the canal and on the West by the other part of the property of Jacobus Fleun containing or reputed to contain in extent three roods and nineteen four tenth square perches according to the



Exhibits  
P8.  
Deed No. 419  
19-10-44.  
—continued.

Figure of Survey thereof No. 27327 dated the 12th March 1825 authenticated by G. Schneider Land Surveyor General Registered A 197/246 in the Colombo District Land Registry Office.

3. ALL that part of the garden and the part of the annexed or adjoining field belonging and appertaining thereto situated and lying at Pass Nakalagam Street aforesaid bounded on the North by the high road on the East by the other part of the same garden and field the property of Patooma Natchia widow of Omoor Lebbe Marikar Idroos Lebbe Marikar on the South by the Canal and on the West by the other part of the same garden and the gardens of Haragam Patabendige Adrian Perera containing in extent four acres two roods and thirty five sixty nine one hundredth square perches (A4. R2. P35. 69/100) Registered A 197. 247 in the Colombo District Land Registry Office.

4. ALL that paddy field called Catumulla Cumbura situated and lying at Grandpass in Vender Meydens Polder aforesaid bounded on the North East and East by the field of Assena Marikar on the South by the field of Padarera Mashy and on the West and North West by the canal containing in extent four acres one rood and twenty three seventy three hundredth square perches (A4. R1. P23 73/100) according to the survey and description thereof dated the ninth day of July 1818 authenticated by Captain G. Schneider Land Surveyor General Registered A 197/248 in the Colombo District Land Registry Office.

5. ALL that portion of a field situated at Grandpass aforesaid and bounded or reputed to be bounded on the North by the paddy field of Saibo and others on the East by the paddy field of Sadrus Mendis Mohandiram on the South by the canal and on the West by the field of Mr. Worms containing or reputed to contain in extent three acres two roods and thirty four perches (A3. R2. P34) more or less Registered A 197/249 in the Colombo District Land Registry Office.

6. (a) ALL that part of a garden called Elephants garden with the buildings thereon situated and lying at Vender Meydens Polder aforesaid bounded on the North East by the other part of this garden of Sooriaaratchige Thomis de Silva South East by the Canal sixty five feet wide South West by the other part of this garden of Mr. Jacobus Floen and on the North West by the Pass Nakalagam high Road leading from Colombo to Kandy forty nine feet wide including side drains containing in extent three roods and fourteen one hundredth square perches (A0. R3. P14. 14/100) according to the Figure of Survey dated the twenty ninth March 1847 made by G. H. Schwallie Land Surveyor. Registered A 197/250 in the Colombo District Land Registry Office.

(b) ALL that part of the garden with the buildings standing thereon and the adjoining piece of Owita Ground and field situated to Pass Nakalagam Street aforesaid now forming one property bounded on the North by the high road on the East by the property of Ariagam-patabendige Adrian Perera Cangany on the South by the lake and on West by the property of Mamenah Lebbe the said garden and buildings containing in extent three square roods and eight fifty eight one hundredth square perches according to the survey and description thereof No. 2214 dated the twenty ninth day of July 1823 and authenticated by Captain G. Schneider Land Surveyor General and the said piece of Owita Ground and field containing in extent twenty two eighty nine one hundredth square perches according to the survey and description thereof dated June 1868 made by Thalys Surveyor. Registered A 197/251 in the Colombo District Land Registry Office.

Exhibits  
P8.  
Deed No. 419  
19-10-44.  
—continued.

7. A part of the garden called Elephants garden and field situated at Vander Meydens Polder aforesaid bounded or reputed to be bounded on the North East by the other part of the same garden and field on the South East by the Canal of Colombo on the South West by a road and on the North West by the Grandpass Road containing or reputed to contain in extent one acre two roods and twelve perches (A1. R2. P12) more or less according to the survey thereof dated the 13th March 1860 made by Mr. P. Vanderstraaten Surveyor.

8. ALL that part of the garden called Elephants garden and field situated at Grandpass aforesaid bounded or reputed to be bounded on the North East by the property of Mr. Steerman and Bastian Aratchy garden and field of Casier Lebbe Marikar on the South East by the Canal North West by the Grandpass Road containing or reputed to contain in extent one acre two roods and four perches (A1. R2. P4) according to the figure and survey dated the 13th March 1860 made by the said P. Vanderstraaten which said premises Nos. 7 and 8 are registered under A 197/252 in the Colombo District Land Registry Office.

9. ALL that part of a garden called Elephants garden with the annexed piece of low ground and the buildings standing thereon situate at Pass Nakalagam Street aforesaid and bounded or reputed to be bounded on the North East by the other part of the property of Jacobus Bocks on the South East by the Canal on the South West by the other part of Francina Floom and on the North West by the Pass Nakalagam Street and containing or reputed to contain in extent three square roods and eight and half perches according to the figure of survey thereof dated the 17th April 1830 authenticated by G. Schneider, Land Surveyor General Registered A 197/253 in the Colombo District Land Registry Office. Excluding however from the above allotments of land the land recently acquired by Government along the Banks of the Sam Sebastian Canal bearing Lot No. 62 in extent seven and seventy five hundredths

Exhibits  
P8,  
Deed No. 419  
19-10-44.  
—continued.

perches (A0. R0. P7. 75/100) Lot 63 in extent ten and eighty five hundredths perches (A0. R0. P10. 85/100) Lot 64 in extent one and twenty five hundredths perches (A0. R0. P1. 25/100) Lot 65 in extent forty seven hundredths of a perch (A0. R0. P47/100) Lot 66 in extent thirty five and twenty nine hundredths perches (A0. R0. P35. 29/100) Lot 68 in extent two roods and twenty nine seventeen hundredths perches (A0. R2. P29. 17/100) and Lot 69 in extent thirty two twenty two hundredths perches (A0. R0. P32 22/100) amounting in the aggregate to one acre one rood and four seventy five hundredths perches (A1. R1. P4. 75/100) according to the acquisition Plan copied from P. P. 18758 W. P. and tenement list and surveyed in 1925 by Mr. H. D Smith for the Surveyor General.

### PART III.

ALL those allotments of land formerly bearing Assessment Nos. 184 and 956/184 and 957/184 now bearing Assessment Nos. 182, 184, 180 (1-7) and 180 (8-20) situated at Grandpass Road within the Municipality and District of Colombo aforesaid comprising the following allotments of Land to wit:-

1. ALL that and those the remaining portion of the allotments of land (comprising Lots marked letters "A" and "B" in Plan No. 440 dated 10th April 1917 made by S. S. Ratnam Licensed Surveyor) together with buildings thereon bearing Assessment Nos. 956/184 and 957/184 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by Messenger Street now called Grandpass Road on the East by the garden and field of Nicholas Dias Appuhamy now the premises bearing Assessment No. 183 belonging to Adamjee Lukmanjee on the South by the remaining portion of this land now belonging to the said Adamjee Lukmanjee marked letter "C" and on the West by a passage being part of the premises bearing Assessment No. 186 of the said Adamjee Lukmanjee containing in extent thirty four perches and seventy two hundredth of a perch (A0. R0. P34. 72/100) according to Plan No. 407 dated the 7th day of December 1922 made by A. C. Schokman Licensed Surveyor Registered A 157/271 in the Colombo District Land Registry Office.

2. ALL that divided portion of land with the buildings thereon formerly bearing Assessment No. 184 (5) and recently bearing Assessment No. 184 situated at Grandpass Road within the Municipality of Colombo aforesaid bounded on the North by portions or lots marked A and B in the Plan No. 440 of 13th April 1917 made by S. S. Ratnam Licensed Surveyor on the East by the premises bearing Assessment No. 183 formerly belonging to the Estate of the late Samuel Perera Jayatilleke now belonging to the late Mr. Adamjee Lukmanjee on the South by the grass field belonging to Framjee Bhikajee and Company and the West by the premises bearing Assessment No. 186 formerly of Samsie Lebbe Aboo Salih now belonging to the said late Adamjee

Lukmanjee containing in extent three roods and fifteen perches and seventy two one hundredths of a perch according to the said Plan No. 440 of 13th April 1917. Registered A128/183 in the Colombo District Land Registry Office.

Exhibits  
P8.  
Deed No+19.  
19-10-44.  
—continued.

#### PART IV.

ALL those two allotments of land called Diewewatte now forming one property with the buildings and tenements standing thereon formerly bearing Assessment Nos. 33G (91-45) 33 and 35 presently bearing Assessment Nos. 67 (1-57) 71, 71(1) and 73 situate at Forbes Lane in Maradana within the Municipality and District of Colombo aforesaid and bounded on the North by the other part of Lot No. 2 (now belonging to Estate of the late Curuway Mudaliyar) on the East by a field now belonging to the Estate of the late Haramanis Dep) on the South by the property of Kostan Silva (now of Sinnatchy wife of Tamby Rasa) and on the West by a passage twenty three links wide containing in extent one rood and thirty four and three tenth square perches (A0. R1. P34 3/10) as per Figure of Survey dated 20th November 1881 and made by P Fonseka, Land Surveyor, and which said premises have recently been surveyed and are now described as all those premises formerly bearing Assessment Nos. 33G (1-45) 33 and 35 now bearing Assessment Nos. 67 (1-57) 71, 71(1) and 73 situated along Forbes Lane in Maradana within the Municipality and District of Colombo aforesaid and bounded as follows; on the North by a portion of the same land now Estate of the late Curuway Mudaliyarm East by the field of the late Haramanis Dep's Estate South by the land (formerly of Sinnatchy wife of Tamby Rasa) now of the Hon'ble Mr. H. A. Loos and on the West by Forbes Lane formerly a passage containing in extent one rood and thirty four and thirty one hundredths perches (A0. R1. P34. 30/100) according to Plan No. 198/1925 dated 23rd September 1925 made by C. H. Frida Licensed Surveyor. Registered A170/42 in the Colombo District Land Registry Office.

#### PART V.

ALL those allotments of land formerly bearing Assessment Nos. 21, 21A, 20 now bearing Assessment Nos. 129, 133, 137, 141, 143/1-38 situated at Piachauds Lane in Panchikawatte in Maradana within the Municipality and District of Colombo aforesaid comprising the following allotments of land to wit:-

(1) ALL those two contiguous allotments of land with the buildings thereon bearing Assessment Nos. 20 and 21A situated at Piachauds Lane in Panchikawatte in Maradana Ward within the Municipality and District of Colombo aforesaid bounded on the North by a Lane leading from Piachauds Lane and premises thereon Assessment No. 19 belonging to Meera Lebbe Marikar Ieen Umma on the

Exhibits East by Piachauds Lane on the South by a Lane leading from Piachauds  
 Ps. Lane and premises bearing Assessment No. 22 belonging to Katu Bawa  
 Deed No. 419 Amala Marikar Assessment No. 21 belonging to Asia Umma and Assess-  
 19-10-44. ment No. 23A belonging to Aboo Bucker and on the West by premises  
 —continued. bearing Assessment No. 27 belonging to Samsudeen Hadjiar containi  
 in extent two roods and one and fifty six one hundredths square perches  
 (A0. R2. P1. 56/100) according to the survey and description thereof  
 No. 736 dated 12th July 1916 and made by A. R. Savundranayagam  
 Special Licensed Surveyor and Leveller comprising:-

(a) ALL that defined two third part of a garden with the buildings standing thereon bearing Assessment No. 20 situated at Piachauds Lane in Panchikawatte within the Municipality and District of Colombo aforesaid bounded on the North by the other defined one third part of the same garden formerly belonging to Sinne Atchy now Idroos Lebbe Marikar Abdul Cader on the East by Piachauds Lane on the South by the property of Catto Baea Omer Lebbe Marikar and on the West by the property of Madar Lebbe Samsudeen containing in extent one rood and thirty five and ten one hundredth square perch (A0. R1. P33. 10/100) according to the Figure of Survey thereof dated the 3rd day of July 1894 made by Frederick Bartholomeusz, Land Surveyor and

(b) ALL that allotment of land marked "A" situated at Piachauds Lane aforesaid bearing Assessment No. 21 bounded on the North by the property of Abubaker on the East by the property of Deen Hadjiar on the South by the property of A. L. M. Meera and on the West by the property of Rusai Umma containing in extent nine decimal five nought perches (A0. R0. P950) according to the Figure of Survey thereof dated the 5th day of August 1907 made by C. E. Driberg Licensed Surveyor. Registered A141/146 in the Colombo District Land Registry Office.

(2) ALL that part of a garden from and out of a one third part of a garden called Tappewatte with the buildings thereon bearing Assessment No. 21 situated at Piachauds Lane aforesaid bounded on the North by the property of A. L. M. Meera Lebbe Marikar bearing Assessment No. 20 East by the property of Ahamadu Lebbe Marikar bearing Assessment No. 22 South by the properties of P T. Samsi Lebbe Marikar and Nina Marikar Nos. 23 and 23A and West by the property of A. L. M. Meera Lebbe Marikar bearing Assessment No. 21A containing in extent nine perches and twelve one hundredths of a perch (A0 R0. P9. 12/100) according to Plan No. 128 dated 29th October 1909 made by J. G. Vandersmagt Surveyor. Registered A127/93 in the Colombo District Land Registry Office.

## PART VI.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

ALL that block of land with the buildings thereon formerly bearing Assessment Nos. 55, 57, 59, 59(1-3) 59 (4-10) and 59 (11-16) now bearing Assessment Nos. 121, 123, 125, 127, situated at Piachauds Lane in the Maradana Ward within the Municipality and District of Colombo aforesaid bounded on the North by a passage on the East by Piachauds Lane on the South by the property of P. T. S. L. Marikar bearing Assessment No. 283/23 and on the West by the property M. L. M. Mohideen, M. L. M. Idroos and M. L. M. Azeez bearing Assessment Nos. 288-288A/289/21-21A containing in extent seventeen and thirty one hundredths perches (A0. R0. P17. 30/100) according to Plan No. 1837 dated the 12th August 1920 made by T. E. de S. Wijeratne, Licensed and Registered surveyor. Registered A145/229 in the Colombo District Land Registry Office.

## PART VII.

ALL that allotment of land with the buildings standing thereon bearing Assessment Nos. 109, 111, 113, 115, 117, 119, and 121 along Chatham Street Nos. 72, 74, 76, 78, 80 and 82 along York Street situate in Chatham Street and York Street in Fort within the Municipality limits and District of Colombo Western Province, bounded on the North by the property belonging to the Heirs of Mr. Muttukumaraswamy bearing Assessment No. 70 on the East by York Street on the South by Chatham Street and on the West by property belonging to Sir Henry de Mel bearing Assessment No. 105 containing in extent twenty six decimal three four perches (A0. R0. P26.34) Registered A237/76 in the Colombo District Land Registry Office.

## PART VIII.

ALL those the lands buildings and premises and called and known as "Lakshimigiri" bearing Ward Nos. 1059, 1060, 1051B and 1061 E now bearing Assessment Nos. 4, 6, 8, 10, 12, 13, 14, 15, 16, 102 and 112 situate at Thurston Road within the Municipality and District of Colombo aforesaid comprising the following allotments of land which adjoin each other and form one property and which from their situation as respects each other can be included in one survey to wit:-

1. ALL that Lot No. 1 being defined portion of Bagatalle Estate at Kollupitiya within the Municipality and District of Colombo aforesaid bounded on the North by the property of A. J. R. de Soysa on the East by the Serpentine Road on the South by Lot No. 2 in Bagatalle Block Plan No. 2358 and on the West by the property of W. Allis Perera containing in extent three roods and seventeen perches (A0. R3. P17.) according to the Figure of Survey thereof No. 2393 dated 24th October 1910 made by Chas P de Silva Licensed surveyor and Leveller.

Exhibits  
P 8  
Deed No. 419  
19-10-44.  
—continued.

2. ALL that Lot No. 2 being a defined portion of the said Bagatelle Estate situated at Kollupitiya aforesaid bounded on the North by Lot No. 1 in Bagatelle Block Plan No. 2358 on the East by the Serpentine Road on the South by Lot No. 3 in Bagatelle Block Plan No. 2358 and on the West by the property of W. Allis Perera containing in extent three roods and six perches (A0. R3. P6.) according to the Figure of Survey thereof No. 2394 dated the 24th October 1910 made by the said Chas P. de Silva.

3. ALL that Lot No. 3 being a defined portion of the said Bagatelle Estate situated at Kollupitiya aforesaid bounded on the North by Lot No. 2 in Bagatelle Block Plan No. 2358 on the East by the Serpentine Road on the South by Lot No. 4 in Bagatelle Block Plan No. 2358 and on the West by the property of W. Allis Perera containing in extent two roods and twenty nine perches (A0. R2. P29) according to the Figure of Survey thereof No. 2359 dated 24th October 1910 made by the said Chas P. de Silva.

4. ALL that allotment of land marked Lot No. 11 in Bagatelle Estate Plan being a defined portion and forming a part of portion of the said Bagatelle Estate and comprised and described in Title Plan No. 39730 situated at Kollupitiya aforesaid bounded on the North by reservation for a road leading to Alfred House on the East by Thurston Road and Serpentine Road on the South by Lot marked No. 12 in Bagatelle Estate Plan and on the West by Lot marked No. 10 in Bagatelle Estate Plan containing in extent six acres three roods and fifteen perches (A6. R3. P15) according to the Plan or figure of Survey thereof No. 2464 bearing date the 10th day of January 1911 made by the said Chas P. de Silva excluding however from the said above described four allotments of land four divided portions in extent one rood and thirty eight and a half perches (A0. R1. P38½) one rood and nineteen perches (A0. R1. P19) one rood and thirty perches (A0. R1. P30) and one rood and sixteen perches (A0. R1. P16) which been sold and transferred by Deeds bearing No. 21 dated 24th August 1911 No. 27 dated 26th September 1911 and Nos. 28 and 29 both dated second October 1911 all attested by A. C. Abeywardene of Colombo, Notary Public.

5. ALL that allotment of land marked Lot No. 1 in the Figure of Survey thereof No. 2841 situate at Bambalapitiya within the Municipality and District of Colombo aforesaid bounded on the North by a reservation for a road twenty five links wide on the East by Serpentine Road on the South by a divided portion of the said Lots Nos. 11 and 12 marked No. 10 and one the West by a divided portion of the said Lots Nos. 11 and 12 marked No. 2 containing in extent one rood and thirty perches (A0. R1. P30) according to the said Figure of Survey thereof No. 2841 bearing date the twentieth day of August One thousand nine hundred and eleven made by George P. Weeraratne Licensed Surveyor and Leveller.

6. ALL that allotment of land marked Lot No. 2 in the Figure of Survey thereof No. 2842 situated at Bambalapitiya aforesaid bounded on the North by a reservation for a road twenty five links wide on the East by Lot No. 1 above described on the South by a divided portion of the said Lots Nos. 11 and 12 marked No. 10 and on the West by a divided portion of the said Lots Nos. 11 and 12 marked No.3 containing in extent one rood and sixteen perches (A0. R1. P16) according to the said Figure of Survey No. 2842 dated the twentieth day of August One thousand nine hundred and eleven made by the said George P Weeraratne which said allotments of land as above described have recently been surveyed and are according to the Plan next hereinafter referred to described as being bounded on the North by Regina Square North East by Thurston Road East and South East by Serpentine Road and Lots 10 and 9 and reservation for a road on the West by the properties of Miguel Fernando William Dias and Lot No. 10 in Bagatelle Estate Plan and on the South by the property of A. E. de Silva containing in extent eight acres and thirty eight perches. (A8. R0. P38) including two reservations for roads made through the land according to Plan No. 1382 dated the 6th July 1922 made by C. C. Wijetunge Special Licensed Surveyor. Registered A 152/41 in the Colombo District Land Registry Office.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

#### PART IX.

ALL that and those the Estate plantation and premises called and known as "Poththode" comprising the following allotments of land to wit:-

1. ALL that portion or Lot No. 5 letter "E" of the twenty lots of the Kadirana Cinnamon Plantations bearing Lots Nos. 267 to 286 inclusive and the buildings standing thereon depicted in Plan No. 609 dated 4th October 1887 made by Richard Anderson Surveyor situated at Poththode alias Kandawala in Dunagaha Pattu of Alutkuru Korale in the District of Negombo Western Province bounded on the North and North East by land of Salman Fernando now belonging to Wilfred Martin Rajapakse portions or Lots Nos. 3, 2, 1 Letters B. C. D of this land East by the road called Base Line South by the road leading from Negombo to Dunagaha and West by the garden of Haramanis and others by a road by the land called Polkapapuwatte belonging to H. K. Bastian Silva and by land belonging to Pedro Fernando and others containing in extent forty four acres three roods and twenty perches (A44. R3. P20.) Registered E213/237 in the Negombo District Land Registry Office.

2. ALL that divided one fifth (1/5) share of the garden called and known as Pottadakurunduwatte situated at Kandawala aforesaid which said divided one fifth share is bounded on the North by land of Joran Appu East by a portion of this land belonging to Tudor Rajapakse Mudaliyar South by a portion of this land belonging to the



Exhibits  
P 8.  
Deed No. 419  
19-10-44  
—continued.

Estate of Pamanis Kankanama and on the West by a portion of this land belonging to the Estate of Domingo Fernando Randarala containing in extent forty three acres two roods and twenty four perches (A43. R2. P24.) Registered E109/2 in the Negombo District Land Registry Office. Excluding however therefrom a portion in extent twenty perches sold to Mawattage Miguel Perera.

3. ALL that portion of Pottodekurunduwatta marked letter C bearing No. 2 situated at Pottide aforesaid which said portion is bounded on the North by the High Road on the East by the portion which stands for one fifth of the land marked D bearing No. 1 and allotted to Maria Mell and Santiago Fernando Randarala on the South West by the portion which stands for one fifth of the land marked E bearing No. 5 allotted to Jacob Mathes and on the West by the portion which stands for one fifth of the land marked bearing No. 3 allotted to Hugo Policarp Fernando containing in extent forty acres and three roods more or less Registered E110/347 in the Negombo District Land Registry Office.

4. ALL that portion of Pottedekurunduwatta situated at Kandawala aforesaid which said portion is bounded on the North by the high road on the East also by the High Road on the South by the land at present belonging to Mr. Charles Silva and on the West by the land belonging to Walter Benjamin de Silva Rajapakse containing in extent forty two acres more or less Registered E103/337 in the Negombo District Land Registry Office.

5. ALL that portion of Poththode Kurunduwatte marked Lot B situate at Poththode alias Kandawala aforesaid which said Lot B is bounded on the North by High Road, East by Poththode Estate of Mr. W. M. Rajapakse, South by field of Dr. C. S. Kirthisinghe and West by Lot marked A allotted to the defendant in Case No. 7401 D. C. Negombo containing in extent twenty two acres (A22. R0. P0.) according to the Figure of Survey thereof No. 491A dated 7th January 1909 made by J. J. Lorage Licensed Surveyor Registered E158/336 in the Negombo District Land Registry Office.

WHICH said several lands above described Nos. 2 to 5 inclusive now form one property and are according to Survey Plan No. 6681 dated 22nd July 1914 described as follows:—

FOUR contiguous portions of land now forming one land called and known as “Poththode Estate” situated at Kandawala aforesaid bounded on the North by the High Road leading to Giriulla, East by the Base Line Road, South by the property of Mr. Charles de Zylva and others and on the West by the properties of Widow Mrs. Juan Fernando and others containing in extent one hundred and forty eight acres two roods and thirty perches (A148. R2. P30.)

6. ALL that allotment of land marked Lot A in the Plan No.491A dated the 7th January 1909 made by J. J. Lorage Licensed Surveyor of the land called Poththode Kurunduwatte situated at Kandawala aforesaid, which said Lot A is bounded on the North by the High Road, on the East by the Lot marked B of this land apportioned to Wilfred Martin Rajapakse, Proctor, on the South by the field belonging to Dr. C. S. Kirthisinghe, garden of Martin, the field of Manuel and on the garden of Jimo Singho containing in extent twenty two acres according to the said Plan Registered E 149/227 in the Negombo District Land Registry Office.

Exhibits  
P 8.  
Deed No. 419  
19-10-44  
—continued.

WHICH said several allotments of land hereinbefore described Nos. 1 to 6 inclusive adjoin each other and form one property called and known as “Poththode Estate” and according to Survey Plan dated 16th May 1923 made by Peter de Almeida, Licensed Surveyor, described as follows:—

ALL that Estate called and known as “Poththode” situated at Kandawala aforesaid bounded on the North by Road from Negombo to Katana, East by Base Line Road, South by Road from Negombo to Deulapitiya and on the West by the property of the late Mr. H. M. de Silva and coloured yellow in the said Plan in extent nine acres and water course containing in extent Two hundred and seventeen acres and three roods (A217. R3. P0.) Registered E 286/180 in the Negombo District Land Registry Office.

#### PART X.

1. ALL that portion of the land called Gorakagahawatta (together with the buildings standing thereon) situated at Kandawala in Dunagaha Pattu of Alutkuru Korale in the District of Negombo, Western Province, which said portion is bounded on the North by the New Road, on the East by the Base Line Road, on the South by Poththode Kurunduwatta and New Road and on the West by the New Road and Poththode Kurunuduwatta containing in extent within the said boundaries fourteen and twenty nine one hundredth perches (A0. R0. P14. 29/100) Registered E90/179 in the Negombo District Land Registry Office.

2. ALL that portion of the land called Gorakagahawatta situated at Nelumpitiya in Dunagaha Pattu aforesaid bounded on the North by Nugagaha Agaraya Kumbura belonging to Mariyanu, East by Agaraya belonging to the same person South by one sixth part of the said land belonging to W. Marthinu Fernando and West by land belonging to the heirs of Christogu Fernando containing in extent one acre two roods and nine perches (A1. R2. P9.) Registered A174/219 in the Negombo District Land Registry Office.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

3. (a) ALL that portion of the land called Ambagahawatta situated at Nelumpitiya or Thimbirigaskaduwa in Dunagaha Pattuwa aforesaid bounded on the North by one fifth part of the said land belonging to Weerasirihewage Marianu Fernando and live fence separating a portion of the said land belonging to the Heirs of Anna Maria Fernando East by the live fence separating a portion of the said land belonging to the Heirs of Anna Maria Fernando, South by hedge and ditch separating the land belonging to Kotalawelage Marthinu Fernando containing in extent about three roods and sixteen perches (A0. R3. P16.)

(b) A divided four tenth parts of Ambagawatte situate at Nelumpitiya aforesaid bounded on the North by the divided six tenth parts of the said land belonging to Kotalawelage Marthinu Fernando East by the land belonging to the heirs of Saviri Fernando South by the ditch separating the field belonging to Pamanis de Silva Kankanam Mahathmaya and West by Kurunduwatta belonging to Bastian Fernando and all others containing in extent one rood and thirty perches (A0. R1. P32.) Registered E95/277 and 232/117 in the Negombo District Land Registry Office.

4. ALL those four contiguous allotments of land called Ambagawatte Lot A Ambagawatte Lot B. Gorakagawatta and Rilapaluwa situate at Nelumpitiya aforesaid which said four allotments of land forming one property are described as being bounded on the North East by land belonging to Mr. Silva and Wilfred Martin Rajapakse, East by lands belonging to the said Wilfred Martin Rajapakse, South by land belonging to Mr. Wilfred Martin Rajapakse and West by land belonging to W Marthinu Fernando, land belonging to Weerasirihewage Leoni Fernando and others, land belonging to S. Punchi Nona and land belonging to W. Costan Fernando containing in extent four acres three roods and twelve perches (A4. R3. P12.) Registered E255/27 in the Negombo District Land Registry Office.

5. ALL that land called Ambagahawatta situate at Nelumpitiya aforesaid bounded on the North by portion of the same land belonging to Weerasirihewage Marthinu Fernando formerly the live fence of the portion of the said land belonging to the heirs of S. Fernando and others East by the ditch separating the land formerly belonging to heirs of S. Fernando and others and now belonging to Thenege Saviel Fernando, South by a portion of the same land formerly belonging to K. H. F. Fernando, B. Fernando and J. Fernando and now belonging to Mr. W. M. Rajapakse and West by land formerly belonging to the heirs of B. Fernando and others and now belonging to Siyaguna Kosgodage Mariyanu Fernando and others containing in extent two roods and twenty eight perches (A0. R2. P28) more or less Registered E253/5 in Negombo District Land Registry Office.

6. ALL that portion of Ambagahawatta situated at Nelumpitiya aforesaid which said portion is bounded on the North by another portion of the said land belonging to siyaguna Kosgoadahe Charles Fernando, East by the Estate of the said Wilfred Martin Rajapakse, South and West by land belonging to the heirs of Arumapurage Chrisogu Fernando containing in extent about three roods (A0. R3. P0.) Registered E 252/243 in the Negombo District Land Registry Office.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

7. ALL that land called Ambagahawatta situated at Nelumpitiya aforesaid bounded on the North by the portion of the same land belonging to Weerasirihewage Ccstaminu Fernando, East by the portion of the same land formerly belonging to Kaltotage Ana Maria Fernando and another and now belonging to Mariana Kankanama and Poththode Estate South by the portion of the same land adjoining the Poththode Estate belonging to Mr. W. M. Rajapakse and West by land claimed by the heirs of Siyaguna Kosgodage Silvestry Fernando containing in extent one rood and thirty five perch (A0. R1. P35) according to Plan No. 7299 dated 20th September 1923 made by Peter de Almeida, Surveyor, Registered E 221/717 in the Negombo District Land Registry Office.

The above lands adjoin each other and form one property and can be included in one survey Registered under E 301/284 in the Colombo District Land Registry Office.

## PART XI.

1. ALL those two allotments of high and low ground in one annexed property called Dewatagahawatta bearing Assessment No. 1 situate and lying at New Bazaar Hultsdorp within the Municipality Limits of Colombo Western Province bounded on the North by the property of Mr. R. L. Peiris Gunatilleke on the East by the Skinners Road South on the South by Prince Gate 36 feet wide and on the West by the property of Mr. F. Perera Weerasekera containing in extent one acre (A1. R0. P0.) according to the Figure of Survey dated April 10th 1882 made by A. L. Vandheer, Land Surveyor.

2. ALL that and those the land houses buildings and premises situated at New Bazaar now known as Vincent Street within the Municipality of Colombo bearing Assessment No. 1A and comprising of the following allotments of land which adjoin each other and from their situation as respects each other can be included in one survey:-

(1) ALL that defined allotment of land from the premises known as Dawatagahakumbura situate at New Bazaar aforesaid which said defined allotment is bounded on the North and West by the low ground of Mr. Robert Louis Peiris Gunatilleke on the East by the low

Exhibits  
P 8.  
Deed No. 419  
19-10-44  
—continued.

ground of O. L. Usuff and on the South by the low ground of Dandeni Aratchige Don Aron Perera containing in extent twenty perches (A0. R0. P20) as per Survey Plan dated December 18, 1894 made by D. Dewapuraratna, Licensed Surveyor.

(2) ALL that defined allotment of land from the said premises known as Dewatagahakumbura situate at New Bazaar aforesaid which said defined allotment is bounded on the North and West by the low ground of R. L. Peiris on the East by the low ground of O. L. Usuff and on the South by the low ground of Dandeni Aratchige Don Aron Perera containing in extent twenty perch (A0. R0. P20) as per Survey Plan dated December 5, 1895 made by D. Dewapuraratne, Licensed Surveyor and which said allotments of land as above described have recently been surveyed and are according to Plan No. 2291 dated the 24th day of October 1923 made by J. H. W. Smith, Licensed Surveyor, described as follows:- All those three contiguous allotments of land called Dewatagahawatta and Dewatagahakumbura :Being the lands referred to in Deed No. 3384 dated 7th September 1894 and attested by William Perera Ranasinghe Notary Public, Deed No. 3614 dated 22nd December 1894 and attested by Mr. P. Martinus Perera Samarasinghe, Notary Public, and Deed No. 3795 dated 12th December 1895 also attested by Mr. P. Martinus Perera Samarasinghe, Notary Public, and described in the Surveys dated 10th April 1882 by Mr. A. L. Vandheer, Surveyor, and 18th December 1894 and 5th December 1895 by Mr. D. Dewapuraratne, Surveyor which said several allotments of land are now amalgamated and form one property with the buildings thereon formerly bearing municipal Nos. 317/1A, 318/1A, 318A/1A, 319/1A, 320/1A 321/1A, 322/1A, and 323/1A now bearing Assessment Nos. 41, 43, (123) 45, 49, 51 (1-11) (2-26) 53 to 73, 81 to 115, 121 and 123 situate at Princes Gate Hulstdorp within the New Bazaar Ward of the Municipality of Colombo aforesaid and bounded on the North by the property of Mr. Robert Louis Peiris Gunatilleke on the East and South by the Princes Gate and on the West by the property of F. Perera Weerasekera containing in extent one acre one rood and one perch (A1. R1. P1) according to the said Plan Registered A159/233 in the Colombo District Land Registry Office.

## PART XII.

ALL that allotment of land called Wakkumburawatta with buildings thereon called and known as "Church View" bearing Assessment Nos. 41 and 43 situated at Bandarawela in Udakinda Mahapalata in the District of Badulla Uva Province of the Island of Ceylon bounded on the North and East by a wire fence and on the South and West by a wire fence and a road containing in extent three roods and thirty three perches (A0. R3. P33.) according to Plan No. 1413 dated the 18th day of October 1917 made by E. F. Ebert, Licensed Surveyor Registered C 91/59 in the Badulla District Land Registry Office.

## PART XIII.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

ALL that and those the Estate plantation and premises called and known as “Arapolakanda” comprising the following allotments of land which adjoin each other and now form one property to wit:—

1. An allotment of land called Neboda Kande situated in the Village Neboda in Iddagoda Pattuwa of the Pasdun Korale in the District of Kalutara, Western Province bounded on the North by reservation along the part North East by land claimed by K. Andris, a stream and land described in Plan No. 110907 East by land described in Plan No. 111140 and reservation for a road, South by reservation for a road South West by reservation along a stream and a stream West and North West by land said to belong to the Crown containing in extent exclusive of the stream passing through the land one hundred and sixty four acres two roods and twenty eight perches (A164. R2. P28).

2. An allotment of land called Arapola Kanda situated in the village Neboda aforesaid bounded on the North by land said to belong to the Crown and lands described in Plans Nos. 55787 and 110825 North West by reservation along the path and a stream, South East by land described in Plan No. 55263, South by a stream and lands described in Plans Nos. 110967, 110957 and 110896 West by land said to belong to Crown and land described in Plan No. 54163 containing in extent Two Hundred and twenty two acres three roods and seven perches (A222. R3. P07.)

3. An allotment of land situated in the village Neboda aforesaid bounded on the North and North East by a stream and all other sides by land described in Plan No. 11094 containing in extent one acre and one rood (A1. R1. P0.)

4. An allotment of land called Meyapolakanda situated in the village Tebuwana in Iddagoda Pattuwa aforesaid bounded on the North by reservation along the path and land said to belong to the Crown East by lands said to belong to the Crown and lands described in Plan No. 110825 South East and South by land described in Plan No. 110825 and reservation along the path South West and West by lands said to belong to the Crown containing in extent exclusive of the path and reservation fifty links wide passing through the land three roods and five perches (A0. R3. P05.)

5. An allotment of land situated in the village Tebuwana aforesaid bounded on the south and South West by reservation along the path West by land said to belong to the Crown and by a stream and on all other sides by a stream containing in extent one acre two roods and seven perches. (A1. R2. P07)

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

6. Three allotments of lands called Miwanapaluwala dnasituated in the village Tebuwana aforesaid bounded on the North East by lands claimed by Allis Appu and Jacovis Appu and by a swamp, East and South East by a swamp lands described in Plans Nos. 130893, 110824, 118025 and 110895 South by a path lands described in Plans Nos. 110824 and 110895 and Crown land South West by Crown land, West by Crown land, land described in Plan No. 110919 and land claimed by Bapa Appu, North West by a swamp and land claimed by W. B. Juwanis Fernando and Jacovis Appu and others containing in extent exclusive of the paths road and reservation twenty links wide passing through the land eighty four acres and thirty four perches. (A84. R0. P34.)

7. An allotment of land called Galahenemullakumbura Pitakattiya situated in the village Tebuwana aforesaid bounded on the North East by Crown land South by reservation along the path a road and land described in Plan No. 110825 South West by land described in Plan No. 110825 North West by land purchased by the Ceylon Company Limited and Crown land containing in extent three roods and twenty three perches (A0. R3. P23.)

8. An allotment of land called Paspangodalanda situated in the village Tebuwana aforesaid bounded on the North East by lands claimed by Jacovis Appu and Allis Appu South East by lands described in Plan No. 131587 South West by path North West by a land claimed by Sinno Appu containing in extent eight acres two roods and five perches (A8. R2. P05.)

9. An allotment of land called Hatangaladeniya situated in the village Tebuwana aforesaid bounded on the North by a road and a water course East by lands described in Plan Nos. 110894 and 115681 and by a water course South West and West by reservation along the path containing in extent exclusive of the water course passing through the land two acres three roods and thirty six perches. (A2. R3. P36.)

10. An allotment of land called Gulheyamulladeniya situated in the village Tebuwana aforesaid bounded on the North by land described in Plan No. 110824 reservation along the path and land said to belong to the Crown East by land said to belong to Crown and land described in Plan No. 110895 South by land described in Plan No. 110895 South by a land described in Plan No. 110895 and land said to belong to the Crown West by land said to belong to the Crown and land described in Plan No. 1108924 containg in extent exclusive of the path and reservation fifty links wide passing through the land three acres two roods and fourteen perches (A3. R2. P14.)

WHICH said lands Nos. 1 to 10 are Registered under C 11/210 in the Kalutara District Land Registry Office.

11. An allotment of land called Iriyanagalawaturana situated in the village Tebuwana aforesaid bounded on the North by Lot 8 in P P 10443 and T. P. 211873 East by Triyangala Ela South by Triyangala Ela and T. P 219391 and on the West by Lot 8 in P P. 10443 containing in extent exclusive of the stream passing through the land seven acres and fourteen perches (A7. R0. P14.) according to the survey and description thereof authenticated by P. D. Warren Esquire Surveyor General bearing date 1st December 1904 and No. 219393 Registered C 20/350 in the Kalutara District Land Registry Office.

Exhibits  
P 8,  
Deed No 419  
19-10-44.  
—continued.

12. An allotment of land situated in the village Tebuwana aforesaid bounded on the North by T. P 211873 and Lot H 118 in P. P. 4774 East by Lot 118 in P. P. 4774 South by Elagoda Ela and T. P. 211873 and on the West by T. P 211873 containing in extent two roods and twenty seven perches (A0. R2. P27) according to the survey and description thereof authenticated by the said P. D. Warran bearing date 1st December 1904 and No. 219477 Registered C 20/351 in the Kalutara District Land Registry Office.

13. An allotment of land called Iriyanagalawaturana situated in the village Tebuwana aforesaid bounded on the North by Lot 58 in P P. 10443 and T. Ps. 210663 and 210665 East by T. P 110895 South by T. P 54163 and on the West by T. Ps. 210641 and 210642 containing in extent three acres two roods and six perches (A3. R2. P06) according to the survey and description thereon authenticated by the said P. D. Warren bearing date 1st December 1904 and No. 219478 Registered C 20/352 in the Kalutara District Land Registry Office.

14. An allotment of land called Arapoladeniya and Galassamullahewe situated in the village Tebuwana aforesaid bounded on the North by Wewelle Ela land claimed by natives and T. P 171368 East by Lot 15 in P. P 10443 and T. P 110894 South by a road and on the West by a road T. Ps. 130893 and 131587 and land claimed by natives containing in extent exclusive of the Wewelwelle Ela and swamp twenty nine acres two roods and two perches (A29. R2. P2) according to the survey and description thereof of authenticated by F. H. Grinlinton Esquire Surveyor General bearing date 18th August 1900 and No. 187638 Registered C 20/353 in the Kalutara District Land Registry Office, excluding however therefrom a portion in extent one acre and two roods (A1. R2. P0) conveyed to Sena Nena Mohamado upon Deed No. 4938 dated 2nd and 3rd days of May 1912 attested by V. A. Julius and C. A. L. Orr Notaries Public.

15. An allotment of land called Iriyangalawaturana Raigamayakanatta or Pinnakoladuwa situated in the village Tebuwana aforesaid bounded on the North by Lot 58 in P. P. 10443 East by Lots 58 and 59 in P P. 10443 and T. P. 210642, 54163 and 110895 South by Lot 53 in P. P 10443 and T. P 110895 and West by T. Ps. 210639 and 114468



Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued

and Lot 45 in P. P. 10443 containing in extent exclusive of the portion marked A in T. P. 210643 fifteen acres three roods and twenty one perches (A15. R3. P21) according to the survey and description thereof authenticated by the said F. H. Grinlinton bearing date 5th January 1904 and No. 210641 Registered C 20/354 in the Kalutara District Land Registry Office.

16. An allotment of land situated in the village Tebuwana aforesaid bounded on the North by T. P. 210665 and Lot 64 in P. P. 10443 East and South by T. P. 110895 and on the West by T. P. 210665 containing in extent one rood and twenty eight perches (A0. R1. P28) according to the survey and description thereof authenticated by the said F. H. Grinlinton bearing date 5th January 1904 and No. 210666 Registered C 20/355 in the Kalutara District Land Registry Office.

17. An allotment of land called Weliketiyyedeniya situated in the village Tebuwana aforesaid bounded on the North by T. P. 210639 East and South by T. P. 110895 and on the West by Weliketiyeudumulla Kumbura and T. P. 210639 containing in extent three roods and nineteen perches (A0. R3. P19) according to the survey and description thereof authenticated by the said F. H. Grinlinton bearing date 5th January 1904 and No. 210640 Registered C 20/356 in the Kalutara District Land Registry Office.

18. An allotment of land called Weliketiyyedeniya situated in the village Tebuwana aforesaid bounded on the North by T. P. 210641 East and South by T. P. 110895 and on the West by T. Ps. 110895 and 210641 containing in extent one rood and seventeen perches (A0. R1. P17) according to the survey and description thereof of authenticated by the said P. D. Warren bearing date 13th July 1904 and No. 215491 Registered C 20/357 in the Kalutara District Land Registry Office.

19. An allotment of land called Iriyangalawaturana situated in the village Tebuwana aforesaid bounded on the North by T. P. 223936 East by T. Ps. 114468 and 210639 and land claimed by natives South by T. Ps. 215489 and 190278 and on the West by T. P. 211831 containing in extent seven acres one rood and thirty nine perches (A7. R1. P39) according to the survey and description thereof authenticated by the said P. D. Warren bearing date 29th April 1905 and No. 223937 Registered C 20/358 in the Kalutara District Land Registry Office.

20. An allotment of land called Iriyangalawaturana situated in the village Tebuwana aforesaid bounded on the North by Elagoda Ela East by T. P. 210663 South by T. P. 219478 and Lot 55 in P. P. 10443 and on the West by T. P. 223936 and Elagoda Ela containing in extent two acres and nineteen perches (A2. R0. P19.) according to the survey

and description thereof authenticated by the said P. D. Warren bearing date 29th April 1905 and No. 223938 Registered C 20/359 in the Kalutara District Land Registry Office.

Exhibits  
P 8.  
Dec 1 No. 419  
19-10-44.  
—continued.

21. An allotment of land called Asmagawaturana situated in the village Tebuwana aforesaid bounded on the North by T. P. 131587 East by T. Ps. 131587 and 110895 South by T. Ps. 110895 and 55877 and on the West by T. Ps. 210665, 210667, 221795, 221796, 211006, 211007 and 110969 containing in extent fourteen acres one rood and twenty one perches (A14. R1. P21) according to the survey and description thereof authenticated by the said P. D. Warren bearing date 29th April 1905 and No. 223939 Registered C 20/360 in the Kalutara District Land Registry Office.

22. An allotment of land called Iriyanagalawaturana situated in the village Tebuwana aforesaid bounded on the North by T. Ps. 211873 and 211948 East by T. P. 211949 South by a water course and land claimed by natives and on the West by T. P. 207784 containing in extent one acre one rood and ten perches (A1. R1. P10) according to the survey and description thereof authenticated by the said P. D. Warren bearing date 29th April 1905 and No. 223935 Registered C 20/361 in the Kalutara District Land Registry Office.

23. An allotment of land called Iriyangalawaturana situated in the village Tebuwana aforesaid bounded on the North by Elagoda Ela, East by T. P. S. 223938 and 210641 and Lot 55 in P. P. 10443 South by T. Ps. 114468, 223937 and 211831 and Lot K 118 in P. P. 4774 and on the West by Lot K 118 in P. P. 4774 and T. Ps. 187803 and 211830 containing in extent ten acres two roods and seventeen perches (A10. R2. P17) according to the survey and description thereof authenticated by the said P. D. Warren bearing date 29th April 1905 and No. 233936 Registered C 20/362 in the Kalutara District Land Registry Office.

24. ALL that portion of land called Pabulookumbura situated at Tebuwana aforesaid bounded on the North by the Cross drain of the said Pabulookumbura East by Amuhenegodalla South by Meemanapalam Kanda and on the West by Meemanapalam Kanda containing in extent about one acre (A1. R0. P0) Registered C 20/363 in the Kalutara District Land Registry Office.

25. ALL that allotment of land called Iriyangalawaturana Ketaploagodawattepitakkatiya and Puwakduwa situated in the village Tebuwana aforesaid bounded on the North by T. Ps. 211951 and 211661 Iriyangala Ela Streams Lots 4457 and 4456 in P. P. 7773 and land claimed by natives East by Lots I 118, H 118 and K 118 in P. P. 4774 Lot 38 on P. P. 10443 Elagoda Ela and T. Ps. 211662, 211950, 190278 and 211948 South by Lots 17, 9 and 8 in P. P. 10443 T. Ps. 207784, 166818 211872 and 118002 and Iriyangala Ela and on the West by

Exhibits  
P 8  
Deed No 419  
19-10-44.  
—continued.

T. Ps. 118002, 117366 and 116220 and reservation along the road containing in extent exclusive of the Elagoda Ela and Iriyangala Ela passing through the land one hundred and eighty four acres two roods and twenty four perches (A184. R2. P24) according to the survey and description thereof authenticated by the said F. H. Grinlinton bearing date 8th February 1904 and No. 211873 Registered C 19/321 in the Kalutara District Land Registry Office. Excluding however therefrom two portions in extent twenty nine acres two roods and seven perches (A29. R2. P07) and two acres three roods and seven perches (A2. R3. P07) sold and transferred respectively by Deeds No. 3968 dated the twenty sixth day of January 1905 and No. 4158 dated the twenty seventh day of July 1906 both attested by V. A. Julius of Colombo Notary Public.

WHICH said allotment of land after excluding therefrom the aforesaid two portions in extent twenty nine acres two roods and seven perches and two acres three roods and seven perches is described as bounded on the North by T. Ps. 211951 and 211661 Iriyangala Ela Stream lots 4457 and 4456 in P. P. 7773 and land claimed by natives, East by Lots I 118 and K 118, in P. P. 4774 Lot 38 in P. P. 10443, Elagoda Ela and T. Ps. 211662 and 211950, 190278 and 211948 South by Lots 17, 9, 8 in P. P. 10443 and a portion of the same land T. Ps. 207784, 166818 and 118002 and Iriyangala Ela and on the same land T. Ps. 207784, 166818 and 118002 and Iriyangala Ela and on the West by a portion of this land T. Ps. Nos. 117366 116220 containing in extent one hundred and fifty two acres one rood and ten perches (A152. R1. P10).

26. ALL that portion of the allotment of land called Mahakumbura situated at Tebuwana aforesaid bounded on the North by a portion of the same land on the East by a portion of Arapolakanda described in T. P. 110894 and on the South and West by a portion of Arapolakandadeniya described in T. P. 187638 containing in extent three roods and twenty two perches (A0. R3. P22) according to Plan No. 2118 annexed to Deed No. 4938 dated the second and thirteenth days of May 1912 and attested by V. A. Julis of Colombo and C. A. L. Orr of Kalutara Notaries Public Registered C 27/93 in the Kalutara District Land Registry Office.

27. ALL allotment of land called Kethhenewatta situated at Tebuwana aforesaid bounded on the North by the other defined portion of the said land and on all other sides by Crown land purchased by natives containing in extent one rood and thirty five perches (A0. R1. P35) according to Survey Plan No. 2051 dated 29th July 1911 made by H. O. Sehranguivel Licensed Surveyor Registered C 26/269 in the Kalutara District Land Registry Office.

28. ALL that allotment of land called Asmagedenia situated in the village Tebuwana aforesaid bounded on all sides by land which was once the property of the Crown but which now belongs to the Eastern Produce and Estates Company Limited and called and known as Ara Polakande Estate containing in extent thirteen acres one rood and nineteen perches (A13. R1. P19) according to the Figure of Survey thereof dated 30th November 1861 authenticated by Charles Sim Surveyor General Registered C7/176 and C 19/350 in the Kalutara District Land Registry Office. Excluding however from the above described Arapolakande Estate a portion in extent one acre (A1. R0. P0.) acquired by the Government for the purpose of a Cemetery.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

#### PART XIV

ALL that the Bankshall and premises formerly bearing Assessment No. 115 presently bearing No. 109 situated at Bankshall Street in the Pettah within the Municipality and District of Colombo Western Province aforesaid and bounded on the North by the Sea Shore now by the house bearing Assessment Nos. 13 and 14 on the East by the Bankshall of Saviel Dias now House No. 114 belonging to St. Lucia's Church on the South by the Sea Street now Bankshall Street forty five links wide and on the West by the Bankshall of Nicholas Saveri Muttu now house No. 116 of Muttiyah containing in extent five square perches and 91/100th of a square perch according to the Plan and Survey thereof bearing date the 23rd day of November 1889 made by Charles Schwallie Surveyor Registered A 101/171 in the Colombo District Land Registry Office.

#### PART XV

ALL those premises bearing Assessment Nos. 34 and 35 and presently bearing Assessment Nos. 202 and 206 Keyzer Street and Assessment Nos. 715/49, 715/50, 714/51A and 714/52 and presently bearing Assessment Nos. 59, 63, 65, 69, 73 (G1, 2/1 and 2/2) 77 and 81 situated at Third Cross Street Pettah within the Municipality and District of Colombo Western Province bounded on the North by Keyzer Street on the East by Third Cross Street on the South by premises bearing Assessment No. 716/48 Third Cross Street formerly of Philippi Bernardo Pulle and presently of A. L. M. Mohamado Hassim and on the West by premises bearing Assessment No. 226/36 facing Keyzer Street formerly of Phillipi Bernardo Pulle and presently of U. L. M. Mohamed Mohideen containing in extent fifteen decimal two nought perches (A0. R0. P15. 20) as per figure of Survey thereof No. 321 dated the 15 day of June 1925 made by P. B. Weerasinghe Surveyor Registered A 237/34 in the Colombo District Land Registry Office.

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

## PART XVI.

ALL that house and ground situated and lying at First Cross Street and in Keyzer Street in the Pettah within the Municipality and in the District of Colombo Western Province formerly bearing Assessment Nos. 229J/1(2), 229K/2, 229L/3, 229 4/I (I) Keyzer Street and presently Nos. 35, 37, 39, 41, 43, 45 and 47 Keyzer Street and formerly bearing Assessment Nos. 229G/13 (15), 229F/4/13 (6) 229F/3/13 (5) 229F/2/13 (4) 229F/1/13 (3), 229E/13 (2), 229D/13 (1) First Cross Street presently Nos. 138, 138 (1-8), and 140 First Cross Street and bounded on the North by the house of Christian Joachim and on the East by the house of Mr. Meyzer on the South by Keyzer Street and on the left by First Cross Street containing in extent seven perches and ninety eighth one hundredths of a square perch (A0. R0. P7 98/100) according to the Figure of Survey thereof dated 18th July 1822 authenticated by G. Schneider surveyor General with said premises are according to the later Plan described as follows:

An allotment of land bearing Assessment No. 13 First Cross Street and 1, 2, 3 Keyzer Street situated at First Cross Street and Keyzer Street in Pettah Ward within the Municipality of Colombo Western Province bounded on the North by premises being one Lot bearing Assessment Nos. 9, 10, 11 and 12 First Cross Street belonging to O. L. M. Mohamed Mohideen East by premises bearing Assessment No. 4 Keyzer Street belonging to East of the late W. G. de Mel South by Keyzer Street and West by First Cross Street containing in extent ten and twelve hundredths perches (A0. R0. P10 12/100) according to Plan No. 664 dated 11th July 1915 made by A. R. Saundranayagam Licensed Surveyor Registered A217/200 in the Colombo District Land Registry Office.

## PART XVII.

ALL that divided one fourth part or share of the garden called Siriwardene Walauwewatte with the buildings standings thereon formerly bearing Assessment No. 38 and presently bearing No. 100, 102, 104, 104/1-58 106, and 108 situated at Green Street within the Municipality and District of Colombo Western Province of the Island of Ceylon bounded on the North by the property of Simon de Silva now of John Francis Perera on the East by the grass field of the late C. P. Dias Mudaliyar on the South by the portion of this land allotted to Henry Richard Peiris now the property of S. M. W. Uduma Lebbe Marikar and on the West by Green Street containing in extent two roods and fourteen perches (A0. R2. P14.) Registered A 159/4 in the Colombo District Land Registry Office.

## PART XVIII.

ALL that house and ground formerly bearing Assessment No. 30 and recently bearing Assessment Nos. 439/30 (1-10) and 440/30 (1-10) now bearing Assessment Nos. 112-114, 7(1-14) situated at St. Sebastian Street within the Municipality and District of Colombo Western Province of the Island of Ceylon bounded on the North by the property of D. Run now the property of Mr. Waas on the East by the property of Mr. J. H. Danweno and the property of P. E. Vanderstaaten on the South by the property of Liyanage Anthonis Perera now the property of D. B. Goonetilleke and a lane and on the West by San Sebastian Street containing in extent twenty six and 52/100 square perches (A0. R0. P26 52/100) Registered A 144/264 in the Colombo District Land Registry Office.

Exhibits  
P S.  
Deed No 419  
19-10-44.  
—continued.

## PART XIX.

ALL that house and ground formerly bearing Assessment Nos. 5A and B now bearing Nos. 81, 83, and 85 situated and lying in the Main Street within the Municipality of Colombo in the District of Colombo Western Province bounded on the North by the Bankshall of Babyan on the East by the house of Mr. Raffel on the South by the Main Street and on the West by the house of Tewarayan Chetty containing in extent twelve 85/100 square perches according to the Figure of Survey dated the 8th June 1829 made by G. Schneider Land Surveyor General which said premises according to a reason Plan No. 1762 dated 9th December 1929 made by J. D. Amarasekera Special Licensed Surveyor and Leveller are described as follows:-

ALL that house and ground formerly bearing Assessment No. 5 now Nos. 81, 83 and 85 situated at Main Street within the Municipality and District of Colombo Western Province bounded on the North by premises Nos. 32, 34 and 36 Bankshall Street belonging to Messrs Hunter & Company East by premises No. 89 property of Hindu Temple on the South by Main Street and on the West by premises Nos. 77 the property of N. D. H. Abdul Caffoor containing in extent twelve decimal seven two perches (A0. R0. P12. 72) Registered A 227/68 in the Colombo District Land Registry Office.

## PART XX.

ALL that allotment of land with the buildings thereon formerly bearing Assessment No. 108 situated at Dam Street now bearing Nos. 154, 156, 158, Dam Street No. 66 (1-10) Price Place in the Pettah ward within the Municipality and the District of Colombo Western Province bounded on the North by Dam Street on the East by the land belonging to the Estate of late Don Valentine Gunaratne bearing Assessment No. 107 now the property of the wife of Rannage Don

Exhibits  
P 8.  
Deed No. 419  
19-10-44  
—continued.

Joseph on the South by a portion of this land belonging to the Estate of the late Don Valentine Gunaratne now the property of Philip Bernard and on the West by land bearing Assessment No. 109 now the property of H. Joseph Perera containing in extent twenty one perches and seventy five hundredths of a perch (A0. R0. P 21 75/100) according to the Survey Plan dated the 27th June One Thousand nine hundred made by L. Krichenbeck Surveyor Registered 190/277 in the Colombo District Land Registry Office.

#### PART XXI.

ALL that land and premises with the buildings standing thereon situated at Keyzer Street in the Pettah within the Municipality of Colombo in the District of Colombo Western Province bearing Assessment No. 265/38 now No. 188 and bounded on the North by Keyzer Street on the East by the house of Philip Fernando Chitty on the South by the house marked No. 23 and on the West by the house of G. Kelenberg containing in extent thirteen square perches and one fiftieth of a perch (A0. R0. P15 1/50) according to the figure of survey thereof dated 14th July 1825 authenticated by G. Schneider Land Surveyor General. Registered A 213/82 in the Colombo District Land Registry Office.

#### PART XXII.

An undivided one half part or share of an allotment of land called Batikanda in Ligandeniya village Udukaha Korale North of Dambadeni Hatpatiu Kurunegala District North Western Province and bounded on the North by T. P. 130323 and Mala Ela on the East by Mala Ela on the South by T. P. 264167 and on the West by T. P. 282789 containing in extent one rood and thirty six perches (A0. R1. P36.) according to T. P. No. 405616 dated 28th April 1930 authenticated by A. H. G. Dawson Esquire Surveyor General.

#### PART XXIII.

ALL that allotment of land with the buildings standing thereon formerly bearing Assessment Nos. 154, 156, 158, 160 and 162 now bearing Assessment Nos. 154, 156, 158. 160 1/1, 1/2, 2/1, 2/2, 3/1 and 162 situated at Keyzer Street Pettah within the Municipality and District of Colombo Western Province bounded on the North by Keyzer Street, East by premises bearing Assessment No. 41 belonging to Abdul Rahaman South by premises bearing Assessment No. 23 belonging to Mohideen Bawa Cadija Umma and premises No. 22 and on the West by premises No. 22 belonging to Abdul Hosson Alibhoy containing in extent three perches (A0. R0. P03) according to the survey Plan thereof dated 18th October 1911 made by James D. Amarasekera Licensed Surveyor Registered A237/222 in the Colombo District Land Registry Office.

## PART XXIV

Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued.

ALL that allotment of Land with the buildings standing thereon formerly bearing Assessment No. 28 and presently bearing Assessment Nos. 56 & 58 situated at Third Street in the Pettah within the Municipality and in the District of Colombo, Western Province, bounded on the North by premises bearing Assessment No. 27 of Abubacker Hadjie on the East by premises bearing Assessment No. 99 Fourth Cross Street belonging to the Mosque of the Borah Community on the South by premises bearing Assessment No. 29 of O. L. Marikar and on the West by Third Cross Street containing in extent nine square perches and eighty seven one hundredths of a square perch (A0. R0. P9. 87/100) according to the survey and description thereof bearing No. 1745 dated 23/24 July 1915 made by H. G. Dias, Registered Licensed Surveyor and Leveller Registered A97/235 in the Colombo District Land Registry Office.

IN WITNESS WHEREOF the said parties have hereunto and to two others of the same tenor and date as these presents set their hands the said Havabai Valijee at Colombo this Twelfth day of September and the said Abbasbhai Gulamhusen at Colombo this Nineteenth day of October One thousand nine hundred and forty four.

Witnesses:

Sgd. JOS. E. MARTYN.  
Sgd. P B. PERERA.

H. VALIJEE  
by her Attorney  
Lukmanjee Gulamhusen

Sgd. E. GREGORY.  
Notary Public.

Witnesses to the signature of the  
said Abbasbhai Gulamhusen

Sgd. P. B. PERERA.  
Sgd. J. O. CONNELL.

A. GULAMHUSEN.  
by his Attorney  
Lukmanjee Gulamhusen.

Sgd. E. GREGORY.  
Notary Public.

I, John Peter Edmund Gregory of Colombo in the Island of Ceylon Notary Public do hereby certify and attest that the foregoing instrument having been duly read over by Lukmanjee Gulamhusen of Colombo aforesaid the same and two others of the same tenor and date were signed by the said Lukmanjee Gulamhusen as the Attorney in the name and as the act and deed and on behalf of the therein named Havabai Valijee (being thereunto duly authorised by a Power of Attorney dated the fourth day of February One Thousand



Exhibits  
P 8.  
Deed No. 419  
19-10-44.  
—continued

Nine Hundred and Forty Four) and by Joseph Francis Martin Proctor and Notary Public and Panagodage Baron Perera both of Colombo aforesaid the subscribing witnesses thereto (all of whom are known to me) in my presence and in the presence of one another all being present at the same time at Colombo aforesaid this twelfth day of September one thousand nine hundred and forty four. And I do further certify and attest that in the original page 1 line 4 the word "Bombay" line 25 the letter "ee" in the word "Donee" page 2 line 21 the letter "H" in the word "GULAMHUSEN" where written on erasure page 4 line 13 the word "in" was interpolated page 5 line 13 the word "the" was interpolated line 19 the word "Figera" line 27 the Figures "37(1-6)" page 6 line 1 the word "Sesenal" were written on erasure Page 7 line 32 the words "situated at Panchikawatte Road and Piachauds Lane" line 20 the words "and on the West by the property of Uduma Lebbe Marikar" were interpolated line 30 the figure "1" in the group of figures "(1-18)" was delated page 8 line 47 the word "brothers" line 58 the word "Leembruggen" were written on erasure page 11 line 29 the word "square" was interpolated line 60 the word "field" page 12 line 31 the figures "1842" line 36 the letter and figures "& 37" page 13 line 37 the figure and word "46 the property of" line 38 the words and figures "Lebbe and No. 47 the property of" page 14 line 23 the word "Rengaswamy" line 48 the figure "1" were written on erasure page 16 line 28 the word "one" was interpolated page 17 line 23 the word "seventy" line 24 the words "ten and eighty" were written on erasure line 28 the letters "thir" was delated line 31 the letter "R" was rectified in ink page 18 lines 3 and 4 the words "and now bearing Assessment" were delated page 20 line 20 the figure and letter "26. 34P" were written on erasure page 21 line 12 the word "four" was interpolated page 22 line 5 the word "portion" was interpolated line 17 the word "Joran" line 22 the words "three acres" were written on the erasure page 24 line 52 the words "heirs of S. Fernando and others and now belonging to" were interpolated page 31 line 6 the word "acres" was rectified in ink page 33 line 25 the word "recent" were written on erasure and in page 34 lines 35 and 36 the words and figures "and subsequently Nos. 56 and 58" were delated and in the duplicate page 1 line 25 the word "Donee" was written on erasure line 39 the word "fourth" was interpolated page 4 line 8 the letters "BIA" line 31 the words "thirty seven" line 38 the figures "36" and letter "g" in the word "belonging" line 41 the figures "38" were written on erasure page 5 line 11 the word "one" was delated line 14 the word "Figure A" was written on erasure line 21 the letters "palle" in the word "Ingurupattepallewatte" were interpolated line 3B the word "Karlsruhe" were written on erasure line 41 the figure "181" were interpolated page 6 line 3 the word "recently" line 24 figure "323" line 37 the word "and District" were written on erasure page 7 line 8 the words "Slema Lebbe Marikar" and line 22 the words "situated at Panchikkawatte Road and Piachaud's Lane" were interpolated page 8 line 31 the figure "76" line 34 the figures

“38” line 50 the figures “168” were written on erasure page 9 line 1 the figures “958” “959” were written on erasure line 14 the word “Saibo” line 41 the figure “174” were delated page 10 line 2 the figures and word “191”, “192” “and” line 5 the letter “o” in the word “Mohamedi” were written on erasure page 11 line 1 before the last line the figure “33” were rectified in ink and in line last the figures “33” was delated page 13 line 11 the words “Kachchi Mohamado” were written on erasure page 14 the line 17 the figures “14” page 15 line 16 the word “Street” was interpolated line 19 the word “Marikar” line 14 the word Mohandiram” were written on erasure page 17 line 2 the word “road” was interpolated page 19 line 45 the word “now” was interpolated page 20 line 5 the word “Pe:era” was written on erasure page 22 line 7 the words “according to the” were deleted line 41 the word “east” was interpolated page 23 line 12 the word “Gorakagahawatta” was written on erasure line 13 the words “or Thimbirigaskaduwa” were delated page 27 line 34 the letter and figure “7A” was written on erasure page 28 line 15 the figures “10639” line 58 the figure “5” in the group of figures “1905” were rectified in ink page 30 line 3 the word “acres” was rectified in ink page 33 line 18 the words “land and premises” were written on erasure lines 60 and 61 the words and figures “and subsequently Nos. 56 and 58” were deleted and Original page 31 line 5 and duplicate page 30 line 2 the word “nine” was added before the same was read over as aforesaid and that Eight Stamps of the value of Rupee Two Thousand Four Hundred and Forty (Rs.2440/-) are impressed on the Duplicate of this instrument and one stamp of the value of Re. 1/- to the Original thereof.  
Dated 12th September. 1944.

(Seal)

Which I attest

Sgd. E. GREGORY.  
Notary Public.

I, John Peter Edmund Gregory of Colombo in the Island of Ceylon Notary Public do hereby certify and attest that the foregoing instrument having been duly read over by Lukmanjee Gulamhusen of Colombo aforesaid the same and two others of the same tenor and date were signed by the said Lukmanjee Gulamhusen as the Attorney in the name and as the act and deed and on behalf of the thereinnamed Abbasbhai Gulamhusen (being thereunto duly authorised by a Power of Attorney dated seventh day of October One thousand nine hundred and forty four) and by Panagodage Baron Perera and John O'Connell both of Colombo aforesaid the subscribing witnesses thereto (all of whom are known to me) in my presence and in the presence of one another all being present at the same time at Colombo aforesaid this nineteenth day of October One thousand nine hundred and forty four.

Dated 19th October 1944.

(Seal)

Which I attest.

Sgd. E. GREGORY.  
Notary Public.

Exhibits  
P 8  
Deed No. 419.  
19-10-44.  
—continued

Exhibits

P 8.

Deed No. 419  
19-10-44.

—continued.

I certify that this and the preceding 28 pages are a true copy of Deed of Gift bearing date, 12th September 1944 and Number 419 attested by J. P. E. Gregory of Colombo Notary Public.

Sgd. E. GREGORY  
Notary Public.

P 6.

Letters of  
Administration  
in D. C.  
Colombo  
No. 10871 T.  
1-12-44.

P 6.

**Letters of Administration in D. C. Colombo.**

**No. 10871/T.**

P 6.

Nett Value of Estate Rs. 458,195-00  
Estate Dute Rs. 27,703-80  
Interest: Rs. 1,590-88.

**LETTERS OF ADMINISTRATION**

D. C. Colombo No. 10871 (Testy.)

Letters of Administration.

To: Lukmanjee Gulamhussein Colombo.

Whereas Taherbhoy Gulamhussein late of 'Lakshmagiri' Thurstan Road, Colombo in the Island of Ceylon died on the 10th day of August 1941 at Sea Beach Mount Lavinia domiciled in Ceylon without leaving any Will.

You are therefore fully empowered and authorised by these presents to administer and faithfully dispose of the property and estate, rights, and credits of the said deceased, and to demand and recover whatever debts may belong to his estate, and to pay whatever debts the said deceased did owe, so far as such property and estate, rights, and credits shall extend you having been already affirmed well and faithfully to administer the same, and to render a true and perfect Inventory of all the said property and estate, rights, and credits to this Court on or before the 24th day of May 1945, next, and also a true and just account of your administration thereof on or before the 22nd day of November 1945. And you are therefore by these presents deputed and constituted Administrator of all the property and estate, rights and credits of the said deceased.

(You are nevertheless, hereby prohibited from selling any immovable property of the estate unless you shall be specially authorised by the Court to do so).

And it is hereby certified that the Declaration and statement of property under the estate duty ordinance have been delivered, and that the value of the said estate on which estate duty is payable as provisionally assessed by the Commissioner of Estate Duty amounted to Rs. 461,730/-.

Exhibits  
Pg.  
Letters of  
Administra-  
tion in D. C.  
Colombo  
No. 10871/T.  
1-12-44  
—continued

And it is further certificated it appears by a Provisional Certificate granted by the Commissioner of Estate Duty and dated the 3rd day of May, 1944 that Rs. 29294/68 on account of Estate Duty (and interest on such duty) has been paid.

Given under my hand and the Seal of the Court this 1st day of December 1944.

Sgd. S. J. C. SCHOKMAN  
A. D. J.

“True Copy of Letters of Administration in D. C. Colombo Case No. 10871/ Testamentary.

Signed. ILLEGIBLE.  
Assistant Secretary,  
District Court of Colombo.

Certified this 5th day of February 1952.

---

**P 7.**

**Inventory filed in D. C. Colombo No. 10871/T.  
IN THE DISTRICT COURT OF COLOMBO.**

**JULIUS & CREASY,  
Solicitors, Proctors &  
Notaries Public,  
COLOMBO.**

In the matter of the intestate estate of TAHERBHOY GULAM HUSSEIN late of “Lakshmagiri” Thurston Road, Colombo, in the Island of Ceylon, deceased.

Exhibits  
P 7.  
Inventory.  
filed in D. C.  
Colombo.  
No. 10871/T  
13-2-52

Testamentary  
Jurisdiction  
No. 10871.

**A TRUE, FULL AND PERFECT INVENTORY OF THE  
ESTATE OF THE ABOVENAMED DECEASED.**

50 shares in Arratenne Tea & Rubber Co. Ltd.	Rs.	400	00
200 shares in Biddescar Rubber Co. Ltd.		900	00

Carred over

Exhibits P 7. Inventory filed in D. C. Colombo No. 10871/T 13-2-52 —continued.	Brought forward		
25 shares in Clunes Estates Co. of Ceylon.Ltd.		312	50
100 shares in Girindi Ella Tea Co. Ltd.		500	00
100 shares in Gona Adika Tea & Rubber Ests. Ltd.		200	00
50 shares in Hatbawe Rubber Co. Ltd.		250	00
125 shares in Kaluganga Valley Tea & Rubber Co. Ltd.		437	50
75 shares in Kudaganga Rubber Co. Ltd.		1350	00
100 shares in Labugama Rubber Co. Ltd.		400	00
50 shares in Mahagama Rubber Co. Ltd.		2500	00
40 shares in Menettenne Rubber Co. Ltd.		160	00
100 shares in Opalgalla Tea & Rubber Co. Ltd.		600	00
27 shares in Pelmadulla Valley Tea & Rubber Co. Ltd.		351	00
500 shares in Rubli Rubber Co. Ltd.		2500	00
100 shares in Sittagama Rubber Co. Ltd.		400	00
20 shares in Udabage Tea & Rubber Co. Ltd.		540	00
50 shares in Usk Valley (Kalutara) Rubber Co. Ltd.		625	00
137 shares in Kongsi Rubber Co. Ltd.		1096	00
500 shares in Selinsing Rubber Co. Ltd.		3000	00
3000 shares in British Ceylon Corporation Ltd.		15000	00
35 shares in Sir Harry Dias Coconut Ests. Ltd.		962	50
250 shares in Brown & Co. Ltd.		1500	00
		33984	50
Deceased's 1/8th share			Rs. 4248 00
13 shares in Hatbawe Rubber Co. Ltd.			65 00
100 shares in Opalgalla Tea & Rubber Co. Ltd.			600 00
Deceased's 1/8th share of Household furniture			125 00
Deceased's 1/8th share as a Partner in the firm Adamjee Lukmanjee & Sons.			142335 00
An divided 1/8th share of 109-121 Chatham Street and 72-82 York Street	Rs. 32500	00	
Less Relief as allowed by Commissioner of Estate Duty		3250	00
			29250 00

Carried over

Brought forward			
An undivided 1/8th share of 81, 83, 85 Main Street	10625 00		
Less Relief as allowed by Commissioner of Estate Duty	<u>1062 50</u>	9562 50	
An undivided 1/8th share of 109 Bankshall Street	3375 00		
Less Relief as allowed by Commissioner of Estate Duty	<u>337 50</u>	3037 50	
<b>An undivided 1/8th share of the following:-</b>			
154 Bankshall Street	393 75		
Less Relief as allowed by Commissioner of Estate Duty	<u>39 37</u>	354 38	
172 Bankshall Street	4500 00		
Less Relief as allowed by Commissioner of Estate Duty	<u>450 00</u>	4050 00	
36, 38, 40 Prince Street and 25 Mitchos Lane	5625 00		
Less Relief as allowed by Commissioner of Estate Duty	<u>562 50</u>	5062 50	
138, 138 (108) 140 First Cross Street and 35 to 47 Keyzer Street	9375 00		
Less Relief as allowed by Commissioner of Estate Duty	<u>937 50</u>	8437 50	
154 to 162 Keyzer Street	4000 00		
Less Relief do	<u>400 00</u>	3600 00	
188 Keyzer Street	7500 00		
Less Relief do	<u>750 00</u>	6750 00	
202, 206 Keyzer Street and 59 to 73 Third Cross Street	14875 00		
Less Relief do	<u>1487 50</u>	13387 50	
56, 58 Third Cross Street	2750 00		
Less Relief do	<u>275 00</u>	2475 00	
72 Fourth Cross Street and 73, 75 Fifth Cross Street	9125 00		
Less Relief do	<u>912 50</u>	8212 50	
76, 78, 80 Fourth Cross Street and 79, 81, 83, 85 Fifth Cross Street	15000 00		
Less Relief do	<u>1500 00</u>	13500 00	

Carried Over

Exhibits  
P 7.  
Inventory,  
filed in D. C.  
Colombo,  
No. 10871/T  
13-2-52.  
—continued.

Exhibits  
P 7.  
Inventory  
filed in D. C.  
Colombo  
No. 10871/T  
13-2-52.  
—continued.

		Brought forward			
	101 Fifth Cross Street	4312	50		
	Less Relief do	431	25	3881	25
	140 Grandpass Road, Mohomedi Mills	40625	00		
	Less Relief do	4062	50	36562	50
	30, 30 (2-5) 32 Ward Place	30000	00		
	Less Relief do	3000	00	27000	00
	690 Galle Road and 6-26 Palmyrah Avenue	23125	00		
	Less Relief do	2312	50	20812	50
	33 to 39 School Lane	3375	00		
	Less Relief do	337	50	3037	50
	102 and 112 Thurston Road, 4 to 16 Adams Avenue	68750	00		
	Less Relief do	6875	00	61875	00
	41/43 Bandarawella	875	00		
	Less Relief - do	87	50	787	50
	38, 40, 42 Glenaber Place	7425	00		
	Less Relief do	742	50	6682	50
	154, 156, 158 Dam Street and 66 (1-10) Price Place	1812	50		
	Less Relief as allowed by Commissioner of Estate Duty	181	25	1631	25
	102 (1-6) Turret Road	14850	00		
	Less Relief : do	1485	00	13365	00
	112, 114 St. Sebastian Street and 7 (1-14) St. Sebastian Lane	1312	50		
	Less Relief do	131	25	1181	25
	30 to 40 Kuruwe Street	2250	00		
	Less Relief - do	225	00	2025	00
	100 to 108, 104 (1-58) Green Street	4000	00		
	Less Relief - do	400	00	3600	00
	57 (16-70) Jampettah Street	2875	00		
	Less Relief do	287	50	2587	50
	195 to 199 Layards Broadway & 16, 16 (1-7) Parakrama Road	1250	00		
	Less Relief - do	125	00	1125	00

Carried over

		Brought forward			
183. 185, 187 Prince of Wales Avenue Parakrama Road and 201 to 217					
Layards Broadway		6625	00		
Less Relief do		<u>662</u>	<u>50</u>	5962	50
196 to 248 Grandpass Road, 1-175 Lukmanjee Square, 172, 172 (1-8) 174 Grandpass Road 1, 176, 178, 180, 180 (29-135) Grandpass Road 2, 182, 184, 180 (1-7) 180 (8-20), 186, 188, 190, 192, 192 (1-151) Grandpass Road		53437	50		
Less Relief as allowed by Commissioner of Estate Duty		<u>5353</u>	<u>75</u>	48093	75
41- 123 Prince Gate		11000	00		
Less Relief do		<u>1100</u>	<u>00</u>	9900	00
81-87 Lockgate Lane		2687	50		
Less Relief do		<u>268</u>	<u>75</u>	2418	75
162 Skinners Road South		687	50		
Less Relief do		<u>68</u>	<u>75</u>	618	75
177 (55, 57) 179, 181, 183 Pichaud's Lane 1		420	00		
Less Relief do -		<u>42</u>	<u>00</u>	378	00
177 (1-53) Pichaud's Lane 2		2863	00		
Less Relief do		<u>286</u>	<u>30</u>	2576	70
129-143 Pichaud's Lane 3, 121-127		4562	50		
Less Relief do		<u>456</u>	<u>25</u>	4106	25
128-152 Pichaud's Lane 5, 103 to 127 Panchikawatte		5000	00		
Less Relief do		<u>500</u>	<u>00</u>	4500	00
67-73 Forbes Lane		2884	00		
Less Relief do		<u>288</u>	<u>40</u>	2595	60
181-191 Deans Road		3187	50		
Less Relief do		<u>318</u>	<u>75</u>	2868	75
177-187 Baseline Road		4375	00		
Less Relief do		<u>437</u>	<u>50</u>	3937	50
203 to 211 (209) (1-10) Union Place		13500	00		
Less Relief as allowed by Commissioner of Estate Duty		<u>1350</u>	<u>00</u>	12150	00
Carried over					

Exhibits  
P 7.  
Inventory  
filed in D. C  
Colombo  
No. 10871/T  
13-2-52.  
—continued.



Exhibits P 7. Inventory filed in D. C. Colombo No. 10871/T 13-2-52. —continued.	Brought forward 153, 155, 157 Colpetty Road 7 to 37 Muhandiram Road Less Relief as do St. John's Estate, Mundel Puttalam Less Relief do Iranavelle Estate, Madampe, Chilaw Less Relief do Pothode Estate, Negombo Less Relief do Mary Mount Estate, Narammala Kurunegala Less Relief do Arapolakande Estate, Tebuwana Neboda Less Relief do Deceased's 1/8th share of unsold produce  Less debt as allowed by Commissioner of Estate Duty	<table border="0"> <tr> <td style="text-align: right;">5437</td> <td style="text-align: right;">50</td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">543</td> <td style="text-align: right;">75</td> <td style="text-align: right;">4893</td> <td style="text-align: right;">75</td> </tr> <tr> <td colspan="4"><hr/></td> </tr> <tr> <td style="text-align: right;">6250</td> <td style="text-align: right;">00</td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">1103</td> <td style="text-align: right;">15</td> <td style="text-align: right;">5146</td> <td style="text-align: right;">85</td> </tr> <tr> <td colspan="4"><hr/></td> </tr> <tr> <td style="text-align: right;">25000</td> <td style="text-align: right;">00</td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">4665</td> <td style="text-align: right;">62</td> <td style="text-align: right;">20,334</td> <td style="text-align: right;">38</td> </tr> <tr> <td colspan="4"><hr/></td> </tr> <tr> <td style="text-align: right;">12500</td> <td style="text-align: right;">00</td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">2307</td> <td style="text-align: right;">50</td> <td style="text-align: right;">10,192</td> <td style="text-align: right;">58</td> </tr> <tr> <td colspan="4"><hr/></td> </tr> <tr> <td style="text-align: right;">10000</td> <td style="text-align: right;">00</td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">1866</td> <td style="text-align: right;">25</td> <td style="text-align: right;">8133</td> <td style="text-align: right;">75</td> </tr> <tr> <td colspan="4"><hr/></td> </tr> <tr> <td style="text-align: right;">56250</td> <td style="text-align: right;">00</td> <td></td> <td></td> </tr> <tr> <td style="text-align: right;">9832</td> <td style="text-align: right;">50</td> <td style="text-align: right;">46417</td> <td style="text-align: right;">50</td> </tr> <tr> <td colspan="4"><hr/></td> </tr> <tr> <td></td> <td></td> <td style="text-align: right;">3209</td> <td style="text-align: right;">00</td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right;"><hr/></td> <td></td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right;">639640</td> <td style="text-align: right;">41</td> </tr> <tr> <td colspan="2"></td> <td colspan="2"><hr/></td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right;">750</td> <td style="text-align: right;">00</td> </tr> <tr> <td colspan="2"></td> <td colspan="2"><hr/></td> </tr> <tr> <td colspan="2"></td> <td style="text-align: right;">Rs. 638890</td> <td style="text-align: right;">41</td> </tr> <tr> <td colspan="2"></td> <td colspan="2"><hr/></td> </tr> </table>	5437	50			543	75	4893	75	<hr/>				6250	00			1103	15	5146	85	<hr/>				25000	00			4665	62	20,334	38	<hr/>				12500	00			2307	50	10,192	58	<hr/>				10000	00			1866	25	8133	75	<hr/>				56250	00			9832	50	46417	50	<hr/>						3209	00			<hr/>				639640	41			<hr/>				750	00			<hr/>				Rs. 638890	41			<hr/>	
5437	50																																																																																																									
543	75	4893	75																																																																																																							
<hr/>																																																																																																										
6250	00																																																																																																									
1103	15	5146	85																																																																																																							
<hr/>																																																																																																										
25000	00																																																																																																									
4665	62	20,334	38																																																																																																							
<hr/>																																																																																																										
12500	00																																																																																																									
2307	50	10,192	58																																																																																																							
<hr/>																																																																																																										
10000	00																																																																																																									
1866	25	8133	75																																																																																																							
<hr/>																																																																																																										
56250	00																																																																																																									
9832	50	46417	50																																																																																																							
<hr/>																																																																																																										
		3209	00																																																																																																							
		<hr/>																																																																																																								
		639640	41																																																																																																							
		<hr/>																																																																																																								
		750	00																																																																																																							
		<hr/>																																																																																																								
		Rs. 638890	41																																																																																																							
		<hr/>																																																																																																								

I, LUKMANJEE GULAMHUSSEIN of Colombo, Administrator of the Intestate Estate of Taherbhoy Gulamhussein deceased do solemnly sincerely and truly declare and affirm as follows:-

1. To the best of my knowledge, information and belief the above-written Inventory contains a full, true and correct account of all the property movable and immovable and rights and credits of the said Taherbhoy Gulamhussein deceased, as far as I have been able with due diligence to ascertain the same.

2. I have made a careful valuation of all the property, the particulars of which are set forth and contained in the said Inventory, and to the best of my judgment and belief the several sums respectively set opposite to the several items in the said Inventory fully and fairly represent the values of the items to which they are so respectively set opposite.

Signed and affirmed to at) Sgd. LUKMANJEE GULAMHUSSEIN,  
 Colombo this 13th day of 12. 2. 52.  
 February, 1952. )

Before me,

Sgd. A. V. PUSPHADEVI JOSEPH.  
 Commr. of Oaths.

“TRUE COPY” of Inventory filed in D. C. Colombo  
 Case No. 10871/Testy.

Sgd.....  
 Certified this 31st day of August, 1954. Asst. Secretary, D. C. Colombo.



P 23. EXTRACTS FROM MUNICIPAL ASSESSMENT REGISTER.

Kollupitiya Ward.

The Assessment Book Under Section 235 of the Municipal Councils Ordinance No. 29 of 1947.

Kollupitiya Road.

Exhibits  
P 23  
Extracts  
from  
Municipal  
Assessment  
Register.  
1947-51  
—continued.

Old Street or Garden Number.	Old Tenement Number.	Street or Garden Number.	Tenement or Floor No.	Name of Reputed Owner.	Reference to authority for alteration of name.	Name of Occupier, Paying Rates.	Description	1948						1949						1950						1951																		
								Details of Consolidation.	Altered Details of Consolidation.	"Annual value."	Serial No. of notice under Section 235 and 237	Serial No. of notice under Section 233.	Amount recoverable per Quarter at 30 per cent.	Reference to authority for alteration in value.	Building Report No.	Objection Register No.	Date from which altered value to accrue.	Details of Consolidation.	Altered Details of Consolidation.	"Annual value"	Serial No. of Notice under Section 235 and 237	Serial No. of notice under Section 233	Amount recoverable per Quarter at 30 per cent.	Reference to authority for alteration in value.	Building Report No.	Objection Register No.	Date from which altered value to accrue.	Details of Consolidation.	Altered Details of Consolidation.	"Annual value."	Serial No. of Notice under Section 235 and 237	Serial No. of notice under Section 233	Amount recoverable per Quarter at 30 per cent.	Reference to authority for alteration in value.	Building Report No.	Objection Register No.	Date from which altered value to accrue.							
	153 & 155			Gulamhussein Adamjee Mohamedally Adamjee		Eating House			1500	393	112	50				1500	398	112	50							1500	401	112	50							1500	408	112	50					
	157			— do —		Eating House			1500	394	112	50				1500	399	112	50							1500	402	112	50							1500	409	112	50					

Certified Copy

Sgd: ANTHONISZ  
for Municipal Assessor.

17th December, 1951.















**P 13.****Journal Entries in D. C. Colombo.****No. 5706/P**

Exhibits  
P 13.  
Journal  
Entries in  
D. C.  
Colombo,  
No 5706/P.  
15-7-49. to  
4 10. 51.

**JOURNAL IN D. C. COLOMBO No. 5706.**

15-7-1949. K. Rasanathan Proctor for plaintiffs files appointment and  
plaint together with pedigree and abstract of title.

Plaint accepted and summons and commission ordered for  
5-10-49. on lispens and survey fees being tendered.

M. C. SANSONI  
D. J.

24-8-49. Proctor for plaintiffs tenders a memo of charges from  
Mr. V Karthigesu Surveyor for approval.

Issue paying in voucher for Rs. 153/-.

M. C. S.  
A. D. J.

1. Lispens )

2. Survey fees filed. )

Issue summons and commission 23/11.

5-11-49. Commission issued to Mr. V Karthigesu surveyor ret'ble  
23-11-49. ss tendered original reqd.

Original filed.

Summons issued on 1/36 defendants.

10-11-49. The Commissioner Mr. V Karthigesu moves that the  
ret'ble date of the commission be extended from 23-11-49  
to ret'ble 21-12-49 as the time allowed insufficient.

23-11-49. Return to Commission—Commissioner moves for time  
Proxy of 1st defendant filed.

2. Summons served on 1-36 defendants.

Served (pointed out).

Proxies of 14, 15-17 & 20 filed.

Papers filed re 25 & 26 defendants.

27th defendant is pt with 25th defendant.

27th defendant is appointed G A L over 25 & 26 defendants  
Formal papers re G A L appointed on 14/12.

An. 14/12.

M. C. S.  
A. D. J.

Exhibits  
P 13.  
Journal  
Entries in  
D. C.  
Colombo  
No. 5706/P  
15. 7. 49. to  
4. 10. 51.  
—continued.

- 14-12-49. Mr. K. Rasanathan for plaintiffs.  
1. Formal papers filed.  
2. Answer of 15-17 & 20 defendants filed.  
Papers filed re 7-13, 2, 3, 28 & 29 defendants. Minor 7-13 & 28 & 29 defendants to appear with proposed G A L on 8/2 3 & 4 defendants present 4th defendant is appointed G A L of 2 & 3 defendants.
- 5-1-50. Mr. Karthigesu Licensed surveyor submits plan No. 947 dated 15-12-49. Copy of field notes and his report and move that the Court be pleased to issue him a requisition to withdraw the money deposited in Court as survey fees.
- Allowed.  
M. C. S.
- 11-1-50. Requisition for Rs. 153/- issued in favour of Mr. V. Karthigesu Licensed Surveyor Colombo. Mr. K. Rasanathan for plaintiffs.
- 8-2-50. 1. Minors and proposed G A L to appear. 14th defendant pt. with minors. He is appointed G A L. He is not filing answer.  
2. Return to Commn. already filed.  
Trial 9/3.
- 3-3-50. Mr. M. H. Zaheed filed proxy of 27th defendant as G A L of 25th & 26th defendants.
- 7-3-50. Mr. W. M. J. Fernando Proctor files his appointment as proctor for 5, 21-24, 30 and 36th defendants and states that they admit the averments in the plaint and as such he files no answer for them.  
File Proxy.
- 7-3-50. Proctor for plaintiff files ptn. (15a) and affidavit (15b) of the 1st plaintiff and for reason stated therein moves that the 36th defendant respondents be appointed G A L over the 31st to 35th defendants respondents as 31 and 32 are young girls he tenders their minute of consent and as the 33 to 35th defendants are small children he moves that their presence be dispensed with. He is also tendering minute of consent from the 36th defendant respondent.  
Appln. allowed. File formal order
- 8-3-50. Proctor for plaintiff tenders four formal orders together with notice of trial duly signed

File. Intld. M. C. S.  
A. D. J.

- 9-3-50. Mr. K. Rasanathan for plaintiff.  
Trial.  
Vide proceedings docts and shares filed.  
Judgt. 10/3.
- 10-3-50. There is some dispute at the division for the shares.  
Judgt. on 17/3.
- 16-3-50. Proctor for 15-17 & 20 defendants filed objections of 15-17 & 20th defendants to statement shares tendered by plaintiffs at the trial on 9-3-50 and submits in lieu thereof a statement of shares for consideration of Court and moves for a date for Inquiry before Judgment is delivered. Proctor for plaintiffs objects and received notice for 17-8-51.  
Mention on 17. 3. 50.  
Intd. M. C. S.  
A. D. J.
- 17-3-50 1. Vide J. E.  
2. Judgment.  
Inquiry into shares on 22/3
2. 3. 50. Enquiry Mr. Adv. HERAT for plaintiff.  
Mr. Adv. SENEVIRATNE for 15-17 & 20 defendants.  
Address heard Order 29. 3.
- 9-3-50. Order declared by me in Court.  
Statement of shares 30/3.
- 30-3-50. Mr. K. Rasanathan for plaintiff.  
Statement of shares filed.  
Judgement.  
I hold parties entitled to the land shown in plan X according to the statement of shares. As a partition is impracticable I decree a sale. Costs. Prorata.  
Decree & Commission 5/4.  
Commission to issue to M/s R. G. McHeyzer & Son.
- 3-4-50. Proctor for plaintiffs tender draft decree and Comm. in duplicate and copy decree.  
1. File decree.  
2. Issue commission ret'ble 31. 5. 50.  
Comm. Issued.

Exhibits  
P 13.  
Journal  
Entries in  
D. C.  
Colombo  
No. 5706 P  
15. 7. 49. to  
4. 10. 51.  
—continued.

Exhibits  
P/13.  
Journal  
Entries in  
D. C.  
Colombo  
No. 5706/P.  
15. 7. 49. to  
4. 10 51.  
—*continued.*

5. 4. 50. Proctor for 15, 17 & 25 defts. files Petition of Appeal and tender notice of security to give security in Rs. 250/- on 17. 4. 50 for Respts. Costs of Appeal.

Proctor for 1-7 Plaintiffs 1st defendant 7-14 and 25, 26 & 27 defendant and 5, 21-24 30 to 35 defts. take notice.

He also tenders notices to be issued on 4. 6. 18 & 19 defendants Respondents who are unrepresented. He also applies for typewritten copies and moves for a paying in voucher for Rs. 12/-.

1. Petition of appeal accepted.
2. Call on 17/4/50.
3. Issue Notice for 17/4/50
4. Issue P. I. Vr. for Rs. 12/-

Sgd. M. C. SANSONI  
A. D. J.

5. 4. 50. The Commn. filed Conditions of sale marked A & B and mode of advertisement for approval.

Approved.

Intd. M. C. S.  
A. D. J.

11. 4. 50. Notice issued re'ble 17-4-50

17. 4. 50. Mr. K. Rasanathan for Plaintiff respondent.

Mr. A. W. Seneviratne for 15-17 & 20 defendant applents.

1. Notice of security served on 18 & 19 defendants respondents. They are absent.

2. It is not served on 4 & 6 defendants-respondents.

Resissue for 25-4-50

Mr. Seneviratne present.

Issue deposit note for 250/-

Intd. H. A. DE S.  
D. J.

17. 4. 50. Paying in Voucher for 250/- & Rs. 12/- issued.

17. 4. 50. Notice of security reissued on 4 & 6 respondents.

17. 4. 50. Proctor for 15-17 & 30 defendants tenders 2 KRR for Rs. 250/- & 12/- together with security bond duly perfected and the notices of appeal on all the respondents.

1. File KRR & Bond.
2. Await issue of Notice of appeal till notices of security have been served on 4 & 6 respondents.

Intd. H. A. DE S.  
A. D. J.

Exhibits  
P 10.  
Journal  
Entries in  
D. C.  
Colombo  
No. 5706/P  
15. 7. 49. to  
+10-51.  
—*continued*.

- K. R. 0/8 No. 055845/17-4-50 & Rs. 250/- filed  
K. R. 0/8 No. 055846 17. 4-50 for Rs. 12/- filed.

25. 4. 50. Mr. E. W Seneviratne for 15, 17 & 20 Respondents applts.  
K. Rasanathan for Plaintiffs Respondent.

Notice of security served on 4 & 6 Respondents they are absent.

J. E. of 17. 4. 50

Issue notice of appeal for 24-5-50.

Intd. K. D. DE S.  
A. D. J.

Notice of appeal issued to Fiscal W. P

8. 5. 50. The Commr. states that the sale has been fixed for 26. 5. 50.  
at the spot at 5 p. m.

File.

22. 5. 50. M/s Julius & Creasy, Proctor, file their appointment together  
with Petn. and affdt and move

- (a) for an injunction against the respdts. restraining any sale of the property and premises described in the Schedule to the petition and for an enjoining order to accompany the s/s enjoining the respdts. to the said effects and for an order of this Court staying the sale of the said premises which the petrs. understand is fixed for 26. 5. 50.
- (b) this Court do set aside or vacate the decree entered in the proceedings No. 5706/P on or about 30. 3. 50. as null and void and of no force or effect in law.
- (d) that the Court to permit and order the petitioners to intervene in these proceedings and that the claim and title of the petitioners to the said premises and any and all their claims be determined adjudicated upon and decreed by this court.
- (e) for an order that in the event of any sale of the said premises at any time and that the proceeds of the same be in court and brought into court to remain in court

Exhibits  
P 13.  
Journal  
Entries in  
D. C.  
Colombo  
No. 5706/P.  
15 7. 49 to  
4. 10. 51.  
*—continued.*

- until the determination of the action instituted by the Petrs. as pltffs. against the respdts. as defdts. in respect of the said proceedings and regard to the said land and premises and the final determination of this appln. of the Petnrs. and costs as prayed for. Mr. N. E. Weerasooriya K. C. with Mr. S. J. Kadirgamar in support.
- Call on 23. 5. 50. in Court with Notice to pltffs. Proctors.
- 22-5-50 Notice issued on pltff. Proctors.
- 23-5-50 Case called.--Vide proceedings Inquiry--on 24. 5. 50.  
Mr. Adv. Weerasooriy's application and also quite apart from it on the question whether the sale has to be stayed not in view of the appeal filed by some defendants in the allocation of shares.
24. 5. 50. Mr. E. W. Seneviratne for 15-17 & 20 appellants.  
Mr. K. Rasanathan for plaintiffs. respondents. Notice of appeal served on 1-9 respdts.  
2. Inquiry vide J. E.  
Vide proceedings,  
1. Application of the petitioners dismissed with costs.  
2. Order on the question whether owing to the appeal by the 15-17 & 20D the shares for sale shall go on 25. 5. 50.
25. 5. 50. Case called vide J. E.  
At this stage Mr. Rasanathan moves that the sale be stayed in view of the appeal pending the appeal. Direct Commissioner to stay sale.
- 23-6-50. Vide memo from the Typist Room-Call for additional fees from Proctors for Appellants and Respondents.  
Intld. V. S. J.  
A. D. J.
- 26-6-50. Called for from Proctors for Appellants and Respondents.
- 30-6-50. K. R. No. 3/8 59881 of 29. 6. 50 for Rs. 6/- Filed.
- 13-7-50. Record forwarded to S. C. with 2 copies of the brief.
- 18-9-51. The Registrar Supreme Court returns the record. Appeal dismissed with costs.  
1. Call case on 10-10-51 to give a date for the issue of Commn. for sale.  
2. Inform Proctor that the case will be called on 10-10-51.  
Intld. L. W. DE S.  
A. D. J.

- 19-9-51. Proctor for plaintiff as the appeal has been dismissed with costs moves that the Commn. be issued again to M/S Mac Heyzor & Sons to sell the property under the decree for sale entered.
1. Issue Commn. re'tble 5-12-51  
2. Case need not be called on 10-10-51 vide. J. E. 18. 9. 51. Commn. reissued.
- Exhibits  
P 13.  
Journal  
Entries in  
D. C.  
Colombo  
No. 5706/P  
15. 7. 49 to  
4-10-51  
—continued.

Intd. L. W de S.  
A. D. J.

- 27-9-51. Proctor for Plaintiff as the appeal has been dismissed with costs moves for an order of payment in his favour for Rs. 250/- being security for costs deposited by appellants. Proctor for 27th defendant and 1st to 7th plaintiffs consent Proctor for Appls, consent.

Allowed.

Intd. L. W. de S.  
A. D. J.

- 2-10-51. Auctioner Mr. R. C. Mc Heyzer with reference to the Commission issued to him files Conditions of Sale the mode of advertisement for approval of Court and the valuation report.

He states that the sale is fixed for 28-11-51 File.

Intd. L. W de S.  
A. D. J.

- 4-10-51. Requisition No. 290 issued to K. Rasanathan.

Intd. L. W de S.  
A. D. J.

**P 14.**

**Plaint in D. C. Colombo No. 5706/P.**

P. 14

D. C. COLOMBO No. 5706/P

1. Haddad Sadoon
  2. Abdul Cader Sadoon
  3. Halwan Sadoon
  4. Ummul Kair Sadoon wife of M. S. Aboobucker
  5. Aynul Marliya Sadoon wife of M. A. Hamid
  6. Sithy Lariffa Sadoon and
  7. Mohideen Sadoon all of Castle Street in Borella, Colombo.
- Plaintiffs.

Vs.

- Minor
1. Mohamed Hamsa Mahroof of 158 Layards Brodway
  2. Mohamed Mahroof Sithy Nasdowa of 164 New Moor Street

P 14,  
Plaint in  
D. C.  
Colombo  
No. 5706/P.  
15-7-49



Exhibits  
P. 14,  
Plaint in  
D. C.  
Colombo  
No. 5706/P.  
15-7-49.  
—continued.

- |        |     |   |
|--------|-----|---|
| Minor  | 3.  | Mohamed Mahroof Mohamed Khalid (2nd & 3rd by G A L) the 4th defendant                                     |
|        | 4.  | M. L. M. M. Shariff both of 164 New Moor Street as G A L over the 2nd and 3rd defendants minors           |
|        | 5.  | Nooreel Hidaya Abden of Reid Avenue   |
|        | 6.  | Muzaira Akbar of Reid Avenue  |
|        | 7.  | Abdul Mawahib Nakeem of Castle Street and   |
|        | 8.  | Sithy Safia Nakeem  |
|        | 9.  | Umma Vojeed Nakeem  |
| Minors | 10. | Hassen Jiffry Nakeem  |
|        | 11. | Mohamed Ismail Nakeem   |
|        | 12. | Mohamed Samsudeen Nakeem  |
|        | 13. | Mohamed Milhar Nakeem (7 to 13th by their G A L the 14th defendant)                                       |
|        | 14. | M. Y. M. Hamza (as G A L over the minors 7-13 defdts.)  |
|        | 15. | Mrs. Noor Himaya Mohideen   |
|        | 16. | M. Awn Marikkar all of Castle Street, Colombo   |
|        | 17. | M. Mohamed Thahir of Messenger Street, Colombo  |
|        | 18. | Mrs. Ummu Hazeema Mohideen of Castle Street   |
|        | 19. | Mrs. Sithy Zavahira Zubair of Kirillapone   |
|        | 20. | M. M. Nuhman  |
|        | 21. | M. H. Sakar   |
|        | 22. | M. Z. F Cassim  |
|        | 23. | Mrs. U. Z. Ameen  |
|        | 24. | Miss. H. M. Mohideen and  |
| Minor  | 25. | Mohamed Sameer Mohamed Alavi all of Castle Street, Borella, Colombo and                                   |
| Minor  | 26. | Miss. S. Z. Sameer (25 & 26th by their G A L the 27th defendant) also of Castle Street and                |
|        | 27. | M. I. M. Sameer as G A L over the minors the 25th and 26th defendants.                                    |
| Minor  | 28. | M. S. Farook  |
| Minor  | 29. | Miss M. R. S. Hanoon (28 & 29 by their G A L the 30th defendant)  |
|        | 30. | M. Z. F Cassim as G A L over the minors the 28 and 29th defendants  |
|        | 31. | Kadija Ghouse Cassim  |
|        | 32. | Ayn Safia Ghouse Cassim   |
| Minors | 33. | Shuhaib Ghouse Cassim   |
|        | 34. | Ameer Faizer Ghouse Cassim  |
|        | 35. | Falil Ghouse Cassim and   |
|        | 36. | M. Ghouse Cassim all of Castle Street in Borella Colombo as G A L over the minors the 31 to 35 defendants |

Defendants.

This 15th day of July 1949.

The Plaintiff of the plaintiffs. Appearing by their Proctor K. Rasanathan states as follows:

1. The parties to this action reside and the cause of action hereinafter set forth and the land which is the subject matter of this action is situated at Colombo within the jurisdiction of this Court. Exhibits P 11. Plaintiff in D. C. Colombo No. 5706 of 15. 7. 49. —continued.
2. One I. L. Idroos Lebbe Marikar was the original owner of the land and premises fully described in the schedule hereto under Deed No. 1647 of 25. 8. 1868 attested by W. M. Wolffe N. P
3. The said I. L. Idroos Lebbe Marikar departed this life on or about the 8th day of May 1876 leaving a last will bearing No. 7130 dated the 12th day of December 1872 attested by P. Paulus Perera of Colombo Notary Public and leaving as his heirs his father Uduma Lebbe Isbu Lebbe and his widow Assena Natchia and his eight children Mohamed Noordeen Mohamed Mohideen, Salema Lebbe, Abdul Rahaman, Mohamed Isbu, Amsa Natchia, Safia Umma and Abdul Hamid.
4. The said Last Will was duly admitted to Probate in case No. 3909 of the District Court of Colombo and Probate thereof was issued to Mohamed Mohideen.
5. In terms of the said Last Will three persons were duly nominated to distribute among the heirs the property of the deceased and under the said distribution the property described in the schedule hereto were allotted to Safia Umma, a daughter and accordingly Deed No. 246 dated 19-2-1878 attested by J. G. L. Ohlmus Notary Public was executed by the executors in favour of the said Safia Umma.
6. Thereafter the said Safia Umma departed this life intestate leaving as heirs her children Eleven in number namely Mohamed Sadoon Mohamed Mahroof, Mohamed Jahafar, Mohamed Nakeem, Affarn Mohamed Nilam, Ummul Vojeeda, Noor Zahira Noorul Haffia, Noorul Lahira and Ummul Aysha of the said children the said Mohamed Affarn and Mohamed Nilam died without Issue thus on the death of the said Safia Umma the premises described in the schedule hereto devolved on the remaining nine children.
7. The said Mohamed Sadoon departed this life leaving seven children who are the first to the seventh plaintiffs in this case.
8. The said Mohamed Mahroof departed this life leaving three children who are made the first to the third defendants in this case namely Mohamed Hamza, Sithy Nasoowa and Mohamed Kalid.
9. The said Mohamed Jahafar departed this life leaving two children namely Noorul Hidayah and Sithy Fahiza of whom the latter died leaving one child namely Mazaira Akbar who is made the sixth defendant. The said Noorul Hidayah being made the fifth defendant.
10. The said Mohamed Nakeem died leaving seven children namely Abdul Mawahib Sitty Saffia Umma Vojeeda, Hassen Jiffy Mohamed Ismail Mohamed Samsudeen and Mohamed Milhar who are made the seventh to the thirteenth defendants.

Exhibits  
P 14,  
Plaint in  
D. C.,  
Colombo  
No. 5706/P.  
15. 7. 49.  
—continued.

11. The said Ummul Vojeeda died leaving six children namely Himaya Awn Thair, Hazeema, Zavahira and Nuhaman who are made the fifteenth to the twentieth defendants.

12. The said Noor Zahira departed this life leaving four children Sakaf, Fulail, Ummu Zulaikha and Hibshi Mazshina who are made the twenty first to the twenty fourth defendants.

13. The said Noorul Hafila died leaving two children namely Alavee and Sithy Zulaikha who are made the twenty fifth and twentysixth defendants.

14. The said Noor Zahira departed this life leaving two children namely Samsudeen Farook and Safia Hanoon who are made the twenty eight and twenty ninth defendants.

15. The said Ummul Aysha departed this life leaving five children namely Kadiya, Ummu Safia Shuhaib, Feizer and Falih who are made the thirty first to the thirty fifth defendants.

16. The plaintiffs submit that the said Last Will created a valid fidei commissum in favour of the Grand children of the said Safia Umma daughter of the Testator.

17. Thus the said parties to this action are entitled to the following shares in the land described in the schedule hereto.

1st plttf.	1/37th share
2nd „	do
3rd „	do
4th „	do
5th „	do
6th „	do
7th „	do
1st defdt.	do
2nd „	do
3rd „	do
5th defdt.	1/37th share
6th „	do
7th „	do
8th „	do
9th „	do
10th „	do
11th „	do
12th „	do
13th „	do

15th	„	1/37th
16th	„	do
17th	„	do
18th	„	do
19th	„	do
20th	„	do
21st	„	do
22nd	„	do
23rd	„	do
24th	„	do
25th	„	do
26th	„	do
28th	„	do
29th	„	do
31st	„	do
32nd	„	do
33rd defdt.		1/37th
34th	„	do
35th	„	do

Exhibits  
P 14  
Plaint in  
D. C.  
Colombo  
No. 5706/P.  
15-7-49,  
—continued.

18. Common possession of the said premises is impracticable and inconvenient.

19. The parties to this action and their predecessors in title have been in the undisturbed and uninterrupted possession of the said premises.

20. The said premises are reasonably worth Rs. 75,000/-.

Wherefore the plaintiffs pray that the premises in the schedule hereto fully described be sold under the partition ordinance and the proceeds shared between the parties as aforesaid for costs pro rata and for such other and further relief as to this court shall seem meet.

Sgd. K. RASANATHAN  
Proctor for Plaintiff.

#### SCHEDULE

ALL that allotment of land with the buildings and plantations standing thereon bearing Assessment No. 26 situated at Kollupitiya within the Municipality and District of Colombo Western Province bounded on the north by premises bearing Assessment No. 25 belonging

Exhibits  
P 14.  
Plaint in  
D. C.  
Colombo  
No. 5706/P  
15-7-49.  
—continued.

to O. H. M. Sheriff and the passage on the East by premises bearing Assessment No. 1 belonging to Ana Ravanna Mana Chetty, on the South by Muhandiram's Road and on the West by High Road from Colombo to Galle containing in extent one rood and twenty 26/100 square perches according to the figure of survey bearing No. 222 dated the 1st day of March 1906 and made by H. G. Dias Licensed Surveyor and Leveller, which bears present Assessment Nos. G7 (1-5) to 37 Muhandiram's Road and 153 and 155 and 157 Galle Road Kolluptiya.

Sgd. K. RASANATHAN  
Proctor for Plaintiff.

---

P 15.

Exhibits  
P 15.  
Abstract of  
Title in  
D. C.  
Colombo  
No. 5706/P.  
15. 7. 49.

**Abstract of Title in D. C. Colombo No. 5706/P.**

Abstract of title marked letter 'A'

No.	Date.	Nature	Grantor	Grantee	Share conveyed
147	25. 8. 1868.	Transfer.	M. C. O. Lebbe Marikkar	I. L. Idroos Lebbe Marikkar	Entirety
246	19. 2. 1878.		Executor I. L. L. Lebbe Marikkar	Saffia Umma	Entirety

Sgd. K. RASANATHAN  
Proctor for Plaintiff.

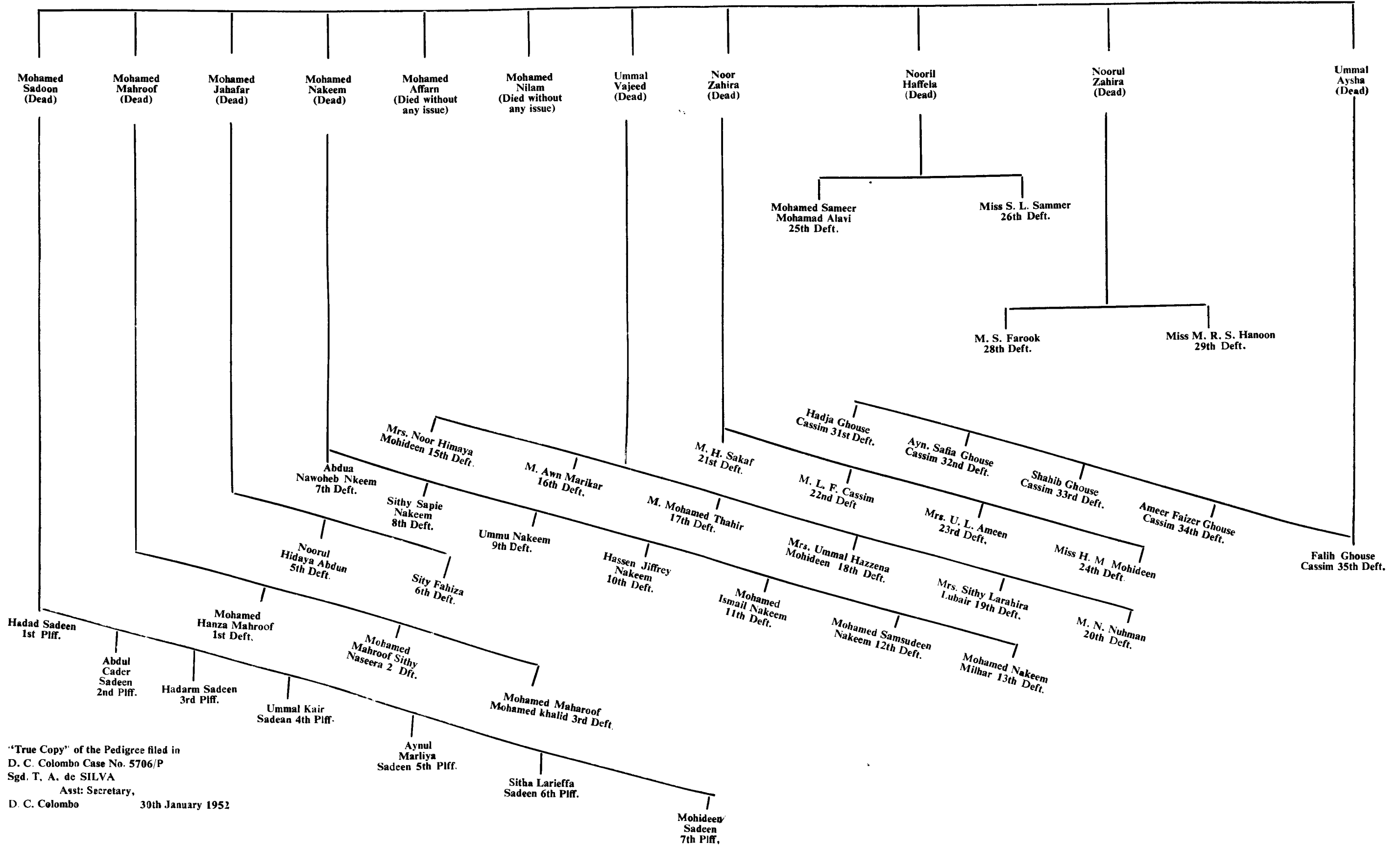
Colombo 15th July 1949.

“True Copy” of Abstract of Title filed in D. C. Colombo Case No. 5706/P.

Sgd. T. H. DE SILVA  
Asst. Secretary  
District Court Colombo.

**Pedigree Marked "B"**  
Colombo 15th July 1944.

**Pedigree in D. C. Colombo No. 5706/P.**  
**I. L. IDROOS LEBBE MARIKAR**



"True Copy" of the Pedigree filed in  
D. C. Colombo Case No. 5706/P  
Sgd. T. A. de SILVA  
Asst: Secretary,  
D. C. Colombo 30th January 1952

Exhibits  
P 17.  
Statement  
of claim  
of 15th, 16th  
17th and 20th  
Defendants P 17.  
in D. C.  
Colombo  
No. 5706/P  
14, 12, 49.

P 17.

**Statement of Claim of 15th, 16th, 17th and 20th Defendants in  
D. C. Colombo No. 5706/P.**

**IN THE DISTRICT COURT OF COLOMBO**

HADAD SADEEN and 6 others all of Castle  
Street, Borella, Colombo.

Plaintiff.

D. C. Colombo  
No. 5705/P.

Vs.

1. MOHAMED HAMSA MAHROOF of 158  
Layard's Broadway & 35 others.

Defendants.

This 14th day of December 1949.

The statement of claim of the 15th, 16th, 17th and the 20th defendants abovenamed appearing by E. W. Seneviratne their Proctor states follows:

These defendants accept the shares allotted to them in para. 17 of the plaint and consent to the sale of the property and to the distribution of proceeds realised by the sale according to their respective shares.

Wherefore these defendants pray:

(a) that the said property be sold and the proceeds realised by the sale be brought to Court for distribution according to their respective shares.

(b) for costs pro rata

(c) for such other and further relief as to the Court shall seem meet.

Sgd. E. W. SENEVIRATNE

Proctor for 15, 16, 17 & 20th defendants.

---

**P. 18.**

**Proceedings in D. C. Colombo No. 5706/P.**

P 18.  
Proceedings  
in D. C.  
Colombo  
No. 5706/P.  
9. 3. 50.

P 18.

9th March 1950.

D. C. 5706/P.

Present: 1 to 3 plaintiffs & 14, 16, 17, 22 & 28 defendants.

Advocate Mr. Herath instd. for plaintiffs.

Mr. M. H. Akbar for 7 to 14 defdts.

Mr. E. W Seneviratne for 15 to 17 & 20 defendants.

Mr. M. H. Shaheed for 25, 26 & 27 defendants.

Mr. Herath calls:

H. SADOON affd.

Exhibits  
P 18,  
Proceedings  
in D. C.  
Colombo  
No. 5706/P.  
9. 3. 50.  
—continued.

I am the 1st plaintiff. The property I seek to partition which is described in the schedule to the plaint is depicted in the Preliminary Plan No. 947 of 1-12-1949 marked 'X' By deed 1647 dated 25. 8. 1868 P1 one I. L. Idroos Lebbe Marikkar became entitled to this property. He died on 8. 5. 1876 leaving a Last Will No. 7130 dated 12. 12. 1872 P2 which was proved in D. C. Colombo Testy. (old Series) No. 3909. I produce the Probate marked P3. According to the conditions made in the Last Will there was a fidei commissum created and Idroos by his Last Will devised all these properties to his heirs, who were his father Uduma Lebbe Isbu Lebbe, his widow Assena Natchia his sons Mohamed Noordeen Mohamed Mohideen, Salema Lebbe, Abdul Rahiman, Mohamed Isbu, his brother & his son Abdul Hamid and his two daughters Amsa Natchiya & Safia Umma subject to certain conditions. The Last Will also stated that the three executors mentioned should make a division of all properties left by the Last Will in terms of the shares which the various heirs were entitled to according to Mohamedan Law. The executors did that. By executors conveyance No. 2575 dated 14-9-1888 P4 the executors acting under the terms of the Last Will P2 conveyed this property, the subject matter of the present action - to the testator's daughter Safia Umma subject to the condition of Last Will P2. The Last Will P2 has been held to create a fidei commissum in favour of Safia Umma's children and grand children, the grand children getting it absolutely. Safia Umma died leaving eleven children, namely, the following sons: Mohamed Sadoon, Mohamed Maharooof, Mohamed Jhafer, Mohamed Nakeem, Mohamed Affarn, Mohamed Nilam & the following daughters: Ammul Vojeeda, Noor Zahira, Noorul Haffila, Noorul Lahira, Ammul Aysha. These were the children of Saffia Amma and they were the fidei commissaries. The Last Will P2 has been constructed so that the children of Safia Umma will take the property according to their shares under Mohamedan law, namely, that the males take double of what the females get. Of these 11 children Mohamed Affarn and Mohamed Nilam died Issueless. So that, in effect, there were four males and 5 females. Each of the 4 surviving males got 2/13 shares and each of the 5 females daughters of Saffia Umma got 1/13th each. Sadoon died leaving 7 children namely the seven plffs. The 1st, 2nd, 3rd and 7th plffs. are sons and the 4th, 5th and 6th plffs. are daughters. These 7 plffs. got Sadoon's share absolutely. Mohamed Mahroof died leaving 2 sons 1st and 3rd defdts and one daughter 2nd defdt. Mohamed Jahafar died leaving 2 daughters the 5th and mother of the 6th defdt. The 6th defdt. is the only child. Mohamed Nakoom died leaving the following sons, 7th and 11th, 12th and 13th defendants 8th and 9th defendants. Ummul Vojeeda died leaving the following sons: 16, 17 & 20th defendants and the following daughters: 15, 18 & 19th defendants Noor Zahira died leaving 2 sons 21 & 22 defendants and two daughters 23 & 24th defendants. Noorul Hafila died leaving one son 25th defendant and one daughter 26th



Exhibits  
P 18.  
Proceedings  
in D. C.  
Colombo  
No. 5706/P.  
9. 3. 50.  
—continued.

defendant. Noor Lahira died leaving one son 28th defendant and one daughter 29th defendant Ummul Aysha died leaving 3 sons, 33, 34th and 35th defendants and 2 daughters 31st and 32nd defendants. The plaintiffs and defendants get title to this property absolutely. All improvements are in common. I am asking for a sale as a partition is impracticable. All the parties have agreed on a sale. I ask that commission be issued to Mr. R. C. Mc Heyzer.

Sgd. M. C. SANSONI

A. D. J.

Documents and shares filed. Judgment on 10th March 1950.

M. C. SANSONI

A. D. J.

9. 3. 50.

---

P 19.

Judgment in D. C. Colombo No. 5706/P.

P 19.  
Judgment in  
D. C.  
Colombo  
No. 5706/P.  
29. 3. 50

P 19.

JUDGMENT.

29th March 1950.

This dispute arises over the division of this property which belonged to Savia Umma subject to the terms of the Last Will P2. Under that Will the relevant provisions state that she, nor her issues nor heirs shall not sell, mortgage or alienate any of the lands etc. and they shall be held in trust for the grand children. It is not disputed now in view of the Privy Council judgment interpreting the Will P2 that it created a valid fidei commissum.

Savia Umma had eleven children and the question to be decided is whether the 1/4th share which each of those children inherited on her death was subject to a separate fidei commissum or whether the entire property was subject to one fidei commissum in favour of the grand children of Savia Umma. The plaintiffs' case is that there were eleven separate fidei commissa, while the 15th to 17th and 20th defendants argue through their Counsel that there was one fidei commissum over the entire property. The contention of the 15th to 17th and 20th defendants is that the present plaintiffs and defendants being the ultimate beneficiaries would divide the property irrespective of the fact that Savia Umma had eleven children. This is to say, all the male parties to this action would get equal shares and the females would get equal shares, each male however getting twice as much as each female. But the plaintiffs' contention is that the children of each child of Savia Umma would get the share which their respective parents were entitled to, in that case too the sons of Savia Umma getting twice as much as the daughters.

If I may illustrate the position Savia Umma's son Mohamed Sadoon, being one of four sons, and there being five daughters of Savia Umma would have been entitled to  $\frac{2}{13}$ th share. I omit reference to two children who died issueless and those shares it is agreed devolved on their brothers and sisters. Now the plaintiffs' case is that Mohamed Sadoon's share has devolved on these seven plaintiffs. The contesting defendants however take up the position that the division of this property must be made on the footing that irrespective of how many children Savia Umma had, all her grand children being the ultimate beneficiaries must divide the properties per capita subject only to the qualification that the male grandchildren take twice as much as the female grandchildren. I think the plaintiffs' contention must be upheld.

Exhibits  
P 19.  
Judgment in  
D. C.  
Colombo.  
No. 5706/P.  
29. 3. 50.  
—continued.

I was addressed at length on the application of the principle of *jus accrescendi*. So far as the shares of Savia Umma's two sons who died issueless are concerned the plaintiffs have applied that principle and those shares devolved on their surviving brothers and sisters. But when we have to divide this land amongst the grand children of Savia Umma I do not doubt that each set of grand children will inherit the share which their respective parents inherited. That is the opinion of Wijewardene J. expressed at page 294 of 45 N L R. The question as to whether *jus accrescendi* applies does not then arise because all the surviving nine children of Savia Umma left children and there was no failure of beneficiaries with respect to any of them. As I said, the principle has been applied by the plaintiffs in the case of the two children Mohamed Farook and Mohamed Nalam because their shares have been correctly given to their surviving nine brothers and sisters instead of passing to other intestate heirs outside this family. The *jus accrescendi* only applies where there would otherwise be a lapse, and there is no lapse when the surviving nine children each had children. The principle was laid down by Bertram C. J. in 20 N L R at page 234 and 235. In that case there was a gift in favour of one Candoo Umma subject to certain conditions not unlike those we have in the Last Will P2. She died leaving four children of whom two died intestate and childless. Of the other two one was the first defendant in that action while the other died leaving three children who were respectively the plaintiff 2nd and 3rd defendants in that action. The plaintiff filed the action claiming a  $\frac{1}{6}$ th share for himself and allotting a  $\frac{1}{2}$  share of the 1st defendant and  $\frac{1}{6}$ th each to the 2nd and 3rd defendants. The dispute arose because Candoo Umma's husband claimed the interest of her two children who had died issueless by inheritance and also under a conveyance or a Last Will executed by the other two children, in his favour. It was held that Candoo Umma's husband was not entitled to any interests from these two children who died issueless and that those interests passed to the two surviving children of Candoo Umma under the *accrescendi*. The 1st defendant in that case, being one of the two surviving children, got a half share and the plaintiff 2nd and 3rd defendants being the children of the other child each got  $\frac{1}{6}$ th share.

Exhibits  
P 19.  
Judgment in  
D. C.  
Colombo  
No. 5706/P  
29 3 50  
—continued.

The same reasoning would apply to support the plaintiffs allocation of the shares of Mohamed Farook and Mohamed Nilam to Savia Umma's nine surviving children in this case - when it came to a division between the grand children of Candoo Umma in that action it would be noticed that the division took place on the footing that each of her two surviving children was entitled to a half share and therefore the plaintiff in that case was entitled to a 1/6th and the 1st defendant in that action to half. It is only in the case of any of Savia Umma's children dying issueless that the jus accrescendi would apply to benefit her surviving children. In my opinion it does not apply to benefit some of her grand children at the expense of the other grand children. I think support for this conclusion may also be found in another judgment of Bertram C. J. at 26 N L R p. 129, where he says that there a fidei commissum is created in favour of the children of the founders and their descendants and even where it was the intention to subject the property to one fidei commissum it is only upon any one line of the descendants being exhausted that the interests of that line shifts to the other lines. In 20 N L R p. 225 he has also stated that there must be a predecease of a person designated otherwise there is no failure of the testators gift. There is no such failure, as in this case the objects of the donor's bounty are not designated individually but successive classes of persons to be ascertained at successive stages. Once the nine surviving children of Savia Umma entered upon their surviving shares by inheritance, I hold that there would be a separation of interests which would enure to the benefit of their respective children which would only cease to operate if any of them ultimately died childless, in which event that share would accrue to the benefit of their co-heirs in that class.

To summarise my findings I would hold that after Savia Umma's death her children became entitled to this property also as fiduciaries and as a particular class. If any child dies, as happened in this case, his interest instead of going to all his intestate heirs at law, accrue to the benefit of the surviving children who are members of that class. Upon the death of Savia Umma's children her grand children would become entitled to the shares of their respective parents. If any grand child died, his interests would devolve on his surviving brothers and sisters but not on his cousins. For that would be to go outside the line when the line itself is not exhausted. In the result the shares in this case must be worked out on the footing that each of the nine surviving sons of Savia Umma gets 2/13 and each of nine surviving daughters 1/13th. The respective children of each of those sons will become entitled to the 2/13th share while the respective children of each of those daughters will become entitled to the 1/13th share.

Let a statement of shares be filed by plaintiffs' Proctor in accordance with this direction, plaintiffs are entitled to the costs of the day from 15th to 17th and 20th defendants.

Sgd. M. C. SANSONI  
A. D. J. 29 - 3 50.

## P 20.

## Decree in D. C. Colombo No. 5706/P

Exhibits  
P. 20  
Decree in  
D. C.  
Colombo  
No. 5706/P.  
30. 4. 50.

P 20.

This action coming on for final disposal before M. C. Sansoni, Esqr. Additional District Judge of Colombo on the 30th day of March 1950 in the presence of Mr. Advocate Herat instructed by Mr. K. Rasanathan Proctor on the part of the plaintiff Mr. M. S. Akbar Proctor on the part of the 7th to 14th defendants Mr. E. W. Seneviratne Proctor on the part of the 15 to 17th defendants and Mr. M. H. Zaheed Proctor on the part of the 25th to 27th defendants.

It is ordered and decreed that the parties to this action be and they are hereby declared entitled to all that allotment of land with the buildings standing thereon now bearing assessment Nos. 153, 155, 157 (Galle Road) and Nos. G17/1-5, 11, 15, 17, 19, 21, 23, 25G, 25, 25/3-9, 16-21, 31, 33, 35, & 37 Muhandiram's road situated at Kollupitiya within the Municipality and District of Colombo Western Province and bounded on the North by premises now bearing assessment No. 151/1-7 (Galle Road) & G151, G57, (Kollupitiya Road) on the east by premises now bearing Assessment No. 41, Muhandiram's road, on the South by Muhandiram road and on the West by Galle road containing in extent one rood and thirteen decimal eighty seven perches (A0. R1. P13. 87) as per figure of survey No. 947 dated 15-12-49 made by V. Karthigesu Licensed Surveyor marked X and filed of record in the following shares to wit:

The	1st	plaintiff to	an undivided	720/25740	share
The	2nd	"	"	720/25740	"
The	3rd	"	"	720/25740	"
The	4th	"	"	360/25740	"
The	5th	"	"	360/25740	"
The	6th	"	"	360/25740	"
The	7th	"	"	720/25740	"
The	1st	defendant	"	1584/25740	"
The	2nd	"	"	792/25740	"
The	3rd	"	"	1584/25740	"
The	5th	"	"	1980/25740	"
The	6th	"	"	1980/25740	"
The	7th	"	"	660/25740	"
The	8th	"	"	330/25740	"
The	9th	"	"	330/25740	"

Exhibits P 20	The	10th	plaintiff to an undivided	660/25740	share
Decree in D. C. Colombo No. 5706/P 30-4-50 —continued.	The	11th	„ „	660/25740	„
	The	12th	„ „	660/25740	„
	The	13th	„ „	660/25740	„
	The	15th	„ „	220/25740	„
	The	16th	„ „	440/25740	„
	The	17th	„ „	440/25740	„
	The	18th	„ „	220/25740	„
	The	19th	„ „	220/25740	„
	The	20th	„ „	440/25740	„
	The	21st	„ „	660/25740	„
	The	22nd	„ „	660/25740	„
	The	23rd	„ „	330/25740	„
	The	24th	„ „	330/25740	„
	The	25th	„ „	1320/25740	„
	The	26th	„ „	660/25740	„
	The	28th	„ „	1320/25740	„
	The	29th	„ „	660/25740	„
	The	31st	„ „	220/25740	„
	The	32nd	„ „	440/25740	„
	The	33rd	„ „	440/25740	„
	The	34th	„ „	440/25740	„
	The	35th	„ „	440/25740	„

It is further ordered and decreed that the said land and premises be sold by Messrs R. C. Mac Heyzer & Sons Auctioneers in terms of Ordinance No. 10 of 1863 and the proceeds be brought to Court to abide by further order of Court.

And it is further ordered and decreed that plaintiffs do get the usual pro rata costs allowed by this Court.

Sgd. M. C. SANSONI

A. D. J.

The 30th April 1950.

P. 11.

**Petition for Injunction in D. C. Colombo No. 5706/P**  
**IN THE DISTRICT COURT OF COLOMBO.**

P 11,  
Petition for  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
20. 5. 50.

1. Hadad Sadeen
2. Abdul Cader Sadeen

3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella, Colombo.

Exhibits  
P 11.  
Petition for  
Injunction in  
D. C.  
Colombo  
No 5706/P.  
20, 5, 50.  
—continued.

## Plaintiffs

No. 5706 Partition.

Vs.

1. Mohamed Hamza Mahroof of 158 Layards Broadway
2. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
3. Mohamed Nahroof Mohamed Khalid (2nd and 3rd by their Guardian-ad-litem)
4. M. L. M. M. Shariff both of 164 New Moor Street, Colombo
5. Noorul Hidayah Abdeen of Reid Avenue, Colombo.
6. Muzaira Akbar of Reid Avenue, Colombo.
7. Abdul Mawahib Nakeem of Castle Street, Borella, Colombo
8. Sithy Safia Nakeem
9. Ummu Vojeeda Nakeem
10. Hassen Jiffry Nakeem
11. Mohamed Ismail Nakeem
12. Mohamed Samsudeen Nakeem
13. Mohamed Milhar Nakeem (7th to 13th by their Guardian-ad-liem)
14. M. Y. M. Hamza
15. Mrs. Noor Himaya Mohideen and
16. M. Awn Marikar all of Castle Street, Borella, Colombo
17. M. Mohamed Thahir of Messenger Street, Colombo
18. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella, Colombo.
19. Mrs. Sithy Zavahira Zubair, Kirillapone.
20. M. M. Nuhman
21. M. H. Sakaf
22. M. Z. F. Cassim
23. Mrs. Ummu Zulaiha Ameen
24. Miss. H. M. Mohideen
25. Mohamed Sammer Mohamed Alavi all of Castle Street, Borella, Colombo, and

Exhibits  
F 11.  
Petition for  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
20-5-50.  
—continued.

26. Miss. S. Z. Sameer (25th and 26th by their Guardian-ad-litem)
27. M. I. M. Sameer
28. M. S. Farook
29. Miss. M. R. S. Hanoon (28th & 29th by their Guardian-ad-litem)
30. M. Z. F. Cassim
31. Hadija Ghouse Cassim
32. Ayn Safia Ghouse Cassim
33. Shuhaib Ghouse Cassim
34. Ameer Faizer Ghouse Cassim
35. Falih Ghouse Cassim (by their Guardian-ad-litem)
36. M. Ghouse Cassim all of Castle Street.

Defendants.

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN
4. ABBASBHOY GULAMHUSSEIN all of Colombo.

Petitioners.

Vs.

1. Hadad Sadeen
2. Abdul Cader Sadeen
3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella, Colombo.
8. Mohamed Hamza Mahroof of 158 Layards Broadway, Colombo.
9. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
10. Mohamed Mahroof Mohamed Khalid (9th & 10th by their Guardian-ad-litem) and
11. M. L. M. M. Shariff both of 164 New Moor Street, Colombo
12. Noorul Hidaya Abdeen of Reid Avenue
13. Muzaira Akbar of Reid Avenue, Colombo
14. Abdul Mawahib Nakeem of Castle Street, Borella, Colombo

15. Sithy Safia Nakeem
16. Ummu Vojeeda Nakeem
17. Hassen Jiffry Nakeem
18. Mohamed Ismail Nakeem
19. Mohamed Samsudeen Nakeem
20. Mohamed Milhar Nakeem (14th to 29th by their Guardian-ad-litem)
21. M. Y. M. Hamza
22. Mrs. Noor Himaya Mohideen and
23. M. Awn Marikar all of Castle Street, Borella, Colombo.
24. M. Mohamed Thahir of Messenger Street, Colombo.
25. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella, Colombo.
26. Mrs. Sithy Zavahira Zubair, Kirillapone
27. M. M. Nuhman
28. M. H. Sakaf
29. M. Z. F. Cassim
30. Mrs. Ummu Zulaiha Ameen
31. Miss. H. M. Mohideen
32. Mohamed Sameer Mohamed Alavi all of Castle Street, Borella, Colombo.
33. Miss. S. Z. Sameer (32nd & 33rd by their Guardian-ad-litem)
34. M. I. M. Sameer
35. M. S. Farook
36. Miss. M. R. S. Hanoon (35th & 36th by their Guardian-ad-litem)
37. M. Z. F. Cassim
38. Hadija Ghouse Cassim
39. Ayn Safia Ghouse Cassim
40. Shuhaib Ghouse Cassim
41. Ameer Faizer Ghouse Cassim
42. Falih Ghouse Cassim (by their Guardian-ad-litem)
43. M. Ghouse Cassim all of Castle Street, Borella.

Exhibits  
P 11.  
Petition for  
Injunction  
D. C.  
Colombo  
No 5706/P.  
20-5-50  
—continued.

Respondents.

This 20th day of May 1950.

The Petition of the petitioners

1. The petitioners and the respondents reside and the cause of action pleaded herein arose at Colombo within the local limits of the jurisdiction of this court.



Exhibits  
P 11.  
Petition for  
Injunction in  
D. C.  
Colombo  
No. 5706/P  
20-5-50.  
—continued.

2. The land which is described in the schedule to this petition is situated in Colombo within the local limits of the jurisdiction of this Court.

3. One I. L. Idroos Lebbe Marikar was the owner and was lawfully entitled to the land and premises described in the schedule to this petition.

4. The said I. L. Idroos Lebbe Marikar died on or about the 8th day of May 1876 leaving a Last Will bearing No. 7130 dated the 12th December 1872 attested by S. M. P. S. Goonetilleke, Notary Public which Will was admitted to Probate in Testamentary Proceedings No. 3909 of the District Court of Colombo on or about the 29th day of May 1876.

5. In terms of the said Last Will the said property and premises were allotted and conveyed to Savea Umma a daughter of the said deceased by Deed No. 2575 dated 14th September 1888 attested by D. Simon Lewis Notary Public.

6. In Proceedings No. 40152 of the District Court of Colombo against the said Savea Umma and her husband Lewana Marikar Samsudeen Hadjar decree was entered and the said property was sold by the Fiscal, Western Province and the same was purchased by Leonora Fonseka and Fiscal's Conveyance dated the 29th day of March 1916 was executed conveying the same to the said Leonora Fonseka.

7. By deed No. 6186 dated the 16th day of August 1919 attested by Arthur Alwis Notary Public the said Leonora Fonseka sold conveyed and transferred the said land and premises to Adamjee Lukmanjee who possessed and enjoyed the same thereafter.

8. The said Adamjee Lukmanjee died intestate on the 20th day of February 1927 leaving him surviving his widow and two sons the 1st petitioner and Gulamhussein Adamjee and his said widow accordingly became entitled to one-eighth part or share of the said land and premises and the 1st petitioner and Gulamhussein Adamjee each to seven sixteenth parts or shares of the same.

9. By deed No. 452/437 dated 21st September 1931 and 15th January 1932 attested by G. T. Hale Notary Public and J. F. Martyn Notary Public respectively the administrator of the intestate estate of the deceased abovenamed conveyed the said land and premises to the heirs of the said deceased and his widow conveyed and transferred her said one eighth share or part of the same to the 1st petitioner and Gulamhussein Adamjee.

10 The said Gulamhusein Adamjee died on the 15th day of July 1937 leaving a Last Will and Testament which was duly proved in Testamentary Proceedings No. 8526 of the District Court of Colombo and his undivided half share of the land and premises vested in his four sons 2nd, 3rd and 4th petitioners and Taherbhoy Gulamhussein who became each entitled to an undivided eighth part or share in the said land and premises.

Exhibits  
P 11.  
Petition for  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
20-5-50.  
—continued.

11. The said Taherbhoy Gulamhussein died on or about the 10th day of August 1941 intestate and unmarried and leaving him surviving as his heirs his grandmother Havabai Valijee and his full brother the 4th petitioner and his estate was duly administered in Testamentary Proceedings No. 10871 of the District Court of Colombo.

12. The said Havabai Valijee by Deed No. 419 dated 12th September 1944 attested by J. P. E. Gregory Notary Public of Colombo conveyed all her interest in the said land and premises to the 4th petitioner.

13. The petitioners accordingly became entitled to the entirety of the said land and premises and were and at all times since have been and are the sole owners of the same and have been in the exclusive possession of the same. The petitioners further say that the deeds referred to in paragraphs 6, 7, 9 and 12 have all been duly registered and that the respondents had at all material times notice of such registration and of the petitioners' title. The petitioners plead the benefit of the registration of the said deeds.

14. The petitioners plead that by themselves and through their predecessors in title they have been in the sole and uninterrupted and undisturbed possession of the said property and premises to the exclusion of all others from at least the 29th day of March 1916 and the petitioners have prescribed to the said land and premises.

15. The petitioners plead that in or about the last week of the month of April 1950 they discovered that the 1st to 7th respondents hereto had instituted partition proceedings in respect of the said land and premises as plaintiffs having cited the 8th to the 43rd respondents as defendants thereto and without any notice whatsoever to the petitioners proceedings are alleged to have been completed for the sale of the said land and premises under the partition ordinance and a decree having been obtained sale of the said land has been fixed at the instance of the respondents hereto for the 26th day of May 1950.

16. The petitioners plead that the respondents should have made the petitioners parties to the said action and that they should have had and should have been given notice of the same.

Exhibits  
P 11,  
Petition in  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
20-5-50.  
—continued.

17. The petitioners plead that the respondents who were at all material dates aware that the petitioners were the owners and in possession of the said premises acted fraudulently and in collusion with each other in the said proceedings No. 5706 of this court and having falsely stated that they and their predecessors in title had been in the undisturbed and uninterrupted possession of the said land and premises and that all improvements are in common between them caused this court to enter a decree for sale of the said land and premises, and have falsely caused the court to declare that the respondents are among themselves the owners of the said land and premises.

18. The petitioners plead that the respondents have wrongfully and unlawfully and/or negligently and/or fraudulently and/or in collusion with each other neglected or omitted to make the petitioners parties to the said action or to give the petitioners any notice of the said proceedings in order that a decree might be obtained from this court without the petitioners having any knowledge of the same or being parties thereto.

19. The petitioners plead that there has not been a due or proper investigation into title by this court in the said partition proceedings No. 5706 of this court and that the said decree entered by this Court on or about the 30th day of March 1950 is not a decree entered in terms of the partition Ordinance and is accordingly null and void and of no effect.

20. The petitioners have effected improvements to the said land and premises and the value of the said improvements is reasonably worth at least Rs. 30,000/-.

21. The petitioners plead that in these premises the petitioners have been gravely prejudiced and/or have suffered considerable loss and damage.

22. The said land and premises are reasonably worth at least Rs. 100,000/-.

23. The petitioners plead that they are entitled to a declaration that the decree entered by this court in the said partition proceedings No. 5706 on the 30th day of March 1950 is null and void and of no effect in law and/or that the same be and that they are entitled to have same set aside by this Court and in the alternative for damages against the defendants hereto in a sum of at least Rs. 100,000/- and a cause of action has accordingly accrued to the petitioners to sue the respondents.

24. The petitioners plead that they will suffer grave and irreparable injury loss and damage if the said land and premises are sold or permitted to be sold and the petitioners plead that in these premises

they are entitled to an injunction from this Court restraining or staying the sale of the said land and premises as aforesaid. To the best of the information and belief of the petitioners the respondents are persons who are incapable of satisfying any decree that the petitioner may obtain against them.

Exhibits  
P 11.  
Petition for  
Injunction in  
D. C.  
Colombo  
No. 5706/P,  
20-5-50.  
—continued.

Wherefore the petitioners pray:

(a) for an injunction against the respondents restraining any sale of the said property and premises and for an enjoining order to accompany summons enjoining the respondents to the said effect, and for an order of this Court staying the sale of the said premises which the petitioners understand is fixed for the 26th day of May 1950.

(b) that this Court do set aside or vacate the decree entered in these partition proceedings No. 5706 on or about the 30th day of March 1950.

(c) for a declaration that the decree entered by this court in partition proceedings No. 5706 on or about the 30th day of March 1950 is null and void and of no force or effect in law.

(d) that the Court do permit and order the petitioners to intervene in these proceedings and that the claim and title of the petitioners to the said premises and any and all of their claims to be determined, adjudicated upon and decreed by this Court.

(e) for an order that in the event of any sale of the said premises at any time that the proceeds of the same be paid into and brought into court to remain in Court until the final determination of the action instituted by the petitioners as plaintiffs against the respondents as defendants in respect of the said proceedings and in regard to the said land and premises, and until the final determination of this application of the petitioners.

(f) for costs and for such other and further relief as to this court shall seem meet.

Sgd. JULIUS & CREASY

Proctors for petitioners.

THE SCHEDULE ABOVE REFERRED TO:

ALL that allotment of land with the buildings and plantations standing thereon bearing assessment No. 26 situated at Kollupitiya within the Municipality and District of Colombo Western Province bounded on the north by premises bearing assessment No. 25 belonging to O. H. M. Sheriff and the passage, on the east by premises bearing assessment No. 1

Exhibits  
P 11.  
Petition for  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
20-5-50.  
—continued.

belonging to Ana Ravanna Mana Chetty, on the south by Muhandiram's Road and on the west by high road, from Colombo to Galle, containing in extent One rood and twenty 26/100 square perches according to the figure of survey bearing No. 222 dated the 1st day of March 1906 and made by H. G. Dias Licensed Surveyor and Leveller, which bears present assessment Nos. G7(i-5) to 37 Muhandiram's Road, and 153 and 155 and 157 Galle Road, Kollupitiya.

Sgd. JULIUS & CREASY,  
Proctors for petitioners.

---

P 12.

P 12.  
Affidavit for  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
20-5-50.

**Affidavit for Injunction in D. C. Colombo. No. 5706/P.**

**IN THE DISTRICT COURT OF COLOMBO.**

1. Hadad Sadeen
2. Abdul Cader Sadeen
3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella, Colombo.

Plaintiffs.

No. 5706 - Partition.

Vs.

1. Mohamed Hamza Mahroof of 158 Layards Broadway
2. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
3. Mohamed Mahroof Mohamed Khalid (2nd and 3rd by their Guardian-as-litem)
4. M. L. M. M. Shariff both of 164 New Moor Street, Colombo.
5. Noorul Hidaya Abdeen of Reid Avenue, Colombo.
6. Muzaira Akbar of Reid Avenue, Colombo.
7. Abdul Mawahib Nakeem of Castle Street, Borella, Colombo
8. Sithy Safia Nakeem
9. Ummu Vojeeda Nakeem
10. Hassen Jiffry Nakeem

11. Mohamed Ismail Nakeem
12. Mohamed Samsudeen Nakeem
13. Mohamed Milhar Nakeem (7th to 13th by their Guardian-ad-liem)
14. M. Y. M. Hamza
15. Mrs. Noor Himaya Mohideen and
16. M. Awn Marikar all of Castle Street, Borella, Colombo.
17. M. Mohamed Thahir of Messenger Street, Colombo.
18. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella, Colombo.
19. Mrs. Sithy Zavahira Zubair, Kirillapone.
20. M. M. Nuhman
21. M. H. Sakaf
22. M. Z. F. Cassim
23. Mrs. Ummu Zulaiha Ameen
24. Miss. H. M. Mohideen
25. Mohamed Sameer Mohamed Alavi all of Castle Street, Borella, Colombo, and
26. Miss. S. Z. Sameer (25th and 26th by their Guardian-ad-litem)
27. M. I. M. Sameer
28. M. S. Farook
29. Miss. M. R. S. Hanoon (28th & 29th by their Guardian-ad-litem)
30. M. Z. F. Cassim
31. Hadija Ghouse Cassim
32. Ayn Safia Ghouse Cassim
33. Shuhaib Ghouse Cassim
34. Ameer Faizer Ghouse Cassim
35. Falih Ghouse Cassim (by their Guardian-ad-litem)
36. M. Ghouse Cassim all of Castle Street.

Exhibits  
P 12.  
Affidavit for  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
20-5-50  
—continued.

Defendants.

1. MOHAMEDALY ADAMJEE
2. LUKMANJEE GULAMHUSSEIN
3. TAIYABHAI GULAMHUSSEIN
4. ABBASBHOY GULAMHUSSEIN all of Colombo.

Petitioners.

Exhibits  
P 12.  
Affidavit for  
Injunction in  
D. C.  
Colombo  
No. 5706/P  
20-5-50.  
—continued.

Vs.

1. Hadad Sadeen
2. Abdul Cader Sadeen
3. Halwan Sadeen
4. Ummul Kair Sadeen wife of M. S. Aboobucker
5. Aynul Marliya Sadeen wife of M. A. Hamid
6. Sithy Lariffa Sadeen and
7. Mohideen Sadeen all of Castle Street, Borella, Colombo.
8. Mohamed Hamza Mahroof of 158 Layards Broadway, Colombo.
9. Mohamed Mahroof Sithy Naseewa of 168 New Moor Street, Colombo.
10. Mohamed Mahroof Mohamed Khalid (9th & 10th by their Guardian-ad-litem) and
11. M. L. M. M. Shariff both of 164 New Moor Street, Colombo
12. Noorul Hidaya Abdeen of Reid Avenue
13. Muzaira Akbar of Reid Avenue, Colombo.
14. Abdul Mawahib Nakeem of Castle Street, Borella, Colombo
15. Sithy Safia Nakeem
16. Ummu Vojeeda Nakeem
17. Hassen Jiffry Nakeem
18. Mohamed Ismail Nakeem
19. Mohamed Samsudeen Nakeem
20. Mohamed Milhar Nakeem (14th to 20th by their Guardian-ad-litem)
21. M. Y M. Hamza
22. Mrs. Noor Himaya Mohideen and
23. M. Awn Marikar all of Castle Street, Borella, Colombo.
24. M. Mohamed Thahir of Messenger Street, Colombo.
25. Mrs. Ummu Hazeema Mohideen of Castle Street, Borella, Colombo.
26. Mrs. Sithy Zavahira Zubair, Kirillapone
27. M. M. Nuhman
28. M. H. Sakaf
29. M. Z. F. Cassim
30. Mrs. Ummu Zulaiha Ameen
31. Miss. H. M. Mohideen

32. Mohamed Sameer Mohamed Alavi all of Castle Street, Borella, Colombo.
33. Miss. S. Z. Sameer (32nd & 33rd by their Guardian-ad-litem)
34. M. I. M. Sameer
35. M. S. Farook
36. Miss. M. R. S. Hanoon (25th & 36th by their Guardian-ad-litem)
37. M. Z. M. Cassim
38. Hadija Ghouse Cassim
39. Ayn Safia Ghouse Cassim
40. Shuhaib Ghouse Cassim
41. Ameer Faizer Ghouse Cassim
42. Falih Ghouse Cassim (by their Guardian-ad-litem)
43. M. Ghouse Cassim all of Castle Street, Borella.

Exhibits  
P 12.  
Affidavit for  
Injunction in  
D. C.  
Colombo  
No. 5706/P  
20-5-50  
—continued.

#### Respondents.

I, Lukmanjee Gulamhussein of Colombo, not being a Christian do hereby solemnly sincerely and truly declare and affirm as follows:—

1. That I am the 2nd petitioner abovenamed.
2. The land which is described in the schedule to the petition is situated in Colombo within the local limits of the jurisdiction of this court.
3. One I. L. Idroos Lebbe Marikar was the owner and was lawfully entitled to the land and premises described in the schedule to the petition.
4. The said I. L. Idroos Lebbe Marikar died on or about the 8th day of May 1876 leaving a Last Will bearing No. 7130 dated the 12th December 1872 attested by S. M. P. P. S. Goonetilleke, Notary Public, which Will was admitted to Probate in Testamentary Proceedings No. 3909 of the District Court of Colombo on or about the 29th day of May 1876.
5. In terms of the said Last Will the said property and premises were allotted and conveyed to Savea Umma a daughter of the said deceased by Deed 2575 dated 14th September 1888 attested by D. Simon Lewis Notary Public.
6. In Proceedings No. 40152 of the District Court of Colombo against the said Savea Umma and her husband Lewana Marikar Samsudeen Hadjiar decree was entered and the said property was sold



Exhibits  
P 12.  
Affidavit for  
Injunction in  
D. C.  
Colombo  
No. 5706/P  
20-5-50  
—continued.

by the Fiscal. Western Province and the same was purchased by Leonora Fonseka and Fiscal's Conveyance dated the 29th day of March 1916 was executed conveying the same to the said Leonora Fonseka.

7. By deed No. 6186 dated the 16th day of August 1919 attested by Arthur Alwis Notary Public the said Leonora Fonseka sold conveyed and transferred the said land and premises to Adamjee Lukmanjee who possessed and enjoyed the same thereafter.

8. The said Adamjee Lukmanjee died intestate on the 20th day of February 1927 leaving him surviving his widow and two sons the 1st petitioner and Gulamhussein Adamjee and his said widow accordingly became entitled to one eighth part or share of the said land and premises and the 1st petitioner and Gulamhussein Adamjee each to seven sixteenth parts or shares of the same.

9. By deed No. 452/437 dated 21st September 1931 and 19th January 1932 attested by G. T. Hale Notary Public and J. F. Martyn Notary Public respectively the administrator of the intestate estate of the deceased abovenamed conveyed the said land and premises to the heirs of the said deceased and his widow conveyed and transferred her said one eighth share or part of the same to the 1st petitioner and Gulamhussein Adamjee.

10. The said Gulamhussein Adamjee died on the 15th day of July 1937 leaving a Last Will and testament which was duly proved in Testamentary proceedings No. 8526 of the District Court of Colombo and his undivided half share of the land and premises vested in his four sons 2nd, 3rd and 4th petitioners and Taherbhoy Gulamhussein who became each entitled to an undivided eighth part or share in the said land and premises.

11. The said Taherbhoy Gulamhussein died on or about the 10th day of August 1941 intestate and unmarried and leaving him surviving as his heirs his grandmother Havabai Valijee and his full brother the 4th petitioner and his estate was duly administered in Testamentary Proceedings No. 10871 of the District Court of Colombo.

12. The said Havabai Valijee by deed No. 419 dated 12th September 1944 attested by J. F. E. Gregory Notary Public of Colombo conveyed all her interest in the said land and premises to the 4th petitioner.

13. The 1st, 3rd, 4th petitioners and I accordingly became entitled to the entirety of the said land and premises and were and at all times since have been and are the sole owners of the same and have been in the exclusive possession of the same. The other petitioners and I further

say that the deeds referred to in paras. 6, 7, 9 and 12 have all been duly registered and that the respondents had at all material times notice of such registration and of our title. We plead the benefit of the registration of the said deeds.

Exhibits  
P 12.  
Affidavit for  
Injunction in  
D. C.  
Colombo  
No. 5706/P  
20-5-50  
~~---continued.~~

14. I state that the other petitioners and myself and through our predecessors in title have been in the sole and uninterrupted and undisturbed possession of the said property and premises to the exclusion of all others from at least the 29th day of March 1916 and we have prescribed to the said land and premises.

15. I state that in or about the last week of the month of April 1950 I discovered that the 1st to 7th respondents hereto had instituted partition proceedings in respect of the said land and premises as plaintiffs having cited the 8th to the 43rd respondents as defendants thereto and without any notice whatsoever to the other petitioners and me and proceedings are alleged to have been completed for the sale of the said land and premises under the partition ordinance and a decree having been obtained and sale of the said land has been fixed at the instance of the respondents hereto for the 26th day of May 1950.

16. I state that the respondents should have made the other petitioners and we parties to the said action and that we should have had and should have been given notice of the same.

17. I state that the respondents who at all material dates were aware that the other petitioners and I were the owners and in possession of the said premises acted fraudulently and in collusion with each other in the said proceedings No. 5706 of this Court and having falsely stated that they and their predecessors in title had been in the undisturbed and uninterrupted possession of the said land and premises and that all improvements are in common between them caused this Court to enter a decree for sale of the said land and premises, and have falsely caused the Court to declare that the respondents are among themselves the owners of the said land and premises.

18. I state that the respondents have wrongfully and unlawfully and/or negligently and/or fraudulently and/or in collusion with each other neglected or omitted to make the other petitioners and myself parties to the said action or to give us any notice of the said Proceedings in order that a decree might be obtained from this Court without the other petitioners and myself having any knowledge of the same or being parties thereto.

19. I state that there has not been a due or proper investigation into title by this Court in the said partition proceedings No. 5706 of this Court and that the said decree entered by this Court on or about the 30th day of March 1950 is not a decree entered in terms of the partition Ordinance and is accordingly null and void and of no effect.

Exhibits  
P 12.  
Affidavit for  
Injunction in  
D. C.  
Colombo  
No. 5706/P  
20-5-50.  
—continued.

20. The other petitioners and I have effected improvements to the said land and premises and the value of the said improvements is reasonably worth at least Rs. 30,000/-

21. I state that in these premises the other petitioners and I have been gravely prejudiced and/or have suffered considerable loss and damage.

22. The said land and premises are reasonably worth at least Rs. 100,000/-.

23. I state that the other petitioners and myself are entitled to a declaration that the decree entered by this court in the said partition proceedings No. 5706 on the 30th day of March 1950 is null and void and of no effect in law and/or that the same be and that we are entitled to have the same set aside by this Court and in the alternative for damages against the defendants hereto in a sum of at least Rs. 100,000/- and a cause of action has accordingly accrued to us to sue the respondents.

24. I state that the other petitioners and I will suffer grave and irreparable injury loss and damage if the said land and premises are sold or permitted to be sold and I state in these premises we are entitled to an injunction from this court restraining or staying the sale of the said land and premises as aforesaid. To the best of my information and belief the respondents are persons who are incapable of satisfying any decree that we may obtain against them.

Signed and affirmed to at

Colombo this 20th May 1950.

Sgd. L. Gulamhussein

Before me Sgd. Illegibly, J. P.

---

**P 21.**

Exhibits  
P 21  
Proceedings  
in respect of  
Injunction in  
D. C.  
Colombo  
No. 5706/P.  
23-5-50.

**Proceedings in respect of Injunction in D. C. Colombo No. 5706/P.**

P 21.

**IN THE DISTRICT COURT OF COLOMBO.**

1. Hadad Sadoon and 6 others.  
No. 5706. Plaintiffs.

Vs.

1. Mohamed Hamza Mahroof of 158,  
Layards Broadway, Colombo and others.  
Defendants.

23rd May 1950.

Advocate Mr. Weerasooriya K. C. with Advocate Mr. Kadirgamar for the petitioner instructed by Messrs. Julius & Creasy.

Advocate Mr. Amarasinghe for plaintiff.

With regard to the application of injunction and to set aside the decree entered in this case and also to stay the sale that is fixed for this week. Enquiry with regard to Mr. Weerasooriya's application on 24/5. Further, I inform Mr. Amarasinghe that from the decree there is an appeal filed on 5-4-50—decree with regard to the shares. On 3-4-50, the plaintiff took out a commission to sell the land in accordance with the decree that has been entered in this case. Judgment has been given on 30-3-50 and the decree bears that date. This matter is quite apart from Mr. Weerasooria's submission. I informed Mr. Amarasinghe that I will hear him with regard to this point also on 24/5.

Exhibits  
P 21.  
Proceedings  
in respect of  
Injunction in  
D. C.  
Colombo  
No 5706/P.  
23-5-50.  
—continued.

Sgd. V S. JAYAWICKREME

A. D. J.

23-5-50

---

**8 D 4.**

**Judgment of the Supreme Court in D. C. Colombo No. 5706.**

S. C. No. 309-L/50. D. C. (F) Colombo 5706.

Hadood Sadeen et al.

Plaintiffs respondents.

against

Mrs. Noor Himaya Mohideen and three others, 15,  
16, 17 & 20.

Defendants appellants.

**Present** Gunasekera J. & Swan J.

E. B. Wickramanayaka K. C. with S. A. Marikar and  
Shamsudeen Mohame for 15th, 16th, 17th and 20th.

Defendants appellants.

H. W. Thambiah with P. Domatilekam for 1-7 plaintiffs  
respondents.

M. H. A. Aziz with M. H. M. Naina Marikar for  
Defendant respondent.

Argued - 20th March 1951.

Decided 6th September 1951.

8 D 4.  
Judgment of  
the Supreme  
Court in  
D. C.  
Colombo  
No. 5706.  
6-9-51

Exhibits  
8 D4.  
Judgment of  
the Supreme  
Court in  
D. C.  
Colombo  
No. 5706  
6-9-51.  
*—continued.*

GUNASEKARA, J.

This is an action for a sale of co-owned property under the Partition Ordinance (Cap. 56). The shares to which the co-owners are respectively entitled depend on the construction of a fidei commissum to which the property was subject. The 15th, 16th, 17th and 20th defendants appeal against the construction adopted by the District Judge.

The original owner of the property was Idroos Lebbe Marikar, who died in 1876 leaving a last will dated the 12th December 1872. In accordance with the terms of this Will the estate was distributed among the heirs subject to the following conditions contained in the Will.

“I do hereby will and desire my wife Assena Natchia, daughter of Seka Marikar, and my children Mohamado Noordeen Mohammado Mohideen, Slama Lebbe, Abdul Ryhiman, Mohamado Usboe, Amsa Natchia and Savia Umma and my father Uduma Lebbe Usboe Lebbe, who are the lawful heirs and heiresses of my estate, shall be entitled to and take their respective shares according to my religion and Shaffe sect to which I belong, but they nor their issues or heirs shall not sell, mortgage or alienate any of the lands, houses, estates or gardens belonging to me at present or which I might acquire hereafter, and they shall be held in trust for the grandchildren of my children and the grandchildren of my heirs and heiresses only that they may receive the rents, income and produce of the said lands, houses, gardens and estates without encumbering them in any way or the same may be liable to be seized attached or taken for any of their debts or liabilities, and out of such income produce and rents after defraying expenses for their subsistence and maintenance of their families, the rest shall be placed or deposited in a safe place by each of the party, and out of such surplus lands should be purchased by them for the benefit and use of their children and grandchildren as hereinbefore stated, but neither the executors herein named or any court of justice shall require to receive them or ask for accounts at any time or under any circumstances, except at times of their minority or lunacy.

I further desire and request the said heirs and heiresses or major part of them shall appoint along with the executors herein named three competent and respectable persons of my class and get the movable and immovable properties of my estate divided and apportioned to each of the heirs and heiresses according to their respective shares, and get deeds executed by the executors at the expense of my estate in the name of each of them subject to the aforesaid conditions.”

In this distribution the property that is the subject of the present suit was conveyed by the executors to one of the testator's daughters, Safia Umma, by a deed dated the 14th September 1888. She died leaving eleven children, all of whom have since died. Two of Safia Umma's children died issueless each of the others, four sons and five daughters, left surviving children who are all parties to the present action. The seven plaintiffs are the children of one of Safia Umma's sons, Mohamed Sadoon, and the appellants are four of the six children of a daughter Ummal Vojeeda. The learned District Judge held that each of Safia Umma's four sons succeeded to a  $\frac{2}{13}$ th share and each of her five daughters to a  $\frac{1}{13}$  share (each son taking twice as much as each daughter, in accordance with the Muslim law), and that the children of each son became entitled among themselves to a  $\frac{2}{13}$  share and the children of each daughter to a  $\frac{1}{13}$  share. It is contended for the appellants that the different groups of Safia Umma's grandchildren are not restricted in this manner each to a share devolving on the parent of the group, but all the grandsons get equal shares and the grand-daughters equal shares (subject to the rule that males take twice as much as females).

Exhibits  
8 D4.  
Judgment of  
the Supreme  
Court in  
D. C.,  
Colombo  
No. 5706  
6-9-51.  
—continued.

The construction of this will was considered by a Bench of five Judges of this Court in a **de Saram V. Kadijar**<sup>1</sup>, which was the fifth case in which that question was considered, and the majority (Howard C. J. Soertsz J and Hearne J) held that the will did not create a valid fidei commissum. On appeal<sup>2</sup> the Judicial Committee of the Privy Council, agreeing with the view taken by the other two Judges (Keuneman & Wijewardene J J) held that it did, and that the testator intended to create a separate fidei commissum in the case of each devise.

It is contended on behalf of the appellants that the fidei commissaries in each case were the devisee's grandchildren only and that upon the devisee's death the interest that passed to the children was a usufructuary and not a fiduciary interest. In support of this contention Mr. Wikramanayaka cited the Judgments of Akbar J. and Maartensz J in Sabapathy vs. Yoosoof<sup>3</sup> and Saleem vs. Mutturamen Chettiar<sup>4</sup> respectively (which are two of the cases in which this will was construed). It does not appear to be necessary, however, to discuss the dicta on which he relied, for a view taken by Keuneman and Wijewardene JJ. in **de Saram vs. Kadijar**<sup>1</sup> that in each case the beneficiaries included the children of the devisees appears to have been approved by the Privy Council. Keuneman J held that "the testator devised the immovable property to the devisees burdened with a fidei commissum in favour of their children and grandchildren in successive generations" and that "the fidei commissum was to become operative on death in each case"; and Wijewardene J held that the 'heirs' of the devisee (Abdul Hamid in that case) were the devisee's children and that the property was held by them "as separate fidei commissa" each "getting the share to which he was entitled under the rules of the Muslim Law of intestate succession". The Judgment of the Privy Council<sup>2</sup>, having referred to the leading

Exhibits  
8 D4.  
Judgment of  
the Supreme  
Court in  
D. C.  
Colombo  
No. 5706  
6-9-51.

—continued.

clause of the will as making clear that there is an attempt to constitute fidei commissum, quotes the next two clauses as indicating who are the fiduciaries and who are the fidei commissaries. It proceeds to state that their Lordships are of opinion that the words “they nor their heirs” in the clause prohibiting alienation cover two generations, namely, the devisees and their heirs, and that in the next clause the beneficiaries “relate to the third generation in the case of all the devisees, the testator’s wife as well as his children” As regards the succeeding clause as to the rents, income and produce of the immovable property, “their Lordships are of opinion that it is not legally binding on the fiduciaries, to whom alone it relates”, and as regards the construction of that clause “that it applies to the devisees and their heirs, who are referred to in the clause which prohibits alienation” It thus appears that in the view taken by the Privy Council the devisees and their children are the persons who are referred to in the clause which prohibits alienation, and are the fiduciaries, and therefore the children of Safia Umma would be beneficiaries and not usufructuaries. (They would be among the beneficiaries for the reason that they are grandchildren of the testator’s wife). The Privy Council held further that “it is clear on the whole terms of the will that each of the fiduciaries was only to take an interest in his share during his life”

The learned District Judge has formulated the main question that arose for his decision as follows:

“Safia Umma had eleven children, and the question to be decided is whether the 1/11th share which each of those children inherited on her death was subject to a separate fidei commissum or whether the entire property was subject to one fidei commissum in favour of the grand children of Safia Umma”

He has based his decision partly upon a view that upon Safia Umma’s death her share passed to her heirs as separate fidei commissum, and he cites in support of it the dictum of Wijeyewardena J. to which I have referred. It is contended for the appellants that the view taken by the learned District Judge is erroneous and that the dictum on which he relies is obiter.

The question that was considered in *de Saram vs Kadjar* was whatever the testator’s intention was to create an English trust or a fidei commissum. There did not arise for decision in that case the question whether the share held by the devisee (Abdul Hamid) passed to his heirs as a joint fidei commissum or as separate fidei commissum. It appears to have been referred to in the argument, however, and Wijeyewardena J. observed in his judgment, that “this is a question that arises in most cases where the devolution of property burdened with a fidei commissum has to be considered”, but that “the fact that such a question arises and has to be considered does not throw any

doubt on the existence of a valid fidei commissum as the appellant's counsel attempted to argue" He went on to express his own view and added that any difference of opinion on this question cannot involve in doubt the intention of the testator to create a valid fidei commissum. His opinion that "the property was held as separate fidei commissum by the "heirs" of Abdul Hamid" appears to me to be an obiter dictum.

Exhibit  
8 D4.  
Judgment of  
the Supreme  
Court in  
D. C.  
Colombo  
No. 5706  
6-9-51.  
--continued.

The reasons for this opinion do not appear from the judgment, but I appreciate that it is nevertheless an opinion that is entitled to the greater respect and it is therefore with diffidence that I venture to take a different view. In my opinion the property that Safia Umma held as a fiduciary passed on her death to her children as a joint fidei commissum and not as separate fidei commissum. The result of a series of cases, beginning with Tillekeratne vs. Abeysekara<sup>5</sup>, where the question of construction that is involved was discussed, is summarised by Bertram C. J. in Usoof vs Rahimath<sup>6</sup> as follows:

"That while in each case the question must be a question of the intention of the testator or donor, as the case may be, to be determined by the construction of the particular instrument, yet when as instrument conveys property to a fiduciary or fiduciaries, burdened with an obligation in favour of their descendants in succeeding generations, the intention of the instrument must be taken to be that, so long as any of the beneficiaries who are to be substituted in place of the fiduciaries are in existence, the whole property must be considered as burdened with an obligation in their favour"

In the present case the instruments that conveyed the property to Safia Umma conveyed it to her as fiduciary burdened with an obligation in favour of her descendants in succeeding generations, namely, her children and grand-children. There appears to be no reason for departing from the rule that the intention of the instrument must be taken to be that so long as any of the beneficiaries who are to be substituted in place of the fiduciaries are in existence the whole property must be considered as burdened with an obligation in their favour.

One of the results of this interpretation would be that upon the death of each of Safia Umma's children who left no issue there were substituted as fiduciaries their surviving brothers and sisters and the issue of any deceased brothers or sisters. "If it is determined that the intention was to create a single fidei commissum, this of itself involves



Exhibits  
S D4,  
Judgment of  
the Supreme  
Court in  
D. C.  
Colombo  
No. 5706  
6-9-51  
—continued.

the conclusion that upon any one line of the descendants being exhausted, the interest of that line shifts to the other lines. It involves the possibility that the interest of one brother or sister, who dies without issue, may shift to one of the other brothers or sisters or their issue if they still survive". Per Bertram C. J. in *Carlinahamy vs Juanis*<sup>7</sup> If, on the other hand, the property is taken to have passed to Safia Umma's children as separate fidei commissa, then clearly the shares of the two children who died without issue would devolve on their heirs free of the fidei commissum that burdened each share separately. The learned District judge holds that this result did not follow but that "those shares devolved on the surviving brothers and sisters" by operation of the jus accrescendi. There could be no operation of the jus accrescendi, however, for it "has no application when the shares of the objects of the liberality have once vested" *Usoof vs. Rahimath*<sup>8</sup> The reason why the shares of the children dying without issue devolved on their surviving brothers and sisters is that the property was subject to a single fidei commissum.

*Usoof vs. Rahimath* (supra) was, like the present case, an action for a sale under the Partition Ordinance. The property in question had been held by one Candoo Umma subject to a fidei commissum in favour of her children and successive generations of descendants. She died leaving four children—Rahimath Umma, Abdul Cader, Ahamad and Mariam. Of these, Abdul Cader died leaving three children, and Ahamed and Mariam died leaving no issue. It was held that the property passed to Candoo Umma's four children as a single fidei commissum and that consequently the interests of Ahamed and Mariam were burdened with a fidei commissum in favour of Abdul Cader's children (who were allotted each a one-sixth share of the property) and Rahimath Umma (whose transferee was allotted her life interest in a half share).

Having held that the property was subject to a single fidei commissum, Bertram C. J. said (*ibid*, at pp 229-230)—

"On this construction, so long as any of the objects of that bounty continue to exist, no one can acquire an unrestricted right to any part of the property. The interest of Ahamad and Mariam could not devolve upon their father, Mohamadu Usoof, but the rights they had in the property were burdened with an obligation in favour of their brother Abdul Cader, and their sister Rahimath Umma, and any children that might have been or might be born to that brother and sister"

In the present case, upon the view that there was a single fidei commissum, the time of the gift over was the death of the last of Safia

Umma's children. It seems to me that in the meantime the fiduciary interest of each of those who died earlier devolved on his or her issue (as in the case of Abdul Cader in *Usoof vs. Rahimath*) or if there were no issue then on the surviving brothers and sisters of taking per stirpes. "It is a question not of accrual between individuals but of accrual between lines. It is a question of the construction of a particular document, and the question is whether, on the true construction of the document, the maker intended that, on the failure of one line, its interests should accure to the others." Per Bertram C. J. in *Carlinahamy vs. Juanis*<sup>9</sup>. In accordance with the construction that that was the intention of the testator, I hold that although the property did not pass to Safia Umma's children as separate fidei commissa there was a separation of the interests of the different lines of her descendants and that upon the final vesting of the property in her grandchildren it was distributed among them per stirpes. I would therefore dismiss the appeal with costs.

Exhibits  
8 D 4.  
Judgment of  
the Supreme  
Court in  
D. C.  
Colombo  
No. 5706.  
6. 9. 51.  
-continued.

Sgd. E. H. T. GUNASEKERE  
Puisne Justice.

SWAN J.

I entirety agree and have nothing to add.

Sgd. S. C. SWAN  
Puisne Justice.

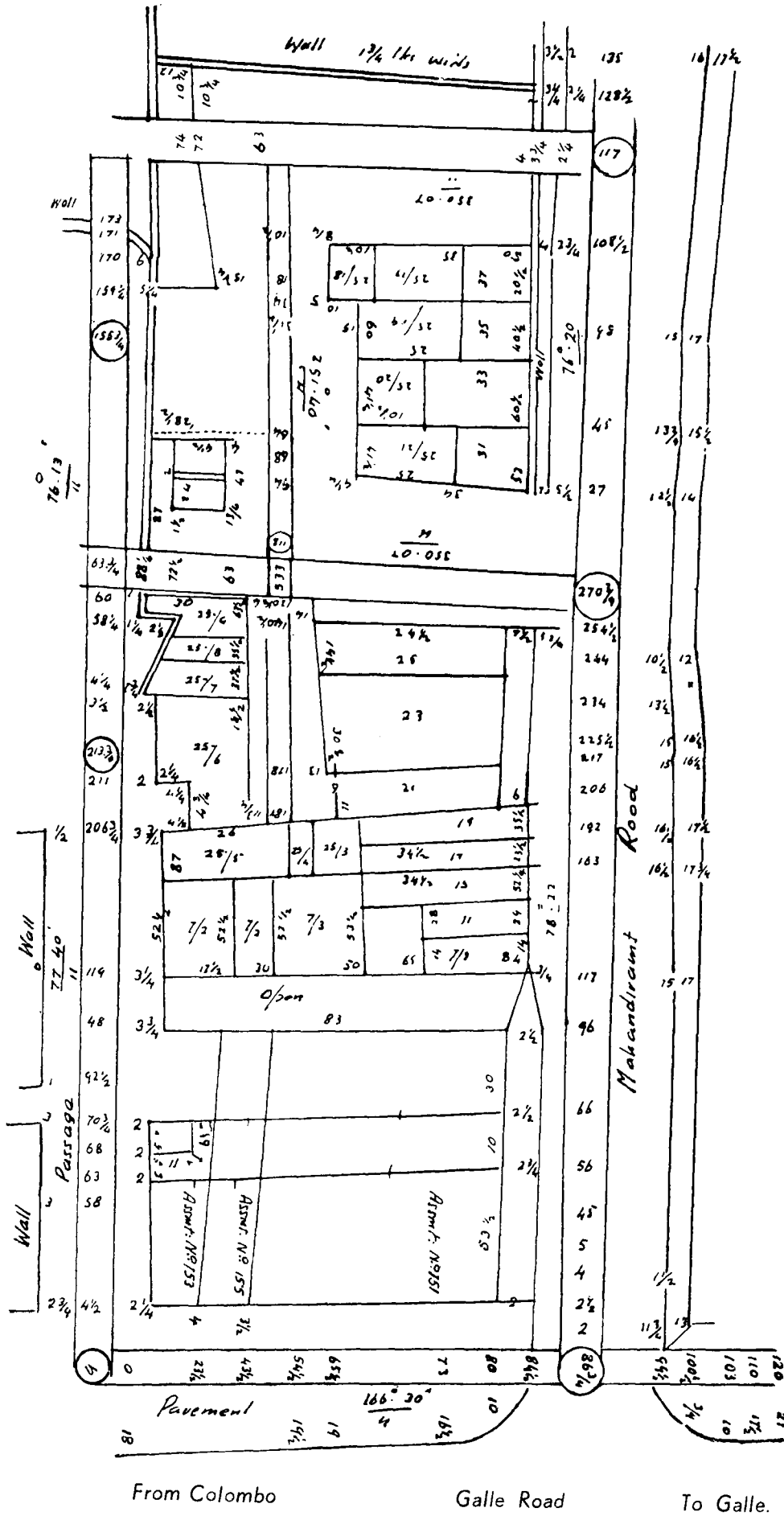
1. (1944) 45 N L R 265
2. (1946) 47 N L R 171
3. (1935) 37 N L R 70
4. (1938) 15 C L W 115
5. (1897) 2 N L R 313
6. (1918) 20 N L R 225
7. (1924) 26 N L R 129, at 136
8. (1918) 20 N L R 225, at 233.
9. (1924) 26 N L R 129. at 140.

---

Field Notes of Surveyor Carthigesu in D. C. Colombo No. 5706.

D. C. CASE No. 5706/P.

Plan No. 347



From Colombo

Galle Road

To Galle.

True Copy  
Sgd. SANGARAPILLAI,  
Asst: Sec. D. C. Colombo.  
2-2-52

I certify that this is a true Copy of my field notes.  
Sgd. V. CARTHIGESU,  
Commissioner, Licensed Surveyor & Leveller.

"True Copy" taken from  
S. C. 72. D. C.  
Colombo 5951/L  
S. JEGATHEESAN, 25-8-54

P 26.

**Receipts for Rates.**

P 26 a

Exhibits  
P 26.  
Receipts for  
Rates.  
1947.No. 10352  
1944Colombo Municipal Council  
Treasurer's Department.

Date 1/5/47

Received from M/s. A. Lukmanjee & Sons. the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 1st quarter 1947.

Premises No.	Street	Amount Rs. Cts.
153 & 155	... Kollupitiya Road ...	75 00
157	... ..	75 00
7/1-5	... Mohandirams Road ...	35 75
11	... ..	4 00
15	... ..	7 50
17	... ..	5 50
19	... ..	4 00
21	... ..	5 00
23	... ..	8 50
25	... ..	11 00
25/3-9, 15-21	... ..	88 00
31	... ..	5 00
33	... ..	7 50
35	... ..	5 00
37	... ..	5 00
Total Rs.		341 75

Sgd.

Shroff.

for Municipal Treasurer.

Exhibits  
P 26.  
Receipts for  
Rates.  
1947.  
—continued.

No.  $\frac{17582}{2953}$

Colombo Municipal Council  
Treasurer's Department.

Date 31/7/47

Received from M/s A. Lukmanjee & Sons the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 2nd quarter 1947

Premises No.	Street	Amount Rs. Cts.
153 & 155	... Kollupitiya Road ...	75 00
157	... ..	75 00
7/1-5	... Mohandiram's Road ...	35 75
11	... ..	4 00
15	... ..	7 50
17	... ..	5 50
19	... ..	4 00
21	... ..	5 00
23	... ..	8 50
25	... ..	11 50
25/2-21	... ..	88 00
31	... ..	5 00
33	... ..	7 50
35	... ..	5 00
37	... ..	5 00
Total Rs.		341 75

Sgd.

Shroff.

for Municipal Treasurer.

No. 27535  
2171Exhibits  
P 26.  
Receipts for  
Rates.  
1947.  
---continued.

Colombo Municipal Council

Treasurer's Department.

Date 3/11/47

Received from M/s. A. Lukmanjee & Sons the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 3rd quarter 1947.

Premises No.	Street	Amount Rs. Cts.
153 & 155	... Kollupitiya Road ...	112 50
157	... ..	112 50
7/1-5	... Mohandiram's Road ...	53 60
11	... ..	6 00
15	... ..	11 25
17	... ..	8 25
19	... ..	6 00
21	... ..	7 50
23	... ..	12 75
25	... ..	16 50
25/3-21	... ..	132 00
31	... ..	7 50
33	... ..	11 25
35	... ..	7 50
37	... ..	7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.

Exhibits  
P 26.  
Receipt for  
Rates.  
1947.  
—*continued.*

No. 35777  
3483

Colombo Municipal Council  
Treasurer's Department.

Date 5/2/48.

Received from M/s. A. Lukmanjee & Sons. the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 4th quarter 1947.

Premises No.	Street	Amount Rs. Cts.
153 & 155	... Kollupitiya Road ...	112 50
157	... ..	112 50
7/11-5	... Mohandirams Road ...	53 60
11	... ..	6 00
15	... ..	11 25
17	... ..	8 25
19	... ..	6 00
21	... ..	7 50
23	... ..	12 75
25	... ..	16 50
25/3-21	... ..	132 00
31	... ..	7 50
33	... ..	11 25
35	... ..	7 50
37	... ..	7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.

## P 27.

## Receipts for Rates.

P 27 a

Exhibits  
P 27.  
Receipts for  
Rates  
1948.No.  $\frac{44040}{2119}$ Colombo Municipal Council  
Treasurer's Department.

Date 1/5/48

Received from M/s. A. Lukmanjee & Sons the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 1st quarter 1948.

Premises No.	Street	Amount Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157		112 50
7/1-5	Mohandiram's Road	53 60
11		6 00
15		11 25
17		8 25
19	...	6 00
21		7 50
23		12 75
25		16 50
25/3-21		132 00
31		7 50
33		11 25
35		7 50
37		7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.



Exhibits  
P 27.  
Receipts for  
Rates.  
1948.  
*—continued.*

P 27 b

No. 53564  
2426-30

Colombo Municipal Council

Treasurer's Department.

Date 3/8/48

Received from M/s A. Lukmanjee & Sons the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 2nd quarter 1948.

Premises No.	Street	Amount Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157		112 50
7/1-5	Mohandirm's Road	53 60
11	...	6 00
15	...	11 25
17	...	8 25
19	...	6 00
21	...	7 50
23	...	12 75
25	...	16 50
25/3-21	...	132 00
31	...	7 50
33	...	11 25
35	...	7 50
37	...	7 50
Total		Rs. 512 60

Sgd.

Shroff.

for Municipal Treasurer.

No. 62134  
2385

Exhibits  
P 27.  
Receipts for  
Rates.  
1948.  
—continued.

Colombo Municipality Council  
Treasurer's Department

Date 5/11/48.

Received from M/s. A. Lukmanjee & Sons. the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 3rd quarter 1948

Premises No.	Street	Amount Rs. cts.
153 & 155	... Kollupitiya Road ...	112 50
157	... ..	112 50
7/1-5	... Mohandiram's Road ...	53 60
11	... ..	6 00
15	... ..	11 25
17	... ..	8 25
18	... ..	6 00
21	... ..	7 50
23	... ..	12 75
25	... ..	16 50
25/3-21	... ..	132 00
31	... ..	4 60
33	... ..	11 25
35	... ..	7 50
37	... ..	7 50
Total Rs.		509 70

Sgd.

Shroff.

for Municipal Treasurer.

Exhibits  
P 27.  
Receipts for  
Rates.  
1948.  
-continued.

P 27 d

No.  $\frac{69872}{3369-73}$

Colombo Municipal Council,  
Treasurer's Department.

Date. 7/2/49

Received from M/s. A. Lukmanjee & Sons the under-mentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 4th quarter 1948

Premises No.	Street	Amount. Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157	...	112 50
7/1-5	Mohandiram's Road	53 60
11	...	6 00
15	...	11 25
17	...	8 25
19	...	6 00
21	...	7 50
23	...	12 75
25	...	16 50
25/3-21	...	132 00
31	...	5 41
33	...	11 25
35	...	7 50
37	...	7 50
Total		Rs. 510 51

Sgd.

Shroff.

for Municipal Treasurer

## P 28.

## Receipts for Rates.

P 28 a

Exhibits  
128.  
Receipts for  
Rates.  
1949.No. 79223  
2267Colombo Municipal Council.  
Treasurer's Department.

Date 5/5/49.

Received from M/s. A. Lukmanjee & Sons. the under-mentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 1st quarter 1949.

Premises No.	Street	Amount. Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157	"	112 50
7/1-5	Mohandiram's Road	53 60
11	...	6 00
15	...	11 25
17	...	8 25
19	...	6 00
21	...	7 50
23	...	12 75
25	...	16 50
25/5-21	...	132 00
31	...	7 50
33	...	11 25
35	...	7 50
37	...	7 50
Total Rs.		512 60

Sgd.

Shroff  
for Municipal Treasurer.

Exhibits  
P 28.  
Receipts for  
Rates  
1949.  
—continued.

No. 87073  
2282-6

Colombo Municipal Council.  
Treasurer's Department.

Date. 2/8/49.

Received from M/s. A. Lukmanjee & Sons. the under-mentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 2nd quarter 1949.

Premises No.	Street	Amount. Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157		112 50
7/1-5	Mohendiram's Road	53 60
11		6 00
15		11 25
17	..	8 25
19		6 00
21		7 50
23		12 75
25	..	16 50
25/3/21	.	132 00
31	..	7 50
33	..	11 20
35	..	7 50
37	..	7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.

No. 96410  
2064-8

Exhibits  
P 28.  
Receipts for  
Rates.  
1949.  
—continued.

Colombo Municipal Council.  
Treasurer's Department.

Date. 2/11/49

Received from M/s. A. Lukmanjee & Sons the under-mentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 3rd quarter 1949.

Premises No.	Street	Amount. Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157	...	112 50
7/1-5	Mohandiram's Road	53 60
11		6 00
15		11 25
17		8 25
19		6 00
21		7 50
23		12 75
25		16 50
25/3-21	..	132 00
31		7 50
33		11 25
35		7 50
37		7 50
Total		Rs. 512 60

Sgd.

Shroff.

for Municipal Treasurer

Exhibits  
P 28.  
Receipts for  
Rates.  
1949  
continued.—

No.  $\frac{3866}{3079-83}$

Colombo Municipal Council.  
Treasurer's Department.

Date 2/2/50.

Received from M/s. A. Lukmanjee & Sons. the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 4th quarter 1949.

Premises No.	Street	Amount. Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157	..	112 50
7/1-5	Mohandiram's Road	53 60
11	...	6 00
15	.	11 25
17		8 25
19		6 00
21		7 50
23	.	12 75
25	...	16 50
25/3-9 & 15-21	..	132 00
31		7 50
33	...	11 25
35	... ..	7 50
37	..	7 50
Total Rs.		512 60

Sgd.

Shroff,

for Municipal Treasurer.

P 29.

**Receipts for Rates.**

P 29 a

Exhibits  
P 29,  
Receipts for  
Rates,  
1950.No.  $\frac{13306}{2318}$ Colombo Municipal Council  
Treasurer's Department.

Date 8/5/50

Received from M/s A. Lukmanjee & Sons the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 1st quarter 1950

Premises No.	Street	Amount Rs. Cts.
153 & 155	... Kollupitiya Road ...	112 50
157	... ..	112 50
7/1-5	... Mohandiram's Road ...	53 60
11	... ..	6 00
15	... ..	11 25
17	... ..	8 25
19	... ..	6 00
21	... ..	7 50
23	... ..	12 75
25	... ..	16 50
25/3-21	... ..	132 00
31	... ..	7 50
33	... ..	11 25
35	... ..	7 50
37	... ..	7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.



Exhibits  
P 29.  
Receipts for  
Rates.  
1950.  
—continued.

No. 58313  
2286

Colombo Municipal Council

Treasurer's Department.

Date 3/8/51

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

Premises No.	Street	Amount Rs. Cts.
153 & 155	... Kollupitiya Road ...	112 50
157	... ..	112 50
7/1-51	... Mohandiram's Road ...	53 60
11	... ..	6 00
15	... ..	11 25
17	... ..	8 25
19	... ..	6 00
21	... ..	7 50
23	... ..	12 75
25	... ..	16 50
25/3-9, 15-21	... ..	132 00
31	... ..	7 50
33	... ..	11 25
35	... ..	7 50
37	... ..	7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.

Colombo Municipal Council.  
Treasurer's Department.

Date. 31/10/50.

Received from M/s. A. Lukmanjee & Sons the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 3rd quarter 1950.

Premises No.	Street	Amount. Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157	..	112 50
7/1-15	Mohandiram's Road	53 60
11		6 00
15		11 25
17	...	8 25
19		6 00
21		7 50
23		12 75
25		16 50
25/3-15 & 18-21		132 00
31		7 50
33		11 25
35		7 50
37	...	7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.

Exhibits  
P 30.  
Receipts for  
Rates.  
1951.

**P 30.**

**Receipts for Rates.**

P 30 d

No.  $\frac{39533}{3967}$

Colombo Municipal Council  
Treasurer's Department.

Date 13/2/51

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

Premises No.	Street	Amount Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157		112 50
7/1-5	Mohandiram's Road ..	53 60
11		6 00
15	..	11 25
17	..	8 25
19	...	6 00
21	. ..	7 50
23		12 75
25		16 50
25/3-9, 15-21	.	132 00
31	. ..	7 50
33	..	11 25
35		7 50
37		7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.

No. 47464  
2658-61

Exhibits  
P 30.  
Receipts for  
Rates.  
1951.  
—continued.

Colombo Municipal Council.

Treasurer's Department.

Date. 4/5/51

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

Premises No.	Street	Amount. Rs. Cts.
153 & 155	Kollupitiya Road	112 50
157	...	112 50
7/1-51	Mohandiram's Road	53 60
11	...	6 00
15	...	11 25
17	...	8 25
19	...	6 00
21	...	7 50
23	...	12 75

Total Rs. 330 35

Sgd.

Shroff.

for Municipal Treasurer.

Exhibits  
1930.  
Receipts for  
Rates.  
1951.

No.  $\frac{47465}{2658-61}$

—continued.

Colombo Municipal Council.

Treasurer's Department.

Date 4/5/51.

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

Premises No.	Street	Amount. Rs. Cts.
25	... Mohandiram's Road ...	16 50
5/39 2/5 & 18-21	... ..	132 00
31	... ..	7 50
33	... ..	11 25
35	... ..	7 50
37	... ..	7 50

Total Rs. 182 25

Sgd.

Shroff

for Municipal Treasurer.

No.  $\frac{66232}{3032-5}$ Exhibits  
P 30.  
Receipt for  
Rates.  
1951.  
—continued.Colombo Municipal Council  
Treasurer's Department.

Date 1/11/51.

Received from M/s. A. Lukmanjee & Sons. the undermentioned amount being the rates due on the annual value of the premises shown below, under the Municipal Council's Ordinance for 3rd quarter 1951.

Premises No.	Street	Amount Rs. Cts.
153 & 155	... Kollupitiya Road ...	112 50
157	... ..	112 50
7/1-51	... Mohandirams Road ...	53 60
11	... ..	6 00
15	... ..	11 25
17	... ..	8 25
19	... ..	6 00
21	... ..	7 50
23	... ..	12 75
25	... ..	16 50
25/3-21	... ..	132 00
31	... ..	7 50
33	... ..	11 25
35	... ..	7 50
37	... ..	7 50
Total Rs.		512 60

Sgd.

Shroff.

for Municipal Treasurer.

Exhibits  
P 31.  
List of  
Tenants  
Assessment  
numbers  
and Rent  
1946-51

P 31.

**List of Tenants, Assessment Numbers and Rents.**

P 31.

Assessment Numbers, Tenants & Rents From 1946 to 1951  
in Mohandiram's Road - Galle Road Property.  
D. C. COLOMBO No. 5951 / LAND.

1946

Asst: No.	Name of Tenant		Assess: Rent.
153/155	D. A. Wickrema	...	130 00
157	K. Kunji Ahamed	...	130 00
7/1	B. H. Wilson	...	14 00
7/2	Sithi Umma	...	14 00
7/3	M. I. M. Lebbe	...	14 00
7/4	N. D. A. Shariff	...	8 00
7/5	Gopal ...	...	8 00
25/3	Thomas Singho	...	12 00
25/4	Wilbert Perera	...	12 00
5	Watcher ...	...	
6	T. A. D. Sheriff	...	12 00
7	Karunaratne ...	...	13 20
8	T. D. Silva ...	...	12 00
9	M. W. Chandradasa	...	10 00
15	Hackinson ...	...	4 00
16	Martin ...	...	6 00
17	P. D. Robert ...	...	15 00
18	P. D. Manis Appu	...	9 00
19	R. M. Ramasamy Pillai	...	12 00
20	Lusa Nona ...	...	5 00
21	W. G. Wilbert	...	12 00
11	A. Majeed ...	...	6 00
13&15	Shariffdeen ...	...	13 00
17	T. K. Kunji Ahamed	...	10 00
19	Noordeen ...	...	8 00
21	Jan Nona ...	—	9 00
5/2&23	Piyadasa ...	...	15 00
25	Munasinghe ...	...	19 00
31	R. Sinnasamy	...	8 00
33	K. D. Wilson	...	12 00
35	K. M. Appuhamy	...	9 00
37	Richard Silva	...	9 00

## Assessment Numbers Tenants &amp; Rents From 1946 to 1951

in Mohandiram's Road - Galle Road, Property.

D. C. Colombo No. 5951/LAND.

1947

Exhibits  
P 31.  
List of  
Assessment  
numbers,  
and Rent  
1946-51  
—continued.

Asst: No.	Name of Tenant	Assess: Rent.
153/155	D. A. Wickrema ...	150 00
157	K. Kunji Ahamed ...	150 00
7/1	B. H. Wilson ...	15 40
7/2	Sithi Umma ...	15 00
7/3	M. I. M. Lebbe ...	17 50
7/4	N. D. A. Shariff ...	11 00
7/5	Gopal ...	8 80
25/3	Thomas Singho ...	13 20
25/4	H. D. de Silva ...	15 00
5	Watcher ...	—
6	T. A. D. Sheriff ...	15 00
7	Karunaratne ...	15 00
8	T. D. Silva ...	15 00
9	M. W Chandradasa ...	10 00
15	Hackinson ...	5 00
16	Martin ...	6 60
17	P. D. Robert ...	16 50
18	P. D. Manis Appu ...	9 90
19	R. M. Ramasamy Pillai ...	15 00
20	Lusa Nona ...	6 60
21	W. G. Wilbert ...	15 00
11	A. Majeed ...	8 00
13&15	Shariffdeen ...	14 30
17	T. K. Kunji Ahamed ...	11 00
19	Noordeen ...	8 00
21	Jan Nona ...	9 00
5/2 & 23	Piyadasa ...	17 00
25	Munasinghe ...	22 00
31	R. Sinnasamy... ...	10 00
33	K. D. Wilson ...	13 20
35	K. M. Appuhamy ...	10 00
37	Richard Silva ...	10 00



Assessment Numbers, Tenants & Rents From 1946 to 1951

in Mohandiram's Road - Galle Road, Property.

D. C. COLOMBO No. 5951/LAND.

1948

Asst. No.	Name of Tenant	Assess. Rent.
153/155	D. A. Wickrema ...	171 83
157	K. Kunji Ahamed ...	171 83
7/1	B. H. Wilson ...	17 50
7/2/	Jamaldeen ...	18 80
7/3	M. I. M. Lebbe ...	18 84
7/4	N. D. A. Shariff ...	12 84
7/5	Rangiah ...	10 00
25/3	Thomas Singho ...	15 00
25/4	H. D. de Silva ...	15 00
5	Watcher ...	—
6	T. A. D. Sheriff ...	15 00
7	Karunaratne ...	15 00
8	T. D. Silva ...	15 00
9	M. W. Chandradasa ...	11 80
13	Hackinson ...	5 00
16	T. V. Y. de Silva ...	6 60
17	P. D. Robert ...	16 50
18	P. D. Manis Appu ...	10 00
19	R. M. Ramasamy Pillai ...	15 00
20	Lusa Nona ...	6 60
21	W. G. Wilbert ...	15 00
11	K. E. M. Rawther ...	10 27
13&15	Shariffdeen ...	15 15
17	T. K. Kunji Ahamed ...	12 06
19	Noordeen ...	9 24
21	Jan Nona ...	10 00
5/2&23	Piyadasa ...	18 77
25	Munasinghe ...	22 88
31	R. Sinnasamy ...	10 00
33	Francinahamy ...	16 00
35	K. M. Appuhamy ...	10 78
37	Richard Silva ...	10 78

## Assessment Number, Tenants &amp; Rents from 1946 to 1951

In Mohandiram's Road – Galle Road, Property.

D. C. COLOMBO No. 5951 / LAND.

Exhibits  
P 31.  
List of  
Assessment  
number.  
and Rent  
1946-51  
—continued.

1949

Asst: No.	Name of Tenant		Assess. Rent.
153/155	D. A. Wickrema	...	158 83
157	K. Kunji Ahamed	... ..	158 83
7/1	B. H. Wilson	... ..	17 43
7/2	Jamaldeen	... ..	18 80
7/3	M. I. M. Lebbe	... ..	18 84
7/4	N. D. A. Shariff	... ..	12 84
7/5	Rangiah	... ..	10 00
25/3	Thomas Singho	... ..	15 00
25/4	H. D. de Silva	... ..	15 00
5	Watcher	... ..	—
6	T. A. D. Sheriff	... ..	15 00
7	Karunaratne	... ..	15 00
8	T. D. Silva	... ..	15 00
9	M. W Chandradasa	... ..	10 00
15	Hackinson	... ..	5 00
16	T. D. Y de Silva	... ..	6 50
17	P. D. Robert	... ..	16 50
18	P. D. Manis Appu	... ..	10 00
19	R. M. Ramasamy Pillai	... ..	15 00
20	Lusa Nona	... ..	6 60
21	W G. Wilbert	... ..	15 00
11	K. E. M. Rawther	... ..	9 95
13 & 15	Shariffdeen	... ..	15 15
17	T K. Kunji Ahamed	... ..	12 06
19	Noordeen	... ..	9 24
21	Jane Nona	... ..	10 00
5/2 & 23	Piyadasa	... ..	18 77
25	Munasinge	... ..	22 88
31	K. M. Perera	... ..	9 95
33	Francinahamy	... ..	14 95
35	K. M. Appuhamy	... ..	9 95
37	Richard Silva	... ..	9 95

Exhibits  
P 31  
List of  
Assessment  
number,  
and Rent  
1946-51  
—continued.

Assessment Numbers, Tenants & Rents From 1946 to 1951  
in Mohandiram's Road - Galle Road, Property.  
D. C. COLOMBO No. 5951/LAND.

1950

Asst: No.	Name of Tenant	Assess: Rent.
153/155	D. A. Wickrema	158 83
157	K. Kunji Ahamed	158 83
7/1	B. H. Wilson	17 43
7/2	Jamaldeen	17 43
7/3	M. I. M. Lebbe	17 43
7/4	N. D. A. Shariff	11 15
7/5	Rangiah	9 45
25/3	Thomas Singho	15 00
25/4	H. D. de Silva	15 00
5	Watcher	—
6	T. A. D. Shariff	15 00
7	P Edwin Perera	15 00
8	T D. Silva	15 00
9	M. W. Chandradasa	10 00
15	Hackinson	5 00
16	T. V Y de Silva	6 50
17	P. D. Robert ..	16 50
18	P. D. Manis Appu	8 58
19	R. M. Ramasamy Pillai	15 00
20.	Lusa Nona	6 60
21	W. G. Wilqert	15 00
11	K. E. M. Rawther	9 45
13&15	Shariffdeen	15 88
17	T. K. Kunji Ahamed	11 15
19	Noordeen	8 00
21	Jan Nona	10 00
5/2&23	Piyadasa	17 30
25	Munasinghe	21 30
31	K. M. Perera	9 95
33	Francinahamy	14 95
35	K. M. Appuhamy	9 95
37	Richard Silva	9 95

Assessment Numbers, Tenants & Rents From 1946 to 1951  
in Mohandiram's Road - Galle Road, Property.

D. C. COLOMBO No. 5951 / LAND.

1951

Exhibits  
P 31.  
List of  
Assessment  
number,  
and Rent  
1946-51  
—continued.

Asst: No.	Name of Tenant			Assess: Rent.
153/155	D. A. Wickrema	...	...	158 83
157	K. Kunji Ahamed	...	...	158 83
7/1	B. H. Wilson	...	...	17 43
7/2/	Jamaldeen	...	...	17 43
7/3	M. I. M. Lebbe	...	...	17 43
7/4	N. D. A. Shariff	...	...	11 15
7/5	Rangiah ...	...	...	9 45
25/3	Thomas Singho	...	...	15 00
25/4	H. D. de Silva	...	...	14 95
5	Watcher ...	...	...	
6	T. A. D. Sheriff	...	...	15 00
7	P Edwin Perera	...	...	15 00
8	T. D. Silva ...	...	...	15 00
9	M. W Chandradasa	...	...	10 00
15	L. D. Joseph ...	...	...	5 00
16	T D. Y de Silva	...	...	6 50
17	P D. Robert ...	...	...	16 50
18	P D. Manis Appu	...	...	8 58
19	R. M. Ramasamy Pillai	...	...	15 00
20	Lusa Nona ...	...	...	6 60
21	W. G. Wilbert	...	...	15 00
11	K. E. M. Rawther	...	...	9 45
13&15	Shariffdeen ...	...	...	15 88
17	T. K. Kunji Ahamed	...	...	11 15
19	Noordeen ...	...	...	8 00
21	Jan Nona ...	...	...	10 00
5/2&23	Piyadasa ...	...	...	17 30
25	Munasinghe ...	...	...	21 30
31	K. M. Perera ...	...	...	9 95
33	Francinahamy	...	...	14 95
35	K. M. Appuhamy	...	...	9 95
37	Richard Silva ...	...	...	9 95

**Valuation Report.**

**CHAS H. PIERES.**  
**F.A.L.P. (Lond.)**  
**Auctioneer, Broker & Valuer.**

**No. 6 Ferry Street**  
**Hultsdorp,**  
**Colombo.**

**REPORT & VALUATION****Property &**

of

**Premises**

bearing Assessment Nos. 153, 155 & 157 Galle Road Kollupitiya and Garden No. 7/1-5 and 11-35 and Garden No. 25/3-21 Mohandiram's Road, Kollupitiya.

**Extent**

Said to be 1R. 20 26/100 PERCHES

**Purpose of Valuation**

D. C. COLOMBO CASE No. 5951/L

**Date of Visit.**

1ST FEBRUARY 1952.

**Situation.**

These premises are about 200 yards away from the "Temple Trees" premises the bungalow of the Prime Minister of Ceylon Adjoining "Temple Trees" are the Kollupitiya Police Station Premises. Adjoining the Police Station are the premises of Messrs Abdulhussen Dawoodbhoy and adjoining the premises of Abdulhussen Dawoodbhoy are these premises.

**Accommodation.**

Premises Nos. 153 and 155 Galle Road are at present used as a tea shop and sundry boutique. There are 2 halls, 2 smaller halls, servants room, kitchen a lavatory on the Mansergh Drainage system and a water service. They are 61' x 26' or 1586 sq. ft. extent. No. 157 Galle Road are at present used as a tea shop and watch repairing shop. These premises have the same accommodation as premises Nos. 153 and 155 but no lavatory. The tenants use the lavatory in premises Nos. 153 and 155. These premises have a back entrance from Mohandiram's Road. The area is the same as Nos. 153 and 155 viz 1586 sq ft. Nos. 7/1, 7/2 and 7/3 Mohandiram's Road have each one small apartment and a kitchen.

The area of each tenement is 408 sq. ft. and the rental of each is said to be Rs. 17/43 per mensem Nos. 7/4 and 7/5 have each a smaller sized apartment and kitchen and the monthly rentals are Rs. 11/15 and Rs. 9/45 respectively. The area of 7/4 is 171 sq. ft. and 7/5 is 104 sq. ft. These tenements are in the garden.

Exhibits  
P 37.  
Valuation  
Report.  
2-2-52.  
—continued.

				Rental	
No. 11	Mohandiram's Road	has one apartment	108 sq ft	9	45
Nos. 13 & 15	„ „	have two apartments	330 „ „	15	88
No. 17	„ „	have one apartment	133 „ „	11	15
No. 19	„ „	„	77 „ „	8	00
No. 21	„ „	„	144 „ „	10	00
No. 23	„ „	have two apartments	207 „ „	17	30
No. 25	„ „	„ „ „	207 „ „	21	30
No. 31	„ „	has one apartment	117 „ „	9	95
No. 33	„ „	has two apartments	234 „ „	14	95
No. 35	„ „	has one „	108 „ „	9	95

#### Nos. 11 to 35 face Mohandiram's Road

No. 25/17	Garden	has one smaller apartment	117 sq. ft.	16	50
No. 25/18	„ „	two do do	168 „ „	8	58
No. 25/15	Part	„ one do do	104 „ „	6	50
No. 25/15	other part	one do do	52 „ „	5	00
No. 25/19	has two	do	221 „ „	15	00
No. 25/20	has one	do	91 „ „	6	50
No. 25/21	has two	do	208 „ „	15	00
No. 25/9	has two	do	133 „ „	10	00
No. 25/8	has two	do	185 „ „	15	00
No. 25/7	has two	do	228 „ „	15	00
No. 25/6	has two	do	216 „ „	15	00
No. 25/5	has two	do	451 „ „	20	00
No. 25/4	has two	do	242 „ „	15	00
No. 25/3	has two	do	242 „ „	15	00

All these tenements are served with 6 lavatories built on the Mansergh Drainage system and two bathrooms and a water service.

#### MATERIALS OF THE BUILDINGS

Nos. 153 and 155 and 157 Galle Road are built of bricks and covered with lime mortar. The floors are cemented and ceiling covers the halls of the premises. Electric lights are installed.

The other tenements are built of bricks and bamboo and mud plastered with lime mortar. The floors are cemented. The roofs of all the

Exhibits  
P 37.  
Valuation  
Report.  
2-2-52.  
—continued.

buildings are of Jak reepers coconut rafters and covered with Ceylon Tiles. The doors and beams are of Jak. Slight repairs to drains and floors are needed.

### Valuation.

Entire land is rectangular in shape and has two road boundaries viz. Colombo Galle Road and Mohandiram's Road, The situation is an ideal one. Owing to the situation the land is very valuable. The total rental derived from these premises is said to be Rs. 696/56 monthly. Taking into consideration the situation, the demand for immovable property and the market conditions I am of opinion that RUPEES ONE HUNDRED AND SIXTY FIVE THOUSAND (Rs. 165,000/-) is a fair and reasonable market value to be placed on this property and premises as between a willing buyer and a willing seller in the open market as at 15th July 1949 and I accordingly value them at that figure.

On an investment of Rs. 165,000/- the investor would get nett return of a little less than 3% as per the following figures.—

One year rental @ Rs. 696/50 per mensem		Rs. 8358.00
Less one years taxes @ Rs. 512/60 per quarter	2050-40	
Less 2 months per year for repairs etc.	1393-00	
Less collectors wages.	100-00	3543.40
		<u>4800.00</u>
Years purchases 3%		33.1/3.
		<u>Rs. 160,000.00</u>

Colombo 2nd February 1952.

Sgd. CHAS PIERES

Auctioner Broker & Valuer.

311

P 36.

**Letter from Municipal Assessor to Julius & Creasy.**

P 36.

Exhibits  
P 36  
Letter from  
Municipal  
Assessor  
to  
Julius Creasy  
6-2-52.

No.

THE TOWN HALL,  
P O. Box No. 216.  
Colombo. 6th Feby., 1952.

SUBJECT: Premises Nos. 153-157, Kollupitiya Road, G 7/1-5, 11,  
15, 17, 19, 21, 23, 25, G 25/2-9, 15 & 18-21; 31, 33, 35  
& 37, Mohandiram's Road.

Dear Sirs,

With reference to your letter dated 30. 1. 1952, I hereby certify that the attached lists 1 - 6 give a true statement of the assessment numbers, street names, names of reputed owners, annual values & quarterly rates in respect of the above premises.

Encl:  
6 lists.

Yours faithfully,  
Sgd. ANTHONISZ  
for Municipal Assessor.

Messrs. JULIUS & CREASY,  
Proctors & Notaries,  
Colombo.

---



P 36 (a)  
Annexure to P 36.

Exhibits  
P 36 (a)  
Annexure to  
P 36.

Statement of Assessment Numbers with names of reputed owners, Annual Values and Quarterly Rates.

Ward No.	Street No.	Street Name.	Name of reputed owner	1916		1917		1918	
				A.V.	Q.R.	A.V.	Q.R.	A.V.	Q.R.
1399	1(1-4)	Mohandiram's Rd.	Noordin Hadjjar	377/-	16/97	377/-	16/97	377/-	16/97
1400	1(7-23)	"	"	1336/-	60/12	1336/-	60/12	1336/-	60/12
1401	26,26C(1-3)	Colpetty Rd.	N. H. Samsudeen ) Hadjjar Idroos Lebbe)	192/-	8/64	192/-	8/64	192/-	8/64
1402	26,26C(4-7)	"	"	826/-	37/17	826/-	37/17	826/-	37/17
1919									
1399	1(1-3,3A&4)	Mohandiram's Rd.	Noordin Hadjjar	A.V.	Q.R.				
1400	1(7-23)	"	"	428/-	19/26				
1401	26,26C(1-3)	Colpetty Rd.	N. H. Samsudeen ) Hadjjar Idroos Lebbe)	1336/-	60/12	192/-	8/64		
1402	26,26C(4-7a)	"	"	872/-	39/24				
1920									
1399	1(1-3,3A&4)	Mohandiram's Rd.	Adamjee Lukmanjee	A.V.	Q.R.				
1400	1(7-23)	"	"	428/-	19/26				
1401	26,26C(1-3)	Colpetty Rd.	"	1336/-	60/12				
1402	26,26C(4-7A)	"	"	872/-	39/24				
1921									
1399	1(1-3,3A&4)	Mohandiram's Rd.	Adamjee Lukmanjee	A.V.	Q.R.				
1400	1(7-23)	"	"	428/-	21/40				
1401	26,26C(1-3)	Colpetty Rd.	"	1336/-	66/80				
1402	26,26C(4-7A)	"	"	1020/-	51/00				
1922									
1399	1(1-3,3A&4)	Mohandiram's Rd.	Adamjee Lukmanjee	A.V.	Q.R.				
1400	1(7-23)	"	"	428/-	21/40				
1401	26,26C(1-3)	Colpetty Rd.	"	1336/-	66/80				
1402	26,26C(4-7A)	"	"	1050/-	52/50				
1923									
1399	1(1-3,3A&4)	Mohandiram's Rd.	Adamjee Lukmanjee	A.V.	Q.R.				
1400	1(7-23)	"	"	428/-	21/40				
1401	26,26C(1-3)	Colpetty Rd.	"	1336/-	66/80				
1402	26,26C(4-7A)	"	"	1050/-	52/50				

Ward No.	Street No.	Street Name	Name of reputed owner	1924		1925		1926		1927	
				A.V.	Q.R.	A.V.	Q.R.	A.V.	Q.R.	A.V.	Q.R.
1399	1(1-3,3A&4)	Mohandiram's Rd.	Adamjee Lukmanjee	428/-	21/40	428/-	21/40	428/-	21/40	428/-	21/40
1400	1(7-23)	"	"	1336/-	66/80	1336/-	66/80	1336/-	66/80	1336/-	66/80
1401	26,26C (1)	Colpetty Rd.	"	650/-	32/50	650/-	32/50	650/-	32/50	650/-	32/50
1401A	26,26C (2)	"	"	650/-	32/50	650/-	32/50	650/-	32/50	650/-	32/50
1402	26,26C (3)	"	"	650/-	32/50	650/-	32/50	650/-	32/50	650/-	32/50
1402A	26,26C (4)	"	"	650/-	32/50	650/-	32/50	650/-	32/50	650/-	32/50
				1928		1929					
				A.V.	Q.R.	A.V.	Q.R.				
1399	1(1-3,3A&4)	Mohandiram's Rd.	Adamjee Lukmanjee	428/-	21/40	428/-	21/40				
1400	1(7-23)	"	"	1336/-	66/80	1336/-	66/80				
1401	26,26C (1)	Colpetty Rd.	"	650/-	32/50	650/-	32/50				
1401A	26,26C (2)	"	"	650/-	32/50	650/-	32/50				
1402	26,26C (3)	"	"	650/-	32/50	650/-	32/50				
1402A	26,26C (4)	"	"	650/-	32/50	650/-	32/50				
				1930		1931					
				A.V.	Q.R.	A.V.	Q.R.				
1400	1 (7-23)	7 (1-5)	Mohandiram's Rd. Adamjee Lukmanjee	680/-	34/00	680/-	34/00				
"	"	11	"	90/-	4/50	80/-	4/00				
"	"	13	"	175/-	8/75	150/-	7/50				
"	"	17	"	140/-	7/00	140/-	7/00				
"	"	19	"	80/-	4/00	80/-	4/00				
"	"	21	"	100/-	5/00	100/-	5/00				
"	"	23	"	100/-	5/00	100/-	5/00				
"	"	25	"	200/-	10/00	200/-	10/00				
"	"	25(2-9)	"	1110/-	55/50	1045/-	52/25				
				Name of Reputed owner.		Name of Reputed owner.					

Old Ward No.	Old Street No.	New Street or Garden No.	Street Name.	Name of reputed owner	1930		1931	
					A.V.	Q.R.	A.V.	Q.R.
1399	1(1-3,3A&4)	25(15&17-21)	Mohandiram's Road.	Adamjee Lukmanjee.	790/-	39.50	790/-	39.50
"	"	31	"	"	100/-	5.00	100/-	5.00
"	"	33	"	"	120/-	6.00	120/-	6.00
"	"	35	"	"	90/-	4.50	80/-	4.00
"	"	37	"	"	90/-	4.50	80/-	4.00
1402 A	26,26C (4)	153	Colpetty Road.	"	700/-	35.00	700/-	35.00
1402	26,26C (3)	155	"	"	700/-	35.00	700/-	35.00
1401 &	26,26C (1)&							
1401 A	26,26C (2)	157	"	"	1425/-	71.25	1375/-	68.75

Street or Garden No.	Street Name	Name of reputed owner.	1932	
			A.V.	Q.R.
7 (1-5)	Mohandiram's Road.	Gulamhusein Adamjee & Mohamedally Adamjee.	680/-	34.00
11	"	"	80/-	4.00
13	"	"	150/-	7.50
17	"	"	140/-	7.00
19	"	"	80/-	4.00
21	"	"	100/-	5.00
23	"	"	100/-	5.00
25	"	"	200/-	10.00
25(2-9)	"	"	1045/-	52.25
25(15&17-21)	"	"	790/-	39.50
31	"	"	100/-	5.00
33	"	"	120/-	6.00
35	"	"	80/-	4.00
37	"	"	80/-	4.00
153	Colpetty Road	"	700/-	35.00
155	"	"	700/-	35.00
157	"	"	1375/-	68.75



Old Street or Garden No.	New Street or Garden No.	Street Name and Ward.	Name of reputed owner.	1940		1941		1942		1943	
				A. V.	Q. R.	A. V.	Q. R.	A. V.	Q. R.	A. V.	Q. R.
153 & 155	153 & 155	Kollupitiya Road, Kollupitiya	Gulamhusein Adamjee & Mohamedally Adamjee	1300/-	65/-	1300/-	65/-	1300/-	65/-	1300/-	65/-
157	157	"	"	1300/-	65/-	1300/-	65/-	1300/-	65/-	1300/-	65/-
G 7/1-5	G 7/1-5	Mohandiram's Rd. Kollupitiya	"	590/-	29/50	590/-	29/50	600/-	30/-	600/-	30/-
11	11	"	"	80/-	4/-	80/-	4/-	80/-	4/-	80/-	4/-
13	15	"	"	130/-	6/50	130/-	6/50	130/-	6/50	130/-	6/50
17	17	"	"	90/-	4/50	90/-	4/50	100/-	5/-	100/-	5/-
19	19	"	"	60/-	3/-	60/-	3/-	60/-	3/-	60/-	3/-
21	21	"	"	80/-	4/-	80/-	4/-	80/-	4/-	80/-	4/-
23	23	"	"	80/-	4/-	80/-	4/-	85/-	4/25	85/-	4/25
25	25	"	"	170/-	8/50	170/-	8/50	170/-	8/50	170/-	8/50
G 25/2-9, 15 & 18-21	G 25/2-9, 15 & 18-21.	"	"	1370/-	68/50	1370/-	68/50	1395/-	69/75	1395/-	69/75
31	31	"	"	80/-	4/-	80/-	4/-	80/-	4/-	80/-	4/-
33	33	"	"	120/-	6/-	120/-	6/-	120/-	6/-	120/-	6/-
35	35	"	"	80/-	4/-	80/-	4/-	80/-	4/-	80/-	4/-
37 & 25/17	37	"	"	200/-	10/-	200/-	10/-	200/-	10/-	200/-	10/-

Street or Garden No.	Street name & Ward.	Name of reputed owner	1944		1945		1946	
			A. V.	Q. R.	A. V.	Q. R.	A. V.	Q. R.
153 & 155	Kollupitiya Rd. Kollupitiya.	Gulamhusein Adamjee & Mohamedally Adamjee.	1300/-	65/-	1300/-	65/-	1300/-	65/-
157	"	"	1300/-	65/-	1300/-	65/-	1300/-	65/-
G 7/1-5	Mohandiram's Rd.	"	600/-	30/-	600/-	30/-	600/-	30/-
11	"	"	80/-	4/-	80/-	4/-	80/-	4/-
15	"	"	130/-	6/50	130/-	6/50	130/-	6/50
17	"	"	100/-	5/-	100/-	5/-	100/-	5/-
19	"	"	60/-	3/-	70/-	3/50	70/-	3/50
21	"	"	80/-	4/-	80/-	4/-	80/-	4/-
23	"	"	85/-	4/25	130/-	6/50	130/-	6/50
25	"	"	170/-	8/50	170/-	8/50	170/-	8/50
G 25/2-9,								
15 & 18-21	"	"	1395/-	69/75	1395/-	69/75	1395/-	69/75
31	"	"	80/-	4/-	80/-	4/-	80/-	4/-
33	"	"	120/-	6/-	120/-	6/-	120/-	6/-
35	"	"	80/-	4/-	80/-	4/-	80/-	4/-
37	"	"	200/-	10/-	200/-	10/-	200/-	10/-

Exhibits  
P 38.  
Extracts  
from  
Books of  
Rates  
and Taxes.

P 38.

### Extracts from Books of Rates and Taxes.

P 38.

Messrs. Adamjee Lukmanjee &amp; Sons

D. C. Case No. 5951/L Premises Nos. 153, 155, 157 Colpetty  
8, 7, 37 Muhandirams's Road.

Year	Ledger Folio	Gross Rent	Rates	Remarks.
1919-20	345 ) 362 )	2520	508	
1920-21	380 ) 398 )	2520	600	
1921-22	387 ) 402 )	2940	600	
1922-23	380 ) 399 )	2940	600	
1923-24	380 ) 398 )	4800	872	
1924-25	388 ) 407 )	4800	872	
1925-26	382 ) 394 )	4800	872	
1926-27	332 ) 327 )	5500	872	
1927-28	431	5500	872	
		Cash Book Fol.		
1928-29	1591 and 1449			
1929-30	417 and 4 ,,			
1930-31	1682 & 1410 ,,			
1931-32	789 & 743 ,,			
1932-33	1091 & 956 ,,			
1933-34	81 & 228 ,,			
1934-35	2262 & 2462 ,,			
1935-36	810 & 1138 ,,			
1936-37	402	4200	1080	
1937-38	177	4275	1072	
1938-39	431	4175	1048	
1939-40	451	4800	1061	
1940-41	547	4800	1130	
1941-42	627	4052	1121	
1942-43	637	3312	1135	
1943-44	289	5404	1155	
1944-45	405	5890	1159	
1945-46	184	5802	1167	
1946-47	187	7086	1217	
1947-48	183	7602	1879	
1948-49	267	8569	2039	
1949-50	134	7491	2050	
1950-51	134	7799	2047	
1951-52	134	7000	2050	

**P 39.**

**Document referred to by witness Maharoo.**

Exhibits  
P39.  
Document  
referred  
to by witness  
Maharoo

LAST WILL 1872.

Children -. Safia Umma — 1930

SAFIA UMMA

Children.

Sadoon died 1926 — 4 males 3 females.

Ojeeda died 1930 — 3 males 3 females.

Marooof died 1934 — 2 males 2 females.

Noor Lafiru died 1938 — 1 male 1 female.

M. Nilam died 1942 — without issue.

M. Jahafar died 1939 — 2 females.

Noorul Hafeela died 1942 — 1 male 1 female.

M. Affan died 1943 — without issue.

M. Nakeen died 1944 — 5 males 2 females.

Noor Zahira died 1948 — 2 males 2 females.

Aysha Umma died 1947 — 3 males — 2 females.

Samsudeen Hadjiar died in 1929.

---

**P 39A.**

**Reverse of P39—Telegram from Rasanathan to Hamza.**

P 39A.

P 39A  
Reverse of  
P 39  
Telegram  
from  
Rasanathan  
to Hamza

CEYLON TELEGRAPHS.

TELEGRAM.

ADDRESS :

M. Y. M. HAMZA,

47 CASTLE STREET,

COLOMBO.

YOUR PRESENCE ESSENTIAL TOMORROW CASE

RASANATHAN.



Supreme Court of Ceylon  
No. 72 (Final) of 1953.

District Court, Colombo,  
No. 5951.

*In Her Majesty's Privy Council on an Appeal from  
The Supreme Court of Ceylon.*

BETWEEN

1. MOHAMEDALY ADAMJEE and 3 others

*Plaintiffs—Appellants.*

VERSUS

1. HADAD SADEEN and 42 others

*Defendants—Respondents.*

---

**RECORD  
OF PROCEEDINGS,**

---