

Supreme Court of Ceylon
No. 1581 of 1953

Judgment
11, 1958

~~PC~~ ~~Ch. G. 2~~
Appeal under the Indian and
Pakistani Residents (Citizenship)
Act No. 3 of 1949

23

1958

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

BETWEEN

HERBERT ERNEST TENNEKOON,
Commissioner for Registration of Indian
and Pakistani Residents, Colombo *Respondent-Appellant*

AND

MURUGAPILLAI PANJAN of
Letchumypathy Stores, Iruwanthampola,
Koslanda *Appellant-Respondent*

RECORD
OF PROCEEDINGS

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AND

MURUGAPILLAI PANJAN of
Letchumypathy Stores, Iruwanthampola,
Koslanda *Appellant-Respondent*

RECORD OF PROCEEDINGS

UNIVERSITY OF LONDON
W.C.1.
24 JAN 1959
INSTITUTE OF ADVANCED
LEGAL STUDIES

52017

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No. 1

Application for Registration as a Citizen of Ceylon

Form 1A

No. 1
Application for
registration as
a citizen of
Ceylon.
26.5.51

District : Badulla.

Application No. : Z/243.

Registered under No.

**THE INDIAN AND PAKISTANI RESIDENTS (CITIZENSHIP)
ACT, No. 3 OF 1949**

10 **Application, under section 4 (1) of the Act, for registration as
 a Citizen of Ceylon by a person who is unmarried at the
 date of the application and is not a minor**

Note.—(1) The application shall, as required by section 7 (1) (b) of the Act, be supported by an affidavit of the applicant as to the facts and particulars set out in the application and be transmitted or delivered to the Commissioner for the Registration of Indian and Pakistani Residents.

20 (2) The applicant may, at any time before the disposal of the application, submit to the Commissioner affidavits of other persons who have direct knowledge of any facts or particulars set out in the application or the names of any such persons or certified copies of any documents on which the applicant relies for proof of anything set out in the application. If the applicant wishes to attach any such affidavits or certified copies of documents to the application, he or she may do so, marking such affidavits and copies and referring to them in the relevant paragraphs of the application. The applicant may also annex to the application a list of persons on whose evidence he or she relies, noting thereon the matters which are within the knowledge of each such person.

30 (3) The applicant shall write his or her signature on the application in ink. If the applicant cannot write the signature, the applicant shall affix his or her thumb impression in ink on such part of the application as is provided for the applicant's signature.

(4) The signature or the left thumb impression of the applicant shall be written or affixed by him or her on the application in the presence of, and be attested by, two witnesses.

(5) Where the applicant is an unmarried female having any illegitimate minor child or children of hers who is or are ordinarily resident in Ceylon and dependent on her, she is advised, if she desires

No. 1.
Application for
registration as
a citizen of
Ceylon.
26.5.51
contd.

to procure the registration of that child or those children simultaneously with her registration, to set out in paragraph 10 of, and in the Schedule to, the application such particulars relating to that child or those children as are required to be specified. Instead of including in the application a request for the registration of such minor child or children, the applicant may, by a subsequent letter sent to the Commissioner at any time before the disposal of the application, request the registration of such child or each such child as a citizen of Ceylon. Such letter shall contain the aforesaid particulars.

10

(6) In the Act, " Indian or Pakistani resident " means a person—

- (a) whose origin was in any territory which, immediately prior to the passing of the Indian Independence Act, 1947, of the Parliament of the United Kingdom, formed part of British India or any Indian State, and
- (b) who has emigrated therefrom and permanently settled in Ceylon,

and includes a descendant of any such person.

(7) For the purposes of the Act, the continuity of residence of an Indian or Pakistani in Ceylon is, notwithstanding his causal absence from Ceylon, deemed to have been uninterrupted if such absence did not on any one occasion exceed twelve months in duration.

20

I. I, Murugapillai Panjan in the exercise of the privilege conferred by section 4 (1) of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949, do hereby apply to the Commissioner for the Registration of Indian and Pakistani Residents, for registration as a citizen of Ceylon.

III. I am an Indian resident.

IV. I am an unmarried person and am not a minor.

V. I have been continuously resident in Ceylon during the period of ten years commencing on January 1, 1936, and ending on December 31, 1945.

30

VI. I have been continuously resident in Ceylon from January 1, 1946, to the date of this application.

VII. I declare that I am free from any disability or incapacity which may render it difficult or impossible for me to live in Ceylon according to the laws of Ceylon.

I understand clearly that, in the event of my being registered as a citizen of Ceylon—

- 10 (a) I shall be deemed in law to have renounced all rights to the civil and political status which I have had, or would, but for registration as a citizen of Ceylon, have had, under any law in force in the territory from which I/§my father/§ancestor emigrated, and
- (b) in all matters relating to or connected with status, personal rights and duties and property in Ceylon, I shall be subject to the laws of Ceylon.

VIII. The necessary particulars are set out below.

(Sgd.) M. PANJAN,
Signature of Applicant.

Witnesses : (Sgd.) illegibly.

1. *Signature* :

20 *Name, occupation and address* : Branch Manager,
Panjnadas, Ltd.
Koslanda.

2. *Signature* : (Sgd.) Illegibly.

Name, occupation and address : Planters dealer in Rice and
Estate Supplier, No. 109,
Poonagalla Road,
Koslanda.

Instructions to Applicant for specifying the required Particulars

Particulars

1. If the full name is a composite of more than one separate name, state the separate names in the order in which registration is desired.

1. Full name : Marugapillai Panjan

2. The Divisional Revenue Officer's Division should, if possible, be stated in the address.

2. Full address : Letchumipathi Stores, Iruwanthampola, Koslanda Letchumipathi Stores

3. Sex : Male

4. A certificate of birth or an affidavit should be annexed if age below 25 years.

4. Age : 27.

Date of birth (if below 25 years of age) : 3.1.1924

5. Place of birth : Thathamangalam Village, Trichy District

6. Fill up such part of the Schedule to the application as relates to the applicant.

6. The places of residence of the applicant in Ceylon from January 1, 1936, to the date of this application, and the period of residence at each such place are stated in the Schedule to this application.

7. Names and addresses may be briefly stated. Where the applicant is an unmarried female, any illegitimate minor children of hers who are dependent on her should be included.

7. Names, addresses and relationship to the applicant of all dependants :—

Names	Addresses	Relationship
Murugapillai	.. Thathamangalam ..	Father
Meenatchiamma	.. Trichy ..	Mother

8. Paragraph 8 should only be filled up if the applicant claims that the income from the business or employment is adequate.

8. If the applicant has a business or employment claimed by him to be sufficient to support the applicant and dependants, if any, the description of the business or employment : Letchumipathi Stores, Manager.

9. Paragraph 9 need not be filled up if paragraph 8 is filled up.

9. Other sources of income derived whether by the applicant alone or by the applicant and any dependants which can be applied for support of the applicant and dependants, if any :—

Name of Person deriving Income	Source of Income	Income per Mensem Rs. c.
Self	.. By Managing Letchumipathi Stores, Koslanda ..	

**Instructions to applicant for
specifying the required
particulars**

10. (See Note 5 above.)
Certificates of birth or an
affidavit should be
annexed.

Particulars

10. Where the applicant is an unmarried female, the names and dates of birth of any illegitimate minor children of hers, who are ordinarily resident in Ceylon and dependent on her and whose registration she desires simultaneously with her registration :—

Names

Dates of Birth

11. If paragraph 10 above is completed by the applicant, such part of the Schedule to the application as relates to illegitimate minor children should be filled up.

11. The places of residence in Ceylon of each illegitimate minor child mentioned in paragraph 10 above from January 1, 1936, or from the date of birth, whichever is the later date, to the date of this application, and the period of residence at each such place are stated in the Schedule to this application.

SCHEDULE

See paragraphs 6 and 11 above

Any place at which the Applicant or an illegitimate minor child has resided for less than three months need not be mentioned

Applicant			
Places of residence in Ceylon from January 1, 1936, to the date of the application	Approximate period of residence at each place of residence in Ceylon	Name of each of the aforesaid children	Places of residence in Ceylon of the aforesaid children from January 1, 1936, or from the date of birth, whichever is the later date, to the date of the application
Iruwanthampola, Koslanda	1936—1942		
Egodawatha Estate, Koslanda	1942—1947		
Letchumipathi Stores, Koslanda	1947 to date		

AFFIDAVIT

(To be completed by the applicant in support of the application)

I do solemnly, sincerely and truly declare and affirm that the foregoing particulars stated in this application are true, and I make this statement conscientiously believing the same to be true.

(Sgd.) M. PANJAN,
Signature of Applicant.

Affirmed at Bandarawela this 26th day of May, 1951, Before me.

S. M. Nadarajah, J. P., U. M.
Name of Justice of the Peace.

(Sgd.) S. M. NADARAJAH,
(Signature of Justice of the Peace)

Certified correct—True copy.

* I, Murugapillai Panjan of Letchumipathy Stores, Koslanda, not being a Christian, do hereby solemnly, sincerely and truly declare and affirm that I was born at Thathamangalan Village, Trichy, on or about 3rd January, 1924.

(i) Affidavit of
M. Panjan.
26.5.51.

Solemnly declared and affirmed at Bandarawela this 26th day of May 1951.

Before me.

(Sgd.) M. PANJAN,
Declarant.

10

(Sgd.) S. M. NADARAJAH,
Justice of the Peace.

H. John Singho & Co.,

Merchants

Bakers, Agents and Estate Suppliers.
Koslanda.
18th May 1951.

(ii) Certificate
from Managing
Partner,
H. John Singho
& Co.
18.5.51

TO WHOM IT MAY CONCERN

20

This is to certify that Mr. M. Panjan is known to me since the year 1935 and can recommend him as a honest and a man of good character.

Therefore, I shall be much pleased if you will kindly grant him his request.

(Sgd.) in Tamil,
Managing Partner.

Iruwanthumpola Estate,
Koslanda,
8th March, 1951.

(iii) Certificate
from Proprietor,
Iruwanthum-
pola Estate,
Koslanda.
8.3.51

TO WHOM IT MAY CONCERN

30

This is to certify that bearer M. Panjan has been a resident of this Estate from the year 1935 to August, 1942.

(Sgd.) S. P. MUTHIA PILLAI,
Proprietor.

(iv) Questionnaire relating to permanent settlement.
4.4.52

Form AD/6

Questionnaire relating to Permanent Settlement

1. What immovable property do you, own—

(a) In India, Pakistan and elsewhere :

Is entitled to $\frac{1}{4}$ share of his father's estate worth Rupees 2,000

(b) In Ceylon :

Nil.

2. What business or shares in companies registered in India or Pakistan or elsewhere other than Ceylon do you own, and what was the income from them in the last year or other period for which accounts have been prepared ? 10

Has contributed Rs. 2,034.10 for the business in July 1951.

3. What visits have you, your wife and minor children paid to India and Pakistan since January 1, 1936/January 1, 1939, and what was the duration and purpose of each visit ?

(a) In 1946—one month. To see his parents.

(b) In 1949—one month. To see his parents.

He has remitted money to India—Is not certain as to how many times. 20

Date : 4.4.52.

(Sgd.) M. PANJAN,
Signature of Applicant.

(v) Certificate from Chairman, V. C., Kandapalla.
17.9.51

This is to certify that Mr. M. Panjan of Koslanda is a Share Holder of Letchemy Pathy Stores, Iruwandampola, and is known to me since 1936.

He bears a good character.

V. C. Office,
Koslanda, 17th September 1951.

(Sgd.) Illegibly,
Chairman, V. C.
Kandapalla No. 2,
Koslanda. 30

Panjnadas, Limited

Koslanda, 19th May, 1951

(vi) Certificate
from Branch
Manager, Panj-
nadas, Ltd.
19.5.51

TO WHOM IT MAY CONCERN

This is to certify that bearer Mr. M. Panjan of Koslande is well known to me for the last fifteen years as a resident in the town. He has been in Ceylon since his boyhood, and is now the Manager of Letchimipathy Stores in Koslande. He bears a very good character.

10

PANJNADAS, LIMITED.
(Sgd.) H. W. BARNIS SILVA.

Branch Manager.
H. W. BARNIS SILVA.

Nikapota,
1.5.52.

(vii) Certificate
from Village
Headman,
Nikapota.
1.5.52

Mr. M. Panjan is known to me from the year 1935.

During this period he was in Letchimi Stores in Iruwandumpola Village, Koslande.

20

(Sgd.) G. C. NICAPOTA,
Village Headman
of Nikapota.

S. P. Muttaiyah Pillai,
Iruwanthumpola Estate,
Koslanda.
23.4.1952.

(viii) Letter
from S. P.
Muttaiyah
Pillai to
Commissioner.
23.4.52

Commissioner for the Registration of
Indian and Pakistani Residents,
Colombo.

Dear Sir,

30

Bearer M. Panjan is the son of Murugapillai of Iruwanthumpola, Koslanda. Murugapillai is the elder brother to me, thereby Panjan is related to me as nephew. Panjan was with me since 1935 up to 1942. After that he went to Egodawatta of the same area for his own business and returned in 1947. From 1947 up to this date he is with me in running the Estate boutique. Therefore I hereby certify that he is entitled for the citizenship of Ceylon.

Yours faithfully,
(Sgd.) S. P. MUTTAIYAH PILLAI,
Proprietor.

(ix) Certificate
from K. Gnana-
loka.
9.6.51

Ariyawansaramaya,
Koslanda,
9th June 1951

I, Koslanda Nanaloka Sthavira residing in Ariyawansaramaya, Koslanda, certify that M. Panjan who is employed in Letchemy Pathy Stores, Iruwandumpola is very well known to me for a period of nearly fifteen years and is qualified for citizenship of Ceylon.

(Sgd.) KOSLANDA NANALOKA STHAVIRA.

Translated.

(Sgd.) L. A. SENEVIRATNE.
Interpreter, S. C.

10

(x) Certificate
from R. P. N.
Asalishamy.
19.5.51

Koslanda.
19.5.51.

I certify that M. Panjan residing in Koslanda is residing in this area from the year 1935 and is very well known to me.

(Sgd.) R. P. N. ASALISHAMY.

Translated.

(Sgd.) L. A. SENEVIRATNE,
Interpreter, S. C.

(xi) Certificate
from Village
Headman,
Koslanda.
29.4.52

Koslanda,
29.4.52

20

I hereby declare that M. Panjan residing in Iruwandumpola, Koslanda, and to whom this certificate is issued is very well known to me for a period of nearly fifteen years.

(Sgd. _____
V. H., KOSLANDA.

Translated.

(Sgd.) L. A. SENEVIRATNE,
Interpreter, S. C.

I hereby inform you that M. Panjan, the owner of the Stores in Iruwandumpola, Koslanda, is very well known to me as a resident of this area for a period of nearly fifteen years.

(xii) Certificate from Postman, Koslanda. 25.4.52

(Sgd.) _____,
25.4.52

Postman, Koslanda Post Office.

Translated.

(Sgd.) L. A. SENEVIRATNE,
Interpreter, S. C.

Translation

10

V. MARIMUTHUPILLAI,
Ampitigoda,
Bandarawela, 17.4.52

(xiii) Certificate from V. Marimuthupillai. 17.4.52

This letter is to prove that Moona Panchchan was working in my shop at Egodawatte from the 1st day of August 1942 till the 30th day of June 1947 and for which purpose I have given this letter.

(Sgd.) V. MARIMUTHUPILLAI

Translated by me.

(Sgd.) _____,
S. T. D. C., Colombo.
Colombo, 30/4/56.

20

Translation

Extracts from the Register of Birth that took place in 1923 in No. 11 Thathamangalam Kiramam in the Erkkudi Taluk Tiruchy Jilla as per Madras Act 2 of 1899

(xiv) Register of Birth of Panchadas.

Registering Officer's Serial No.	Date	Names of parents either father or mother and when	Sex		Nationality	Name of child born	Remarks
			Male	Female			
1	2	3	4	5	6	7	8
40	10	December 1923 R. P. Murupinthan (Sgd.) K. M. Sabapathy Pinthan 3.1.24	Yes	—	Hindu	Panchan	

itd. M. R. V. R. I. 10.3.24

(Sgd.) K. Sundaram Iyer,
Deputy Collector.

True Extract.

(Sgd.) G. VENKATHRAMAN.
Head Accountant.

Translated by me.

(Sgd.) _____
S. T. D. C., Colombo.
30.4.56

(xv) Investi-
gating Officer's
Report.

Name of applicant : Murugapillai Panjan No. Z 243.

Address : Letchumy Stores, Iruwanthampola, Koslanda.

The applicant says that his father was born in India. He says that he himself was born in India. (*Vide* Affidavit sworn by him P 6.)

Residence From 1936 (1st. Jan.) to date of application.

1936 to 1942.—The applicant says that he was at Iruwanthampola Estate with his relations. There is no documentary evidence to show that he was actually living in Ceylon and not in India. The three letters (P 7, 8 and 9) are intended by the applicant to prove his residence during the period 1936 to 1942. In my opinion this evidence is highly unreliable. 10

From 1942 to 1947.—The applicant says that he was working at a boutique at Egodawatte Estate, Koslanda. He says that he was there from Aug. 1942 to July 1947. Unfortunately that boutique is now closed down.

From Sept. 1947 to the date of his application, he has been at Letchumy Stores, Iruwanthampola. I have examined the books and I have found that he has resided at the above residence during this period. 20

Visits to India. He has made two visits to India, in 1946 and 1949 to see his parents. Both visits lasted a month each.

Interests in India.—He is entitled to $\frac{1}{4}$ share of his father's property which is worth Rs. 2,000. His parents are now permanently residing in India and the applicant says that they do not desire citizenship as asked for (*Vide* p3). *Remittances.* The applicant has remitted money to India but he does not know the exact amount or the occasions he has remitted. He has remitted Rs. 76 in 1951.

Interests in Ceylon.—He is now the Manager of Letchumy Stores. He has contributed Rs. 2,034.10 towards his business in 1951 July. 30

(Sgd.) J. E. M. FERNANDO,
I. O., Haputale.

Note (p13-20) are additional letters, &c., but of later date, viz., 1951.

Letchimipathy Stores

Iruwanthampola,
Koslanda.
23rd July, 1952.

(xvi) Letter
from M. Panjan
to Investigating
Officer.
23.7.52

J. E. M. FERNANDO, Esq.,
Investigating Officer,
Rosebank,
Pansala Road, Haputale.

Dear Sir,

10 In reply to your letter of 21st instant I append herewith the information required in respect of the queries contained therein :—

(a) A sum of Rs. 76 was sent by me to my parents in India on the following dates—P. Murugappillai

Rs. 15 on 31.1.50

Rs. 15 on 28.2.50

Rs. 23 on 31.5.50

Rs. 23 on 30.6.50

(b) Remittances were made on the above dates.

20 (c) By General Permit Ref. No. P. 1795 dated 18.12.49. The Permit is herewith sent for your perusal by registered post.

I have not sent any money except the amount above mentioned. Kindly return the permit when you have examined.

Yours faithfully,
(Sgd.) M. PANJAN.

DEFENCE (FINANCE) REGULATIONS**General Permit****AUTHORISING THE ISSUE OF FOREIGN EXCHANGE****(INSTALMENTS)**

Please quote Reference No. MO P/1795 in all official correspondence.
For instructions regarding the use of this permit please see page 4.

(xvii) General
Permit under
the Defence
(Finance) Re-
gulations.
18.12.49

Colombo, 18.12.1949.

To: The Postmaster,
Koslande Post Office.

Authority is hereby granted for the issue of Foreign Exchange as follows :—

1. By (Full name of remitter) Murugapillai Panjan
Address : Iruwanthampola, Letchimipathy Stores, Koslande.
2. To (Full name and address of Payee)
Panjapillai Murugappillai,
Thathamangalam Village,
Kariamanickam Post, Trichi. 10
3. Purpose of Remittance : Maintenance.

Remittances authorised :—

Remittances in instalments aggregating the sum of Rs. 336 to be made at the rate of Rupees Twenty-Three only (Rs. 23) per mensem, commencing from Jan. 1950 and ending on April 1951.

Increased to Rs. 23 from May 1950. Exchange may be released on this permit only if the remitter produces his/her Ration Book at the time of remittance. Particulars of the Rice Ration Book are given below. 20

Before a remittance is made, please be good enough to have the particulars indicated on Page 3 of the permit inserted in full.

(Sgd.) Illegibly,
for Controller of Exchange.

Date : 18.12.49.

Particulars of the Rice Ration Book :

9th Series Rice Ration Book No. 082982.

10th Series R. B. No. 148190

Place of Issue : Koslanda.

(Sgd.) M. PANJAN,
*Signature/Thumb Mark of
Permit Holder. 30

Date : _____.

* Thumb impression should be affixed where the Permit Holder is unable to sign his/her name.

1. Remittances made as follows :

1 Date of Remittance	2 Serial No. Money Order	3 Amount Rs.	4 Thumb impression where the remitter is unable to sign	5 For Post Office Seals and Initials of Postmaster
1. 31.1.50	3819	15 0		
2. 28.2.50	3894	15 0		
3. 31.5.50	4197	23 0		
4. 30.6.50	4280	23 0		

The Controller of Exchange*
Permit returned.

Date :
Signature of Postmaster.

* See para. 5 (e) below.

Instructions

To the Holder of the Permit :

1. To make a remittance, the holder of this permit should produce it in person along with his/her rice ration book and a money order application form duly completed at the Post Office mentioned on Page 1 of the permit. The number of the permit should be entered on the Money Order Form.
2. The holder of the permit should affix her/his signature or thumb impression in cage 4 of page 3 of the permit in the presence of the Postmaster on each occasion the remittance is made.
3. *Renewal of Permit.*—One month before the expiry of the period of the validity of this permit, the holder should apply for renewal on Form M quoting reference to this permit.
4. When the permit holder's rice ration book is changed he/she should return the permit to the Controller for endorsement together with his/her new ration book, the inside cover of which will bear reference to the previous ration book.

5. *To the Postmaster—*

- (a) When the holder of this permit tenders it for a remittance the Postmaster should—
- (i) check the name and number of the Rice Ration Book with the corresponding particulars on pages 1 and 2 of the permit.
 - (ii) verify that the Serial number of the permit has been entered on the Money Order Application Form.
 - (iii) obtain the signature or thumb impression on cage 4 of page 3 of the permit ; and
 - (iv) stamp both the permit and the Rice Ration Book with the Post Office Seal in evidence of the remittance.
- (b) Only one remittance is permitted in any one calendar month. A permitted instalment may not be remitted in parts during the month.
- (c) Remittances may be sent only through the Post Office specified in the permit and not through any other.
- (d) Any permit not bearing the signature of the Controller of Exchange or his assistants authorised to sign on his behalf or containing erasures, alterations or amendments which have not been authenticated, should not be accepted.
- (e) When remittances are completed or the permit has expired the permit should be returned to the Controller of Exchange with the endorsement "Exchange Exhausted" marked in red ink across the permit.

Registered
 (xix) Notice
 under Section
 9 (1) of the Act.
 9.10.52

Form 3

No. Z—243.

THE INDIAN AND PAKISTANI RESIDENTS (CITIZENSHIP)
 ACT, No. 3 OF 1949

Notice under Section 9 (1) of the Act

To : Mr. Murugapillai Panjan,
 of Letchumypathy Stores, Iruwanthampola, Koslanda.

I, Charles Maclean Agalawatte, Deputy Commissioner for the Registration of Indian and Pakistani Residents, do hereby give you notice, under section 9 (1) of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949, that I have decided to refuse your application under that Act dated May 26, 1951, on the grounds specified in the Schedule hereto unless you show cause to the contrary within a period of three months from the date hereof by letter addressed to me.

10

(Sgd.) C. M. AGALAWATTE,
 Deputy Commissioner for the Registration of
 Indian and Pakistani Residents.

P. O. Box 587,
 Colombo.

9th October, 1952.

20

SCHEDULE

You have failed to prove—

- (1) that you had permanently settled in Ceylon : the contrary is indicated by the fact that, in seeking to remit money abroad, you declared yourself to be temporarily resident in Ceylon.
- (2) that you were resident in Ceylon during the period 1st January 1936 to July 1947, without absence exceeding 12 months on any single occasion.

(Sgd.) C. M. AGALAWATTE,
 Deputy Commissioner.

30

S. Hari Hara Aiyar,
Proctor, S. C. & Notary Public, Colombo.

(xx) Letter from
Proctor to
Commissioner.
8.11.52

258, Hulftsdorp Street,
Colombo, 8th November, 1952.

To

The Commissioner for Registration of
Indian and Pakistani Residents,
P. O. Box 587,
Gaffoor Buildings,
Colombo.

10

Z 243—Murugapillai Panjan Koslanda

Sir,

With reference to your letter dated 9th October 1952 served on my client Mr. M. Panjan under Section 9 (1) of the Act refusing his application for the reasons set out in the Schedule I am enclosing herewith the proxy form granted to me by the above client to act for me.

Referring to the grounds of rejections set out in the Schedule I wish to state as follows :—

20

My client since his boyhood has lived in Iruwanthampola, Koslanda, and this factor can be substantiated by the evidence of witnesses of the area. From 1942 to 1947 my client was employed in a boutique situated at Egodawatta in Koslanda and this factor can be substantiated by documentary evidence.

30

My client had made three remittances totalling to Rs. 76 to his aged father Murugapillai and my client was unaware of the implications of the declaration he made in the application form given to him by the Department of Exchange Control. My client since his first arrival to Ceylon has treated Ceylon as his permanent home and his intention has been such at the time he made his application for registration as a Citizen of Ceylon.

In view of the above reasons kindly have my client's application for registration as a Citizen of Ceylon fixed for inquiry at Colombo on an early date to lead evidence of witnesses and submit all the documentary evidence available to prove that my client was resident in Ceylon during the period 1st January 1936 to July 1947 without absence exceeding 12 months on any single occasion and also make legal submissions on the question whether my client was permanently settled in Ceylon or not.

40

Hoping that the matter will be fixed for inquiry on an early date.

I am, Sir,
Your obedient Servant,
(Sgd.) S. HARI HARA AIYAR,
Proctor for M. Panjan.

REGISTERED POST

(xxi) Letter
from
Commissioner
to M. Panjan.
22.6.53.

Copy to Proctor with reference to
his letter of 23.3.53

My No. Z/243.

Department for the Registration
of Indian and Pakistani Residents,
Colombo, 22nd June, 1953.

Sir,

I have the honour to inform you that I have fixed your application for registration as a citizen of Ceylon under Act No. 3 of 1949, for inquiry under Section 9 (3) (a) at this Office, 2nd Floor, Gaffoor Building, Colombo 1, on 7th July, 1953. 10

2. Please attend at 10 a.m. with such documents and witnesses as you rely on to prove that you have complied with the requirements stated below. In general, no certificates issued after December 31, 1948, will be received in evidence unless the signatories are present for examination on oath or affirmation.

3. If you desire summons on any witness, you should apply to me for the same within a week from today furnishing the name and address in full of such person. In issuing any summons, I shall indicate that the witness need attend only if expenses are paid to him direct by you. 20

I am, Sir,
Your obedient Servant,
(Sgd.) V. L. WIRASINHA,
Commissioner.

Mr. Murugapillai Panjan,
Letchumypathy Stores,
Iruwanthampola, Koslanda.

Requirements referred to :—

30

1. that you had permanently settled in Ceylon : the contrary is indicated by the fact that, in seeking to remit money abroad, you declared yourself to be temporarily resident in Ceylon.

2. that you were resident in Ceylon during the period 1st January 1936 to July 1947 without absence exceeding 12 months on any single occasion.

LETCHUMIPATHY STORES
Iruwanthampola Estate, Koslanda

A 1 (xxii) Profit and
Loss Account of
Letchumipathi
Stores.
1952.

PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 1952, ADJUSTED FOR
PURPOSES OF INCOME TAX

	<i>Rs. c.</i>		<i>Rs. c.</i>
To Adjusted profit ..	3,766 54	By Nett profit ..	2,443 26
		Mess of a partner estimated ..	420 0
		Interest to proprietor ..	244 68
		Salary of partner ..	600 0
		Charity, &c. ..	58 60
	3,766 54		3,766 54

Division :

	<i>Mess & Salary</i>	<i>Interest</i>	<i>Share of Balance</i>	<i>Total</i>	<i>Basis</i>
	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	
S. P. Muttiah Pillai ..	—	245	1,251	1,496	½
M. Panjan ..	1,020	—	1,251	2,271	½
	1,020	245	2,502	3,767	

It is stated that Mr. M. Panjan was admitted as a partner as from 1st April 1951. There is no partnership deed but the business has been registered as a firm under the Business Names Ordinance on 19th July, 1951. Profits or losses are to be shared equally.

The enclosed accounts are in accordance with books produced to us. We have not examined any vouchers.

Colombo,
Dated : 29th April, 1952.

(Sgd.) (Illegibly)
Chartered Accountants.

LETCHUMIPATHY STORES
Iruwanthampola Estate, Koslanda

(xxiv) Trading
and Profit and
Loss Account of
Letchumipathi
Stores
1952.

TRADING AND PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 1952

Textiles

	<i>Rs. c.</i>		<i>Rs. c.</i>
To Opening Stock ..	4,145 8	By Sales ..	11,369 27
Purchases ..	10,027 18	Closing Stock (as per Taxpayer's valuation) ..	5,071 83
Gross profits ..	2,268 84		
	16,441 10		16,441 10

Shop Goods

	<i>Rs. c.</i>		<i>Rs. c.</i>
To Opening stock ..	1,362 2	By Sales ..	20,610 93
Purchases ..	18,247 36	Closing Stock (as per Taxpayer's valuation) ..	1,462 48
Gross profit ..	2,464 3		
	22,073 41		22,073 41

	<i>Rs. c.</i>	<i>By Gross Profit</i>	<i>Rs. c.</i>
To Salaries	949 0		
Mess expenses	673 91		
Interest to partner	244 68		
Interest paid to K. Periannan	8 37		
Rent	180 0		
Bad debts	121 59		
<i>Miscellaneous Expenses :</i>			
Postage, Stationery and sundries			
	<i>Rs. c.</i>		
	160 52		
Charity, &c.	58 60	219 12	
<i>Nett Profit :</i>			
S. P. Muthiah Pillai	1,221 63		
M. Panjan	1,221 63	2,443 26	
		<u>4,839 93</u>	<u>4,839 93</u>

(xxiv) Balance Sheet of Letchumipathi Stores. 1952.

LETCHUMIPATHY STORES

Iruwanthampola Estate, Koslanda

BALANCE SHEET AS AT 31ST MARCH, 1952

<i>Liabilities</i>		<i>Rs. c.</i>	<i>Assets</i>		<i>Rs. c.</i>
CHARITY FUND		13 99	FURNITURE (as per last Balance Sheet)		383 35
CAPITAL :			SUNDRY DEBTORS AND LOANS		5,663 47
	<i>Rs. c.</i>		STOCK ON HAND :		
S. P. Muthiah Pillai	2,034 10		Textiles	5,071 83	
M. Panjan	2,034 10		Shop Goods	1,462 48	
		4,068 20	Cash on hand		6,534 31
SUNDRY CREDITORS		1,840 80			530 62
STAFF		217 42			
PARTNER'S CURRENT ACCOUNTS :					
	<i>Rs. c.</i>				
S. P. Muthiah Pillai	5,559 40				
M. Panjan	1,411 94				
		<u>6,971 34</u>			
		<u>13,111 75</u>			<u>13,111 75</u>

<i>M. Panjan :</i>		<i>Rs. c.</i>
Cash brought in		Cr. .. 3,105 51
Add : Sundry receipts during the year 170 15
Salary credited 600 0
Share of profit credited 1,221 63
		<u>5,097 29</u>
		<i>Rs. c.</i>
Less : Drawings		1,651 25
Amount transferred to Capital		2,034 10
		<u>3,685 35</u>
		Cr. <u>1,411 94</u>

A 2 (xxv) Profit and Loss Account of Letchumipathi Stores. 1953.

LETCHUMIPATHY STORES
Iruwanthampola Estate, Koslanda

PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 1953, ADJUSTED FOR PURPOSES OF INCOME TAX

	<i>Rs. c.</i>		<i>Rs. c.</i>
To Adjusted profit ..	3,419 90	By Nett profit ..	1,733 46
		Salary and bonus to partners	900 0
		Mess expenses of a partner estimated	420 0
		Interest to partner	332 64
		Charity and presents	33 80
	<u>3,419 90</u>		<u>3,419 90</u>

Division :

	<i>Mess and Salary</i>	<i>Interest</i>	<i>Share of Balance</i>	<i>Total</i>	<i>Basis</i>
	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	<i>Rs.</i>	
S. P. Muthiah Pillai ..	—	333	883	1,216	.. $\frac{1}{2}$
M. Panjan ..	1,320	—	884	2,204	.. $\frac{1}{2}$
	<u>1,320</u>	<u>333</u>	<u>1,767</u>	<u>3,420</u>	

The enclosed accounts are in accordance with books produced to us. We have not examined any vouchers.

Colombo.
Dated : 19th May, 1953.

(Sgd.) Illegibly
Chartered Accountants.

LETCHUMIPATHY STORES
Iruwanthampola Estate, Koslanda

(xxvi) Trading and Profit and Loss Account of Letchumipathy Stores. 1953.

TRADING AND PROFIT AND LOSS ACCOUNT FOR THE YEAR ENDED 31ST MARCH, 1953

Textiles

	<i>Rs. c.</i>		<i>Rs. c.</i>
To Opening stock ..	5,071 83	By Sales ..	9,445 77
Purchases ..	8,452 63	Closing stock (as per tax-payer's valuation)	5,071 68
Gross profit ..	992 99		
	<u>14,517 45</u>		<u>14,517 45</u>

Shop Goods

	<i>Rs. c.</i>		<i>Rs. c.</i>
To Opening stock ..	1,462 48	By Sales ..	25,788 22
Purchases ..	23,195 78	Closing stock (as per tax-payer's valuation)	2,416 12
Gross profit ..	3,546 8		
	<u>28,204 34</u>		<u>28,204 34</u>

	<i>Rs. c.</i>	<i>Rs. c.</i>		<i>Rs. c.</i>	<i>Rs. c.</i>
To Salaries and bonus :			By Gross profit :		
To partner	900 0		Textiles ..	992 99	
Staff ..	456 0		Shop goods	3,546 8	
		1,356 0			4,539 7
Mess expenses ..		793 12	Interest and commission receipts ..		68 25
Interest paid to partner ..		332 64	Sundry rent recoveries ..		60 0
Interest paid to M. Kamakshi Ammal (wife of S. P. Muthiah Pillai, partner) ..		3 20			
Rent ..		180 0			
Miscellaneous expenses :					
	<i>Rs. c.</i>				
Repairs ..	90 0				
Postage, stationery and sundries	145 10				
Charity and presents	33 80				
		268 90			
Nett profit :					
S. P. Muthiah Pillai	886 73				
M. Panjan ..	866 73				
		1,733 46			
		<u>4,667 32</u>			<u>4,667 32</u>

(xxvii) Balance Sheet of Letchumipathy Stores 1953.

LETCHUMIPATHY STORES

Iruwanthampola Estate, Koslanda

BALANCE SHEET AS AT 31ST MARCH, 1953

<i>Liabilities</i>	<i>Rs. c.</i>	<i>Assets</i>	<i>Rs. c.</i>
CHARITY FUND (as per last Balance Sheet) ..	13 99	FURNITURE (as per last Balance Sheet) ..	383 35
CAPITAL :		SUNDRY DEBTORS ..	6,937 41
	<i>Rs. c.</i>		
S. P. Muthiah Pillai	2,034 10	STOCK ON HAND	
M. Panjan ..	2,034 10		<i>Rs. c.</i>
	4,068 20	Textiles ..	5,071 68
SUNDRY CREDITORS ..	2,537 4	Shop goods ..	2,416 12
STAFF ..	309 56		7,487 80
PARTNER'S ACCOUNTS :		CASH ON HAND ..	800 27
S. P. Muthiah Pillai	6,743 77		
M. Panjan ..	1,936 27		
	8,680 4		
	<u>15,608 83</u>		<u>15,608 83</u>

Partner's Accounts .

	<i>Rs. c.</i>	<i>Rs. c.</i>
<i>S. P. Muthiah Pillai :</i>		
As per last Balance Sheet ..		Cr. 5,559 40
Add : Interest credited ..	332 64	
Share of profit credited ..	866 73	
	1,199 37	
Less : Drawings ..	15 0	
	<u>1,184 37</u>	
		Cr. 6,743 77
<i>M. Panjan</i>		
As per Last Balance Sheet ..		1,411 94
Add : Salary and Bonus credited ..	900 0	
Rental Income ..	180 0	
Sundry Other Credits ..	380 25	
Share of profit credited ..	866 73	
	2,326 98	
Less : Drawings ..	1,802 65	
	<u>524 33</u>	
		Cr. 1,936 27

RENTAL AGREEMENT

A 3 (xxviii) Rental Agreement. 1.9.50

No. 4.

Koslanda Group,
Koslanda.

1st September, 1950.

10 I, the undersigned, M. Panjan, do hereby enter into an Agreement with Mr. PR. Sinnackaruppen Chettiar and Partners of Koslanda Estate to occupy the house bearing assessment No. 126 belonging to PR. Sinnackaruppen Chettiar and Partners and situate at Koslanda Town for monthly rent of Rs. 12 (Rupees Twelve) payable every succeeding month, on or before the 3rd or in default thereof, before the close of that month together with a penalty of one cent for every Rupee if for any reasons the rent for two consecutive months were to fall in arrears. I agree to vacate the house in such a case of my own accord unconditionally. I also recognise that power is vested with the landlord by dint of his proprietorship to call upon me to vacate the quarters at his own discretion assigning no cause : but giving me a month's notice. During the period of my occupancy I shall keep the house in a thoroughly good state of repairs and indemnify the owner for any damage to the building through my negligence.

20

(Sgd.) M. PANJAN,
1.9.50

A 4 (xxix) Affidavit of Muthiah Pillai. 25.6.53.

I, Muttiahiah Pillai son of Sinnavala Periannan Pillai residing at Iruwantumpola Estate, Koslanda, solemnly, sincerely and truly declare and affirm as follows :—

30 1. Murugapillai Panjan who is now running the Estate boutique in partnership with me came over to Ceylon when he was three years old and resided with his parents in Iruwanthampola Estate, Koslanda, till the year 1935 when his parents left for India.

2. Since 1935 up to the year 1942 M. Panjan was residing with me and in the year 1942 left for Egodawatta where he was employed under R. Marimuthu, Proprietor of Egodawatta Estate, till the year 1947.

3. Since 1947 M. Panjan is residing with me and helps me to run the Estate boutique of Iruwanthampola Estate, Koslanda, of which I am the sole proprietor.

4. M. Panjan has made Ceylon his home and has no interests whatsoever in India.

Read over and explained to the affirmant in Tamil, his own language, and he seeming to understand the contents hereof signed and affirmed to at Bandarawela this 25th day of June, 1953)

Initialled on Re. 1 Stamp (S.P.M.) 25.6.53

(Sgd.) S. P. MUTHIA PILLAI, Declarant.

Before me,

10

(Sgd.) S. M. NADARAJAH, J. P. U. M. Bandarawela, 25.6.53.

(xxx) Letter from M. Panjan to the High Commissioner for India in Ceylon. 29.7.53.

Murugapillai Panjan,

A 5

Letchumupathy Stores, Iruwanthampola, Koslanda, 29th July 1953.

To: The High Commissioner for India in Ceylon, Gaffoor Building, Colombo.

20

Application No. Z/243

Sir,

I came over to Ceylon when I was about three years of age with my parents and since then I have been living in Ceylon till date hereof. I had my education in Ceylon and now I am a partner of Letchumipathy Stores. I have all my interests in Ceylon. In December 1949, I was issued a General Permit by the Department of Exchange Control to remit money to my aged father Murugapillai and in obtaining the said permit I made a declaration in the Form M that I am a temporary Resident. In 26th May 1951 I have applied for Citizenship rights under the Indian and Pakistani Act, No. 3 of 1949.

30

In the above said General Permit I made only three remittances amounting to Rs. 76 the last remittance being made in June, 1950.

Please let me know whether I have lost my Indian Nationality under the Constitution of India.

I am, Sir, Your obedient Servant.

A 6

(xxx) Letter
from the Second
Secretary to the
High Com-
missioner for
India in Ceylon
to M. Panjan.
29.7.53

High Commissioner for India in Ceylon.
P. O. Box 882,
Colombo 1, 29.7.1953

Sir,

10 With reference to your letter dated the 29th July 1953 regarding your national status, I have the honour to state that according to Article 5 of the Indian Constitution, only those persons who were domiciled in the territory of India at the Commencement of the Constitution (26th Jan. 1950) have a claim for Indian Citizenship. As you were not so domiciled in India your national status is not that of an Indian.

Yours faithfully,
(Sgd.) _____,
Second Secretary
to the High Commissioner for India
in Ceylon, Colombo.

20 Mr. M. Panjan,
Letchimipathy Stores,
Koslanda

LETCHIMIPATHY STORE

Iruwanthampola,
Koslanda
5.11.1949

(xxxii) Letter
from M. Panjan
to the Controller
of Exchange.
5.11.49

The Controller of Exchange,
Colombo.

Sir,

I herein enclose the Form No. 29 duly completed and signed by me and certified by the D. R. O. of Musiri at India.

30 Together enclosed the 8th series Ration Book's, cover No. BD/112395.

Further I beg you to grant me the necessary permit at yours earliest post.

Yours faithfully,
(Sgd.) M. PANJAN.

Application Form

P/1795.

1. Name in full : Murugapillai Panjan
2. Father's name : Murugapillai
3. Address : House No. — Street/Road : Iruwantampola, Letchimipathy Store, Town, Koslanda
4. Post Office which serves the area in which you reside : Koslanda
5. No. of 9th Series Rice Ration Book : No. O/082982
6. Age : 24 Twenty-four
7. Nationality :—

10

If not a Ceylon National—

- (i) State aggregate period of residence in Ceylon : 20 years Twenty years
 - (ii) If aggregate period of residence in Ceylon exceeds 10 years state whether temporarily or permanently resident in Ceylon : Temporarily
 - (iii) If temporarily resident in Ceylon state country of permanent residence and permanent address in that country : M. Panjan Letchimipathy Store, Iruwanthampola Estate, Koslanda
8. Occupation : Manager
 9. Name and address of Employer, if any : S. P. Muthiya Pillai, Iruwanthampola Estate, Koslanda
 10. Income per mensem (if not in receipt of a regular income state average income of the past three months) : per month Rs. 100 (Rupees Hundred only)
 11. If you have made regular remittances to India during the period July 1, 1948 to March 31, 1949, on your rice ration book, state :—

20

Name of Dependents in full	House No. Street and Town	Age	Relationship to you	Amount per mensem	Total sent
				Rs. c.	Rs. c.
Panjapillai Murugapillai, Meenatchi Ammal, Sithambalam, Kandasamy, Muthamma,	Thantamangalam Village Kariamanickan Post Trichi D. T. S. India	65	Father	25	125 0
		48	Mother	25	
		28	Brother	25	
		20	Brother	25	
		10	Sister	25	

30

12. State the members of your family residing with you in Ceylon :—

Full Name	Age	Relationship to you	Occupation	Income earned per mensem
Nil		Nil	Nil	Nil

13. Purpose of Remittance : Home Expenses at India

14. State what permits are in your possession on which you are making remittances:-

Permit No. and Date	Permit of Validity	Amount	Name and Address of Beneficiary
Nil	Nil	Nil	Nil

15. Name and Address of Payee : Panjapillai Murugapillai, Thalamangalam Village, Kariamaneickam Post, Trichi D. T., South India.

16. Declaration.

I declare that the statements I have made in this application are correct.

I attach the back cover of my 8th Series Rice Ration Book on which the number of the 9th Series Rice Ration Book has been entered.

10 * I also attach a certificate from the D. R. O. of Musiri.

Warning : Any false declaration or statement made in this form will render the applicant liable to prosecution under the Defence (Finance) Regulations.

(Sgd.) M. PANJAN,
Signature of Applicant.

* If application is for maintenance remittances.

17. For Official use.

No. of 9th Series Rice Ration Book of applicant : _____.

No. of remittances made on the 8th Series Rice Ration Book : _____.

Total amount remitted : _____.

20 Rs. 15.

8th Series Rice Ration Book has been invalidated.

Date : _____.

_____,
Initials of Checking Officer.

FOR OFFICE USE

Permit No. P/1795.

Amount : Rs. 15.

Period of Validity : From January 50
to April 51.

Checked by : (initialed illegibly)

S. O.'s Initials : _____,

(xxxiii) Application for Certificate of Proof of Dependents
24.8.49

Form No. 29

EL/X. (2/49).

A.—

Application for Certificate of Proof of Dependents or Divisional Revenue Officer, Musiri

Sir,

I shall be obliged if you will be good enough to certify as to the correctness of my declaration below which I am required to furnish to the Controller of Exchange, Ceylon, in support of my application for remittance for the maintenance of my dependants in India/Pakistan.

10

DECLARATION REFERRED TO ABOVE

I hereby declare that the following are my dependents in India/Pakistan :—

Full Name	House No., Road/ Street/Town/ Village	Sex	Age	Relation- ship to applicant	Occupation if any	Monthly Income Rs. c.	Period of residence in country concerned
Panja Pillai Murugasa Pillai,	Thatamangalam Kariamanickam Post, Trichi D.T. S., India	Male	65	Father	Farmer	35 50	
Panja Meenatchiammal,		Female	48	Mother	—	—	form
Panjan Sithambalam		Male	28	Brother	—	—
Panjan Kandasamy		do.	20	do.	—	—	
Panjan Muthamma		Female	10	Sister	—	—	

20

I do further declare that the persons mentioned above are solely dependent on me and that they do not receive any financial assistance from any other person or source in Ceylon.

The income derived in India/Pakistan by my dependents and myself is as follows :—

Name	Nature of Income	Income per Mensem Rs. c.

30

Full Name and Address of Applicant :—

Name : Murugapillai Panjan

Address : Letchimipathy Store, Iruwanthampola, Koslanda

Date : 24.8.49.

(Sgd.) M. PANJAN,
Signature of Applicant.

B.—The Controller of Exchange,
Colombo.

I, Sri R. Van Kataraman, B.A., Divisional Revenue Officer of Musiri, have verified the declarations overleaf and certify that they are correct with reference to the certificate issued by the V. M.

I further certify—

- 10
- (i) that the dependents mentioned therein are living at the address given and are solely dependent on Mr. Panjan who is the applicant ; and
 - (ii) that they do not have any other source of income *here/receive the the following income which is insufficient for their maintenance :—
Lands without sufficient income.
 - (iii) that they are not in receipt of any remittance from any other person or source in Ceylon for their maintenance.

(Sgd. (Illegibly)
D. M./D. R. O.

N.B.—Please return this certificate to the applicant overleaf who should forward it to the Controller of Exchange, Colombo, together with his application on Form M. O. as well as other documentary evidence required by the Controller of Exchange.

2. Certificate should always bear the Official Seal of the Signatory.

* Delete whichever is inapplicable.

(xxxv) Evidence
given by A. H.
Abeynaïke in
Case C. 2183.
28.7.53.

C. 2183.

A. H. Abeynaïke sworn, states :—

DEPUTY CONTROLLER OF EXCHANGE, COLOMBO

I have been functioning as Deputy Controller of Exchange from 1st March, 1952. I had had no connection with the Department before that date. Form M was already in use at the time I took up appointment. There has been no alteration of the form since then. As far as I am aware, there has not been, at any time since the inception of Exchange Control in 1948, a change in the form M, a copy of which I produce, marked A2. I am not aware of the use of a form on which an applicant had to declare whether he was permanently *domiciled* in Ceylon or not. I cannot say from my knowledge today that there definitely was no other form in use, but records would show all the forms which had been in use from time to time. I know who my predecessor was. I cannot say from memory, but my records would show who the various staff officers in my Department were from time to time. None of the staff officers at present are members of the Civil Service. Earlier there were more than one Civil Servant on the staff. One Mr. Andrew Joseph was one of the Civil Servants who functioned as a staff officer in the Department (shown A2). The particulars on Form M are called for under the Defence (Finance) Regulations, Regulation 5 A (1). That Regulation itself does not prescribe the particulars to be called for from an applicant. The particulars called for were determined at the Controller's discretion, regard being paid to the fact that no monies could be remitted except on a permit from him. Apart from Regulation 5A (1) there is not, as far as I am aware, any provision of law requiring particulars as set out in Form M to be called for from an applicant who seeks to make a remittance of a personal nature. Form M was drafted on the initiation of the Controller of Exchange. He may have consulted others, I do not know myself. The Form M has not been ratified by any authority. No ratification was necessary in view of the powers vested in the Controller of Exchange by Regulation 5A (1). An application would be granted if the Controller granted the necessity for the applicant to send money to the beneficiary. The circumstances in which an application would be allowed would consist of necessity coupled with an obligation

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binding the applicant to make a remittance. In appropriate circumstances I would allow as remittance to an adopted child, even for its maintenance in India—if, for example, I was satisfied that adequate treatment for its illness was not available in Ceylon—even if the applicant had declared himself to be a citizen of Ceylon. In the case instanced I would demand a medical certificate from a qualified practitioner. In these cases I would have to be satisfied that the beneficiary had, of necessity, to remain in India. If an applicant had a person solely dependent on him in India, who was prevented by law from entering Ceylon, I would allow remittances, even if the applicant were a citizen of Ceylon. If a person is temporarily resident in Ceylon, I recognise that he has obligations in his country of domicile. If he is permanently resident in Ceylon, I would authorize maintenance remittances to any proved dependents. Declarations made by persons temporarily resident in Ceylon as to who their dependents abroad are, I normally accept without further investigation. Declarations from persons permanently resident in Ceylon, I test further, requiring proof of necessity and obligation. The question whether the applicant is temporarily resident in Ceylon is put to him to decide whether he is a person who may be presumed to have dependents abroad. If the declaration is of permanent residence, I would presume that the applicant has no dependents in India to whom he should remit money, until the contrary is proved. (Shown A 1 C.—(11) of Form M). The question whether an applicant is temporarily or permanently resident in Ceylon is asked only of persons who have not been in Ceylon for more than ten years. Persons with a lesser period of residence are presumed to be temporarily resident. On the form, persons who had not been ten years resident in Ceylon are not asked the question whether they are permanently or temporarily resident. Normally, I would not authorise regular monthly remittances for the maintenance of dependents by a person permanently resident in Ceylon.

(Sgd.) V. L. WIRASINHA,
C/R. I. & P. R.

True copy of evidence given by Mr.
A. H. Abeynaike in case C 2183

(Sgd.) V. L. WIRASINHA
C/R. I. & P. R.

29.7.53.

(xxxvi) Letter
from Deputy
Commissioner
to M. Panjan.
11.8.52.

My No. Z/243.
Office of the Commissioner for the
Registration of Indian & Pakistani
Residents, P. O. Box 587, Colombo 1.

11th August, 1952.

Sir,

Application No. Z—243

With reference to your application dated 26th May, 1951, I have the honour to request you to obtain and forward your Rice Ration Book of previous series early.

I am, Sir.

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Your obedient Servant,

(Sgd.) C. M. AGALAWATTE,
Deputy Commissioner.

Mr. Murugapillai Panjan,
Letchumypathy Stores, Iruwanthampola,
Koslanda.

LETCHUMIPATHY STORE

(xxxvii) Letter
from M. Panjan
to Investigating
Officer
26.7.52.

Iruwanthampolam,
Koslanda.

26th July, 1952.

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To : J. E. M. Fernando, Esq.
Investigating Officer,
Rosebank,
Pansala Road, Haputale.

Dear Sir,

I am in receipt of your undated post card and note that the General Permit is to be forwarded to Head Office.

I have also to inform you that no money was remitted by me utilizing my ration books.

Yours faithfully,

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(Sgd.) M. PANJAN,
Letchimipathy Store,
Koslanda.

Proceedings before the Commissioner

No. Z 243.

Colombo, 7th July, 1953.

Applicant present : Mr. S. Hari Hara Aiyar for him.

10 Mr. Hari Hara Aiyar produces letters and stamped covers bearing dates continuously from November 1942 to 15.12.47. In respect of the period 31.12.40 to November 1942, he produces letters but not dated covers. These letters bear dates which cover the period continuously, but whether these letters can be regarded as amounting to proof of the applicant's residence continuously in Ceylon in the period 31.12.40 to November 1942, can be decided only after careful examination of the letters themselves.

G. A. Podisingho. Aged 52 years. Occupation—Trader, Koslande, affirmed, states—

20 I trade under the name of John Singho & Co., I trade in partnership with my brother. I have been in business from 1922. I know the applicant's parents. I do not know in which year applicant's parents first came to Ceylon. I cannot remember definitely whether the applicant's parents were already in Ceylon at Koslande when I first set up as a trader there. The applicant and his parents were on Iruwanthampola Estate. The estate is about a quarter mile from my place of business. I had business dealings with various estates and Iruwanthampola was one of them. I had dealings with about 12 estates. Egodawatte Estate was another with which I had dealings. I know the applicant and his elder brother, Sithambalam. When I first came to know applicant he was 12 years of age. He was attending school on Koslande Estate. It was a Tamil School. The applicant's brother was attending a Sinhalese school at Koslande. 30 This was a Government school. The applicant's parents are not on the estate now. I cannot remember in which year the parents went to India. The applicant once went to India within my knowledge, but I cannot remember which year that was. I know that the applicant went to Egodawatte Estate, but I cannot remember in which year he did. The applicant was about 14 years old when he went to Egodawatte. He was on Egodawatte Estate for about 4 years. Having left Egodawatte, he traded in partnership with his uncle at Letchimipathy Stores, Koslande. His uncle's name is Muthiahpillai. Iruwanthampola Estate belongs to him. Since I came to know 40 applicant, he has been resident in Ceylon every year. Within my

No. 2.
 Proceedings
 before the
 Commissioner.
Contd.

knowledge the applicant has been to India only once and was away only for one month on that occasion. The applicant has been to my place. The applicant has been visiting my boutique once or twice every week since I first came to know him. When I knew him first, the applicant used to come to town to fetch letters for his uncle, Muthiahpillai who was the owner of Iruwanthampola Estate. On these visits to town he used to step into my tea boutique. Later on he used to come to my boutique in connection with my transactions with Iruwanthampola Estate. I used to supply oilman stores and provisions to this estate. Iruwanthampola Estate consists of cultivated and uncultivated land. When I first came to know applicant there were about 50 acres under cultivation. At present the area under cultivation is about 88 acres. There is still some land uncultivated. The applicant's parents had cultivated a small portion of the estate with sugar-cane, plantains, &c., and were residing on the estate. They were not on the estate as labourers. I do not know the type of work they did. I cannot remember in which year applicant's parents left Iruwanthampola Estate. On leaving Iruwanthampola Estate, applicant's parents went back to India and not to another estate. I understand that the applicant's brother is employed with some trader in Kandy. On Egodawatte Estate the applicant was employed in a boutique owned by one Marimuthu. While employed there, the applicant used to come to my boutique to make purchases. At the time I first came to know applicant, there were about 12 or 15 persons resident on Iruwanthampola Estate. Villagers used to come daily for work on the estate.

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G. C. Nikapota. Aged 48. Occupation—Village Headman, Nikapota, affirmed, states—

I have been Headman of Nikapota from August 1928. Up to 1950, Iruwanthampola Estate was under my jurisdiction. Between 1942 and 1946, I acted as Korale of the Kandapola Pattu. When I was Acting Korale, Egodawatte Estates was within my jurisdiction. I know the applicant. I also know his brother and his parents. About 2 years after I was appointed Headman, I first came to know applicant's parents. His parents are not on the estate now. I understand they have returned to India. I think they continued to be on Iruwanthampola Estate for about 4 years after I first came to know them there. Applicant did not accompany his parents to India, nor did the applicant's brother. While I was acting as Korale, the applicant left that estate and joined Egodawatte. I remember seeing the applicant on Egodawatte estate two or three years. I cannot remember exactly. Subsequently the applicant has now been for about 4 years back on Iruwanthampola estate. After his parents left Iruwanthampola estate, applicant resided there with one Muthiahpillai, who is the owner of the estate. From the

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time I first came to know applicant I have seen him twice or three times every month. The applicant told me he had been to India once, I have no knowledge of that visit.

No. 2.
Proceedings
before the
Commissioner.
Contd.

Murugapillai Panjan affirmed, states—

I am the applicant. My parents are now in India. My father is 65 years of age. My mother is 45 or 50 years of age. In 1950 I obtained a permit from the Controller of Exchange for remittance of monies to India. I remitted Rs. 76 on that permit, to India. I made this remittance to my father towards meeting expenses for treatment he had to take for his eyes. The last instalment of Rs. 23/- I remitted at the end of June 1950. I have not made any remittances thereafter. Before I obtained a permit from the Controller of Exchange, I did not make any remittances to India. I do not know English. I signed a form in order to obtain a permit. The form was in English. I did not know the meaning of what I signed. I do not know whether I declared myself to be temporarily resident on that form. I am a partner of Letchimipathy Stores. I became a partner on 19th July, 1951. I have invested Rs. 2,034.10 in the business in July 1951. That money is mine. My profits in the business for the year ending 31st March, 1952, were Rs. 1,221.63. For the year ending March 1953 further net profits added to my account is Rs. 884. I have no property in India. All my interests are in Ceylon. I produce, marked A1, statement of accounts for the year ended March 31, 1952, audited by Messrs. Iyer & Company, Chartered Accountants; Marked A2, a similar statement of accounts for the year ended March 31, 1953. My father has one acre of land in India. There is a house on that land. He lives there now. I have two brothers, one of whom is in India. It is likely that on my parents' death, my father's property in India will devolve on the three of us. I have no immovable property in Ceylon. My property in Ceylon consists of the share in the business of Letchumipathy Stores and some cash. My savings are in cash. I have not purchased Savings Certificates nor do I have a Post Office savings account. I submitted my application in May 1951. It was after that that I purchased shares in the business. I have entered into an agreement with one Sinna Karuppen Chettiar to rent premises bearing Assessment No. 126, Koslande Town. That agreement was entered into at the beginning of September 1950. I intended opening a boutique there, but I have not actually done so yet. I am using it as a store. I have not yet set up any business in the premises as I subsequently entered into partnership with the owner of Letchimipathy Stores. I still continue to pay rent for premises No. 126. I produce, marked A3, my copy of the agreement signed by me. I did not inquire from the person who obtained the Exchange Controller's Declaration Form the meaning of that declaration. The form which I signed was sent to me by the

No. 2.
Proceedings
before the
Commissioner.
Contd.

Controller of Exchange. The application for that form was written by someone else not by me personally. I do know how the request for the form was worded. I came to Ceylon in 1927. I have no desire to go back to India. I have made Ceylon my home. The money that I have invested in the Letchimipathy Store are my savings.

Inquiry postponed to 29th July, 1953, at 10 a.m.

(Sgd.) V. L. WIRASINHA,
C/R. I. & P. R.

No. Z. 243
Colombo, 29th July, 1953. 10

Applicant present. Mr. S. Hari Hara Aiyar for him.

He moves that a true copy of the evidence given on 28.7.53 by Mr. A. H. Abeynaike—Case C. 2183—be considered as a production in the present case. I agree. Mr. Hari Hara Aiyar submits an affidavit from one Muthiah Pillai of Iruwanthampola Estate, Koslande, together with a certificate from the D. M. O. Koslande to the effect that Muthiah Pillai is too old and feeble to attend an inquiry. Mr. Hari Hara Aiyar desires the affidavit to be taken into consideration. Mr. Hari Hara Aiyar submits a copy of a letter written by applicant to the High Commissioner for India in Ceylon dated 29th July, 1952, on the question whether he had lost Indian nationality, and a reply dated 29.7. from the Second Secretary to the High Commissioner. The documents produced today I mark as follows :—

The affidavit from Muthiah Pillai—A4.

The applicant's letter to the High Commissioner for India and the High Commissioner's reply, A5 and A6 respectively.

Mr. Hari Hara Aiyar recalls the applicant.

Muthiah Pillai Panjan affirmed states—

I have not obtained an Indian passport. I have not at any time written to the Indian High Commissioner requesting registration as an Indian National under Section 8 of the Indian Constitution.

Mr. Hari Hara Aiyar addresses me, emphasising the following :

(1) Applicant's parents left Ceylon at an early stage (They actually left Ceylon after 8 years 1927-35)

(2) Applicant's profits from business is invested in business in Ceylon.

(3) the Exchange Control form containing the declaration of temporary residence was not “statutory”.

(4) the Exchange Control Form was in English, the applicant is not literate in that language.

(5) the applicant made his last remittance in June 1950, made his application for registration as a citizen in 1951—he could have changed his intentions in the interval, even if his declaration to the Controller of Exchange contained the truth of his intentions on the date on which it was made.

10 (6) Only three remittances were made.

Mr. Hari Hara Aiyar cites, in support of his contention that declarations of intention are rebuttable by proof of conduct and action of a contrary character,

(a) *Re Liddell Grainger's Will Trusts, Dormer v. Liddall Grainger* 1878 Chancery Division, Vol. IX, page 441, at page 456,

(b) *Ross v. Ross* A. C. (1930) 1,

(c) *Haldane v. Eckford*, 1869 Law Reports 8 Equity page 631 (Empire Digest Vol. XI, page 321).

20 He also refers me to Empire Digest, Vol. XI, page 317.

All England Reports, 1936, page 173,

Halsbury, Vol. VI, Hailsham Edition, page 204. (As regards item (3) above, I find that Defence (finance) Regulation 5 c (1) empowered the Controller of Exchange to call for such particulars as he might require from an applicant “in such form as may be provided for the purpose”.)

Judgment reserved, to be delivered after notice to the applicant or his proctor.

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(Sgd.) V. L. WIRASINHA,
Commissioner.
29.7.53.

11.8.53.

Mr. Hari Hara Aiyar present, having appeared before me in case C. 2183. I inform him that I shall make my decision in this case on 14.8.53 at 2.00 p.m.

(Sgd.) V. L. WIRASINHA,
Commissioner,
11.8.53

Mr. Hari Hara Aiyar present.

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Application refused—vide order on next sheet.

(Sgd.) V. L. WIRASINHA,
Commissioner.
14.8.53.

A. H. Abeynaike—Sworn, states :
 Deputy Controller of Exchange, Colombo.

I have been functioning as Deputy Controller of Exchange from 1st March, 1952. I had had no connection with the Department before that date. Form M was already in use at the time I took up appointment. There has been no alteration of the form since then. As far as I am aware, there has not been, at any time since the inception of Exchange Control in 1948, a change in the form M, a copy of which I produce, marked A 2. I am not aware of the use of a form on which an applicant had to declare whether he was permanently domiciled in Ceylon or not. I cannot say from my knowledge today that there definitely was no other form in use, but records would show all the forms which had been in use from time to time. I know who my predecessor was. I cannot say from memory, but my records would show who the various staff officers in my department were from time to time. None of the staff officers at present are members of the Civil Service. Earlier there were more than one Civil Servant on the staff. One Mr. Andrew Joseph was one of the Civil Servants who functioned as a staff officer in the department (Shown A2). The particulars on Form M are called for under the Defence (Finance) Regulations, Regulation 5 A (1). That Regulation itself does not prescribe the particulars to be called for from an applicant. The particulars called for were determined at the Controller's discretion, regard being paid to the fact that no monies could be remitted except on a permit from him. Apart from Regulation 5A (1) there is not, as far as I am aware, any provision of law requiring particulars as set out in Form M to be called for from an applicant who seeks to make a remittance of a personal nature. Form M was drafted on the initiation of the Controller of Exchange. He may have consulted others, I do not know myself. The Form M has not been ratified by any authority. No ratification was necessary in view of the powers vested in the Controller of Exchange by Regulation 5 A (1). An application would be granted if the Controller granted the necessity for the applicant to send money to the beneficiary. The circumstances in which an application would be allowed would consist of necessity coupled with an obligation binding the applicant to make a remittance. In appropriate circumstances I would allow a remittance to an adopted child, even for its maintenance in India—if, for example, I was satisfied that adequate treatment for its illness was not available in Ceylon—even if the applicant had declared himself to be a citizen of Ceylon. In the case instanced I would demand a medical certificate from a qualified practitioner. In these cases I would have to be satisfied that the beneficiary had, of necessity, to remain in India. If an applicant had a person solely dependent on him in India, who was prevented by law from entering Ceylon, I would allow remittances, even if the applicant

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were a citizen of Ceylon. If a person is temporarily resident in Ceylon, I recognise that he has obligations in his country of domicile. If he is permanently resident in Ceylon, I would authorise maintenance remittances to any proved dependents. Declarations made by persons temporarily resident in Ceylon as to who their dependents abroad are, I normally accept without further investigation. Declarations from persons permanently resident in Ceylon I test further, requiring proof of necessity and obligation. The question whether the applicant is temporarily resident in Ceylon is put to him to decide whether he is a person who may be presumed to have dependents abroad. If the declaration is of permanent residence, I would presume that the applicant has no dependents in India to whom he should remit money, until the contrary is proved. (Shown A 1 C.—(11) of Form M). The question whether an applicant is temporarily or permanently resident in Ceylon is asked only of persons who have not been in Ceylon for more than ten years. Persons with a lesser period of residence are presumed to be temporarily resident. On the form, persons who had not been ten years resident in Ceylon are not asked the question whether they are permanently or temporarily resident. Normally, I would not authorise regular monthly remittances for the maintenance of dependents by a person permanently resident in Ceylon.

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Commissioner.
Contd.

(Sgd.) V. L. WIRASINHA,
C/R. I. & P. R.

True copy of evidence given by Mr. A. H. Abeynaike in case C. 2183.

29.7.53. (Sgd.) V. L. WIRASINHA,
C/R. I & P. R.

Order of the Commissioner

Application No. Z. 243.

The point in issue in this case is whether the applicant had permanently settled in Ceylon.

According to statements made to the Investigating Officer and to me the applicant was born in India, and came to Ceylon in 1927 when he was 3 years old and has been in Ceylon since. He has visited India twice, once in 1946 and once in 1949, being away for one month on each occasion. The applicant's parents, having worked on estates in Ceylon, returned to India. The applicant himself went to live with one Muthiah Pillai in 1935, after his parents had left Ceylon. Having earlier being an employee under others, in 1951 the applicant became a partner of Letchimipathy Stores, investing a sum of Rs. 2,034.10 in the business.

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In seeking to remit money to his father in India, the applicant declared himself in 1950 to be temporarily resident in Ceylon.

The applicant's domicile of origin is quite clearly Indian. He was born in India and has declared himself to be of Indian Origin. His Proctor, Mr. Hari Hara Aiyer, argued that the applicant did not have an Indian domicile of origin and referred me to production A5 and A6 in support of his contention that the applicant is not a citizen of India. In A6 the Second Secretary to the High Commissioner for India in Ceylon has made the statement that the applicant was not domiciled in India. How the writer came to that conclusion is by no means clear. That the applicant did at the time of his birth have a domicile of origin in India cannot be contested. That he has since acquired a domicile of choice in some country other than India is for the applicant to prove. The writer of A6 appears to have based his conclusion on A5, but it appears to me that the material furnished in A5 is quite inadequate by way of proof that the applicant had acquired a domicile of choice in Ceylon. Even if, however, the applicant is not today a citizen of India that need not detain me, as I have to concern myself only with whether he had permanently settled in Ceylon.

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The applicant's case is, basically, that his conduct and action, combined with length of residence in Ceylon clearly indicates the acquisition of domicile in Ceylon, which is not controverted by the declaration made to the Controller of Exchange to the effect that he was temporarily resident in Ceylon. It has been sought to explain away the declaration referred to in two ways, firstly, that the applicant, not being able to read or understand English, which was the language in which the form had been printed, did not know what

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he was signing. This representation I find unacceptable. Although the applicant could not read or understand English, he could quite easily have had the meaning of the declaration explained to him by someone who did. The natural presumption that when he signed the declaration he knew what the declaration meant has not been effectively rebutted. The second approach is that the declaration was deliberately false, that the applicant wanted very much to send money to his father, to assist him in obtaining treatment for his eyes, and the applicant therefore made a false declaration to the Controller of Exchange lest, having made a true declaration to the effect that he was permanently resident in Ceylon, he should fail to secure authority for the remittances. The applicant himself did not, in his evidence, take up this position—it was advanced by his Proctor in the course of argument. The applicant himself could not earlier take up that position because he had already stated that he did not know the meaning of what he signed.

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Order of the
Commissioner.
14.8.53
Conid.

Whatever the approach taken by the applicant may be, the point which I have to decide is whether the applicant's conduct and action so clearly indicate that he had permanently settled in Ceylon that they must prevail over the declaration that the applicant was temporarily resident in Ceylon.

Several authorities were cited to me in support of the contention that declarations of intention are of no avail, if they are inconsistent with action and conduct. Notable among the cases cited are (1) *Ross v. Ross* (1930) A. C. 1 where it was held that "declarations as to intention are rightly regarded in determining a question of a change of domicile, but they must be examined by considering the person to whom, the purpose for which and the circumstances in which they are made, and they must further be fortified and carried into effect by conduct and action consistent with declared intention." (quoted from page 115 of Dicey's *Conflict of Laws* 6th edition) and (2) *Re Liddell-Grainger's Will Trusts, Dormer v. Liddell Grainger* (1936) All England Law Reports.

There is no doubt that where a person's "conduct and action are clearly inconsistent with a declaration of Intention, that person's actual intention should be inferred from his conduct and action and not from his declaration. In *Re Liddell-Grainger's Will Trusts, Dormer v. Liddell Grainger*, the judge held that "the most convincing piece of evidence made it clear beyond doubt that it was his intention permanently to live at Ayton Castle, and his desire that his son afterwards should live at Ayton Castle". Ayton Castle, an estate of some 3,100 acres had been purchased by the Testator's father, who had left it to him by will. Ayton Castle was the Testator's home from the date of his father's death up to the time of his own death. In that case, overwhelmingly clear evidence from conduct and action conflicted with a declaration of

No. 3.
Order of the
Commissioner
14.8.53.
Contd.

intention. It was conceded by counsel arguing against acceptance of the declaration of intention that "length of residence though very important, is not conclusive. The residence must answer a qualitative as well as a quantitative test". In that case the fact that the person whose domicile was in question owned immovable property in a country other than that of his origin and the fact that he had lived and died there, having made his permanent home in that property, prevailed over the declaration of a contrary intention, which it was held had been made merely to circumvent certain legal impediments. In the case before me the action and conduct of the applicant are not inconsistent with the declaration that he was temporarily resident in Ceylon. Although the applicant's residence in Ceylon answers a quantitative test, it does not answer a qualitative test. All that he can show apart from length of residence is that he has invested a sum of about Rs. 2,000 in the business venture in Ceylon. This is very little indeed to go upon. It is a matter of common knowledge that numerous Indians, having either worked on estates in Ceylon, or having traded in Ceylon have eventually returned to India and settled there. The applicant's action and conduct are not of such a nature as to suggest that the declaration which he made that he was temporarily resident in Ceylon was not in fact, the truth.

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Mr. Hari Hara Aiyer made a further suggestion that, even if the applicant was only temporarily resident in Ceylon at the time when he made his last remittance in June 1950, he had in fact permanently settled in Ceylon by the date of his application, namely 26th May, 1951. It is pertinent to inquire by what date an applicant should have permanently settled in Ceylon. Only Indians or Pakistani residents can procure registration under the Act. In terms of Section 22 of the Act, no Indian or Pakistani is a Indian or Pakistani resident unless he "has emigrated" from his country of origin and "permanently settled in Ceylon" or unless he is the descendent of such a person, or unless, being himself of Indian or Pakistani origin, he is a person "permanently settled in Ceylon". The point is whether an applicant or an ancestor of his should have permanently settled in Ceylon at least by the date of coming into operation of the Act, or whether it is sufficient that he had permanently settled in Ceylon by the date of his application. The Indian and Pakistani (Citizenship) Act, No. 3 of 1949, was the result of negotiations between the Governments of India and Ceylon relating to a body of persons whose origin was in India and who had permanently settled in Ceylon. What was in issue was the status of a fairly large number of Indian and Pakistani residents who were already permanently settled in Ceylon and the Act was designed to benefit that body of persons. I am of opinion therefore that what the Act requires is that an applicant should have permanently settled in Ceylon not merely by the date of his application, but at

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any rate by the date of coming into operation of the Act, namely 5th August, 1949. In the present case, even if the correct view were that an applicant need have permanently settled in Ceylon only by the date of his application, there is no evidence of a change of intention between June 1950 and May 1951, in the way of positive action and conduct indicating an intention to reside permanently in Ceylon.

No. 3.
Order of the
Commissioner.
14.8.53.
Contd.

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The application is refused.

(Sgd.) V. L. WIRASINHA,
Commissioner,

P. O. Box 587,
Colombo 1.

14th August, 1953.

No. 4
Petition of
Appeal to the
Supreme Court.
13.11.53.

No. 4

Petition of Appeal to the Supreme Court

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an appeal under section 15 of the Indian and
Pakistani Residents (Citizenship) Act, No. 3 of 1949.

Murugapillai Panjan of Letchumypathy Stores Iruwanthampola,
Koslanda Applicant-Appellant.

Vs.

V. L. Wirasinhe, Commissioner for the Registration of Indian
and Pakistani Residents, Colombo Repondent. 10

To :

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

On this Thirteenth day of November, 1953.

The Petition of appeal of the applicant-appellant above named
appearing by Satis Vagiswera Hari Hara Aiyar his proctor states as
follows :—

1. The applicant appellant above named made an application on
the 26th day of May, 1951, under the provisions of the Indian and
Pakistani Residents (Citizenship) Act, No. 3 of 1949, to the Com-
missioner for the Registration of Indian and Pakistani Residents that
he be registered as a Citizen of Ceylon. 20

2. On the 9th October, 1952, the Commissioner gave notice to
the applicant-appellant under section 9 (1) of the said Act that he
had decided to refuse the said application dated 26th May, 1951, on
the following grounds unless the applicant appellant showed cause
to the contrary within a period of three months from the date of the
said notice by letter addressed to the Commissioner namely, that he
had failed to prove—

(a) “ that you had permanently settled in Ceylon ; the contrary 30
is indicated by the fact in seeking to remit money abroad
you declared yourself to be temporarily resident in
Ceylon ;

(b) that you were resident in Ceylon during the period 1st
January, 1936, to July, 1947, without absence exceeding
twelve months on any single occasion ;

3. The applicant-appellant thereupon showed cause within the said period by his legal representative's letter dated 8th November, 1952.

No. 4.
Petition of
Appeal to the
Supreme Court.
13.11.53.
Contd.

4. On 22nd June, 1953, the Commissioner gave notice to the applicant-appellant that he had fixed his application for inquiry under section 9 (3) (a) on 7th July, 1953.

5. The inquiry was held on the 7th and 29th of July, 1953, and the order was made on the 14th August, 1953.

10 6. The Commissioner by the said order refused the application on the ground that the applicant-appellant had not permanently settled in Ceylon.

7. Being dissatisfied with the said order, the applicant-appellant begs to appeal therefrom to Your Lordships' Court on the following among other grounds which may be urged by Counsel at the hearing of the appeal:—

(a) The said order is contrary to law and the weight of evidence in the case;

20 (b) The Commissioner has misdirected himself in regard to the question of the permanent settlement of the applicant-appellant in Ceylon by holding that although the applicant's residence in Ceylon answers a quantitative test it does not answer a qualitative test ;

30 (c) The applicant appellant had conclusively proved that he had come to Ceylon in 1927, that he had made Ceylon his permanent home, that he had not applied for registration as an Indian National nor obtained an Indian passport, that he had no immovable property whatsoever in India, that he had visited India only on two occasions for a period of about one month on each occasion, and that he had invested over Rs. 2,000 of his savings in Ceylon;

(d) The Commissioner has further misdirected himself in holding that the applicant-appellant was not permanently settled in Ceylon on the ground that he had declared himself to be temporarily resident in Ceylon in an application made by him to the Controller of Exchange to remit money to India;

(e) It is in evidence that the applicant-appellant had remitted only a sum of Rs. 76.00 on account of urgent Medical expenses to his father in India ;

40 (f) It is respectfully submitted that the Applicant-Appellant was obliged solely as a result of the policy adopted by the Controller of Exchange to remit the aforesaid sum of Rs. 76.00 for Medical

expenses as a temporary resident, though in fact he was permanently settled in Ceylon. It is submitted that no clear distinction was drawn by Government Departments and consequently by members of the Public regarding the significance of the terms temporary and permanent used in relation to residential qualification ;

(g) It is submitted that in any event declarations made to the Controller of Exchange are not relevant to the issue of permanent settlement involved in sections 4 and 23 of the said Act, No. 3 of 1949 ;

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(h) It is further submitted that even if such declarations are relevant, such a declaration cannot change the character of the permanent settlement of the applicant-appellant in Ceylon as established by the conduct and action of the applicant-appellant and his long residence in Ceylon up to the date of his application.

Wherefore the applicant-appellant prays :

(a) that the order of the Commissioner dated 14th August, 1953 be set aside ;

(b) that the Commissioner be directed to cause the applicant-appellant to be duly registered as a Citizen of Ceylon under the said Act No. 3 of 1949;

20

(c) for costs; and

(d) for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) S. HARI HARA AIYAR,
Proctor for Applicant-Appellant,

Order of the Supreme Court

*S. C. No. 1581 of 1953**Z. 243/Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949.*

Between

M. Panjan Applicant-Appellant.

And

V. L. Wirasinha Respondent.

Present : Swan J.

10 *Counsel : N. K. Choksy, Q.C. with
Shanmuganayagam for the applicant-appellant
M. Thiruchelvam for the respondent.*

*Argued on : 13th October, 1954.**Decided on : 14th October, 1954.*

SWAN, J.

20 Both Mr. Choksy and Mr. Thiruchelvam agree that one of the points involved in this case is the same as that in appeal No. 517 of 1954 (J. 514) which has been referred by Fernando, A.J. to a fuller Bench. I am told that the Chief Justice has already decided what that Bench should be. Mr. Choksy asks that this case be referred to the same Bench. It is not in my power to do so. I can only refer the matter to a fuller Bench. It is the Chief Justice who will decide the constitution of that Bench.

(Sgd.) S. C. SWAN,
Puisne Justice.

Judgment of the Supreme Court

*Mentioned : S. C. No. 1581 M. C. Indian and Pakistani Residents
No. C X 243.*

Present : Gratiaen, J. and Sansoni, J.

Listed on : 25th February 1955.

N. K. Choksy, Q.C., with Dr. H. W. Thambiah and C. Shanmuganayagam for the Appellant.

*T. S. Fernando, Acting A-G., with M. Tiruchelvam, D. S. G.,
H. A. Wijemanne and R. S. Wanasundera for the Respondent.*

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GRATIAEN, J.

THIS appeal came up before us on a reference by Swan, J. and was argued before us together with a similar appeal—S. C. No. 517/54 Application No. J 154. It is not denied that if the judgment pronounced by us on 18th February, 1955, be correct, the appellant for the same reasons is entitled to succeed on this appeal. We accordingly allow the appeal for the same reasons as those contained in our connected judgment and direct the Commissioner to take appropriate steps under section 14 (7) of the Act on the basis that a *prima facie* case for registration has been established to the satisfaction of this Court. The appellant is entitled to the costs of this appeal.

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(Sgd.) E. F. N. GRATIAEN,
Puisne Justice.

(Sgd.) M. C. SANSONI,
Puisne Justice.

Decree of the Supreme Court

No. 1581/'53

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

10 In the matter of an appeal under Section 15 of the Indian and
Pakistani Residents (Citizenship) Act No. 3 of 1949

M. Panjan of Koslanda *Applicant-Appellant.*

Vs.

V. L. Wirasinha *Respondent.*

Application No. Z. 243

Counsel for Appellant : Mr. N. K. Choksy, Q.C., with Dr. H. W.
Thambiah and C. Shanmuganayagam.

Counsel for Respondent : Mr. Advocate T. S. Fernando, Acting
Attorney-General with Mr. M. Tiruchelvam, D. S. G., H. A. Wijer-
manne and R. S. Wanasundera, Crown Counsel.

20 This case having come before the Hon. E. F. N. Gratiaen, Q. C., and
Hon. M. C. Sansoni, Puisne Justices of this Court, for hearing and
determination on the 25th February 1955.

It is considered and adjudged that this appeal be and the same is
hereby allowed and the Commissioner is directed to take the
appropriate steps under section 14 (7) of the Act on the basis that
a *prima facie* case for registration has been established to the
satisfaction of the Supreme Court. The appellant is entitled to the
costs of this appeal.

30 Witness the Hon. Sir Alan Percival Rose, Kt., Q.C., Chief Justice,
at Colombo, the 8th day of March in the year One thousand Nine
hundred and Fifty-five, and of Our Reign the Fourth

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S. C.

No. 8.
Application for
Conditional
Leave to Appeal
to the Privy
Council.
16.3.55.

Application for Conditional Leave to Appeal to the Privy Council

**IN THE SUPREME COURT OF THE ISLAND
OF CEYLON**

APPEAL NO. 1,581 OF 1953 INDIAN AND PAKISTANI RESIDENTS
(CITIZENSHIP) ACT NO. 3 OF 1949

In the matter of an application made under Section 7 of the
Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949

And

In the matter of an appeal under Section 15 of the Indian and 10
Pakistani Residents (Citizenship) Act, No. 3 of 1949.

Murugapillai Panjan of Letchumypathy Stores, Iruwanthampola,
Koslanda *Applicant-Appellant.*

Vs.

The Commissioner for the Registration of Indian and Pakistani
Residents, Colombo *Respondent.*

In the matter of an application for conditional leave to appeal to
Her Majesty the Queen in Council.

Herbert Ernest Tennekoon, Commissioner for the Registration of
Indian and Pakistani Residents, Colombo. . *Respondent-Petitioner.* 20

Vs.

Murugapillai Panjan of Letchumypathy Stores, Iruwanthampola,
Koslanda *Appellant-Respondent.*

On this 16th day of March 1955.

To :

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

THE Petition of the Commissioner for the Registration of Indian
and Pakistani Residents, the Respondent-Petitioner abovenamed
appearing by Behram Kaikhushroo Billimoria and his assistant 30
Abdul Hameed Mohamed Sulaiman, his Proctors, states as follows :

1. That upon an appeal preferred by the Appellant-Respondent to this Honourable Court against an order of the Commissioner for Registration of Indian and Pakistani Residents dated the 14th day of August 1953 refusing an application for registration of the Appellant-Respondent as a citizen of Ceylon this Honourable Court by its judgment and order pronounced on the 25th day of February 1955 allowed the said appeal.

No. 8.
Application for
Conditional
Leave to Appeal
to the Privy
Council.
16.3.55.
Contd.

10 2. That feeling aggrieved by the said judgment and order of this Honourable Court, the above-named Respondent-Petitioner is desirous of appealing therefrom to Her Majesty the Queen in Council.

3. That 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.

4. That notice of the intended application for leave to appeal was served on the Appellant-Respondent on the 2nd day of March 1955 in terms of Rule 2 of the Rules in the Schedule to the Appeals (Privy Council) Ordinance Chapter 85 as appears from the Affidavits P1 and P2 annexed hereto.

20 Wherefore the Respondent-Petitioner prays for conditional leave to appeal against the said judgment of this Court dated the 25th day of February 1955 to Her Majesty the Queen in Council.

(Sgd.) B. K. BILLIMORIA,
Proctor for Respondent-Petitioner.

No. 9.
 Judgment of the
 Supreme Court
 granting Condi-
 tional Leave to
 Appeal to the
 Privy Council.
 20.12.55.

No. 9

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

In the matter of an Application for Conditional Leave to Appeal to the Privy Council in re an Application made under section 7 of the Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949

Present : Basnayake A.C.J. and Gratiaen J.

Counsel : M. Tiruchelvam, Deputy Solicitor-General, with V. Tennekoon, Crown Counsel, for the Respondent-Petitioner.

10

Dr. H. W. Thambiah with V. Arulambalam and C. Shanmuganayagam, for Appellant-Respondent.

Argued on : 16th and 17th June 1955.

Decided on : 20th December 1955.

BASNAYAKE A.C.J.

THIS Application and Application No. 150 were argued together.

At the conclusion of the hearing of Application No. 150 we pronounced our order allowing both applications for conditional leave to appeal to the Privy Council.

Dr. Tambiah who appeared for the appellant-respondent in this case adopted the arguments of Mr. Walter Jayawardena in Application No. 150 by Pathupatti Kitnan Duraisamy, and relied on the authorities cited by him.

20

In addition he referred us to the case of *Sutton v. Sutton*, 22 Ch. D. 511.

As we have given our reasons in Application No. 150 it is unnecessary to repeat them here because there is no difference between the two Applications.

(Sgd.) HEMA H. BASNAYAKE,
 Acting Chief Justice.

30

GRATIAEN J.—

I agree.

(Sgd.) E. F. N. GRATIAEN,
 Pusine Justice.

No. 10

Decree of the Supreme Court granting Conditional Leave to Appeal to the Privy Council

No. 10.
Decree of the Supreme Court granting Conditional Leave to Appeal to the Privy Council.
20.12.55.

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

10 Appeal No. 1581 of 1953—Indian and Pakistani Residents (Citizenship) Act, No. 3 of 1949.

In the matter of an application dated 16th March, 1955, for Conditional Leave to Appeal to Her Majesty the Queen in Council by the Respondent-Petitioner against the decree dated 25th February, 1955.

Herbert Ernest Tennekoon, Commissioner for Registration of Indian and Pakistani Residents, Colombo .. *Respondent-Petitioner.*

Vs.

Murugapillai Panjan of Letchumypathy Stores, Iruwanthampola, Koslanda *Appellant-Respondent.*

20 THIS cause coming on for hearing and determination on the 16th and 17th June and 20th December 1955 before the Honourable H. H. Basnayake, Q.C., Acting Chief Justice, and the Hon. E. F. N. Gratiaen, Q.C., Puisne Justice of this Court, in the presence of Counsel for the Petitioner and Respondent.

It is considered and adjudged that this application be and the same is hereby allowed with costs upon the condition that the applicant do within one month from this date :—

30 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).

No. 10.
Decree of the
Supreme Court
granting Con-
ditional leave to
Appeal to the
Privy Council.
20.12.55.
Contd.

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. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the sixteenth day of January, in the year One thousand Nine hundred and Fifty-six and of Our Reign the Fourth.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S. C.

Application for Final Leave to Appeal to the Privy Council

**IN THE SUPREME COURT OF THE ISLAND OF
CEYLON**

S. C. Application No. 149/1955.

APPEAL NO. 1,581/1953 INDIAN AND PAKISTANI RESIDENTS
(CITIZENSHIP) ACT, NO. 3 OF 1949

10 In the matter of an Application made under Section 7 of the
Indian and Pakistani Residents (Citizenship) Act, No. 3 of
1949.

And

In the matter of an Appeal under Section 15 of the Indian and
Pakistani Residents (Citizenship) Act, No. 3 of 1949.

Murugapillai Panjan of Letchumypathy Stores, Iruwanthampola,
Koslanda *Applicant-Appellant.*

Vs.

The Commissioner for the Registration of Indian and Pakistani
Residents, Colombo *Respondent.*

And

20 In the matter of an application for final leave to appeal to Her
Majesty the Queen in Council.

Herbert Ernest Tennekoon, Commissioner for the Registration of
Indian and Pakistani Residents, Colombo .. *Respondent-Petitioner.*

Vs.

Murugapillai Panjan of Letchumypathy Stores, Iruwanthampola,
Koslanda *Appellant-Respondent.*

To :

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

On this 11th day of July 1955.

THE petition of the Respondent-Petitioner abovenamed appearing
by Behram Kaikhushroo Billimoria and his assistant Abdul Hameed
Mohamed Sulaiman, his Proctors, states as follows ;

No. 11.
Application for
Final Leave
to Appeal to the
Privy Council.
11.7.55.
Contd.

1. That the Respondent-Petitioner on the 17th day of June 1955 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 25th day of February 1955.

2. That in the order granting conditional leave to appeal no conditions were imposed under Rule 3 (b) of the Rules in the Schedule to the Appeals (Privy Council) Ordinance (Chapter 85).

3. That the Respondent-Petitioner has :

(a) on the 1st day of July 1955 deposited with the Registrar of this Court the sum of Rs. 3,000 being the security for costs of appeal under Rule 3 (a) of the schedule rules and hypothecated the said sum of Rs. 3,000 by bond dated 9th day of July 1955 for the due prosecution of the appeal and that the payment of all costs that may become payable to the Appellant-Respondent in the event of the Respondent-Petitioner not obtaining an order granting him final leave to appeal or of the appeal being dismissed for non-prosecution or of Her Majesty the Queen in Council ordering the Respondent-Petitioner to pay Appellant-Respondent's costs of appeal, and

(b) on the 1st day of July 1955 deposited the sum of Rs. 300 in respect of the amounts and fees as required by paragraph 8 (a) of the Appellate Procedure (Privy Council) Order 1921 made under Section 4 (1) of the aforesaid Ordinance.

WHEREFORE the Respondent-Petitioner prays that he be granted final leave to appeal against the judgment of this Court dated the 25th day of February 1955 to Her Majesty the queen in Council.

(Sgd.) B. K. Billimoria,
Proctor for Respondent-Petitioner.

No. 12

No. 12.
Decree granting
Final Leave to
appeal to
the Privy
Council.
2.2.56.

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

Appeal No. 1581 of 1953—Indian and Pakistani Residents
(Citizenship) Act, No. 3 of 1949.

10 In the matter of an application dated 11th July, 1955, for Final Leave
to appeal to Her Majesty the Queen in Council against the decree
of this Court dated 25th February 1955.

Herbert Ernest Tennekoon, Commissioner for Registration of
Indian and Pakistani Residents, Colombo . . *Respondent-Petitioner.*

Against

Murugapillai Panjan of Letchumypathy Stores, Iruwanthampola,
Koslanda *Appellant-Respondent.*

20 THIS cause coming on for hearing and determination on the 2nd day
of February, 1956, before the Hon. H. H. Basnayake, Q.C., Chief
Justice, and the Hon. K. D. de Silva, Puisne Justice of this Court,
in the presence of Counsel for the Applicant and there being no
appearance for the Respondent.

The applicant has complied with the conditions imposed on him by
the order of this Court dated 17th June 1955, granting Conditional
Leave to Appeal.

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.

30 Witness the Hon. Hema Henry Basnayake, Q. C., Chief Justice, at
Colombo, the twenty-first day of February, in the year One thousand
Nine hundred and Fifty-six and of Our Reign the Fifth.

(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S. C.