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INSTITUTE OF ADVANCED
LEGAL STUDIES

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Supreme Court of Ceylon.
No. 572 (Final) of 1954.

District Court of Colombo,
No. 419/Z.

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

BETWEEN

1. AHMED REFAI BIN ADHAM SALIH of "Salonica", Galle Road, Colpetty.
2. ZUBAIRE SALIH BIN ADHAM SALIH of "Salonica", Galle Road, Colpetty.
3. ADHAM BIN MOHAMED SALIH of "Salonica", Galle Road, Colpetty.

2nd, 3rd and 4th Defendants-Appellants.

AND

VALLIYAMMAI ATCHI of No. 247, Sea Street,
Colombo *Plaintiff-Respondent.*

The Secretary of the District Court of Colombo, Administrator
de Bonis Non of the Estate and Effects of Hadjie Ibrahim
Bin Ahamed, deceased..... *1st Defendant-Respondent.*

RECORD
OF PROCEEDINGS

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No.

Supreme Court of Ceylon.
No. 572 (Final) of 1954.

District Court of Colombo,
No. 419/Z.

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

BETWEEN

1. AHMED REFAI BIN ADHAM SALIH of "Salonica", Galle Road, Colpetty.
2. ZUBAIRE SALIH BIN ADHAM SALIH of "Salonica", Galle Road, Colpetty.
3. ADHAM BIN MOHAMED SALIH of "Salonica", Galle Road, Colpetty.

2nd, 3rd and 4th Defendants-Appellants.

AND

VALLIYAMMAI ATCHI of No. 247, Sea Street,
Colombo *Plaintiff-Respondent.*

The Secretary of the District Court of Colombo, Administrator
de Bonis Non of the Estate and Effects of Hadjie Ibrahim
Bin Ahamed, deceased.....*1st Defendant-Respondent.*

RECORD
OF PROCEEDINGS

Journal Entries

No. 1
Journal
Entries
3-6-53 to
24-2-58

IN THE DISTRICT COURT OF COLOMBO

3-6-53. *Order Nisi* served on 4th respondent. Duplicate *Order Nisi* issued on 4th returned Avissawella.

3-7-53. Mr. A. H. M. Sulaiman for plaintiff-petitioner.
Order Nisi served.
4th respondent's proxy filed.
Minors present consent.
Application
Answer on 28/8.

10

(Intd.)
D. J.

1-8-53. Proctor for the petitioner files formal Order (8a) and moves to fix a date to enable him to issue summons on 1st defendant and moves that 28th August, 1953, be fixed for the returnable date of summons.

- 1.
- 2. Issue summons for 28/8.

20

(Intd.)
D. J.

24-8-53. The Power of Attorney granted to V. Ramasamy Chettiar under which plaintiff's proxy was filed having been revoked, Proctor for plaintiff files proxy of the plaintiff (9a) and moves that it be filed of record.
File.

(Intd.)
D. J.

27-8-53. SS Issued on 1st Deft.

30

(Intd.)

28-8-53. No return to summons.
1st defendant is absent.
. . . for 25/9.
4th defendant's answer on 25/9.

(Intd.)
D. J.

No. 1
Journal
Entries
3-6-53 to
24-2-58
—continued.

- 23-9-53On 1st Deft.
(Intd.)
- 25-9-53. Mr. A. H. M. Sulaiman for plaintiff.
Mr. M. M. A. Raheem for 4th Defdt.
Summons served 1st defendant absent.
Answer of 4th defendant filed.
Trial for 9-3-54.
(Intd.)
D. J.
- 25-2-54. Proctor for 2nd to 4th defendants moves to file list of 10
witnesses and documents and moves for summons.
Proctor for plaintiff received notice.
Allowed.
Re witnesses Nos. 4 and 5 obtain certified copies.
(Intd.)
D. J.
- 26-2-54. Summons issued on 3 witnesses by 2nd-4th defendants.
- 2-3-54. Proctor for plaintiff files list of witnesses and documents
and moves for summons on the 2nd-4th witnesses. 20
Proctor for defendants received notice.
Allowed.
Re witness No. 2 obtain certified copies.
(Intd.)
D. J.
- 4-3-54. Proctor for 2nd, 3rd and 4th defendants with notice to
Proctor for plaintiff files additional list of witnesses and
moves for summons.
Allowed.
(Intd.)
D. J. 30
- 4-3-54. Summons issued on 1 witness by 4th defendant.
- 6-3-54. Summons issued on 2 witnesses by plaintiff.
- 9-3-54. Trial *vide* date 25-9-53
Mr. A. H. M. Sulaiman for plaintiff.
Mr. M. M. A. Raheem for 4th defendant.

2nd, 3rd and 4th defendants additional list of witnesses filed.

No. 1
Journal
Entries
3-6-53 to
24-2-58
—continued.

Vide proceedings and filed.
Addresses on 26-5-54.

(Intd.)
D. J.

22-5-54. Proctor for plaintiff moves to revoke the proxy granted to him by the plaintiff in the above case.
Allowed.

10

(Intd.)
D. J.

22-5-54. Mr. S. Somanathan files revocation of proxy together with his proxy and moves that same be accepted.
Accept.

(Intd.)
D. J.

26-5-54. Vide Journal Entry dated 9-3-54 addresses.
Mr. S. Somanathan for plaintiff.
Mr. M. M. A. Raheem for 4th defendant.

20

Vide proceedings.
Judgment on 21-6-54.

(Intd.)
D. J.

28-5-54. Proctor for 2nd, 3rd and 4th defendants moves to tender certified copy of the order dated 5-12-1899 made by the Chief Justice J. W. Bonser in S.C. No. 206/D.C. Colombo No. 741 and cited by his Counsel Mr. Renganathan in the course of his address on 26-5-54 which the Court wanted to be tendered with the documents produced.
File.

30

(Intd.)
D. J.

28-5-54. Proctor for 2nd to 4th defendants moves to tender the documents specified in motion 2D1 to 2D40,

No. 1
Journal
Entries
8-6-53 to
24-2-58
—continued.

- 2-6-54. Proctor for plaintiff moves to file list of documents
tendered in evidence P1 to P15.
21-6-54 Judgment for 5-7-54.

(Intd.)

- 5-7-54. Judgment delivered in open Court.

(Intd.)

Decree entered.

- 6-7-54. Deficiency of stamp duty Rs. 21/60 and Rs. 72/96 called
for from the proctors for plaintiff and defendants for
20-8-54. 10

- 7-7-54. Proctor for plaintiff tenders stamps to the value of
Rs. 30/- being deficiency on the documents tendered in
evidence.

Check and file.

(Intd.)
D. J.

- 16-7-54. Proctor for plaintiff-appellant tenders petition of appeal
against the judgment of this Court dated 5-7-54 and
tenders stamps to the value of Rs. 54/- for certificate
in appeal Rs. 108/- for Supreme Court judgment 20
Stamps are affixed to blank forms and cancelled.
Accept.

(Intd.)
D. J.

- 16-7-54. Proctor for plaintiff moves to tender deficiency of stamps
to the value of Rs. 21/60 due on the documents filed by
him. Stamps affixed to motion and cancelled.
Check and file.

(Intd.)
D. J. 30

- 16-7-54. Proctor for plaintiff-appellant tenders notice served on
Proctor for 2nd to 4th defendants-respondents and 1st
respondent regarding the acceptance of the petition of
appeal filed on 16-7-54 against the order of this Court
dated 5-7-54 and moves to tender on 23-7-54 security

by depositing to the credit of this action Rs. 500/- and by hypothecating the same for any costs which may be incurred by the defendants-respondents in appeal in the premises and will on the same day deposit in Court a sufficient sum of money to cover expenses of serving notice of appeal on the defendants-respondents.

Call on 23/7.

(Intd.)
D. J.

22-7-54 Paying in voucher for Rs. 500/- issued.

(Intd.)
22/7.

23-7-54. Mr. S. Somanathan, Proctor for plaintiff.
Mr. M. M. A. Raheem for 2nd-4th defendants.
Case called *vide* 16-7-54
Amount offered as security accepted.
On bond being perfected issue notice of appeal for 20-8-54.

(Intd.)
A. D. J.

23-7-54. Proctor for appellant files application for typewritten copies of the record under Civil appellate Rules and applies for typewritten copies of the record as per particulars and moves for a paying-in-voucher for Rs. 25/-.
Issue.

(Intd.)
D. J.

Paying-in-voucher for Rs. 25/- issued.

(Intd.)
23/7.

23-7-54. Mr. S. Somanathan, Proctor for plaintiff tenders security bond Kachcheri Receipt for Rs. 500/- being security Kachcheri Receipt for Rs. 25/- being copying fees and 2 notices of appeal
Vide Journal Entry dated 23-7-54
File
Issue notice of appeal for 20/8.

(Intd.)
D. J.

Two notices of appeal issued to W.P. returnable forthwith.

(Intd.)
27/7.

Kachcheri Receipt No. M/11.037604/2557 of 23/7/54 for Rs. 500/-.

Kachcheri Receipt No. M/11 037603/2556 of 23-7-54.

20-8-54. Notice of appeal served on 1st defendant-respondent and on Proctor for 2nd-4th defendants-respondents.
Forward record to Supreme Court. 10

(Intd.)
D. J.

20-8-54. Proctor for 2nd to 4th defendants tenders stamps to the value of Rs. 72/96 being deficiency of stamp duty on the documents filed by him in this case.

8-11-54. Since the appeal brief consists of 412 pages the appeal branch calls for additional fees from Proctor for plaintiff-appellant Rs. 162/50.

Proctor for defendants-respondents Rs. 187/50.
Call for them by registered post. 20

(Intd.)
D. J.

10-11-54. Fees called from Proctors by registered post.

(Intd.)

Kachcheri Receipt No. M/11 055512/1637 of 16-11-54 for Rs. 162/50 filed.

Kachcheri Receipt No. M/11 055918 of 19-11-54 for Rs. 187/50 filed.

14-12-54. Record forwarded to Registrar, Supreme Court, with 2 briefs for the Judges. 30

(Intd.)
Assistant Secretary.

30-12-57. Registrar, Supreme Court, returns record with Supreme Court judgment.

No. 1
Journal
Entries
3-6-53 to
24-2-58
—continued.

Appeal allowed—defendants-respondents to pay appellant the taxed costs of appeal and in Court below.
Proctors to note.

(Intd.)
D. J.

10 24-2-58. Registrar, Supreme Court, calls for case record as an application for Final Leave to appeal to the Privy Council has been filed.
Forward record.

(Intd.)
D. J.

No. 2

No. 2
Plaint of the
Plaintiff
22-5-53

Plaint of the Plaintiff

IN THE DISTRICT COURT OF COLOMBO

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.....*Plaintiff.*

20 No. 419/Z

Class.

Claim Rs. 45,431/-

vs.

Nature

Procedure.

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as Administrator *De Bonis Non* of the estate and effects of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED REFAI BIN ADHAM SALLIH, and
- 30 ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Defendants.*

The 22nd of May, 1953.

The plaint of the plaintiff above-named appearing by A. H. M. Sulaiman, her Proctor states as follows :—

No. 2
Plaintiff of the
22-5-53
—continued.

1. The defendants reside and the cause of action pleaded hereinafter has arisen in Colombo within the local limits of the jurisdiction of this Court.

2. The plaintiff is the duly constituted executrix of the estate and effects of KM. N. SP. Natchiappa Chettiar, deceased, and probate of the Last Will of the said deceased issued to the plaintiff in Testamentary Case No. 8802 of this Court.

3. The 1st defendant is the Secretary of this Court and was in the said capacity appointed administrator *De Bonis Non* of the estate and effects of Hadjie Ibrahim Bin Ahmed, deceased in Testamentary Case No. 5686 of this Court.

10

4. By this Bond or writing obligatory bearing No. 2402 of the 21st May, 1935 and attested by N. M. Zaheed of Colombo, Notary Public, one Ahmed Bin Ibrahim, as executor of the Last Will and Testament of the said Hadjie Ibrahim Bin Ahmed, deceased (which said Last Will and Testament was admitted to Probate in Testamentary Case No. 5686 of this Court) with the leave of Court granted to him in the said Testamentary case on the 10th April, 1935, became held and firmly bound unto the said KM. N. SP. Natchiappa Chettiar in the sum of Rs. 30,000/- lent and advanced to him the said Ahmed Bin Ibrahim as executor as aforesaid.

5. The said Ahmed Bin Ibrahim, as executor as aforesaid after reciting that he had bound himself and his successors in office to repay the said sum of Rs. 30,000/- to the said KM. N. SP. Natchiappa Chettiar, his heirs, executors, administrators and assigns on demand and until such repayment to pay interest on the said sum of Rs. 30,000/- at or after the rate of 12 per cent. per annum payable monthly on the 15th day of each and every month, as security for the payment of the aforesaid principal and interest, in and by the said Bond and with the leave of the Court granted as aforesaid specially mortgaged and hypothecated with the said obligee and his aforewritten as a first or primary mortgage the several lands and premises with the buildings standing thereon and in the Schedule thereto fully 30 described.

6. The said Ahmed Bin Ibrahim as executor as aforesaid paid to the said KM. N. SP. Natchiappa Chettiar a sum of Rs. 5,000/- on account of the principal due and secured by the said bond and the said KM. N. SP. Natchiappa Chettiar at the request of the said Ahmed Bin Ibrahim, as such executor, and in consideration of the said payment released the two lands and premises with the buildings standing thereon described in paragraphs 3 and 4 of the Schedule to the said Bond.

7. The said Ahmed Bin Ibrahim died on or about the 5th November, 1940, without having fully administered the estate of the aforementioned Hadjie Ibrahim Bin Ahmed and the 1st defendant was accordingly appointed administrator *De Bonis Non* of the said estate as averred in paragraph 3 hereof.

8. The plaintiff instituted action No. 2565/M.B. of this Court against the 1st defendant as administrator of the said estate of Ibrahim Bin Ahmed for the balance amount due on the said Bond.

9. Decree was entered by this Court dated 7th December, 1951, and it was ordered and decreed that the said 1st defendant as such administrator do pay to the plaintiff the sum of Rs. 45,431/- together with interest on Rs. 23,522/97 at the rate of 8 per cent. per annum from 22nd November, 1949, to date hereof and thereafter on the aggregate amount of the decree at 5 per cent. per annum until payment in full.

No. 2
Plaint of the
Plaintiff
22-5-53
—continued.

10. The plaintiff as she lawfully may, duly applied for execution of the said decree by seizure and sale which application was duly and in force of law allowed by order of this Court.

10 11. This Court issued writ of execution of the said decree and the Deputy Fiscal, Colombo, duly caused the property and premises described in the Schedule hereto to be seized. The said property and premises formed and forms part of the estate of the said Hadjie Ibrahim Bin Ahmed, deceased, and the same is liable to be sold in execution of the said decree in the plaintiff's favour.

12. The 2nd and 3rd defendants acting by and through their father the 4th defendant as Next Friend preferred a claim in respect of the said property and premises and applied to have the same released from the said seizure.

20 13. On the 18th day of May, 1953, order was made upholding the said claim.

14. The plaintiff pleads that the said property and premises are liable to be sold in execution of the said decree in the plaintiffs favour and a cause of action has accordingly accrued to the plaintiff.

15. The 2nd and 3rd defendants are minors and are the sons of the 4th defendant.

16. It is necessary for the purpose of this action to have appointed a guardian for the action over the said minors.

17. The 4th defendant being the father of the said minors has no interest in the matter in this action adverse to that of the minors and he is a fit person to be so appointed.

WHEREFORE the plaintiff prays:

- (a) That the 4th defendant be appointed *Guardian-ad-litem* over the 2nd and 3rd defendants.
- (b) That this Court do declare the property and premises described in the Schedule hereto liable to be sold in execution of the decree in her favour in case No. 2565/M.B. of this Court.
- (c) For costs and for such other or further relief as to this Court shall seem meet.

No. 2
Plaint of the
Plaintiff
22-5-53
—continued.

THE SCHEDULE ABOVE REFERRED TO :

All that property and premises bearing old assessment No. 26 now bearing assessment No. 238, Keyzer Street, within the Municipality and District of Colombo, Western Province, and bounded on the North-East by lot No. 2, assessment No. 25, belonging to J. B. Fernando and his late wife L. C. de S. Wijeratne, South-East by property of M. Haniffa and others and on the South-West by premises No. 27, allotted to F. Gabriel de Silva Wijeyaratne, containing in extent 1.7 1/100 perches.

(Sgd.) A. H. M. SULAIMAN,
Proctor for Plaintiff. 10

No. 3
Petition of
the Petitioner
22-5-53

No. 3

Petition of the Petitioner

IN THE DISTRICT COURT OF COLOMBO

In the matter of an application for the appointment of a *Guardian-ad-litem* under Chapter 35 of the Civil Procedure Code (Cap. 86).

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.....*Petitioner.*

and

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as Administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased. 20
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Respondents.*

On this 22nd day of May, 1953.

The petition of the petitioner abovenamed appearing by A. H. M. Sulaiman her Proctor states as follows :—

1. The respondents reside and the cause of action pleaded hereinafter has arisen in Colombo within the local limits of the jurisdiction of this Court.

2. The petitioner is the duly constituted executrix of the estate and effects of KM. N. SP. Natchiappa Chettiar, deceased, and probate of the Last Will of the said deceased issued to the petitioner in Testamentary Case No. 8802 of this Court.

No. 3
Petition of
the Petitioner
22-5-53
—continued.

3. The 1st respondent is the Secretary of the District Court of Colombo and was in the said capacity appointed administrator *De Bonis Non* of the estate and effects of Hadjie Ibrahim Bin Ahmed, deceased, in Testamentary Case No. 5686 of this Court.

4. By this Bond or writing obligatory bearing No. 2402 of the 21st 10 May, 1935, and attested by N. M. Zaheed of Colombo, Notary Public, one Ahmed Bin Ibrahim as executor of the Last Will and Testament of the said Hadjie Ibrahim Bin Ahmed, deceased (with said Last Will and Testament was admitted to probate in Testamentary Case No. 5686 of this Court) with the leave of Court granted to him in the said Testamentary case on the 10th April, 1935, became held and firmly bound into the said KM. N. SP. Natchiappa Chettiar in the sum of Rs. 30,000/- lent and advanced to him the said Ahmed Bin Ibrahim as executor as aforesaid.

5. The said Ahmed Bin Ibrahim, as executor as aforesaid after reciting that he had bound himself and his successors in office to repay the said 20 sum of Rs. 30,000/- to the said KM. N. SP. Natchiappa Chettiar his heirs, executors, administrators and assigns on demand and until such repayment to pay interest on the said sum of Rs. 30,000/- at or after the rate of 12 per cent. per annum payable monthly on the 15th day of each and every month as security for the payment of the aforesaid principal and interest, in and by the said Bond and with the leave of the Court granted as aforesaid specially mortgaged and hypothecated with the said obligee and his aforesaid as a first or primary mortgage the several lands and premises with the buildings standing thereon and in the Schedule thereto fully described.

30 6. The said Ahmed Bin Ibrahim as executor as aforesaid paid to the said KM. N. SP. Natchiappa Chettiar a sum of Rs. 5,000/- on account of the principal due and secured by the said Bond and the said KM. N. SP. Natchiappa Chettiar at the request of the said Ahmed Bin Ibrahim as such executor, and in consideration of the said payment released the two lands and premises with buildings standing thereon described in paragraphs 3 and 4 of the Schedule to the said Bond.

7. The aforesaid Ahmed Bin Ibrahim died on or about the 5th November, 1940, without having fully administered the estate of the aforementioned Hadjie Ibrahim administered the estate of the aforementioned 40 Hadjie Ibrahim Bin Ahmed and the 1st respondent was accordingly appointed administrator *De Bonis Non* of the said estate as averred in paragraph 3 hereof.

8. The petitioner instituted action No. 2565/M.B. of this Court against the 1st respondent as administrator of the said estate of Ibrahim Bin Ahmed for the balance amount due on the said Bond.

No. 8
Petition of
the Petitioner
22-5-58
—continued.

9. Decree was entered by this Court dated 7th December, 1951, and it was ordered and decreed that the 1st respondent as such administrator do pay to the petitioner the sum of Rs. 45,431/- together with interest on Rs. 23,522/97 at the rate of 8 per cent. per annum from 22nd November, 1949, to date hereof and thereafter on the aggregate amount of the decree at 5 per cent. per annum until payment in full.

10. The petitioner as she lawfully may duly applied for execution of the said decree by seizure and sale which application was duly and in force of law allowed by order of this Court.

11. This Court issued writ of execution of the said decree and the 10 Deputy Fiscal, Colombo, duly caused the property and premises described in the Schedule hereto to be seized. The said property and premises formed and forms part of the estate of the said Hadjie Ibrahim Bin Ahmed now deceased and the same is liable to be sold in execution of the said decree in the plaintiff's favour.

12. The 2nd and 3rd respondents acting by and through their father the 4th respondent and Next Friend preferred a claim in respect of the said property and premises and applied to have the same released from the said seizure.

13. On the 18th day of May, 1953, order was made upholding the 20 said claim.

14. The petitioner pleads that the said property and premises are liable to be sold in execution of the said decree in the petitioner's favour and a cause of action has accordingly accrued to the petitioner.

15. The 2nd and 3rd respondents are minors and are the sons of the 4th respondent.

16. It is necessary for the purpose of this action to have appointed a guardian for the action over the said minors.

17. The 4th respondent being the father of the said minors has no interest in the matter in this action adverse to that of the minors and he 30 is a fit person to be so appointed.

WHEREFORE the petitioner prays :

That the 4th respondent to this application be appointed *Guardian-ad-litem* over the 2nd and 3rd respondents for costs and for such other and further relief as to this Court shall seem meet.

Documents filed with petition :

1. True copy of plaint marked " A ".
2. Affidavit.

(Sgd.) A. H. M. SULAIMAN,
Proctor for Petitioner. 40

SCHEDULE ABOVE REFERRED TO :

All that property and premises bearing old assessment No. 26 now bearing assessment No. 238, Keyzer Street, within the Municipality and District of Colombo, Western Province, and bounded on the North-East by lot No. 2, assessment No. 25 belonging to J. B. Fernando and his late wife L. C. de S. Wijeratne, South-East by property of M. Haniffa and others and on the South-West by premises No. 27 allotted to F. Gabriel de Silva Wijeyaratne, containing in extent 1.7 1/100 perches.

No. 3
Petition of
the Petitioner
22-5-53
—continued.

(Sgd.) A. H. M. SULAIMAN,
Proctor for Petitioner.

10

No. 4

Affidavit of V. Ramasamy Chettiar

No. 4
Affidavit of
V. Ramasamy
Chettiar
—continued.

IN THE DISTRICT COURT OF COLOMBO

In the matter of an application for the appointment of a *Guardian-ad-litem* under Chapter 35 of the Civil Procedure Code (Cap. 86).

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.....*Petitioner.*

and

- 20 1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Respondents.*

I, V. RAMASAMY CHETTIAR of No. 247, Sea Street, Colombo, being a
30 Hindu do hereby solemnly, sincerely and truly declare and affirm as follows :—

1. That I am the duly constituted attorney of the petitioner and can speak to the facts hereinafter set out of my personal knowledge.

2. That the respondents reside and the cause of action pleaded hereinafter has arisen in Colombo within the local limits of the jurisdiction of this Court,

No. 4
Affidavit of
V. Rama-
samy
Chettiar
—continued.

3. That the petitioner is the duly constituted executrix of the estate and effects of KM. N. SP. Natchiappa Chettiar, deceased, and probate of the Last Will of the said deceased issued to the petitioner in Testamentary Case No. 8802 of this Court.

4. That the 1st respondent is the Secretary of the District Court of Colombo and was in the said capacity appointed administrator *De Bonis Non* of the estate and effects of Hadjie Ibrahim Bin Ahmed, deceased, in Testamentary Case No. 5686 of this Court.

5. That by his Bond or writing obligatory bearing No. 2402 of the 21st May, 1935, and attested by N. M. Zaheed of Colombo, Notary Public, 10 one Ahmed Bin Ibrahim as executor of the Last Will and Testament of the said Hadjie Ibrahim Bin Ahmed, deceased (which said Last Will and Testament was admitted to probate in Testamentary Case No. 5686 of this Court) with the leave of Court granted to him in the said Testamentary case on the 10th April, 1935, became held and firmly bound unto the said KM. N. SP. Natchiappa Chettiar in the sum of Rs. 30,000/- lent and advanced to him the said Ahmed Bin Ibrahim as executor as aforesaid.

6. That the said Ahmed Bin Ibrahim, as executor as aforesaid after reciting that he had bound himself and his successors in office to repay the said sum of Rs. 30,000/- to the said KM. N. SP. Natchiappa Chettiar his 20 heirs, executors, administrators and assigns on demand and until such repayment to pay interest on the said sum of Rs. 30,000/- at or after the rate of 12 per cent. per annum payable monthly on the 15th day of each and every month as security for the payment of the aforesaid principal and interest in and by the said Bond and with the leave of the Court granted as aforesaid specially mortgaged and hypothecated with the said obligee and his aforewritten as a first or primary mortgage the several lands and premises with the buildings standing thereon and in the Schedule thereto fully described.

7. That the said Ahmed Bin Ibrahim as executor as aforesaid paid 30 to the said KM. N. SP. Natchiappa Chettiar a sum of Rs. 5,000/- on account of the principal due and secured by the said Bond and the said KM. N. SP. Natchiappa Chettiar at the request of the said Ahmed Bin Ibrahim as such executor, and in consideration of the said payment released the two lands and premises with the buildings standing thereon described in paragraphs 3 and 4 of the Schedule to the said Bond.

8. That the aforesaid Ahmed Bin Ibrahim died on or about the 5th November, 1940, without having fully administered the estate of the aforementioned Hadjie Ibrahim Bin Ahmed and the 1st respondent was accordingly appointed administrator *De Bonis Non* of the said estate as 40 averred in paragraph 3 hereof.

9. That the petitioner instituted action No. 2565/M.B. of this Court against the 1st respondent as administrator of the said estate of Ibrahim Bin Ahmed for the balance amount due on the said Bond.

10. Decree was entered by this Court dated 7th December, 1951, and it was ordered and decreed that the 1st respondent as such adminis-

trator do pay to the petitioner the sum of Rs. 45,431/- together with interest on Rs. 23,522/97 at the rate of 8 per cent. per annum from 22nd November, 1949, to date hereof and thereafter on the aggregate amount of the decree at 5 per cent. per annum until payment in full.

No. 4
Affidavit of
V. Rama-
samy
Chettiar

11. That the petitioner as she lawfully may, duly applied for execution of the said decree by seizure and sale which application was duly and in force of law allowed by order of this Court.

12. That this Court issued writ of execution of the said decree and the Deputy Fiscal, Colombo, duly caused the property and premises described in the Schedule to be seized. The said property and premises formed and forms part of the estate of the said Hadjie Ibrahim Bin Ahmed now deceased and the same is liable to be sold in execution of the said decree in the petitioner's favour.

13. That the 2nd and 3rd respondents acting by and through their father the 4th respondent and Next Friend preferred a claim in respect of the said property and premises and applied to have the same released from the said seizure.

14. That on the 18th day of May, 1953, order was made upholding the said claim.

15. That the petitioner pleads that the said property and premises are liable to be sold in execution of the said decree in the petitioners favour and a cause of action has accordingly accrued to the petitioner.

16. That the 2nd and 3rd respondents are minors and are the sons of the 4th respondent.

17. That it is necessary for the purpose of this action to have appointed a guardian for the action over the said minors.

18. That the 4th respondent being the father of the said minors has no interest in the matter in this action adverse to that of the minors and he is a fit person to be so appointed.

30 SCHEDULE ABOVE REFERRED TO :

All that property and premises bearing old assessment No. 26, now bearing assessment No. 238, Keyzer Street, within the Municipality and District of Colombo, Western Province, and bounded on the North-East by lot No. 2 assessment No. 25 belonging to J. B. Fernando and his late wife L. C. de S. Wijeyaratne, South-East by property of M. Haniffa and others and on the South-West by premises No. 27 allotted to F. Gabriel de Silva Wijeyaratne, containing in extent 1.7 1/100 perches.

Signed and affirmed to at }
Colombo on this 22nd day } (Sgd.) Illegible.
40 of May, 1953.

Before me,
(Sgd.) Illegible.
C. O.

Order "Nisi" on a Petition in an Action of Summary Procedure
IN THE DISTRICT COURT OF COLOMBO

In the matter of an application for the appointment of a *Guardian-ad-litem* under Chapter 35 of the Civil Procedure Code (Cap. 86).

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.....*Petitioner.*

No. 419/Z. *against*

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as Administrator *De Bonis Non* of Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased. 10
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Defendants.*

This matter coming on for disposal before N. Sinnetamby, Esquire, District Judge, Colombo, on the 22nd day of May, 1953, after reading 20 petition and affidavit of the petitioner Valliammai Atchi of No. 247, Sea Street, Colombo, praying that the 4th respondent to this application be appointed *Guardian-ad-litem* over the 2nd and 3rd respondents and costs.

It is ordered that the 4th respondent Adham Bin Mohamed Sallih of "Salonica," Galle Road, Colpetty, be and he is hereby appointed *Guardian-ad-litem* over the 2nd and 3rd respondents Ahmed Refai Bin Adham Sallih and Zubaire Sallih Bin Adham Sallih unless sufficient cause be shown to the contrary on the 29th day of May, 1953. Minors to be produced.

The 22nd day of May, 1953.

(Sgd.) M. C. SANSONI,
District Judge. 30

Order Nisi

IN THE DISTRICT COURT OF COLOMBO

In the matter of an application for the appointment of a *Guardian-ad-litem* under Chapter 35 of the Civil Procedure Code (Cap. 86).

VALLIYAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.....

No. 6
3-7-53
Order Nisi
Petitioner.—*continued.*

No. 419/Z.

and

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as Administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica",
10 Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Respondents.*

This matter coming on for disposal before N. Sinnetamby, Esquire, District Judge, Colombo, on the 3rd day of July, 1953, in the presence of Mr. A. H. M. Sulaiman, Proctor, on the part of the petitioner and the 2nd and 3rd respondents appearing in Court in person and the 4th respondent consenting to be appointed *Guardian-ad-litem* over the 2nd and 3rd respondents, it is hereby ordered that the said 4th respondent, be and he
20 is hereby appointed *Guardian-ad-litem* over the said 2nd and 3rd respondents abovenamed.

This 3rd day of July, 1953.

(Sgd.) M. C. SANSONI,
District Judge.

No. 7

Affidavit of V. Ramasamy Chettiar

IN THE DISTRICT COURT OF COLOMBO

In the matter of an application for the appointment of a *Guardian-ad-litem* under Chapter 35 of the Civil Procedure Code (Cap. 86).

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.....*Petitioner.*
30

No. 7
Affidavit of
V. Ramasamy
Chettiar
27-5-53

No. 419/Z.

and

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.

No. 7
Affidavit of
V. Ramasamy
Chettiar
27-5-53
—continued.

- 2. AHMED REFAI BIN ADHAM SALLIH, and
- 3. ZUBAIRE SALLIH BIN ADHAM SALLIH both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
- 4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Respondents.*

I, V. RAMASAMY CHETTIAR of No. 247, Sea Street, Colombo, being a Hindu do hereby solemnly sincerely and truly declare and affirm as follows:—

1. That I am the attorney of the petitioner abovenamed and can speak to the facts hereinafter set forth of my personal knowledge.

2. That the *Order Nisi* in this case was issued on the 4th respondent but the Fiscal has not succeeded in effecting service thereof despite reasonable exertions made for the purpose.

3. That the Fiscal, Western Province, Colombo, reported that "the 4th respondent has gone to his Avissawella Estate" and the Fiscal, Avissawella, reports that the said respondent was not to be found at his estate and that he is said to have gone to Colombo.

4. That the 4th respondent whose address is "Salonica", Galle Road, Colpetty, is still at the said address within the Island and is evading service of the said *Order Nisi*.

Signed and affirmed to at }
Colombo on this 27th day } (Sgd.) Illegible.
of May, 1953. }

Before me,

(Sgd.) Illegible.

C. O.

No. 8
Answer of
the 2nd, 3rd
and 4th
Defendants

No. 8

Answer of the 2nd, 3rd and 4th Defendants

IN THE DISTRICT COURT OF COLOMBO

30

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.....*Petitioner.*

No. 419/Z.

vs.

Claim Rs. 45,431/-.

No. 8
Answer of
the 2nd, 3rd
and 4th
Defendants
—continued.

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
- 10 4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Defendants.*

On this 25th day of September, 1953.

The answer of the 2nd, 3rd and 4th defendants above-named appearing by M. M. A. Raheem, their Proctor states as follows :—

1. Answering paragraph 1 of the plaint the 2nd, 3rd and 4th defendants admit the averments therein contained save and except that a cause of action has accrued to the plaintiff as alleged in the plaint.
2. These defendants admit the averments in paragraph 2 of the plaint.
- 20 3. These defendants deny the averments in paragraph 3 of the plaint.
4. These defendants admit the averments in paragraphs 4 and 5 of the plaint.
5. These defendants are unaware of the averments in paragraph 6 of the plaint and therefore denies them.
6. Answering paragraph 7 of the plaint these defendants admit that Ahmed Bin Ibrahim died on or about 5th November, 1940, but deny the rest of the averments in the said paragraph.
7. Answering paragraph 8 of the plaint these defendants admit that 30 the plaintiff instituted action No. 2565/M.B. of this Court and purported to do so against the Secretary of the District Court of Colombo as administrator *De Bonis Non* of the estate and effects of Hadjie Ibrahim Bin Ahmed, deceased, but the defendants specially deny that the said action was against any duly appointed legal representative of the estate of the deceased.
8. The defendants deny the averments in paragraph 9 of the plaint but admit that a decree was entered in the said action purporting to be against the Secretary of the District Court of Colombo as administrator *De Bonis Non* of the estate and effects of Hadjie Ibrahim Bin Ahmed, 40 deceased, in the terms set out in the said paragraph. These defendants specifically deny the validity of the said decree and/or that it is valid or binding upon or against the estate of the deceased Hadjie Ibrahim Bin Ahmed. These defendants further state that the said decree is void in law and of no force or avail as against the estate of the said Hadjie Ibrahim Bin Ahmed *inter alia* for all or any of the following reasons :—

No. 8
Answer of
the 2nd, 3rd
and 4th
Defendants
—continued.

(a) The estate of the deceased Hadjie Ibrahim Bin Ahmed was not duly or validly represented in the said action.

(b) Although the plaintiff instituted the above action as a hypothecary action, the above action ceased to be such upon the withdrawal or waiver by the plaintiff of the hypothecary reliefs ; in the circumstances and/or otherwise the entering of a decree absolute in the first instance *ex parte* is irregular and void in law.

(c) The said decree was entered irregularly and without a valid and proper *ex parte* hearing, and was therefore entered without jurisdiction. 10

(d) The decree was entered *per incuriam* on a prescribed bond or debt.

9. Answering paragraph 10 of the plaint these defendants admit that the plaintiff applied for execution of the said decree and that the application to execute the decree was allowed. These defendants deny the rest of the averments in the said paragraph.

10. Answering paragraph 11 of the plaint these defendants admit :—

(a) that the Court issued the said writ and

(b) that the Deputy Fiscal caused the property referred to therein to be seized.

These defendants deny the rest of the averments in the said paragraph. 20

11. These defendants admit the averments in paragraphs 12 and 13 of the plaint.

12. The defendants deny the averments in paragraph 14 of the plaint.

13. Further answering these defendants state :—

(a) that the property described in the schedule to the plaint was specifically devised by the last will codicil of the deceased to Ahmed Bin Ibrahim ;

(b) by Deed No. 2908 dated the 13th December, 1938, and attested 30 by N. M. Zaheed, Notary Public, the executor of the said Last Will and Testament of the said deceased Hadjie Ibrahim Bin Ahmed conveyed the said property to the said Ahmed Bin Ibrahim personally ;

(c) the said Ibrahim by Deed No. 2909 dated the 13th December, 1938, and attested by the same Notary conveyed the said property to Mohamed Ghouse ;

(d) the said Mohamed Ghouse by Deed No. 1079 dated 21st December, 1944, and attested by M. M. A. Raheem, Notary Public, conveyed the same to Sithy Nafeesathul Zabeediya ; 40

(e) the said Sithy Nafeesathul Zabeediya by Deed No. 2682 dated 9th May, 1952, conveyed the same to the 2nd and 3rd defendants. The 2nd and 3rd defendants are thus the owners of the said property ;

(f) the 2nd and 3rd defendants and their predecessors in title have been in undisturbed and uninterrupted possession of the said property for a period of over ten years by a title adverse to and independent of all others and the 2nd and 3rd defendants have thereby acquired a prescriptive title to the said property.

No. 8
Answer of
the 2nd, 3rd
and 4th
Defendants
—continued.

14. These defendants further state :—

(a) that the plaintiff is not entitled in any event to have the said property sold in execution of the said decree without excussing the properties specifically mortgaged by the said bond ;

10 (b) the plaintiff's claim if any is prescribed.

15. These defendants further state :—

(a) that the said decree was obtained by fraud and collusion of the plaintiff, the defendant and the intervenients in the said action or by the agents of the said parties by not disclosing to Court that the bond sued on in the said action was prescribed with intent to enable the plaintiff to recover the prescribed debt without recourse to the properties specially mortgaged but by levying execution against the property referred to in the plaint and or properties other than the mortgaged properties ;

20 (b) the said decree is therefore void in law.

WHEREFORE these defendants pray :—

(a) that the plaintiff's action be dismissed ;

(b) for costs and

(c) for such other and further relief as to this Court shall seem meet.

(Sgd.) M. M. A. RAHEEM,
Proctor for 2nd, 3rd and 4th Defendants

Settled by :

C. RENGANATHAN, ESQ.,
Advocate.

30 V. K. PALACHANDRAN, ESQ.,
Advocate.

No. 9

Issues Framed

No. 9
Issues
Framed

No. 419/Z.

9-3-54.

Mr. Adv. Chelvanayagam with Mr. Adv. Kadirgamer for the plaintiff.

Mr. Adv. Renganathan with.

Mr. Adv. Palasunderam for 2nd, 3rd and 4th defendants.

No. 9
Issues
Framed
—continued.

Mr. Chelvanayagam opens his case and states that this is a case where certain legal issues are involved more than facts. Submits he will give a short history of the dates and the documents that are involved in the matter. Plaintiff is the executrix of the estate of a Chettiar who died. She sues in her capacity as executrix of her husband Natchiappa Chettiar in whose favour certain bond was given by the executor of another estate. The other estate is the one relating to which the facts are little involved. The debtor estate is the estate of Hadjie Ibrahim Bin Ahmed. Bin Ahmed made a last will bearing No. 3117 dated 9-4-1919, which last will was proved along with certain codicils in Testamentary Case No. 5686 10 and probate issued on 28-1-32 to Ibrahim, son and executor Ahmed Bin Ibrahim. The probate referred to the last will and three codicils. One of the codicils is relevant and counsel says he will give particulars relating to it. The first codicil is No. 1509 dated 12-11-21. The second codicil bears No. 1605 dated 13-7-23. The third codicil is No. 985 dated 2-4-31.

The executor Ahmed Bin Ibrahim while he was administering the estate of his father borrowed a sum of Rs. 30,000/- for the purposes of the administration in particular and for the purpose of paying Estate Duty and for that purpose an application was made to the Court dated 10-4-35 for permission of Court to the executor to give a bond for the Rs. 30,000/- 20 including a mortgage of certain immovable property. Counsel says he does not think it was necessary for the executor to have got the permission he had the right to mortgage the property. However that may be, application was made for permission to mortgage and permission was given. In terms of that permission Mortgage Bond No. 2402 dated 21-5-35 was given by Ahmed Bin Ibrahim as executor to KN. N. SP. Natchiappa Chettiar the testator of plaintiff's estate for Rs. 30,000/-. Subsequently Ahmed Bin Ibrahim died on 5-11-40 without completing the administration of the estate. When he died an administratrix *De Bonis Non* was appointed for administering that estate. That application for letters 30 was made on 27-11-42. The application was to appoint the Secretary of the Court as administrator *De Bonis Non*. That Secretary retired before letters were granted and another Secretary took his place. An appropriate application was made and to the second Secretary letters issues, that is, Mr. N. Kolanduvelu on 12-10-44. Counsel submits it is his submission as a matter of law that the letters issued to the Secretary is to him by virtue of his office and that other Secretary stepped into the position of official administrator *qua* secretary. Whatever that may be there is no difficulty about that because succeeding secretaries have been formally appointed. Mr. Kolanduvelu ceased to be Secretary and Mr. Paliyaguru became 40 Secretary and when he was Secretary in 1949 the plaintiff sued the Secretary on the mortgage bond in case No. 2565 which was filed on 21-11-49.

That was 14 years later. Questions of prescription were raised in the answer which was filed by the official secretary. Eventually a money decree was entered. By the mortgage bond given to Natchiappa four properties were mortgaged and out of that two were released before the action was filed on payment of a certain sum of money. With the result

that when the action No. 2565 was filed there were only two properties that were bound. Those two properties had been specifically devised to certain persons under the last will of Ibrahim Bin Ahmed and they intervened and took up the defence that the bond was prescribed. Eventually that matter was settled in this way. That the plaintiff should release those two properties. Plaintiff agreed not to issue execution as against them but agreed to take a money decree and a money decree was entered by this Court on 7-12-51. Apart from certain question that arise as to why the defendant did that it is his case he says that the decree is a decree binding the estate as a question of law and it is a legitimate step that a mortgagee might adopt. They are attacking that decree but exactly what is the line of attack is not clear. The answer sets out that it was a consent decree and *ex parte* and defences of that nature. For example if X mortgages a land to me for payment of Rs. 50,000/- and he transfers that to another it is open to me to bring an action against X and that other man on the bond. It was open to me before the present Mortgage Act came into force to reject the mortgage part of it and go against X on the money part of it. Submits that he as obligee on the bond was entitled to get a money decree as stated provided that he was not a party to any fraud in the sense that he did not get a decree for an amount not due to him. On the money decree plaintiff issued execution and seized certain properties which were specifically devised to the executor. That property that was seized was No. 26, Keyzer Street, which is now No. 238. 26 is the number which the last will gives and 238 is the present number.

There is no dispute about the identity of the numbers. That property had been specifically devised by the second codicil to Ahmed Bin Ibrahim the executor. He after the bond in question on 13-12-38 by Deed No. 2908 conveyed that property to himself. On the same day by Deed No. 29909 Ahmed Bin Ibrahim transferred or gifted the property to his son N. Ghouse. He by Deed No. 1079 dated 23-12-41 transferred the property to Sithy Zabeediya who by Deed No. 2682 dated 9-5-52 transferred the property to 2nd and 3rd defendants who are minors appearing by their *Guardian-ad-litem* 4th defendant. This property was seized on 29-12-52. A claim was made and upheld and this 249 action has been brought. Counsel submits his position is that it is a decree against the estate. It is not a debt of the deceased but a debt of the estate. There are reported cases governing instances of this type where the estate is made liable in the course of administration by an executor or administrator and the question had been discussed as to the extent of the liability of property belonging to the estate for meeting the debt due to that particular creditor. He says it is submission that all the properties of the estate specifically devised or left in residue or passing to intestate succession are subject to the payment of the debt. In 1935 when the mortgage bond was executed it would have been opened to him to have filed an action on the bond on the money part of the claim and get a decree and to have moved to execute that decree against any portion of the estate including this property which was specifically devised and title to which was

then in the hands of the executor. The position is not different because a transfer had taken place subsequently. The title of the 2nd and 3rd defendants is in the same position as the title of Ahmed Bin Ibrahim in 1935.

Mr. Chelvanayagam suggests the following issues :—

1. Was the decree entered in plaintiff's favour in case No. 2565/M.B. of this Court against the estate of Hadjie Ibrahim Bin Ahmed which is being administered in case No. 5686/T. of this Court.

2. Is the property described in the Schedule to the plaint liable to be seized in execution of the decree entered in case No. 2565/M.B. Mr. 10 Renganathen says that Mr. Chelvanayagam has departed in one particular from the pleadings. He says issue I. has not been pleaded. The plea is not that there was an action against the estate but as against the 1st defendant as administrator *De Bonis Non*. He says here he is questioning the appointment of the administrator. Mr. Chelvanayagam says he will prove that the decree is against the estate. He says that 1st issue involves the question that Mr. Renganathen raises, that there was no proper appointment of the 1st defendant as administrator and therefore the decree is bad.

Mr. Renganathen suggests :

20

3. (a) Is the Secretary of the District Court the duly appointed administrator *De Bonis Non* of the estate of Hadjie Ibrahim Bin Ahmed?

(b) Was the appointment, if any, of the Secretary of this Court as administrator made without jurisdiction?

4. (a) Was the said action No. 2565/M.B. of this Court instituted against the duly appointed legal representative of the estate of the deceased?

(b) Was the estate of the deceased duly and validly represented in case No. 2565/M.B.?

5. Was the decree in case No. 2565 entered against any duly 30 appointed legal representative of the estate of the deceased?

6. Is the said decree binding on the estate?

7. Is the decree entered in the said action void and of no force or avail against the estate for all or some of the reasons stated in para. 8 (b) and (c) and (d) of the answer?

8. Did the property described in the Schedule to the plaint form part of the estate of the deceased at the date of the seizure?

9. Was the said property specifically devised by the last will and codicil of the deceased Ahmed Bin Ibrahim? (This issue is admitted by Mr. Chelvanayagam. It is also admitted that the executor of the last 40 will conveyed the premises by Deed No. 2908 of 13-12-38 to Ahmed Bin Ibrahim).

10. Did the title of the executor pass to the 2nd and 3rd defendants on the title set out in the answer?

11. If so are 2nd and 3rd defendants entitled to the property?
12. Are 2nd and 3rd defendants entitled to the said property by prescriptive possession?
13. In any event is plaintiff entitled to have the property sold in execution of the decree without discussing the property specifically mortgaged by bond No. 2402 of 31-5-35?
14. Was the decree in the said action obtained by fraud and collusion among all or some of the parties and by all or any of the things stated in para. 15 (a) of the answer?
- 10 15. If all or some of the issues 3 to 14 are answered in favour of 2nd 3rd and 4th defendants can plaintiff maintain this action?
16. Did Mohamed Ghouse by Deed No. 1079 of 1941 convey the property in question to Zabeediya in consideration of her marriage?
17. Did Zabeediya obtain the conveyance *bona fide*?
- Mr. Chelvanayagam says that this issue raises a question of fact and he is not ready to meet them. He has no objection to the other issues. He says it is a matter which requires consideration.
- I allow the issues to go in and if it is necessary to postpone the case as a result of that issue later on an application may be made by Mr. Chelvanayagam and I shall consider the question of costs.
- 20 Mr. Chelvanayagam suggests as corollary to issue 7.
18. Is it open to 2nd, 3rd and 4th defendants to question the validity of the decree in case No. 2565 on the grounds set out in issues 7, 13, 14 or any of the said issues?
- Mr. Renganathen suggests :
19. Is the plaintiff's claim prescribed?

No. 9
Issues
Framed
-- continued.

No. 10

Plaintiff's Evidence

No. 10
Plaintiff's
Evidence
M. S. Arumugam
Examination

- Mr. Chelvanayagam calls.
- 30 M. S. Arumugam, affirmed, 53, Record Keeper, District Court, Colombo.

The Secretary of this Court has been summoned to produce certain records. One of them is case No. 5686/T. of this Court. I have got that case here. That is a case affecting the estate of Hadjie Ibrahim Bin Ahmed whose last will and codicils were proved in that case. Probate dated 28-1-32 issued to the executor named in the will Ahmed Bin Ibrahim. I produce the probate P1. Last will bearing No. 3107 dated 8-4-19, P 1A.

- 40 First codicil No. 1509 dated 12-11-21, P 1B, second codicil No. 1605 dated 13-7-23, P 1C, third codicil bearing No. 1985 of 2-4-31, P 1D.

No. 10
Plaintiff's
Evidence
M. S. Aru-
mugam
Examination
—continued.

By the second codicil the testator devised specifically No. 26, Keyzer Street, along with another property to his eldest son Ahmed Bin Ibrahim. I produce a certified copy of the inventory filed by the executor dated 31-1-35, P2. The inventory includes premises No. 238, Keyzer Street.

(It is admitted that 26, Keyzer Street, bears subsequent No. 238).

Application was made on 10-4-35 for permission to mortgage certain property by the excutor. The motion is dated 9-4-35. It was made by Mr. N. M. Zaheed who has signed as proctor for the executor. I produce a copy of the motion P3. He filed it with a petition and affidavit copy of which I produce P3A and I produce copy of the order of Court allowing 10 it P3B. The journal entry is dated 10-4-35.

(Counsel marks mortgage bond No. 2402 dated 21-5-35, P4). According to the record the executor Ahmed Bin Ibrahim died and in November, 1943, application was made for the appointment of an administrator *De Bonis Non* according to the journal entry. I produce P5 certified copy of journal entries in the case from the commencement up to date, P5. On 27-11-43 there is a journal entry referring to the application for letters of administration *De Bonis Non* to be granted to the Secretary of the Court and the Secretary of the Court at that time was Mr. Emmanuel. That application was allowed. Mr. Emmanuel retired and Mr. Kolanduvelu 20 succeeded him as Secretary.

An application was made to substitute Mr. Kolanduvelu in the application for the grant of letters *De Bonis Non* to Mr. Emmanuel and Letters of Administration actually issued to Mr. Kolanduvelu dated 12-4-44 copy of which I produce, P6. The entry on 12-10-44 is letters entered and that means that letters had been issued by the Court. On 30-10-44 there is a journal entry that Mr. Rustomjee files papers and makes application *inter alia* that the debt due on the mortgage bond No. 2402 be paid by the estate of the deceased. That is under journal entry 46. I produce copy of the petition P7. He also made application 30 in those papers for a judicial settlement of the account of the estate. Citation issued by a judicial settlement was never done. Then Mr. Kolanduvelu retired from the office of Secretary and on 11-8-48 Mr. Fuard, Proctor, filed proxy from Mr. Peiris the then Secretary and moved that he be substituted as administrator. Letters issued to Mr. Peiris dated 30-11-48. I produce certified copy of the letters P8. Mr. Peiris retired from the office of Secretary. Mr. Palliyaguru succeeded him. On 7-7-49 Mr. Fuard moved to have Mr. Palliyaguru substituted in place of Mr. Peiris as administrator in the case. Order for substitution was made by the Additional District Judge and signed by him. That journal is 77A. 40

I was in the office as record keeper when Mr. Palliyaguru was Secretary. I cannot remember when he retired.

I produce record 2565/M.B. That plaint was filed on 21-11-49. I produce copy of the plaint P9. That plaint was filed against the Secretary of the District Court, Colombo, and the Secretary appeared and filed proxy. That was Mr. Palliyaguru. He filed proxy on 14-11-50. I

produce certified copy of the proxy P10. I produce certified copy of the journal entry in that case P11.

The case was fixed for trial on 24-10-51. Journal entry 26 and 26A. I produce copy of the proceedings of that date P12. On the trial date the defendant did not appear. Adv. Kandiah appeared for the petitioner. The case was fixed for *Ex parte* hearing on 25-11-51. On 26-11-51 the journal entry reads "*Ex parte* inquiry. Plaintiff and proctor absent. Later motion filed. File affidavit and move". I produce copy of the motion P13 dated 26-11-51. On 7-12-51 proctor for plaintiff filed *ex parte* affidavit from the plaintiff and moved for decree to be entered in terms of the order of Court of 24-10-51. The Court's order is "Enter decree as prayed for". I produce copy of the decree P14. I produce copy of the *ex parte* affidavit filed P15. (Mr. Chelvanayagam says the affidavit is filed not to prove the contents of the document but the fact that an affidavit had been filed).

Writ issued in execution of that decree and property was seized.

A claim was made and the claim was upheld.

Cross-Examination. The first application for the appointment of executor was on 27-5-21. That application was made by Ahmed Bin Ibrahim. Then *Order Nisi* was entered and order absolute was entered in May, 1934, and probate issued.

On 27-11-43 Mr. Fuard made application and filed petition dated 26-11-43 which I produce 2D1. He made that application on behalf of the executrix of the estate of Natchiappa Chettiar Valliammai Atchi. I produce proxy given by Valliammai Atchi dated 26-11-43 2D2 and power of attorney given by her 2D3 to one Letchimanan and Ramanathen. The proxy was given by Valliammai Atchi by her attorney Letchimanan and Ramanathen.

On 23-12-43 Mr. Emmanuel consented to being appointed administrator *De Bonis Non*. I produce minute of consent. Letters of administration were not issued to Mr. Emmanuel according to the journal entries. There is no entry in the record either in the journal or elsewhere to show that letters were issued to him. I produce *Order Nisi* entered on 22-2-44, 2D5. I produce proxy granted by Mr. Emmanuel dated 7-2-44 to Mr. Fuard, 2D6. On 19-5-44 Mr. Kolanduvelu moved that he be substituted as official administrator in the case in place of Mr. Emmanuel who had retired. I produce the motion 2D7. and motion filed by Mr. Fuard dated 19-5-44, 2D8. I produce proxy dated 19-4-44 given by Mr. Kolanduvelu to Mr. Fuard, 2D9. On that application order was made to enter fresh *Order Nisi* and a fresh *Order Nisi* was entered on 26-5-44 I produce copy of that 2D10. The *Order Nisi* was published in the Gazette and papers and *Order Nisi* was made absolute. Mr. Kolanduvelu took the oath and gave a bond as security dated 25-9-44 copy of which I produce 2D11. The bond was filed and letters issued copy of which I produce 2D12 dated 12-10-44. I produce the bond given by Mr. Kolanduvelu 2D13. He has signed the bond as Secretary, District Court, Colombo. The journal entry of 11-8-48 shows that Mr. Peiris had come as Secretary, Mr. Kolandu-

No. 10
Plaintiff's
Evidence
M. S. Aru-
mugam
Examination
—continued.

M. S. Aru-
mugam
Cross-
Examination

M. S. Aru-
mugam
Cross-
Examination
—continued.

velu having retired. I produce petition signed by Mr. Fuard as proctor for Mr. Peiris 2D14. The proxy given by Mr. Peiris is dated 8-6-48 2D15. I produce affidavit filed by Mr. Peiris dated 9-8-48 2D16. On that application order was made to enter *Order Nisi*. I produce *Order Nisi* entered in that case dated 12-8-48 2D17. Order was made absolute on 7-10-48 after publication in the Gazette and papers.

Order Nisi was made absolute and Mr. Peiris was directed to file oath and bond. I produce copy of the oath taken by him dated 18-11-48 2D18 and bond dated 18-11-48 2D19. Letters were issued to Mr. Peiris copy of which I produce 2D20 dated 30-11-48. 10

On 7-7-49 Mr. Fuard filed a motion as proctor for the official administrator and filed proxy of Mr. Palliyaguru and applied that he be substituted in place of the late Secretary who had retired. I produce copy of that motion, 2D21. The order made on that is "Substituted". No *Order Nisi* was ordered and no publication made in the Gazette and papers and no oath and bond filed and no letters were issued to Mr. Palliyaguru. I produce proxy dated 1-7-49 given by Mr. Palliyaguru to Mr. Fuard, 2D22. There is also a motion filed by Mr. Fuard dated 16-2-49 I produce copy of that motion, 2D23.

(Sgd.) G. M. DE SILVA, 20
D. J.

Interval.

No. 419/Z.

9-3-54.

After lunch.

M. S. Arumugam, recalled, affirmed.

On 26-11-43 Mr. Fuard filed motion, journalised on the 28th. I produce that motion marked 2D24.

On 30-1-50 Mr. Fuard filed proxy for defendant in 2565/M.B.

On 24-7-50 there is a journal entry "Answer, final date. Mr. Fuard not filing answer. Mr. Rustomjee files proxy of Ahmed Bin Hassan and state he will file papers seeking to intervene. Let him do so on 21/8". 30

On 21-8-50 Mr. Fuard having no objection plaintiff's proctor was noticed for 11/9.

On 22-8-50 Mr. Rustomjee for petitioner moves for date to file answer, etc.

On 4-9-50 Mr. Fuard moved for revocation of his proxy.

On 21-8-50 Mr. Rustomjee filed petition on behalf of Hamid and Mohamed Bin Hassan which I produce marked 2D25.

Mr. Sulaiman on behalf of plaintiff filed objections dated 2-10-50 which I produce marked 2D26. 40

I produce proceedings of 15-11-50 marked 2D27.

I produce answer filed in case No. 2565/M.B. dated 4-12-50 marked 2D28.

Re-examination. (Shown JE (28) in 5086/T) dated 27-11-43 it is an application by Mr. Fuard on behalf of the present plaintiff.

M. S. Aru-
mugam
Re-
Examination

Thereafter he filed a proxy. I have testified to those two facts.

Q. In between he filed revocation of proxy granted by Valliammai Achi?
A. I am unable to trace the revocation.

(Sgd.) G. M. DE SILVA,
D. J.

Mr. Chelvanayagam closes his case reading in evidence P1 to P15 reserving to himself the right to call evidence in rebuttal on the issues on 10 which the burden lies with the plaintiff.

No. 11

Defendant's Evidence

No. 11
Defendant's
Evidence
M. G. Bin
Ahmed
Examination

Mr. Ranganathan calls.

Mohamed Ghouse Bin Ahmed, affirmed, 42, landed proprietor, Dehiwala.

The executor of the estate of Bin Ahmed is my father. By Deed No. 2908 of 13-12-38 which I produce marked 2D29 the executor conveyed to himself personally the premises in question in this case.

On the same day by Deed No. 2909 he transferred this property to 20 me, which I produce marked 2D30.

I have a sister by name Sithy Zabeediya who married the 4th defendant Sally in this case. 2nd and 3rd defendants are the children of Sithy Zabeediya and Sally.

In consideration of the marriage between my sister and Sally I agreed to give, among other things, this property free of all encumbrances as dowry. I produce that agreement No. 3136 dated 21-12-41 attested by Mr. Zaheed marked 2D31.

The marriage was solemnised in March, 1942.

In pursuance of the agreement 2D31 I conveyed the property to 30 Sithy Zabeediya by Deed No. 1079 of 21-12-41 in consideration of her marriage to Sally; I produce that deed marked 2D32.

Sithy Zabeediya by Deed No. 2682 of 9-5-52 transferred the property to the 2nd and 3rd defendants in this case. I produce that deed marked 2D33.

From the date of the conveyance in my favour, namely 13-12-38, I possessed this property. I gave the property on rent to various people and collected rents. I have with me counterfoils of my receipt book from 1st April, 1939 to 10th May, 1940, which I produce marked 2D34. Till the solemnisation of the marriage of Sithy to Sally I possessed this pro-

No. 11
Defendant's
Evidence
M. G. Bin
Ahmed
Examination
—continued.

perty and took the rents from the time of the conveyance to me.

KM. N. SP. Natchiappa Chettiar got a mortgage of this property from me No. 2913 dated 16-12-38 which I produce marked 2D35. I mortgaged the property for Rs. 4,500/-, the mortgage was discharged on 19-8-49.

Upon the solemnisation of the marriage of Sithy to Sally I gave them the possession of the property ; I gave the key ; but the house was vacant at the time because of the Japanese air raid. From the 1st April I handed over the key to Sithy and Sally.

I know property No. 15, Kayman's Gate, in extent 1 84/100 perches, 10 from a long time. In my opinion the value of that house is over Rs. 50,000. Some time back my cousin Mohamed Bin Hassen owned that property.

I know premises No. 11, Kayman's Gate, in extent 84/100 perches. I am not aware of the present owner. In my opinion you can get about the same price Rs. 50,000/- for that. It is in the heart of the Pettah.

I know premises No. 454/5A, Maliban Street, in extent 3 78/100 perches and No. 438/10 in extent 2.55 perches. Both these premises are worth Rs. 75,000/- to Rs. 80,000/-. Their value in 1949 would have been better.

G. Bin
Ahmed
Cross-
Examination

Cross-examination. Ibrahim Ahmed's son was Ahmed Bin Ibrahim. 20 He wasn't a party to the testamentary case of my grand-father. I do not know whether my father filed an account in that case before he died.

This property came to me from my father who got it under the Last Will of my grand-father. This property is worth about Rs. 50,000/-. The deed in my favour by my father was a gift. The deed by me to my sister was in consideration of marriage. There also no money passed. I gave my sister some other property also. I gave other properties reserving this to myself ; but they wanted this also. So I gave it.

I gave my sister two properties—this property and another one in Barber Street. At the time I gave this property as a gift, in 1942, prices 30 were not so good. It was worth about Rs. 30,000/-. The Barber Street property was worth at that time also about Rs. 30,000/-. That is more of a tenement.

I also gave my sister clothes and jewellery. The value of the jewellery was between 10 and 15 thousand rupees. I did not give any cash. I gave her furniture also and clothing.

My father had four children : my sister and I another brother and another sister.

My father gave me this property by Deed 2D30. Previously he had given me about four other properties. Some of those properties, I think 40 he got from his father.

When my father died there was an administration case and I think I paid death duty also. He left a Last Will. He appointed me as executor. I administered his estate,

My father gave me this property and four other properties—two in Main Street and two others. They have been broken down now for fire gaps and I receive rent compensation of Rs. 140/-. I claimed Rs. 65,000/- damage compensation for the two properties.

G. Bin
Ahmed
Cross-
Examination
—continued.

The China Street property was also broken down. For all three properties I have claimed Rs. 65,000/-. The fourth property was an estate which I sold for Rs. 7,500 as far as I remember. I think my father was living at the time and I got his permission to sell. That is a property my father had transferred to me. I think my grand-father gave that property to my father earlier on a deed.

The two Main Street properties and the China Street property I do not know how my father got them. I cannot say whether they came under the Last Will of his father or not.

Apart from these five properties my father transferred to me he did not transfer to me any business or cash.

My father did not gift any property to my sister Sithy Zabeediya. He left her no property under his Last Will.

My brother did not give any property to my sister at the time of her marriage. My other sister who was married earlier gave certain shares of some lands to this sister at the time of her marriage. This was also in consideration of marriage. We had to give them because they wanted more dowry. My married sister gave Sithy some shares. There were some shares which my married sister gave Sithy. It was a share in the Barber Street property which I transferred to my sister. My married sister had certain shares which she transferred along with me when I transferred that property to my younger sister.

Sithy Zabeediya is alive. I do not know what made Sithy transfer this property to the 2nd and 4th defendants. May be her love and affection. My sister has one girl and two boys ; that is 2nd and 3rd defendants and another child. I am not aware whether my sister transferred any other property to her other children.

Re-examination. I do not know why my sister gave this land to the two children.

From the time I got the transfer from my father in 1938 I possessed this property as my own until I gave possession to Sally and my sister.

M. G. Bin
Ahmed
Re-
Examination

(Sgd.) G. M. DE SILVA,
D. J.

A. B. M. Sally, affirmed, 37, Proprietary Planter, 698, Colpetty.

The property which is the subject matter of this case was transferred to my wife in consideration of her marriage to me. Mr. Ghouse gave possession of the property to me. I took possession on behalf of my wife at the end of April, 1942. At that time the property was vacant. It was thereafter occupied somewhere in June. I gave it on rent to the Gugan Import and Export Co. from 1-6-42. They were my tenants until the end of December, 1943. Thereafter M. Bagawathic Pillai who carries

A. B. M.
Sallih
Examination

A. B. M. on business under the name of P. K. S. M. P. & Co. became my tenant.
Sallih Originally Gugan Co. sublet it to him. On 1-1-44 he became my tenant
Examination and thereafter he became my lessee in 1945. I produce certified copy of
—continued. lease No. 133 dated 7-12-46 for five years marked 2D36.

On the expiry of this lease I gave a further lease for a further period of five years and they are in occupation under that lease.

When my wife and I got this property I did not know that it was liable for the payment of debts. I would not have taken it if I knew this.

My wife and I also mortgaged this property I produce certified copy of Mortgage Bond No. 3363 of 10-11-49 marked 2D37. Both my wife and I mortgaged this property.

I produce Mortgage Bond No. 1580 dated 23-10-45 marked 2D38.

I produce Bond No. 2050 dated 9-8-48 marked 2D39.

These bonds have been discharged. I have mortgaged it again for Rs. 10,000/-. I forgot the name of the mortgagee. I think there is one mortgage.

A. B. M. *Cross-examination.* The last mortgage was given somewhere in 1952.
Sallih I cannot remember how long it was before my wife transferred this pro-
Cross- perty to my children. She transferred this property to my children
Examination subject to that mortgage. My mother gave my wife Rs. 10,000/- not to 20
mortgage this property, but to transfer it in favour of the minors. My
wife was wanting to mortgage this property again. In order to prevent
me from mortgaging it further my mother gave Rs. 10,000/- to my wife
and in return got her to transfer the property to the children.

I collect the rents of these properties. 2nd and 3rd defendants are 8 and 10 years old respectively. I collect Rs. 100/- rent a month. I take the rent. I have not deposited the rent to the credit of a guardianship case because I have to maintain the children.

There is another property transferred in the name of the children. That is a Colpetty property. That property was transferred to my 30 daughter. The others are two boys. With the result that my wife is left with no property. All the property which she had was transferred to her children. The second transfer was also in 1952. There were no creditors of my wife. There was a creditor of my wife in respect of the mortgage over this property. There was a mortgage over the other property for Rs. 4,500/-.

Re-examination. From the time these properties were transferred to my children I have collected the rent as guardian.

On my own I have an estate of 170 acres rubber and practically 3/4ths of Avissawella Town belong to me. 40

On both sides of the road about 40 boutiques belong to me. There was no question of the properties being transferred to avoid creditors. I am a member of the U.C. and Vice-Chairman.

(Sgd.) G. M. DE SILVA,
D. J.

M. Bagawagia Pillai, affirmed, 45, trader, Keyzer Street.

M. B. Pillai
Examination

I carry on business under the name of S. K. M. P. Bagawagia Pillai at Keyzer Street. I have been carrying on business here for about 12 years. Originally I was tenant of these premises under the Gudan Co. from 23-10-42 till the end of 1943. From 1-1-44 I was the tenant of A. P. M. Sally. I was first a monthly tenant under Sally. Thereafter I got a lease of the property. The first lease was No. 133 of 17-12-46 for five years. On expiry of that lease I entered into a further lease. I produce lease No. 220 dated 21-1-52 marked 2D40. I am in occupation of the 10 property up to date under this lease. I pay rent to Mr. Sally.

Cross-examination. Nil.

(Sgd.) G. M. DE SILVA,
D. J.

Mr. Renganathen closes his case reading in evidence 2D1 to 2D40.
Further hearing on 26th May, 1954.

(Sgd.) G. M. DE SILVA,
D. J.

No. 12

No. 12
Addresses to
Court

Addresses to Court

20

26-5-54.

Trial resumed.

Same appearances.

Errors corrected of consent.

Mr. Ranganathan addresses Court.

This is a 247 action brought by the plaintiff as executrix 2565/M.B. of this Court is the original action where writ was issued. Ultimately it became a money action. Plaint P9 and JE P11. Action was filed on the mortgage bond of 21-5-35. Plaint was filed on 21-11-49. From the pleading it would appear that there was no payment of interest after 1938. 30 Clearly it was a prescribed plaint. Somehow or other they got a decree on an alleged *ex parte* hearing on a prescribed plaint. Is the decree in this case entered properly against the estate of Hadjie Ibrahim Bin Ahmed, because they were seeking to seize a property belonging to his client on the basis that it once belonged to the estate of the deceased and continued to be liable for a debt against the deceased. The decree cannot be canvassed in this case if it was properly entered against the administrator of the estate of the deceased except on the ground of fraud.

No. 12
Addresses to
Court
—continued:

In this case there is no decree entered against a person to whom letters have been issued. Here the action has been brought not against a legal person the Secretary of a Court is not a legal person ; secondly the Secretary of the Court did not get letters from the estate of deceased. The question is whether the Secretary of the Court as administrator of the estate had letters. Even if he had letters is he a person who can be sued in a Court of law. Submits the man must be personally sued. If the letters had been issued to the Secretary of the Court personally, submits he must be sued as Mr. So-and-So, Secretary of the Court.

There are earlier decisions than that in 51 N.L.R. 90 where it was 10 held that the Secretary of a Court cannot be sued. Submits that in this case even the Secretary did not get letters. The only order was that Mr. Palliaguru should be substituted in place of the Secretary, but no letters were issued. It was an estate in respect of which no letters were issued to anyone at the time the action was brought on the mortgage bond *vide* 2D1 original application made by present plaintiff as a creditor to appoint the Secretary of the Court for the administration of the estate. Mr. Emmanuel, Secretary, filed motion 2D4. Beyond entering *Order Nisi* nothing happened with regard to the appointment of Mr. Emmanuel as Secretary of the District Court. 20

On 19-5-50 Mr. Kolanduvelu asked for substitution of a person who did not exist. *Vide* 2D7 to 2D9 and 2D10. Submits that Mr. Kolanduvelu was appointed by virtue of the fact that he held the office of Secretary. *Vide* 2D11 to 2D20. Mr. Peiris' appointment was by name, personally. No doubt he held the office of Secretary.

On 7-7-49 Mr. Palliaguru filed motion asking to be substituted and order was made substituting him. Thereafter nothing has happened in regard to the appointment of Mr. Palliaguru.

Submits there is no provision in our Code for striking out the name of one administrator and putting down the name of another by way of 30 substitution. You can recall letters issued to a person and grant letters to another. The only way by which a person can become administrator is by actually getting probate and getting letters of administration issued to him.

No letters were issued to Mr. Palliaguru on 7-7-49. So that the position is that when action 2565 was brought on 23-11-49 there was no grant of letters.

Two positions arise : letters were issued to Mr. Peiris. Either that appointment subsists or did not. Submits the order of Court substituting Mr. Palliaguru is an order recalling letters to Mr. Peiris. Assuming that 40 the letters to Mr. Peiris subsisted and that Mr. Palliaguru was a nullity, even then the action was not brought against the administrator of the deceased but merely against the Secretary of the District Court, Colombo. Mr. Palliaguru filed proxy and thereafter he dropped out of the case for some reason and decree was entered *ex parte* on a prescribed bond. This action was really an attempt to get a property specifically devised by the

deceased. But the action was filed as on a mortgage bond. In the mortgage bond action they did not want a hypothecary decree. They asked for a money decree. Submits Mr. Palliaguru who filed proxy in the case had no right to do so because he was at no time clothed with the office of administrator. Mr. Peiris who held the last appointment was not made a party to the action. The Secretary, District Court, is appointed as administrator of an estate under Section 520. Submits in regard to the appointments of Kolanduvelu and Peiris there was no evidence placed before the Court that there was no other fit and proper person. They presumed that Mr. Emmanuel was appointed and asked for substitution. As a matter of fact Emmanuel was not appointed. The Secretary's appointment under Section 520 must be by office and not by name. If the Secretary of the District Court, Colombo, is a corporation sole or a quasi-corporation sole it does not matter who holds that office. The moment there is a Secretary immediately he becomes administrator. That would not be the correct view. When Section 520 speaks of the Secretary of the District Court, Colombo, it refers to the person holding that office.

Unless the Secretary is a corporation sole created by statute there is no provision either in the C.P.C. or the law by which he can be made a corporation sole. Assuming that the Secretary of the District Court, Colombo, could be appointed as such by name and that he is a corporation sole, the question of fact is whether the Secretary was appointed in case No. 2685 as administrator in that case. The only application to appoint the Secretary was that originally made by Mr. Emmanuel. The Court made order appointing the Secretary of the Court as administrator. That order was not implemented beyond the publication of *Order Nisi* it was not made absolute and in fact no letters were issued to the Secretary of the District Court. The appointments of Mr. Kolanduvelu and Mr. Peiris were issued to so and so Secretary, District Court, Colombo. In 1949 the application of Mr. Palliaguru for substitution was made. Beyond the order for substitution no letters were issued to Mr. Palliaguru by name. The natural result is that no letters were ever issued to the officer called the Secretary of the District Court. Even if one relies on the judgment in 51 N.L.R. 90 unless he has probate or letters of administration nobody can say that he represents an estate. The letters alone clothe him with authority to file action or be sued. Cites 44 N.L.R. 301. As no letters were issued to the Secretary, District Court, Colombo, the mortgage bond action filed against him was no action.

Is the Secretary of the District Court, Colombo, a corporation sole? In the Code wherever the Secretary is referred to it says "or the Chief Clerk". If the Secretary becomes a corporation sole the Chief Clerk becomes equally a corporation sole. A corporation sole can only be created by statute. Cites 11 N.L.R. 34. Submits that this case and the minutes referred to therein are binding on the Court. There is no justification for the view that the Secretary of the District Court, Colombo, is a corporation sole.

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Cites 14 N.L.R. at 100. Submits it was not in the contemplation of the legislature that the Secretary of the District Court was a corporation sole under Section 751. But for this provision the succeeding Secretary could not have got any letters. Sections 56, 78, 214, 521 and 751 show that it was never contemplated that the Secretary was going to be some kind of corporation sole. Section 521 provides for the taking of security from the Secretary of the Court. What is contemplated is the taking of security from the individual at the time. Messrs. Kolanduvelu and Peiris personally entered into a bond.

If the Secretary is a corporation sole the Chief Clerk is equally a corporation sole under Section 56.

Cites 51 N.L.R. 90 application to set aside a sale on the ground that there was material irregularity in the conduct of the sale. It was held there was a material irregularity in the publication. Their Lordship decided the appeal on the only ground that there was an irregularity in the conduct of the sale. Having decided the appeal on that ground they recorded their opinion on the appointment of the Secretary. This is not a matter binding on the Court. Submits it was never their intention that this should be a binding authority. Unfortunately the judgments in the 11 and 14 N.L.R. cases do not appear to have been before their Lordships when this matter was argued. If those judgments were cited it is likely that they would have been referred to at least. Even Section 751 does not appear to have been dealt with. In the absence of citation of authority which exists and the citation of relevant facts they recorded their opinion as they felt at that time.

Submits that if these authorities and Section 751 were brought to their notice the decision might have been different. He submits that this Court should follow the judgment in the unreported case referred to in 11 N.L.R. Mr. Ranganathan tenders a certified copy of the judgment in question. The Secretary has to assign the bond to a successor. So long as there is no assignment of the bond the person who can sue is the legal successor on the bond.

In this case there are no letters addressed to the Secretary of the District Court, Colombo. The only letters were issued to were to individuals who held that office. It would appear that their Lordships were only giving their opinion in 51 N.L.R. There is no power to recall the letters given to a Secretary when he relinquishes office. Submits, when a Secretary is appointed to an office by name the mere fact that he ceases to hold the office of Secretary would not terminate his office as administrator because he will have to account and various other steps will have to be taken before he can relinquish. Section 839 gives the inherent power to the Court to recall the appointment.

Submits it is impossible to use Form 90 in regard to the Secretary of the District Court and also as administrator. Form 90 seems to support the view that what is contemplated is the appointment of the individual and not the Secretary. Their Lordships were compelled to the conclusion

that the Secretary was not a corporation sole, but they say that they presume that, that was what the legislature intended. One does not find a corporation sole not created by statute.

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Appointment of Mr. Emmanuel—in the petition and affidavit filed they merely state the fact that Mr. Emmanuel had been appointed administrator of the estate. That the earlier Secretary had ceased to be Secretary of the District Court, Colombo, and therefore Mr. Emmanuel should be appointed. Submits there is no provision under the Code for substitution of that kind. If the Court did make substitution it was with-
10 out jurisdiction and therefore null and void. A person has to prove certain facts before he can get the Secretary of the District Court appointed. Cites 47 N.L.R. 301.

Certain facts were not placed before the Court — *vide* 2D7. Mr. Kolandavelu did not even file a petition and affidavit. The subsequent affidavit stated no facts whatsoever. Even the original petition and affidavit 2DI filed by Mr. Emmanuel does not have the averment that there is no other fit and proper person to be appointed administrator. This is so in every appointment.

Action 2565 (P9 & P11) was originally a mortgage action seeking a
20 hypothecary decree for the sale of two properties described in the Schedule to the plaint. They also asked for a money decree pure and simple against the defendant. Summons were served on the defendant Mr. Palliaguru, who filed proxy. Thereafter on 11-9-50 Proctor Rustomjee for two parties filed petition and affidavit challenging the decree entered in the case and claiming that the two properties which were specifically devised should not be sold. *Vide* P12 and proceedings of 7-12-51 submits the decree absolute against the defendant in that case is null and void because it
30 ceased to be a hypothecary action when the mortgaged property was withdrawn from the mortgage bond. *Decree Nisi* should have been entered. It is not a mere irregularity. It is an illegality. It still remains a void decree.

At best a *Decree Nisi*. The bond sued on is not a debt incurred by the deceased. It is a debt incurred by the executor with the permission of Court for the due administration of the estate and to exercise that power he mortgaged certain specific properties for that debt. There is authority for the proposition that even if a property is transferred to third parties by the heirs or executors a creditor of the deceased could pursue the property. Submits that that principle does not apply to a case of a debt incurred by the executor for the purpose of administration. No
40 doubt that is a debt payable by the estate. The creditor can move in the Testamentary case. Where a debt is incurred by a deceased and there are properties left by the deceased even after the properties are transferred to third parties the creditors have a right to go against them. On the death of the deceased there was some kind of charge in favour of the creditors. That right having accrued at the time of death the subsequent transfers cannot affect that right. There is a difference where the debt is a debt incurred by the administrator or executor for the purposes of

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administration of the estate. It is not a debt of the deceased but a debt incurred by the administrator, no doubt payable out of the estate of the deceased. It is only when the creditor gets a decree can the property of the judgment-debtor be seized. If the judgment-debtor between the incurring of the debt and the seizing of the property has transferred the property to third parties that property cannot be seized except by an Paulian action.

In this case it is significant that they have not brought an Paulian action. They come on the simple footing of a debt incurred by the Secretary on a mortgage bond on which they have a decree. 10

On 19-12-52 was this property the property of the estate ?

The simple answer is No. It cannot be contended that the transfers and donations are null and void merely because the creditor had a debt.

He has no right to seize and sell this property because it is not a property belonging to the estate. Cites 39 N.L.R. at 91.

2nd to 4th defendants at the date of seizure had acquired prescriptive title to the property because the property was devised on 13-7-23 by P1c. By 2D29 the executor conveyed the property to himself. By 2D30 he conveyed the property to his son. By 2D31 and 2D32 the son gave the property to his sister in consideration of her marriage. By 20 2D33 she sold it to the present defendants. The evidence shows that from the time of the transfer to Mohamed Ghouse the property has been possessed by him and his successors adversely up to date. The plaintiff in this case himself took a mortgage from Mohamed Ghouse (2D35) recognising his title. Other leases and mortgage bonds are 2D36 to 2D40. From 1938 this property has been adversely possessed. Submits, the mere fact that a creditor of an estate has a right to go against the property of a deceased person, it is not a right that can exist for all time against all properties. Submits, this has ceased to be a property of the estate and no creditor can go against it. A creditor can go against the 30 property of the estate only if it remained the property of the estate at the time of the seizure. Cites Brown's Reports, Vol. 2, p. 277.

2D1 is the original application of the executrix for the appointment of the Secretary. The proctor in the application was Mr. Fuard. The plaint in 2565 is filed by Mr. Sulaiman and the defendant's proxy is filed by Mr. Fuard. Submits the whole thing was an arranged transaction to deprive these people of their property.

Mr. Chelvanayagam replies :

It is open to a creditor of an estate to move for letters of administration to be issued to the creditor himself. If the letters are issued to him 40 in the process of administration it is open to the creditor to sell the properties that belong to the estate and appropriate to himself his debt provided that the debt is due. It would be fraudulent on his part to pay himself a debt not due. If it is open to a creditor to apply for letters to be issued to him it will equally be open to him to apply that letters be issued to a particular creditor or the heir or the Secretary of the District

Court. Such an application is quite regular and not tainted with fraud. It would be fraud if he tried to get out of the estate moneys not due to him. It would be fraud if he colluded with the administrator who may be an heir or official administrator to pay himself moneys not due to him. If Mr. Fuard made an application for the creditor that letters be issued it was open to Mr. Fuard to have asked for letters to be issued to Valli-
 amma Atchi herself. It would have been open and in order for Mr. Fuard to file proxy of the creditor to whom letters of administration have been issued. Therefore it was quite in order for Mr. Fuard to have applied
 10 for letters to be issued to the Secretary of the Court and once he has been issued with letters to have appeared for the Secretary as proctor. It is open to a friendly creditor to petition against the insolvent. It would be fraudulent if that creditor proved a fictitious debt. Being friendly and coming on a debt that exists for the purpose of assisting the insolvent to get through the proceedings is not fraudulent. In the result all the questions about irregularities and proxies being filed for different parties are only material if in substance they have made an attempt or succeeded in an attempt to pay to the creditor money not due. If judgment was entered for money actually due there was no question of fraud. The
 20 question is whether the money was due to the creditor or not.

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Submits, substantially the plaintiff is a creditor for good money actually lent to the estate in the course of administration to the executor and that judgment has been properly obtained against the estate and he is entitled to seize a property that belonged to the estate now in the hands of the defendants. Submits, no technical flaw or error stands in the way of his recovering his debt from the property which belongs at present to the defendants.

Jurisdiction. If the District Court which has innate jurisdiction to appoint administrators has appointed an administrator the question is
 30 not a question of jurisdiction to appoint but the question of irregularity or regularity of proceedings followed by the Court in appointment the administrator. If the Court has exercised the jurisdiction vested in it in appointing an administrator and if there had been any irregularities in that administration it is open for the proper parties to correct those irregularities taken in these proceedings. It is not open to anybody or everybody to come into Court and tear open decrees and appointments made on the ground of irregularity. An order made without jurisdiction injurious to a third party it is open to that party to say so. It is open to the defendants to state that this writ flows from a decree entered by a
 40 Court without jurisdiction. But it is not open to the defendants to say that in the orders that have been made for appointing an administrator in a particular case in respect of which the Court had jurisdiction that that appointment has been irregularly made.

If that appointment has been irregularly made it is open to a party who is a party to that proceeding, or a party entitled to intervene in that proceeding to intervene and get that order set aside either by application to the original Court or by appeal or by way of revision. In certain

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matters a Court is invested with jurisdiction right from the beginning. In certain other matters a Court is invested with jurisdiction when certain preliminary matters have been ascertained. The ascertaining of the preliminary steps or matters also lies within the jurisdiction of this Court. In order to clothe itself with jurisdiction the Court will have to go through the preliminary stage of ascertaining the preliminary matters which require an order. If the Court does not take those preliminary steps then automatically the Court does not invest itself with jurisdiction. But if the Court goes through the preliminary proceedings and makes a right order or wrong order then the Court invested itself with jurisdiction 10 by going through the preliminary proceedings and making the preliminary order. That preliminary order may be subject to revision in a proper proceeding for appeal or review by the proper Court. But provided that the Court had gone through the preliminary matter in order to invest itself with jurisdiction and come to a right decision or wrong decision and invested itself with jurisdiction, it is not open to anybody outside to attack the steps or the proceedings.

Interval.

(Sgd.) G. M. DE SILVA,
D. J. 20
26-5-54.

After lunch.

Mr. Chelvanayagam continues his address :

On the question of jurisdiction, there are cases where some preliminary step has been gone through before the Court vests itself with jurisdiction. Where such preliminary steps had not been taken the Court has not vested itself with jurisdiction. You cannot say under Section 520 if the Court has made a wrong order in appointing the Secretary as administrator that the Court should have appointed some other person that that order was made without jurisdiction. The Court has jurisdiction to appoint an 30 administrator vested in it by the Courts Ordinance. A party has to come to Court with a plaint and invoke the jurisdiction of the Court for the settlement of any dispute. The Court has unlimited jurisdiction in respect of matters which are governed by Section 9. Section 520 is a section in the chapter which deals with testamentary actions. In respect of the estate of a deceased person Section 518 would be the section applicable to the facts of this case for the purpose of invoking the Courts jurisdiction. If an executor ceases to function the Courts jurisdiction has not been removed and will continue. In the exercise of its jurisdiction if the probate has been revoked or an executor dies the Court is empowered to 40 make further orders for the purpose of administration. Some orders may be made wrongly but they are not made without jurisdiction. There is no wrong order in this case. Once the executor ceases to exist and administrator *De Bonis Non* has to be appointed. The Court may choose the right person or the wrong person and might wrongly choose the Secretary to be appointed but that is a mistake in the order and not an

order without jurisdiction. Under Section 520 the Court could appoint the Secretary under those conditions mentioned there. Jurisdiction of the Court is vested by the Courts Ordinance and invoked by the proper papers which have been filed. Submits, therefore, that the argument that the appointment of the Secretary of the Court was without jurisdiction is without foundation.

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Next comes the main contention of the other side that plaintiff has not got a judgment against the estate of the deceased. Counsel admits that if he does not have a proper judgment against the estate of the deceased he cannot execute that judgment against the properties which belong to the estate. To get that judgment he has got to get it against the person representing the estate by order of Court. That would be the foundation on which he could base his claim. The judgment he is seeking to execute is a judgment against the Secretary of the District Court. Mr. Renganathen's contention is that under Section 520 it was not open to the plaintiff to get this judgment against the Secretary of the District Court. Mr. Renganathen's argument is that the person to be appointed must hold the office of Secretary and the Secretary is not a corporation sole. The view is possible that the person to be appointed is an individual Mr. A or B. The other view is that the person to be appointed is an officer, namely, the Secretary as one sues the Attorney-General irrespective of the person, who is either a corporation or in the position of a corporation for all legal purposes. In respect of these two views the view that has been taken by Justice Basnayake and Justice Gratiaen is not an obiter.

It is a view that is entitled to the utmost respect and that is the correct view. Submits the 14 N.L.R. judgment is not against it. Justice Gratiaen ultimately came to the view that the action should succeed by the Secretary for the time being and falls into line with the judgment of the Chief Justice. If he cannot show that the proper administrator is the Secretary for the time being he is out of Court says counsel. But where the appointment is made under Section 519 the appointment is of the Secretary irrespective of who holds the office and if the appointment has been made in that way irregularities in the way he is appointed or described will not matter on the face of the Privy Council judgment and in view of the 51 N.L.R. case. Counsel refers to the 51 N.L.R. case. In that case the succeeding Secretary took the view that he should have been appointed administrator in succession. That is the view taken by Mr. Renganathen now. He is referring to this to show that according to this judgment the appointment of the Secretary is of the officer irrespective of the person and that is the basis on which the whole judgment. In that case letters had been addressed to the individual by name. Even where there has been an irregularity in the letters by addressing them to the individual the Court has taken the view that in substance it has been the appointment of the Secretary because that is the correct view on Section 105. Irrespective of the manner the letters were worded in substance it was taken to be the appointment of the Secretary for the time being. Section 520 is interpreted to mean the appointment of the Secre-

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tary for the time being. This judgment shows that Justice Basnayake is not delivering an opinion he delivers a judgment on the contention that the Secretary is not the proper party. In other words he automatically succeeds into the position held by the previous Secretary by virtue of his office as Secretary.

In the case of the Attorney-General he is a person in the position of a corporation sole but in the case of the Secretary counsel admits the position is not very clear, but there is a recent judgment by two judges of the Supreme Court whose opinion is entitled to respect but apart from that on the facts of the case and the circumstances in which the decision was made that decision is nearer in point. Mr. Renganathen has cited three judgments. The more important case is the 14 N.L.R. case. That case is not against the view expressed by Justice Basnayake in 51 N.L.R. Mr. Justice Basnayake says that the Secretary is not a corporation sole but that is unnecessary. There are corporations and quasi-corporations. Quasi-corporations are not corporations in the strict sense of the word but for all purposes they are corporations. In that case it was the Secretary or the Secretary for the time being. The true interpretation of a statute will not permit the Schedule to allow the main section to be interpreted. In the later part of the judgment Wood Renton, J. says there are cases where the form and the schedules have to be taken into consideration and he comes to the view that the Secretary for the time being was intended by the legislature to be the person who is capable of taking a bond and suing on it. This is not a case in point but it supports the contention that under Section 520 the person to be appointed as Secretary of the Court or Secretary for the time being and also holds that the statute meant to take in such persons who are to come in, in the future, as Secretary. This judgment which in substance is the same as Justice Wood Renton's does not contract Justice Basnayake's judgment who goes further and interprets that section to mean that the Secretary of the District Court referred to is the Secretary for the time being.

Counsel reads Justice Wood Renton's judgment. Submits therefore that this judgment shows the development of thought that has culminated in Justice Basnayake's judgment in 51 N.L.R. and the Secretary for the time being is the proper person to take the bond. In that view the letters issued to Mr. Kolanduvelu when he functioned as Secretary in the same way that letters issued to Mr. Kanagaratnam and his successor in office would have taken the place of Kolanduvelu without fresh letters. But when Mr. Kolanduvelu was succeeded by Mr. Peiris letters issued to Mr. Peiris which was unnecessary but harmless. By the time Mr. Peiris vacated office Mr. Basnayake's judgment has been delivered and Mr. Palliaguru assumed office. The proctor probably became aware of Justice Basnayake's judgment and did not think it necessary to take out letters afresh. Mr. Renganathen says that judgment was delivered later in 1951. Mr. Chelvanayagam says the 51 N.L.R. case judgment was delivered on 12-4-49 and Mr. Fuard's motion to substitute Mr. Palliaguru is dated 7-7-49.

In the result Mr. Palliaguru when he became Secretary automatically became the administrator of this estate and he was sued and judgment was obtained against him and that binds the estate and is a good judgment against the estate. The fact that Mr. Palliaguru did not defend it and did not raise the plea of prescription will not help Mr. Renganathen's clients. The only point that will help him as if Mr. Palliaguru and plaintiffs colluded to commit a fraud to make the estate pay an amount which was not in fact due. In respect of that matter that this money was actually due there are the documents. P3 the application dated 10-5-35 by the then executors predecessor in title and the defendant for permission to sell the property to pay debts and for permission to mortgage this property.

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That permission was given and in support of that application P3A an affidavit was filed by the executor and P3B is the journal entry and P4 the bond which recites the fact that Rs. 30,000/- being lent to the estate on permission of Court being granted and that matter is not open to doubt. Nothing has been shown to falsify plaintiff's position that actually money was lent by plaintiff to obtain the bond. No question of fraud.

With regard to an executor's contract in Ceylon and the extent to which it binds an estate refers to (1871) *Gavin vs. Haden*, 8 Moores Privy Council Rep. 19. This shows the powers of an executor in Ceylon to bind the assets of an estate, 43 N.L.R. 89, 45 N.L.R. 335.

There is one position which has been submitted which on the face of it is sound but is not really so, that is prescription. Nobody questions the title of the parties. But that title is a defeasible title on behalf of the creditors. It is defeasible so long as a judicial settlement of the estate to which the creditors are parties is brought to a conclusion whereby all debts are paid and the balance distributed or the creditor's debt is alive. You do not prescribe against a property to which you have title. Defendants possession ensures to the benefit of the estate against third parties.

(Sgd.) G. M. DE SILVA,
D. J.

Judgment on 21-6-54.

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Judgment of the District Court

No. 13
Judgment of
the District
Court
5-7-54

5-7-54.

JUDGMENT

The plaintiff in this action is the executrix of the Last Will and Testament of KM. N. SP. Natchiappa Chettiar, now deceased. She in her capacity as executrix, obtained a decree in case No. 2565/M.B. of this

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Court against the estate of the deceased Hadjie Ibrahim Bin Ahmed for a sum of Rs. 45,431/- with interest at 8 per cent., and on a writ issued in execution of the decree in that case the Fiscal seized the property described in the Schedule to the plaint.

The 1st and 2nd defendants in this action, who are minors, by their *Guardian-ad-litem*, the 4th defendant, successfully claimed the property seized. The plaintiff has now instituted this action under Section 247 of the Civil Procedure Code seeking a declaration that the property seized is liable to be sold under the decree in her favour.

For the proper appreciation of the various issues arising in this case 10 it is necessary to state briefly some important facts relating to the administration of the estate of Hadjie Ibrahim Bin Ahmed and the events which led to the institution of case No. 2565 against the said estate by the plaintiff, Hadjie Bin Ahmed died leaving a Last Will which was admitted to probate in Testamentary Case No. 5686 along with three codicils, and probate was issued to the testator's son, Ahmed Bin Ibrahim, the executor named in the Will. In the Testamentary case the executor applied to Court for sanction for sale of certain properties of the estate for a sum of Rs. 75,000/- and to raise a loan by hypothecating certain other properties.

In support of this application the executor filed an affidavit setting 20 out the necessity for the sale and mortgage of these lands. The Court granted this application on 10-4-35. The executor borrowed Rs. 30,000 from KM. N. SP. Natchiappa Chettiar and executed mortgage bond No. 2402 dated 21-5-35 (P3) hypothecating four allotments of land described in the Schedule therein. The executor Bin Ahmed Ibrahim died in 1940 without fully administering the estate and the heirs of the deceased testator although noticed, took no steps to have an administrator *De Bonis Non* appointed. After about three years on 27-11-43 the attorney of the executrix of Natchiappa Chettiar's estate, in whose favour the mortgage bond had been executed, moved that the Secretary of the District Court 30 of Colombo be appointed the administrator *De Bonis Non*. This application was allowed and *Order Nisi* was entered made returnable on 15-6-44. In the meantime, before the *Order Nisi* could be made absolute, Mr. Emmanuel the Secretary of the District Court who had applied for letters, relinquished his office as Secretary. The successor Mr. Kolanduvelu moved that he be substituted as official administrator. On this application the Court ordered a fresh *Nisi* to be issued and this was done. On 5-7-44 after its due publication in the Government Gazette and the local paper, it was made absolute.

It is necessary to set out in some detail the various steps taken in the 40 Testamentary case after the death of the executor Bin Ahmed Ibrahim as one of the major issues in this case is whether the estate of Hadjie Bin Ahmed was properly represented in the Mortgage Action No. 2565. Letters of administration were issued to Mr. Kolanduvelu on 12-10-44 and he was directed to file the final account. A citation on all the heirs was issued at the instance of the official administrator but this citation

could not be served on some of the heirs. On 14-5-46 citation being not re-issued on those who were not served no order was made and no steps were taken in the case till 11-8-48. By then Mr. Kolanduvelu had retired from service and Mr. M. N. Peiris had succeeded him as Secretary of this Court. Mr. Peiris filed petition and affidavit and moved that he be appointed official administrator and be substituted in place of Mr. Kolanduvelu, and *Order Nisi* was entered on this application and was made absolute on 7-10-48. Letters of administration were issued to Mr. Peiris on 18-11-48, and he was directed to file the final account. In the meantime Mr. Peiris too retired from his post as Secretary and Mr. Palliaguru succeeded him. Mr. A. M. Fuard filed his proxy for Mr. Palliaguru on 7-7-49 and moved that he be substituted in place of Mr. Peiris, retired. This application was allowed and Mr. Palliaguru substituted. In his case no *Order Nisi* was entered and no letters of administration issued to him. It was at this stage that the mortgage bond executed by Ahmed Bin Ibrahim, the executor, was put in suit by the widow of Natchiappa Chettiar, the mortgagee, as executrix of his estate. The plaint in that action was filed on 21-1-49 against the Secretary of the District Court, Colombo, as administrator *De Bonis Non* of the estate of Hadjie Ibrahim Bin Ahmed.

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—continued.

20 It is now necessary to follow the course of that action. The defendant appeared on summons on 30-1-50 and was given a date to file answer. On 14-7-50 Mr. Fuard, the proctor for the defendant appeared and stated that the defendant was not filing an answer, and on the same day Mr. Rustomjee filed a proxy from two persons, Ahmed Bin Hassen and Mohamed Bin Hassen, two sons of Hadjie Ibrahim Bin Ahmed, and stated that his clients were seeking to intervene in this action and asked for a date to file the necessary papers for that purpose. This was allowed. On 21-8-50 Mr. Rustomjee filed petition and affidavit of the said two persons wherein they stated that they had an interest in the action in
30 that the lands Nos. 1 and 2 in the mortgage bond had been specifically devised to them by their father and they attacked the mortgage bond on several grounds. They also stated that they had a suspicion that the defendant in the action would not take necessary steps to defend the action as his proctor, Mr. Fuard, was the proctor for the plaintiff in the action in certain proceedings he had taken in the Testamentary case of Hadjie Bin Ahmed. The plaintiff objected to this intervention being accepted and the intervenients being added as parties to the action. The matter came up for inquiry on 15-11-50 when the two petitioners who sought to intervene in the action withdrew their application. The proxy
40 granted to Mr. Fuard by the defendant, the Secretary of the District Court, was revoked and Mr. Rustomjee, the proctor for the petitioners who sought to intervene, filed a fresh proxy from the defendant, and the defendant who had earlier stated that he was not filing an answer was given a date to file his answer. The answer was filed on 4-11-50 and the case was set down for trial. The case came up for trial on 24-10-51. Although the two petitioners who sought to intervene withdrew their application, an appearance had been entered on their behalf on the trial

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date. Mr. Rustomjee, Proctor for the defendant, had stated that he was not appearing for him that day. An agreement had been arrived at between the two petitioners, and the plaintiff whereby the plaintiff agreed to release the properties Nos. 1 and 2 in the Schedule to the mortgage bond which had been specially devised to the two petitioners. Plaintiff also agreed that a hypothecary decree shall not be entered in respect of these two properties, and also not to proceed against the two properties in execution of the decree to be entered in this case.

As was stated earlier four lands with buildings thereon had been hypothecated to secure the loan of Rs. 30,000/-. In the plaint in the mortgage bond action it was averred that the executor of the estate of Hadjie Bin Ahmed had paid the mortgagee Rs. 5,000/- out of the Rs. 30,000/- lent and in consideration of that payment the mortgagee released the lands Nos. 3 and 4 in the Schedule to the mortgage bond, and hypothecary decree was asked for only in respect of lands Nos. 1 and 2. On 24-10-51 the plaintiff agreed to release lands Nos. 1 and 2 also and, therefore, withdrew her prayer for a hypothecary decree in respect of all the four lands in the mortgage bond action. The action then became a claim only for money lent. On the day the above agreement was entered into the Court fixed the *ex parte* hearing of the case of 26-11-51. On that date the plaintiff and her proctor were absent and the Court directed an affidavit to be filed and move for judgment. On 7-12-51 the affidavit of the plaintiff was filed and on that order was made to enter decree as prayed for. It has to be noted that although the action was now limited to a money claim no *Decree Nisi* has been entered in the first instance. It is in execution of this decree entered on 7-12-51 that two properties, the subject matter of this action, have been seized. This decree has been attacked on several grounds which will be considered now.

It is submitted that the Secretary of the District Court who was sued in the mortgage bond action was not a properly appointed legal representative of the estate of Hadjie Bin Ahmed, and the decree entered in that case does not bind the estate. This submission is made on two grounds ; first that no letters of administration at any time had been issued to Mr. Palliaguru to clothe him with the authority of an administrator, second, that in any event, Mr. Palliaguru should have been sued in his personal and not in his official capacity. Section 520 of the Civil Procedure Code empowers a Court to appoint the Secretary of the Court as administrator where there is no fit and proper person to be so appointed. The question arises when a Secretary is appointed administrator whether every successor of his in office should be appointed administrator over again and fresh letters of administration issued to him or such successor automatically becomes administrator by virtue of his office. The answer to this question depends on whether it is the individual who holds the office of Secretary who is appointed or the person who is functioning as Secretary for the time being in his official capacity. This question came up before the Supreme Court in *Samarasekere vs. The Secretary District Court, Matara* (51 N.L.R. 90) where it was held that Section 520 of the

Civil Procedure Code contemplates the appointment as administrator of the Secretary of the Court and not of the individual holding the office. Basnayake, J. in the course of his judgment states :—

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—continued.

10 “ Although the Secretary of the Court is not a corporation sole in the true sense of the term, having regard to the fact that the Civil Procedure Code provides for the appointment of the Secretary of the Court as administrator, it may safely be assumed the legislature intended that the Secretary of the Court should possess all such attributes of a corporation sole as are necessary for the proper discharge of all functions qua administrator.”

The case reported in 14 N.L.R. 100 cited by counsel for the defendants does not in any way conflict with this view. In this view of the matter when once the Secretary of the Court has been appointed administrator and letters of administration issued to him his successor in office automatically takes his place as administrator and no fresh letters need be issued to him. In this case Mr. Kolanduvelu was the first official administrator and letters were issued to him on 12-10-44. Although letters have been addressed to him as an individual it must be deemed that they were addressed to the Secretary of the District Court as contemplated in Section 20 520 of the Civil Procedure Code. There was no necessity for a fresh appointment after his retirement and fresh applications and appointments made after the retirement of each Secretary must be considered redundant. The Secretary of the District Court, Colombo, was the administrator *De Bonis Non* of this estate when the mortgage action was instituted and the action against him, therefore, is properly constituted and the decree entered in the case binds the estate. It is pointed out that when the plaintiff in the mortgage action agreed to release all mortgage property and abandoned his claims for a hypothecary decree a *Decree Nisi* and not a decree absolute should have been entered in the first instance as provided 30 for by Section 85 of the Civil Procedure Code. Therefore the decree entered in the mortgage action is bad. Lord Justice James in *Gavin vs. Hadden*, a case decided by the Privy Council, states as follows :—

“ It is not the province of a fresh suit to show irregularity or error of judgment or of law in another suit. Otherwise there would be no end of litigation.” (Moore’s Reports, Vol. 8, p. 116).

In my view the entering of a decree absolute in the mortgage action is only an irregularity and cannot be made the ground of a collateral attack on the decree. It would be otherwise if fraud in obtaining the decree is alleged.

40 There is also an allegation of fraud and an issue has been framed on that plea in the answer. On 27-11-43 Mr. Fuard filed a proxy on behalf of the present plaintiff in Testamentary Case No. 5866 and asked that the Secretary of the District Court be appointed administrator *De Bonis Non* and later he filed proxy of all the Secretaries subsequently appointed including that of Mr. Palliaguru, the Secretary when the mortgage bond action was instituted. It is said that Mr. Fuard was interested in the

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plaintiff and in acting as proctor for the official administrator he had not given the best advice as to the defences to be set up in the mortgage action, and that at one stage in that action, on the advice of Mr. Fuard, defendant did not even file an answer. Mr. Fuard in 1943 had made an application on behalf of the plaintiff in the Testamentary case for the purpose of getting an administrator *De Bonis Non* appointed. Even if it was improper for him to appear for the official administrator in the mortgage action subsequently no prejudice had been caused thereby as his proxy was revoked before trial and the official administrator actually filed answer through Mr. Rustomjee.

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The only defence which appeared to have been available in the mortgage action was a plea of prescription. It was averred in the plaint that Rs. 5,000/- had been paid when two lands were released and subsequently another payment made. It is not stated in the plaint when these payments had been made. It is possible that it was later discovered that the payments had been made within 10 years of the institution of the action. The mortgage action was instituted in November, 1949 (*vide* P9). In the petition submitted by the two intervenients who sought to intervene in the action it was stated that the executor had sold the lands Nos. 3 and 4 in the mortgage bond on 28-2-39 (*vide* P7) and it may be that the money 20 was paid to the mortgagee immediately after this sale. However that may be there is no evidence to justify a finding that the plaintiff and the defendant acted in collusion and the decree in the mortgage action was obtained by fraud.

The next question is whether the property seized is liable to be sold in execution of the decree entered in the mortgage action. This property is situated at Keyzer Street, Pettah, now bearing assessment No. 238, and by codicil of 21-1-35 it was specially devised by the testator to his son Ahmed Bin Ibrahim, the executor. He by Deed No. 2908 (2D29) of 13-12-38 as executor, conveyed the property to himself. About this time 30 he had granted conveyance of other lands to the other beneficiaries to whom they were specially devised. The Testamentary proceedings had commenced in 1931 and by 1938 they had almost come to an end. Only the final account of the executor had to be filed. Ahmed Bin Ibrahim gifted this property by Deed No. 2909 of 13-12-38 to his son Mohamed Ahmed Ghouse. Ahmed who on the occasion of the marriage of his sister, Zubaida, with Mohamed Sally gifted the same to his sister 2D32 of 1941.

She has now transferred this property to her two children the 2nd and 3rd defendants in the case. The first question is whether the estate of 40 Hadji Bin Ahmed is liable for the debt incurred by the executor in the course of the administration of the estate. Money had not been raised on the mortgage bond for his personal use. The affidavit P3a submitted by him with his application for the Court's sanction to raise this loan negatives such a suggestion. The attestation clause in the mortgage bond shows that the entire consideration of Rs. 30,000/- was deposited to the credit of case No. 42566 of this Court which had been instituted by a

creditor of the testator. Thus there cannot be any doubt that this Rs. 30,000/- went to pay the debts of the testator. The Privy Council in *Gavin vs. Hadden*, already referred to, has held that for the moneys borrowed *bona fide* by executor or administrator for the purpose of the estate a suit may be sustained against him in his representative character and to have judgment and execution against the testator's estate. It is a well-established principle of our law that an heir of a deceased person or a devisee of property under his Last Will inherits or takes such property subject to the payment of debts of the estate. A transferee of property
 10 from an heir or a devisee takes a defensible title. In *Suriagoda vs. Appuhamy* (43 N.L.R. 8), Soertsz, J. held that a transfer of property by the heirs of an estate is subject to the payment of debts of the estate if without recourse to the property transferred the debt cannot be satisfied. In *Albert Perera vs. Mariamulla Kanniah* (45 N.L.R. 335), Kretser, J. also expressed the same view except that he was of opinion that a creditor had the right to have recourse to any land of the estate he chooses.

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There is no reason why this principle should not be applicable to a debt incurred by an executor in the course of administration for the purpose of paying debts of a testator. If the debt in this case had been an
 20 unsecured debt no difficulty arises. The creditor could pursue any property of the deceased he likes, even if that property had passed into the hands of a third party for valuable consideration. The difficult question in this case is whether a creditor of an estate of a deceased person whose debt is secured can voluntarily abandon a security and seek satisfaction of his debt by having recourse to another property the title of which has vested in a third party who and his predecessors in title had been in possession thereof for over 10 years. No exception can be taken to the release of lands No. 3 and 4 in the mortgage bond. Rs. 5,000/- had been paid and the creditor had agreed to release these two properties. The
 30 two properties released afterward were the premises bearing assessment Nos. 11 and 15 situated at Kayman's Gate. They are in the heart of the Pettah and witness Sally says each of them is worth Rs. 50,000/-. There cannot be any doubt that they were valuable property. The defendant in the mortgage action who represented the estate had not consented to the release of these two lands. It seems to be unfair that the plaintiff should give up his right to sell the lands hypothecated to secure his debt and go after other lands which at one time belonged to the estate but has since passed into other hands. The question is not the fairness or unfairness of the matter, but whether the law allows it. A creditor who holds
 40 a hypothecate over immovable property of his debtor has two actions available to him ; an action in rem and an action in personam. He could combine both these actions in one suit and having done so it is open to him to ask for a decree on the personal action only and a money decree will be entered in his favour. He would then be entitled to discuss any property of the debtor. Whereas, if he had obtained a hypothecary decree he would have had to discuss the mortgage property first before he could have recourse to other property of the debtor. Still the question

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remains whether a creditor who deliberately releases the mortgage property can seek to discuss a land which a testator had specially devised to the executor and whose title had now vested in a third party. The facts of this case are different from those in *Albert Perera vs. Mariamulla Kanniah* where Kretser, J. held that the creditor of an estate may follow lands sold by an heir even when there are other assets of the estate. There the creditor was an unsecured creditor. Here, there were other assets available and they were hypothecated to the plaintiff to secure his debt. In the 43 N.L.R. case Soertsz, J. states as follows :—

“ It is settled law that transfers by the heirs of an estate are sub-10
ject to debts of the estate if without recourse to lands transferred the
debts cannot be satisfied.”

This dictum applies with greater force in this case where the creditor was entitled to seek satisfaction of his debt by discussing the two lands specially secured by the mortgage bond. In my judgment the plaintiff having released the mortgage property cannot now seek to sell the land seized which has vested in the 3rd and 4th defendants.

It was also suggested that the 3rd and 4th defendants have acquired title to this land seized by prescriptive possession. One can acquire prescriptive title to a land against a person who is entitled to it. In this 20
case the 3rd and 4th defendants are the owners of the land and they cannot therefore acquire prescriptive title to their own land.

I hold that the land seized and described in the Schedule to the plaint is not liable to be sold under the writ issued in case No. 2565.

I answer the issues as follows :—

1. Yes.
2. No.
- 3a. Yes. b. No.
- 4a. Yes. b. Yes.
5. Yes.
6. Yes.
7. Does not arise.
8. Yes.
9. Yes.
10. Yes.
11. Yes.
12. No.
13. No.
14. No.
15. No.
16. Yes.
17. Yes.
18. No.
19. No.

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The plaintiff's action is dismissed with costs.
Enter decree accordingly.

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—continued.

(Sgd.) G. M. DE SILVA,
District Judge.

No. 14

No. 14
Decree of the
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Decree of the District Court

No. 419/Z.

IN THE DISTRICT COURT OF COLOMBO

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
10 cutrix of the Last Will, Testament and Estate of KM. N.
SP. Natchiappa Chettiar, deceased.....*Plaintiff.*

Against

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED RAFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
- 20 4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Defendants.*

This action coming on for final disposal before G. M. de Silva, Esquire, District Judge, Colombo, on the 5th day of July, 1954, in the presence of proctor on the part of the plaintiff and of proctor on the part of the defendant it is ordered and decreed that the plaintiff's action be and the same is hereby dismissed with costs.

The 5th day of July, 1954.

(Sgd.) G. M. DE SILVA,
District Judge.

No. 15

No. 15
Petition of
Appeal to
the Supreme
Court

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Petition of Appeal to the Supreme Court

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-

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Petition of
Appeal to
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—continued.

cutrix of the Last Will, Testament and Estate of KM. N.
SP. Natchiappa Chettiar, deceased.....*Plaintiff.*
D.C. Colombo
No. 419/Z. *vs.*

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*. 10
4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Defendants.*

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N.
SP. Natchiappa Chettiar, deceased.....*Plaintiff-Appellant.*

vs.

1. THE SECRETARY OF THE DISTRICT COURT, COLOMBO, as administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased. 20
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear in these proceedings by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle Road, Colpetty.....*Defendants-Respondents.*

To :

HIS LORDSHIP THE CHIEF JUSTICE AND OTHER JUDGES OF THE SUPREME COURT OF THE ISLAND OF CEYLON.

On this 16th day of July, 1954. 30

The humble petition of the plaintiff-appellant above-named appearing by Sivasithamparam Somanathan his proctor states as follows :—

1. Hadjie Ibrahim Bin Ahmed died leaving a Last Will and three codicils which were duly proved in Case No. 5686 Testamentary of this Court and probate issued to his son and executor Ahmed Bin Ibrahim.

2. The said executor borrowed a sum of Rs. 30,000/- from KM. N. SP. Natchiappa Chettiar and with the permission of the District Court gave the said Chettiar mortgage bond P4 dated 21st May, 1935. The said Chettiar died leaving a Last Will, probate of which was granted to his widow the plaintiff in this case. 40

3. The said executor Ahmed Bin Ibrahim died on 5th November, 1940, and thereafter the Secretary of this Court was appointed administrator *De Bonis Non*.

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—continued.

4. The plaintiff as executrix as aforesaid sued the Secretary of the District Court as administrator of the estate of Hadjie Ibrahim Bin Ahmed in Case No. 2565/M.B. of this Court on the said mortgage bond P4 and a money decree P14 was entered on 7th December, 1951.

5. In execution of the said decree plaintiff seized premises No. 26 (present number 238), Keyzer Street, which was claimed by the 2nd and 3rd defendants. That claim having been upheld the plaintiff brought this action under Section 247 of the Civil Procedure Code seeking to have that property sold in execution of plaintiff's said decree.

6. The said seized property was one that formed a part of the estate of Hadjie Ibrahim Bin Ahmed and was devised to his aforesaid executor who donated the same to his son Ghouse by Deed 2D30 of 1938. The said Ghouse dowried the same to his sister Sithy Zabeedia who donated the same by Deed 2D33 of 1952 to the 2nd and 3rd defendants.

7. This case went to trial on 19 issues and by his judgment dated 5th July, 1954, the learned District Judge dismissed the plaintiff's action with costs.

8. Being aggrieved with the said judgment and the decree thereon the plaintiff begs to appeal therefrom to Your Lordships' Court on the following amongst other grounds that may be urged on her behalf at the hearing of this appeal:—

(a) The said judgment is contrary to law and against the weight of evidence adduced in the case.

(b) The learned Judge is wrong in holding that the plaintiff having released the mortgaged property could not now seek to sell the land seized. The plaintiff as obligee on the mortgage bond sued on was entitled to a money decree with or without adding a hypothecary decree. The release of the mortgaged property does not in any way reduce the plaintiff's rights under the money decree which she has obtained against the estate.

(c) The plaintiff's decree being against the estate of Ibrahim Bin Ahmed, it was executable against the property that was seized which formed part of the said estate. In any event the defendants in this case have not acquired any right whereby they could prevent the said execution.

Wherefore the plaintiff-appellant prays that Your Lordships' Court be pleased.

(1) to set aside the judgment and decree appealed from.

(2) to enter a decree in favour of the plaintiff-appellant as prayed for in the plaint.

(3) to grant her costs in both Courts.

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(4) to grant her such other or further relief as to your Lordships' Court shall seem meet.

(Sgd.) S. SOMANATHAN,
Proctor for Plaintiff-Appellant.

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dated
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No. 16

Judgment of the Supreme Court

VALLIAMMAI ATCHI

V

THE SECRETARY OF THE DISTRICT COURT OF COLOMBO
administrator *De Bonis Non* of the Estate of
Hadjie Ibrahim Bin Ahmed *et al.*..... 10

S.C. No. 572.

D.C. Colombo No. 419/Z.

Present : BASNAYAKE, C.J., and PULLE, J.

Counsel : H. V. PERERA, Q.C., with S. AMBALAVANAR and H. C. KIRTHI-SINGHE for the plaintiff-appellant.

S. NADESAN, Q.C. with RENGANATHAN, V. K. PALASUNTHERAM
and P. NAGULESWARAM for the 2nd to 4th defendants-respondents.

Argued on : 2nd, 3rd, 4th, 5th, 9th and 10th April, 1957.

Decided on : 4th December, 1957.

20

PULLE, J.

The subject matter of the action out of which this appeal arises is a valuable property situated in Keyzer Street, Colombo. It formed once part of the estate of one Ibrahim Bin Ahmed (referred to hereinafter as the testator) who died leaving a Last Will and certain codicils by which he devised this property to his son Ahmed Bin Ibrahim, appointing him as the executor. The Will was admitted to probate in 1934 and on 13th December, 1938, Ahmed Bin Ibrahim in his capacity as executor conveyed the property to himself and on the same day he gifted it to his son through whom the title devolved eventually on the 2nd and 3rd defendants in the present case. In execution of a decree entered in case No. 2565/M.B. in favour of the plaintiff, who is the appellant, the property was seized in execution and was successfully claimed by the 2nd and 3rd defendants. On 22nd May, 1953, the plaintiff filed the present action in which she

sought a declaration under Section 247 of the Civil Procedure Code to the effect that the property was liable to be sold in execution of the decree in case No. 2565/M.B. The action was dismissed with costs and the plaintiff appeals. The question which arises for determination is whether having regard to the events, set out more fully hereinafter, which led up to the seizure of the property, the learned trial Judge was wrong in holding that the property was not liable to be seized and sold. Admittedly, the debt in respect of which the decree in favour of the appellant was entered in case No. 2565/M.B. was incurred by the executor for the purpose of the administration of the testator's estate. He executed a mortgage bond hypothecating four immovable properties. Of these two were released before action No. 2565/M.B. was filed and the remaining two in the course of that action. Eventually what was entered in that action was not a hypothecary decree but only a decree for the payment of money. Stated more specifically the question for decision is whether, for the purpose of satisfying the money decree, the plaintiff was entitled to follow up property which had passed from the testator's estate to the 2nd and 3rd defendants.

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The issues raised at the trial covered a wide range of facts and, as some of these issues were not the subject of the arguments in appeal. I shall be content to restrict myself to those matters which were debated before us.

According to the affidavit P3A of 9th April, 1935, filed by the executor (*i.e.* by the testator's son, Ibrahim Bin Ahmed) large sums of money were due on debits contracted by the testator. These amounted to Rs. 350,294/87 and the estate duty payable was Rs. 57,000/-. Prior to his death the testator had hypothecated by a bond eight properties as security for a loan. The executor had to find Rs. 105,000/- to satisfy a decree entered on this bond by which all the properties were declared bound and executable. He sought the permission of Court in the probate suit No. 5686 to sell four of the properties for Rs. 75,000/- and to mortgage the remaining four to raise the balance sum of Rs. 30,000/-. The arrangement between the decree holder and the executor was that the former would, on payment of the debt due to him, release all the properties from the mortgage. On permission being granted the executor raised Rs. 30,000/- from one Natchiappa Chettiar on mortgage bond P4 dated 21st May, 1935, by which he hypothecated the four properties which are described in the Schedule to the bond. The appellant is the executrix of the Last Will of Natchiappa Chettiar.

The executor, Ahmed Bin Ibrahim, died in 1940 without fully administering the estate of the testator. No steps were taken by any of the beneficiaries under the testator's Will to appoint a successor to the executor as the legal representative. In 1943, however, the appellant applied to have the Secretary of the District Court appointed as administrator *De Bonis Non*. The application was granted and then there was a succession of Court secretaries who could, for the purpose of this appeal, be regarded as having held, by virtue of their appointments, the office of

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administrator *cum testamento annexo*.

We come now to the proceedings (case No. 2565/M.B.) which resulted in the seizure of the property which is the subject matter of the appeal. It was filed by the appellant on 21st November, 1949, in her capacity as executrix of the Last Will of her husband, the mortgage on P4. The defendant was the "Secretary of the District Court of Colombo as administrator *De Bonis Non* of the estate and effects of Hadjie Ibrahim Bin Ahmed, deceased." It was stated in the plaint P9, among other things, that the executor paid to the mortgagee Rs. 5,000/- on account of the principal amount due on the bond and that in consideration of that payment the mortgagee released from the mortgage the lands numbered 3 and 4 in the Schedule to the bond. The plaintiff asked in her prayer that the lands numbered 1 and 2 in the Schedule be declared bound and executable for the amount due on the bond and for other reliefs usually granted in an action of this character. No answer was filed by the official administrator but an intervention was sought by two sons of the testator who were interested as devisees in the lands numbered 1 and 2. It is not necessary to narrate in detail the steps taken by the intervenients except to state that on 24th October, 1951, an agreement was entered into by the appellant and the intervenients by which the lands numbered 1 and 2 were released from the mortgage. The claim for payment of balance principal and interest was not contested and on 7th December, 1951, a formal decree was entered ordering the defendant to pay to the plaintiff Rs. 45,431/- and an additional sum as interest. I should add that it was part of the agreement to release lands 1 and 2 that they should not on any account be seized and sold in execution of the decree.

In proceedings taken to execute the decree against the estate of the testator the property which is the subject matter of the present action was seized, as stated earlier in the judgment, and a claim thereto by the 2nd and 3rd defendants was upheld.

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The judgment under appeal deals with various grounds urged by the contesting defendants at the trial in support of the submission that the decree entered in case No. 2565/M.B. was, owing to certain irregularities, invalid. The trial Judge, besides holding with the appellant that on their merits these grounds could not be sustained, disposed of the argument directed against the validity of the decree on the broad proposition that it is not competent for the parties in one suit to show irregularity or error of the judgment or of law in another suit. Fraud and collusion on the part of the appellant and the official administrator was negatived. He felt constrained, however, to give judgment against the appellant for the only reason that in the course of case No. 2565/M.B. she consented to release the lands numbered 1 and 2. On a consideration of the authorities cited he was of the opinion that if the debt sued in that case was unsecured, the 2nd and 3rd defendants would have had no defence to the appellant's claim that the property in suit was liable to be seized and sold to satisfy the judgment debt. But as the appellant had deliberately released the two valuable lands numbered 1 and 2 and precluded herself

from levying execution against them she ought not to be allowed to seize and sell a property specially devised to the executor and the title to which had devolved on the 2nd and 3rd defendants.

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—continued.

The learned trial Judge relied on the case of *Albert Perera vs. Marimuttu Caniah* (1) for the view which he has expressed that had the debt been an unsecured one he would have had no difficulty in holding with the appellant. It was submitted at the argument before us that this case was conclusive against the 2nd and 3rd defendants and that the circumstance that in the course of action No. 2565/M.B. the lands numbered 1 and 2 had been released did not affect the appellant's undoubted right to obtain a money decree on the mortgage bond and to exercise the right of seizing and selling the property in question which formed part of the estate of the testator. That a creditor of the testator, as opposed to a creditor of the executor can in certain circumstances exercise such a right is not challenged. The authorities reviewed in *Albert Perera vs. Marimuttu Caniah* (1) established that position. De Kretser, J., said at p. 338 of a creditor,

“In the deceased's lifetime he could levy against any of his properties and there is no reason why his rights should diminish because of the deceased's death.”

If the proposition be correct that if, for example, the executor had for purposes of paying the debts of the estate borrowed money on a promissory note and the appellant had obtained thereon a money decree, the 2nd and 3rd defendants could not have resisted the sale of the property seized to satisfy the decree, there was no reason why she should be denied the same right of execution on a money decree obtained on a bond. Learned counsel who appeared for the 2nd and 3rd defendants evidently appreciated the force of this argument and submitted to us that the position on which it is based is erroneous. His main contention was that the bond did not as between the estate and the mortgagee create the relationship of debtor and creditor and the rights acquired by the mortgagee under it were to sell only the properties hypothecated or to proceed against the executor personally or against his legal representative. Mr. Nadesan also referred to certain transactions relating to the property in suit subsequent to the mortgage which in his submission rendered it inequitable that it should be made liable for the debt.

Reliance was placed on the following passage in volume 16 (3rd ed.) of Halsbury's Laws of England, p. 368, para. 713 :

“The remedy of a creditor for a debt contracted after the death is against the personal representative and not against the estate ; but the creditor is in equity entitled to stand in the place of the personal representative and to claim the benefit of his right to an indemnity.”

The passage quoted occurs under the heading “Power to Carry on the Business of the Deceased” and an authority relied on is *Farhall vs. Farhall* (2) In this case Mellish, L.J., stated the proposition as follows :—

No. 16
Judgment of
the Supreme
Court dated
4-12-57
—continued.

“ It appears to me to be settled law that upon a contract of borrowing made by an executor after the death of the testator, the executor is only liable personally and cannot be sued as executor so as to get execution against the assets of the testator.”

In this case the London and County Bank claimed to prove against the estate of one Richard Farhall the sum of £987 being part of the money lent to his widow in her capacity of executrix. Admittedly a large part of the money which was borrowed by the executrix from the Bank on the security of deeds relating to the testator's estates had been misapplied by her. On the facts the position here is different. The money was raised with the express approval of the Court and there cannot be any doubt that the entirety of the amount was used to discharge a part of the liabilities of the estate. In the mortgage bond it is recited that the sum of Rs. 30,000/- was borrowed by the obligor in his capacity “ as the “ Executor of the Last Will and Testament and Estate of Hadjie Bin Ahmed.” It also recited “ And for further securing unto the said obligee his heirs executors administrators and assigns the payment of all moneys payable under by virtue or in respect of these presents I the said Obligor do hereby with the leave of Court granted to me on the tenth day of April, 1935, in the said Testamentary Proceedings No. 5686 of the said District Court of Colombo specially mortgage and hypothecate to . . . , etc.”

It seems to me to be unreal to attempt to maintain that in the transaction that resulted in the execution of the mortgage bond the executor incurred only a personal liability which exposed his properties to be sold up in the event of the mortgagee obtaining a money decree. Did the executor in his transaction in question indubitably represent the estate? If the answer is in the affirmative, I fail to see any convincing reason why the estate should not be liable in the first instance to satisfy a debt incurred for the purpose of getting rid of some of its liabilities. Natchiappa Chettiar by lending Rs. 30,000/- acquired in full measure the right of a mortgagee who could in one and the same action obtain both a money and hypothecary decree. Provided he did not act fraudulently or collusively with any one benefiting under the testator he was perfectly free to release from the mortgage any of the properties hypothecated and to content himself with only a money decree. It seems incongruous that if the mortgagee had obtained both a money and hypothecary decree, it should be deemed that the money decree is one enforceable against the executor personally while the hypothecary decree should bind the estate. In the case of *Iragunather et al. vs. Ammal* (3) which was concerned with a promissory note granted by an executor to raise money for the purpose of administering the estate of the testator, Fernando, A.J., said at p. 550.

“ . . . it seems clear to my mind that an executor has full power to contract a debt for the purposes of administration in such a manner as to exclude personal liability, and when he has done so, the estate is liable to pay the debt incurred by him.”

“ Counsel for the respondent suggested that the proper course for a creditor on a note like this was first to sue the executor himself and that the executor having paid the debt may be able to have recourse against the assets of the estate. I cannot understand why the law should require this circuitous process where the executor who represents the estate of the deceased has incurred a debt in the course of administration.” This view suggests that where an executor has raised and applied monies for the benefit of the testator’s estate the creditor who lent the monies has direct access to the assets of the estate and that a judgment against the executor is a judgment, so to speak, against the estate. The seizure and sale of a particular asset would work no greater hardship than in a case where the legal representative himself is compelled to sell an asset to discharge a debt due by the estate, because he who takes an asset belonging to an estate also takes the risk that until the estate has been fully administered he may have to part with it.

No. 16
Judgment of
the Supreme
Court dated
4-12-57
—continued.

There is no hypothecary decree in the present case. Hence there is no room to apply the principles laid down in cases like *Wijesekera vs. Rawal* (4). In *Albert Perera vs. Marimuttu Caniah* (1) this Court said, “ Suppose there are three heirs or three legatees and one of them sold his rights, so leaving the other rights still as assets of the estate, is it open to the heir who sold and the transferee to compel the creditor to go against the rights of the other two? It seems manifestly unfair and one cannot see on what principle of law such a compulsion could be used.”

On this point the Court did not follow an opinion expressed in the judgment of Soertsz, J., in *Suriyagoda vs. William Appuhamy* (5) that a condition that must be satisfied is that without recourse to the property transferred, the debt cannot be satisfied.

Learned counsel for the 2nd and 3rd defendants drew our attention to the case of *Theodoris Fernando vs. W. L. Rosalind Fernando et al* (6) and submitted that, even on the footing that the decree in favour of the appellant could be enforced by the seizure and sale of the properties of the testator and not against the executor personally, the transactions by which title to the property in suit was transmitted to the 2nd and 3rd defendants precluded its seizure. As stated earlier, the executor on 13th December, 1938, after executing a conveyance of the property in his favour as the devisee under the Will gifted it on the same day to his son Mohamed Ghouse Bin Ahmed—(2D30). The latter by 2D32 of 21st December, 1941, gifted the same to his sister Zabeediya in consideration of her marriage with one Mohamed Sallih. By Deed 2D33 of 9th May, 1952, Zabeediya and her husband conveyed the property to their children the 2nd and 3rd defendants by way of sale for a consideration of Rs. 10,000/-. In *Theodoris Fernando vs. W. L. Rosalind Fernando et al* (6) the property of a testator was transferred shortly after his death by the executrix to their daughter on the day of her marriage in pursuance of a trust alleged to have been created by the Will under which the property was to be given to the daughter on a division of the estate

No. 16
Judgment of
the Supreme
Court dated
4-12-57
—continued.

or at marriage. It was held that the transfer was made in consideration of marriage and that it was not liable to be seized and sold for a judgment debt obtained against the executrix in her representative character, inasmuch as the rest of the estate was sufficient to meet the claim. I may say that I cannot reconcile this decision with the case of *Albert Perera vs. Marimuttu Caniah* (1) which has been cited earlier. I prefer to follow the latter. It throws an undue burden on a creditor who has obtained a decree to enter on an investigation on the financial position of the estate, and further to determine which of the immovable assets inventorized have been the subject of transfers. He would further have to investigate 10 whether valuable consideration had been paid to the transferors without perhaps receiving the slightest assistance from the terms of the transfer. In the present suit the conveyance in the first instance by the executor-devisee to his son, 2D30 of 13th December, 1938, was a gift pure and simple and I am inclined to doubt that the case of *Theodoris Fernando vs. W. L. Rosalind Fernando et al* (6) assuming it to state the legal principle correctly, can protect the property from seizure.

The mortgage bond was executed in 1935. It is put in suit in 1949 and in the course of the proceedings the appellant agrees with two intervenients to release the only security then left, namely, the lands numbered 20 1 and 2. Probably, in the belief that the lands originally mortgaged were more than adequate security for the debt of Rs. 30,000/- and interest the executor conveyed the property in suit to his son who in turn gave it as dowry to the executor's daughter, and from the daughter it passed to her children. Fourteen years after the execution of 2D30 the property is seized. In 1938 Natchiappa Chettiar himself lent money to Mohamed Ghouse on the security of the very property in suit and the mortgage was redeemed in 1949. Despite these facts I regret I can lay hold of no principle by which judgment can be given in favour of the 2nd and 3rd defendants. I would accordingly allow the appeal with costs, here and 30 below.

(Sgd.) M. F. S. PULLE,
Puisne Justice.

BASNAYAKE, C.J.
I agree.

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

- (1) 45 N. L. R. 337
- (2) (1871) 7 Ch. App. 123
- (3) 40 N. L. R. 549
- (4) 20 N. L. R. 126
- (5) 43 N. L. R. 89
- (6) 2 Browne's Reports 277

Decree of the Supreme Court

D.C. (F) 572/M. 1954.

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

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
cutrix of the Last Will, Testament and Estate of KM. N.
SP. Natchiappa Chettiar, deceased.....*Plaintiff.*

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*vs.*THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as
administrator *De Bonis Non* of the Estate and Effects of
Hadjie Ibrahim Bin Ahmed, deceased and others.....*Respondents.*VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
cutrix of the Last Will, Testament and Estate of KM. N.
SP. Natchiappa Chettiar, deceased.....*Plaintiff-Appellant.**vs.*THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as
administrator *De Bonis Non* of the Estate and Effects of
20 Hadjie Ibrahim Bin Ahmed, deceased, and others
Defendants-Respondents.

Action No. 419/Z.

In the District Court of Colombo

This cause coming on for hearing and determination on the 2nd, 3rd,
4th, 5th, 9th, 10th April and 4th December, 1957, and on this day, upon
an appeal preferred by the plaintiff-appellant before the Hon. H. H.
Basnayake, Q.C., Chief Justice, and the Hon. M. F. S. Pulle, Q.C., Puisne
Justice, of this Court, in the presence of counsel for the plaintiff-appellant
and 2nd to 4th defendants-respondents.30 It is considered and adjudged that this appeal be and the same is
hereby allowed.It is further decreed that the defendants-respondents do pay to the
appellant the taxed costs of this appeal and in the Court below.Witness the Hon. Home Henry Basnayake, Q.C., Chief Justice at
Colombo, the 9th day of December, in the year One thousand Nine hun-
dred and Fifty-seven and of Our Reign the Sixth.(Sgd.) W. G. WOUTERSZ,
Deputy Registrar, S.C.

**Application for Conditional Leave to Appeal to the
Privy Council**

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

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

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
cutrix of the Last Will, Testament and Estate of KM. N.
SP. Natchiappa Chettiar, deceased.....*Plaintiff.*

No. S.C. 572, 10
D.C. Colombo No. 419/Z. vs.

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED RAFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH, also of "Salonica", Galle Road, Colpetty.....*Defendants.* 20

1. AHMED RAFAI BIN ADHAM SALLIH, and
2. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica", Galle Road, Colpetty, who are minors and who appear by their *Guardian-ad-litem*.
3. ADHAM BIN MOHAMED SALLIH, also of "Salonica", Galle Road, Colpetty.....*2nd, 3rd and 4th Defendants-Petitioners.*

vs.

1. VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
cutrix of the Last Will, Testament and Estate of KM.
N. SP. Natchiappa Chettiar, deceased.....*Plaintiff-Respondent.* 80
2. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as
administrator *De Bonis Non* of the Estate and Effects
of Hadjie Ibrahim Bin Ahmed, deceased.....*1st Defendant-Respondent.*

To :

THE HONOURABLE THE CHIEF JUSTICE AND THE OTHER JUDGES OF THE
SUPREME COURT OF CEYLON.

On this 16th day of December, 1957.

The petition of the 2nd, 3rd and 4th defendants-petitioners above-named appearing by M. M. A. Raheem, their proctor, states as follows :—

No. 18
Application
for Condi-
tional Leave
to the Privy
Council
16-12-57
—continued.

1. The 4th defendant-petitioner above-named is the duly appointed *Guardian-ad-litem* of the 2nd and 3rd defendants-petitioners who are minors.
2. That feelings aggrieved by the judgment of the Supreme Court pronounced on the 4th day of December, 1957, in the above action, the petitioners are desirous of appealing therefrom to Her Majesty the Queen in Council.
3. The said judgment is a final judgment.
4. The subject matter in dispute exceeds the value of Rupees Five Thousand.
5. The petitioners have given due notice to the respondents above-named of this application to this Court for leave to appeal to Her Majesty the Queen in Council.
6. The following notice was sent by registered post on the 9th day of December, 1957, to the plaintiff-respondent and on the 10th day of December, 1957, to the 1st defendant-respondent :

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“ c/o M. M. A. Raheem,
Proctor, S.C.,
No. 254, Hultsdorp,
Colombo,
9/10th December, 1957.

1. VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.
2. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.

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Sir/Madam,

D.C. Colombo No. 419/Z S.C. No. 572.

We, Ahmed Refai Bin Adham Sallih and Zubaire Sallih Bin Adham Sallih, both of “ Salonica ”, Galle Road, Colpetty, who are the minors and who appear in these proceedings by our *Guardian-ad-litem* Adham Bin Mohamed Sallih also of “ Salonica ”, Galle Road, Colpetty, the 2nd, 3rd and 4th defendants-respondents in appeal No. 572 in Case No. 419/Z of the District Court of Colombo, do hereby give notice that we shall be applying, within thirty days from the 4th day of December, 1957 (being the day of the judgment of the Honourable The Supreme Court in the

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No. 18
Application
for Condi-
tional Leave
to Appeal
to the Privy
Council
16-12-57
—continued.

above appeal) for leave to appeal to Her Majesty the Queen in Council from the judgment of the Honourable The Supreme Court dated the 4th December, 1957.

Yours faithfully,

AHMED REFAI BIN ADHAM SALLIH,
ZUBAIRE SALLIH BIN ADHAM SALLIH,
the 2nd and 3rd defendants-respon-
dents by their *Guardian-ad-litem* the
4th respondent—
ADHAM BIN MOHAMED SALLIH. 10

(Sgd.) A. B. M. SALLIH.”

WHEREFORE the petitioners pray :

- (a) that Your Lordship's Court be pleased to grant conditional leave to appeal to Her Majesty the Queen in Council against the judgment and decree of the Supreme Court pronounced on the 4th day of December, 1957, in the above action, and
- (b) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) M. M. A. RAHEEM,
Proctor for 2nd, 3rd and 4th Defendants-Petitioners. 20

No. 19

**Decree Granting Conditional Leave to Appeal
to the Privy Council**

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER
REALMS AND TERRITORIES, HEAD OF THE COMMONWEALTH

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for conditional leave to appeal to Her Majesty in Council from the judgment of this Court dated 4th December, 1957, delivered in S.C. 572 (Final) of 1954—D.C. Colombo Case No. 419/Z. 30

1. AHMED REFAI BIN ADHAM SALLIH of “Salonica”, Galle Road, Colpetty.
2. ZUBAIRE SALLIH BIN ADHAM SALLIH of “Salonica”, Galle Road, Colpetty.

No. 19
Decree
Granting
Conditional
Leave to
Appeal to
the Privy
Council
19-12-57

3. ADHAM BIN MOHAMED SALLIH of "Salonica", Galle
Road, Colpetty.....*2nd, 3rd and 4th Defendants-Petitioners.*

No. 10
Decree
Granting
Conditional
Leave to
Appeal to
the Privy
Council
19-12-57
—continued.

vs.

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo.....*Plaintiff-Respondent.*

THE SECRETARY OF THE DISTRICT COURT OF COLOMBO,
administrator *De Bonis Non* of the Estate and Effects of
Hadjie Ibrahim Bin Ahmed, deceased.....*1st Defendant-Respondent.*

Action No. 419/Z (S.C. 572 (Final) 1954). District Court of Colombo.

The cause coming on for hearing and determination on the 19th day
10 of December, 1957, before the Hon. H. N. G. Fernando, Puisne Justice
and the Hon. N. Sinnetamby, Puisne Justice of this Court, in the presence
of counsel for the petitioner.

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

1. Deposit with the Registrar of the Supreme Court a sum of
Rs. 3,000/- and hypothecate the same by bond or such other security as
the Court in terms of Section 7 (1) of the Appellate Procedure (Privy
Council) Order shall on application made after due notice to the other
20 side approve.

2. Deposit in terms of provisions of Section 8 (a) of the Appellate
Procedure (Privy Council) Order with the Registrar a sum of Rs. 300/- in
respect of fees mentioned in Section 4 (b) and (c) of Ordinance No. 31 of
1909 (Chapter 85).

Provided that the applicant may apply in writing to the said Registrar
stating whether he intends to print the record or any part thereof in
Ceylon, for an estimate of such amounts and fees and thereafter deposit
the estimated sum with the said Registrar.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at
30 Colombo, the 2nd day of January, in the year One thousand Nine hundred
and Fifty-eight and of Our Reign the Sixth.

(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

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

VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
cutrix of the Last Will, Testament and Estate of KM. N.
SP. Natchiappa Chettiar, deceased.....*Plaintiff.*

No. S.C. 572.

10

D.C. Colombo No. 419/Z. vs.

1. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO
administrator *De Bonis Non* of the Estate and Effects
of Hadjie Ibrahim Bin Ahmed, deceased.
2. AHMED REFAI BIN ADHAM SALLIH, and
3. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica",
Galle Road, Colpetty, who are minors and who appear
by their *Guardian-ad-litem*.
4. ADHAM BIN MOHAMED SALLIH, also of "Salonica", Galle
Road, Colpetty.....*Defendants. 20*

1. AHMED REFAI BIN ADHAM SALLIH, and
2. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica",
Galle Road, Colpetty, who are minors and who appear
by their *Guardian-ad-litem*.
3. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle
Road, Colpetty.....*2nd, 3rd and 4th Defendant-Petitioners.*

vs.

1. VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
cutrix of the Last Will, Testament and Estate of KM.
N. SP. Natchiappa Chettiar, deceased.....*Plaintiff-Respondent. 30*
2. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO
administrator *De Bonis Non* of the Estate and Effects
of the Estate and Effects of Hadjie Ibrahim Bin
Ahmed, deceased.....*1st Defendant-Respondent.*

To :

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

On this 17th day of January, 1958.

The petition of the 2nd, 3rd and 4th defendants-petitioners above-named appearing by M. M. A. Raheem, their proctor, states as follows :—

No. 20
Application
for Final
Leave to
Appeal to
the Privy
Council
7-1-58

1. The petitioners on the 19th day of December, 1957, obtained conditional leave from this Honourable Court to appeal to Her Majesty the Queen in Council against the judgment of the Court pronounced on the 4th day of December, 1957. —continued.

2. The petitioners have complied with the conditions on which such leave was granted. The security given was by deposit of a sum of 10 Rs. 3,000/- with the Registrar and hypothecation thereof by bond.

3. The petitioner has given due notice of this application for final leave to the respondents, the following notice :—

“ 1. Valliammai Atchi of No. 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of KM. N. SP. Natchiappa Chettiar, deceased.

2. The Secretary of the District Court of Colombo administrator *De Bonis Non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.

20 Madam/Sir,

S.C. Application No. 576

S.C. Appeal No. 572/D.C. Colombo No. 419/Z.

Please take notice that I have complied with the conditions on which leave to appeal to Her Majesty the Queen in Council has been granted in the above application on the 19th day of December, 1957.

I am now applying to the Supreme Court for final leave to appeal to Her Majesty the Queen in Council in the above S.C. Appeal.

(Sgd.) M. M. A. RAHEEM,
Proctor for Appellant.

Colombo, 16th January, 1958.

30

ADHAM BIN MOHAMED SALLIH the duly appointed *Guardian-ad-litem* of AHMED REFAI BIN ADHAM SALLIH, ZUBAIRE SALLIH, BIN ADHAM SALLIH.”

were sent under registered cover and ordinary cover to them and receipts of posting obtained from the Post Office are attached herewith marked X and XI.

WHEREFORE the petitioners pray that they be granted final leave to appeal against the said judgment of this Court dated the 4th day of December, 1957, to Her Majesty the Queen in Council.

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(Sgd.) M. M. A. RAHEEM,
Proctor for 2nd, 3rd and 4th Defendants-Petitioners.

No. 21
Decree
Granting
Final Leave
to Appeal
to the Privy
Council
28-2-58

No. 21

**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

In the matter of an application by the 2nd, 3rd and 4th defendants dated
17th January, 1958, for final leave to appeal to Her Majesty the
Queen in Council against the judgment and decree dated 4th December
1957.

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1. AHMED REFAI BIN ADHAM SALLIH, and
2. ZUBAIRE SALLIH BIN ADHAM SALLIH, both of "Salonica",
Galle Road, Colpetty, who are minors and who appear
by their *Guardian-ad-litem*.
3. ADHAM BIN MOHAMED SALLIH also of "Salonica", Galle
Road, Colpetty.....2nd, 3rd and 4th Defendants-Petitioners.

against

1. VALLIAMMAI ATCHI of No. 247, Sea Street, Colombo, Exe-
cutrix of the Last Will, Testament and Estate of KM.
N. SP. Natchiappa Chettiar, deceased.....*Plaintiff-Respondent.* 20
2. THE SECRETARY OF THE DISTRICT COURT OF COLOMBO
administrator *De Bonis Non* of the Estate and Effects
of Hadjie Ibrahim Bin Ahmed, deceased.....*1st Defendant-Respondent.*

Action No. 419/Z.

District Court of Colombo.

This cause coming on for hearing and determination on the 28th day
of February, 1958, before the Hon. H. W. R. Weerasooriya, Puisne
Justice, and the Hon. M. C. Sansoni, Puisne Justice of this Court, in the
presence of counsel for the petitioners.

It is considered and adjudged that the petitioners' application for
Final leave to appeal to Her Majesty the Queen in Council be and the same so
is hereby allowed.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at
Colombo, the 10th day of March, in the year One thousand Nine hundred
and Fifty-eight and of Our Reign the Seventh.

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

Last Will No. 3117

PIA
Last Will
No. 3117
8-4-19

This is the Last Will and Testament of me Ibrahim Bin Ahmed of No. 63, Hultsdorf Street, Colombo, in the Island of Ceylon.

1. I hereby revoke all former Wills and Testamentary dispositions made by me and declare this to be my Last Will and Testament.

2. I appoint my son Ahmed Bin Ibrahim presently of Bambalapitiya in Colombo to be the executor of this my Will. In the event of my said son pre-deceasing me or being unable or unwilling to act as executor I
10 appoint Mohamed Haniffa Mohamed Mohideen and Idroos Lebbe Marikar Hadjar Abdul Hamid, both of Colombo and the survivor of them to be the joint executors or executor of this my Will.

3. I give devise and bequeath to my son Ahmed Bin Ibrahim the following properties to be held and possessed by him subject to the conditions restrictions and provisions hereinafter contained :—

(a) Premises bearing assessment No. 79, situated at Hultsdorf Street, within the Municipality of Colombo, and held and possessed by me under and by virtue of Deed No. 7663 dated 6th February, 1911, attested by W. B. de Fry of Colombo, Notary Public.

20 (b) Premises bearing assessment Nos. 100, 101 and 102, Main Street, and Nos. 83 to 87, Second Cross Street in the Pettah, within the Municipality of Colombo, and held and possessed by me under and by virtue of Deed No. 6832 dated the 26th day of September, 1898, and attested by D. J. Kulatunge of Colombo, Notary Public, and Deed No. 3090 dated the 26th day of February, 1918, attested by W. A. S. de Vos of Colombo, Notary Public.

30 (c) Premises bearing assessment No. 5, situated at Main Street, Pettah, within the Municipality of Colombo, and held and possessed by me under and by virtue of Deed No. 735 dated the 22nd day of March and 9th day of April, 1894, and attested by J. J. de Fry of Colombo, Notary Public, and Deed No. 3089 dated the 26th day of February, 1919, attested by W. A. S. de Vos of Colombo, Notary Public.

(d) Premises bearing assessment No. 13, Kayman's Gate, Pettah, within the Municipality of Colombo, and held and possessed by me under and by virtue of Deed No. 230 dated the 10th day of November, 1894, attested by Frederick de Zoysa of Colombo, Notary Public, and Deed No. 3074 dated the 7th day of February, 1919, attested by W. A. de Vos of Colombo, Notary Public.

4. I give devise and bequeath to my son Mohamed Sallih Bin
40 Ibrahim the following properties to be held and possessed by him subject to the conditions, restrictions and provisions hereinafter contained :—

(a) All that and those the estate plantations and premises called and known as Cottebodde Estate, situated at Avissawella, held and possessed

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by me under and by virtue of Deed No. 1624 dated 22nd December, 1906, attested by G. A. P. Seneviratne of Colombo, Notary Public, and Deed dated 17th September, 1910, under the hand of Allan Drieberg, District Judge of Colombo.

(b) The premises bearing Municipal assessment No. 14, Kayman's Gate, Pettah, within the Municipality of Colombo, and held and possessed by me under and by virtue of Deed No. 6295 dated the 14th day of March, 1891, and attested by F. J. de Saram of Colombo, Notary Public, and Deed No. 3074 dated the 7th day of February, 1919, and attested by W. A. S. de Vos of Colombo, Notary Public.

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(c) The premises bearing assessment Nos. 17A and 17B, Wellawatte, within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 116 dated the 30th day of March, 1916, and attested by A. C. Ahamedo, Notary Public.

5. I give devise and bequeath to my son Mohamed Ismail Bin Ibrahim the following properties to be held and possessed by him subject to the conditions and provisions hereinafter contained :—

(a) The premises formerly bearing assessment Nos. 65, 66 and 67 together with the new building constructed thereon, situated at Hultsdorf Street, within the Municipality of Colombo, and which said premises Nos. 65, 66 and 67 are held and possessed by me under and by virtue of Deed No. 746 dated 20th August, 1907, and attested by W. A. S. de Vos of Colombo, Notary Public, and Deeds Nos. 995 dated 31st October, 1903, and 2314 dated 31st July, 1908, both attested by F. A. Prins (Junior) of Colombo, Notary Public.

(b) The premises bearing assessment No. 10, Norris Road, and No. 87, Maliban Street, Pettah, within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 5630 dated the 3rd June, 1910, attested by F. C. Loos of Colombo, Notary Public.

(c) The premises bearing Municipal assessment No. 111, Fourth Cross Street, Pettah, within the Municipality of Colombo, held and possessed by me under by virtue of Deed No. 1468 dated the 23rd day of February, 1893, attested by R. F. de Saram of Colombo, Notary Public, and Deed No. 3073 dated the 7th February, 1919, attested by W. A. S. de Vos of Colombo, Notary Public.

(d) The premises bearing assessment Nos. 129 to 129D, situated at Colpetty, Colombo, within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 950 dated the 25th January, 1917, attested by G. A. H. Wille, Notary Public.

(e) All the lands belonging to me and situated in the District of Negombo together with the buildings standing thereon and all the cattle, carts, furniture, tools and implements thereon.

6. I hereby declare :

(a) That my said sons shall not sell, mortgage or otherwise alienate or encumber the said several properties and premises devised and be-

queathed to them as aforesaid that on the death of any one of them the said properties devised and bequeathed to him shall devolve on his lawfully begotten children in the proportion of two shares to a son and one share to a daughter ; provided however that if at the date of the death of the said sons any lawfully begotton child of him be dead leaving a child or children such last mentioned child or children shall be entitled to the share or shares to which his, her or their parents would have been entitled, if living.

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(b) That if any of my said sons shall die without leaving any child or other descendants lawfully begotten then the said several properties and premises hereby specially devised and bequeathed to him as aforesaid shall devolve on his heirs according to the Mohamedan Law of Inheritance subject however to the right of his widow (which is hereby granted to her) to possess and enjoy the said several properties and premises and to recover and receive the rents and profits thereof until she dies or contracts another marriage whichever event shall first happen.

7. I give devise and bequeath unto my wife Moomina Umma the premises bearing assessment No. 63, situated at Hultsdorf Street, within the Municipality of Colombo, and held and possessed by me under and by virtue of Deeds No. 1410 dated 8th August, 1913, attested by F. de Zoysa of Colombo, Notary Public, and No. 5158 dated 26th March, 1885, attested by F. J. de Saram of Colombo, Notary Public, subject to the following conditions, restrictions and possessions, that is to say, that my said wife Moomina Umma shall not sell, mortgage or otherwise alienate or encumber the same and that on her death the said property shall devolve on my three sons the said Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim and daughter Amina Umma in equal shares.

8. I give devise and bequeath to my wife Moomina Umma the premises bearing assessment No. 99, situated at Messenger Street, within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 1409 dated 8th August, 1913, attested by Frederick de Soysa of Colombo, Notary Public, subject to the following conditions, restrictions and provisions, that is to say, that my said wife Moomina Umma shall not sell, mortgage or otherwise alienate or encumber the same and that on her death the said property shall devolve on my grandsons Ahmed Bin Hassen and Mohamed Bin Hassen in equal shares.

9. I give devise and bequeath to my grandson Ahmed Bin Hassan the property and premises bearing assessment No. 11, situated at Kayman's Gate, Pettah, within the Municipality of Colombo, and held and possessed by me under and by virtue of Deed No. 6296 dated the 14th March, 1891, attested by F. J. de Saram of Colombo, Notary Public, and Deed No. 3075 dated 7th February, 1919, attested by W. A. S. de Vos of Colombo, Notary Public.

10. I give devise and bequeath to my grandson Mohamed Bin Hassan the property and premises bearing assessment No. 15, situated at

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Kayman's Gate, Pettah, within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 6296 dated 14th March, 1891, and attested by F. J. de Saram of Colombo, Notary Public, and Deed No. 3075 dated 7th February, 1919, attested by W. A. S. de Vos of Colombo, Notary Public.

11. I give devise and bequeath to my grandson Rashied Bin Hassan the property and premises bearing assessment Nos. 1, Church Street, Slave Island, within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 2316 dated 20th August, 1913, attested by W. A. S. de Vos of Colombo, Notary Public. 10

12. I give devise and bequeath to my grandson Hamid Bin Hassan the property and premises bearing assessment Nos. 134 to 136A, Second Division, Maradana, and Paranawadia Lane, within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 337 dated 29th February, 1912, attested by A. de Abrew of Kalutara, Notary Public.

13. I hereby authorise and empower my son Ahmed Bin Ibrahim to have the full management and control of the several properties hereby devised and bequeathed to my grandsons (1) Ahmed Bin Hassan, (2) Mohamed Bin Hassan, (3) Rashied Bin Hassan, and (4) Hamid Bin Hassan and to recover the rents and profits thereof till each of them shall attain the age of twenty-one years or marry whichever event shall first happen. The said Ahmed Bin Ibrahim shall after payment of all taxes payable in respect of the said premises and the cost of all repairs and other expenses in connection with the management and control of the said premises pay to the guardian of each of the said minors monthly the sum of Rupees Thirty-five (35/-) for his maintenance and education and shall pay to each of my said grandsons in his attaining the age of twenty-one years or marrying as aforesaid the balance if any standing to his credit after crediting him with the income derived from the property devised and bequeathed to such grandson, as aforesaid and debiting him with the amounts paid towards taxes, repairs and other expenses and towards his maintenance and education as aforesaid. But none of my said grandsons shall have any right to call upon the said Ahmed Bin Ibrahim for an accounting or make any claim whatsoever against him in respect of his management of the said properties of the income derived therefrom. 30

14. If any of them the said Ahmed Bin Hassan, Mohamed Bin Hassan, Rashied Bin Hassan and Hamid Bin Hassan shall die unmarried before attaining the age of twenty-one years the property hereby devised and bequeathed to him shall devolve on my children Ahmed Bin Ibrahim Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim and Amina Umma in the proportion of two shares to each of sons and one share to my daughter. 40

15. I give devise and bequeath to my brother-in-law Seyed Mohamed Bin Seyed Abbas the property and premises bearing assessment No. 3,

situated at Grandpass within the Municipality of Colombo, held and possessed by me under and by virtue of Deed No. 6909 dated 26th May, 1908, attested by W. B. de Fry of Colombo, Notary Public, subject to the following conditions and restrictions that is to say that the said Seyed Mohamed Bin Seyed Abbas shall not sell, mortgage or otherwise alienate the said property and that on his death (a) one undivided half share thereof shall devolve on his children in the proportion of two shares to a son and one share to a daughter but if the said Seyed Mohamed Bin Seyed Abbas shall have no children then the said one undivided half share shall devolve on my children in the same proportions and (b) the remaining undivided half share shall devolve on my brother-in-law Seyed Mohamed Bin Seyed Abbas provided however that if the said Seyed Mohamed Bin Seyed Abbas shall then be dead the said one undivided half part or share shall devolve on his children in the same proportion and if there be no children of the said Seyed Mohamed Bin Seyed Abbas then the said undivided half share shall also devolve in my children in the same proportion.

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— continued.

16. I give devise and bequeath to my son Ahmed Bin Ibrahim the sum of Rupees Five Thousand (Rs. 5,000/-) to be contributed by him towards the rebuilding of the New Moor Street Mosque at such time as he may think proper without being liable to account for the same to any person whomsoever.

17. I give devise and bequeath to my son Ahmed Bin Ibrahim absolutely the sum of Rupees Fifteen Thousand (Rs. 15,000/-).

18. I give devise and bequeath to N. M. Mohamed Lebbe salesman at shop No. 100, Main Street, Colombo, the sum of Rupees One Hundred and Fifty (Rs. 150/-) if he shall be in my service at date of my death.

19. I give devise and bequeath to my nephew Abdul Sameth Bin Abdul Majeed the sum of Rupees Two Hundred and Fifty (Rs. 250/-).

20. All the rest and residue of my property movable and immovable I give devise and bequeath to my three sons Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim in equal shares.

21. I desire that my executor or executors shall within eighteen months after my death fully administer and close my estate and I hereby declare that no person or public officer should be entitled or have any right to raise any question as to the manner in which my estate is administered or the correctness of the accounts rendered to Court by my executors.

In witness whereof I the said Ibrahim Bin Ahmed do set my hand to this my Last Will and Testament at Colombo, in the Island of Ceylon, this Eighth day of April, One thousand Nine hundred and Nineteen.

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—continued.

Signed and declared by Ibrahim Bin Ahmed }
the within-named Testator as and for his }
Last Will and Testament in the presence } (Seal) This is the signature
of us present at the same time who in his } and seal of Ibrahim Bin
presence and at his request and in the pre- } Ahmed.
sence of each other have hereunto subscribed }
our names as witnesses.

(Sgd.) J. A. SCHOKMAN.
(Sgd.) JULIAS A. JAYASINGHE.

(Sgd.) W. A. SPELDEWINDE, 10
Notary Public.

I, William Arnold Speldewinde de Vos of Colombo, in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing Last Will and Testament having been duly read over and explained by me to the within-named testator Ibrahim Bin Ahmed in the presence of the subscribing witnesses James Arthur Schokman of Wellawatte, Colombo aforesaid and Julius Alfred Jayasinghe of Maradana, Colombo, aforesaid all of whom are known to me the same was signed by the said Ibrahim Bin Ahmed in Arabic characters and by affixing his Seal and also by the said witnesses and by me the said Notary in my presence and in the 20 presence of one another all being present at the same time on the eighth day of April, One thousand Nine hundred and Nineteen, at Colombo.

I further certify and attest that the foregoing Last Will and Testament in line 36 of page 4 the words ' and will ' were deleted in line 39, of page 7 the word ' shall ' was interpolated and in lines 29 and 31 of page 9 the name Mohamed was substituted for the name " Mohamed " before the same was read over and signed as aforesaid.

Date of attestation :
8th April, 1919.

Which I attest: 80

(Sgd.) W. A. DE VOS,
Notary Public.

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PIB

Last Will No. 1509

This the first codicil of me, Ibrahim Bin Ahmed of No. 63, Hultsdorf Street, Colombo.

By a Last Will and Testament bearing No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen attested by W. A. A. de Vos of Colombo, Notary Public, I made certain dispositions of my properties and made certain bequests and imposed certain conditions affecting the same but being now desirous of making certain alterations therein I do hereby execute these presents and I hereby declare this to be the first codicil to my said Last Will and Testament.

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—continued.

1. By Clause No. 6 of my said Last Will and Testament I declared it to be my will and desire and directed that my sons Ahmed Bin Ibrahim, 10 Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim should not sell, mortgage or otherwise alienate or encumber the several premises devised and bequeathed to them by the said Last Will and Testament and that on the death of anyone of them the properties devised and bequeathed to him should devolve on his lawful begotten children in the proportion of two shares a son and one share a daughter subject to the condition that after the date of death of any of them my said sons any of his lawfully begotten children shall be dead leaving a child or children such last mentioned child or children should be entitled to the share or shares to which his or her or their parents would have been entitled to if 20 living and if any of my said sons should die without leaving any child or other descendants lawfully begotten then that the several properties and premises by the said Last Will and Testament specially devised and bequeathed to him should devolve on his heirs according to the Mohamedan Law of inheritance subject however to the right of the widow to possess and enjoy the said several properties and premises and to recover and receive the rents and profits thereof until she dies or contracts another marriage. I hereby revoke all and singular the said terms, conditions, restrictions and provisions in the same clause contained and substitute in place thereof the terms, conditions restrictions and provisions hereinafter 30 in Clause No. 10 of this codicil contained.

2. By Clause No. 7 of the Last Will and Testament I devised unto my wife Moomina Umma the premises bearing assessment No. 63, situate at Hultsdorf Street in Colombo, subject to certain conditions, restrictions and provisions in the said clause recited and contained by the operation whereof the said premises would eventually devolve on my three sons Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim and my daughter Amina Umma in equal shares ; my wife the said Moomina Umma being now dead I hereby cancel and revoke the said devise and hereby devise the said premises bearing assessment No. 40 63, Hultsdorf Street, in equal shares unto my said three sons Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim and my daughter the said Amina Umma to be held and possessed by them subject to the terms, conditions, restrictions and directions hereinafter in Clause No. 10 of this codicil recited and contained.

3. By Clause No. 8 of the said Last Will and Testament, I devised unto my wife the said Moomina Umma the premises bearing assessment No. 99, situated at Messenger Street, Colombo, subject to certain condi-

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—continued.

tions, restrictions and provisions in the said clause recited and contained by the operation whereof the said premises bearing assessment No. 99, situated at Messenger Street, Colombo, would eventually devolve on my two grandsons Ahmed Bin Hassan and Mohamed Bin Hassan in equal shares ; my wife the said Moomina Umma being now dead I hereby cancel and revoke the said devise and I also revoke the devolution of the said premises on my said grandsons Ahmed Bin Hassan and Mohamed Bin Hassan by the said clause directed and provided. And I hereby devise the said premises No. 99, situate at Messenger Street, Colombo, unto my said three sons Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and 10 Mohamed Ismail Bin Ibrahim in equal shares to be held and possessed by them subject to the terms, conditions, restrictions and directions in Clause No. 10 of the codicil recited and contained.

4. I hereby cancel and revoke the devise made by me by Clause No. 15 of my said Last Will and Testament whereby I devised unto my brother-in-law Seyed Mohamed Bin Seyed Abbas the premises bearing assessment No. 3, situated at Grandpass, Colombo, subject to the conditions and restrictions in the said clause recited and contained whereby after his death a half share of the said premises would devolve on his children if any and if he shall leave no children then on my children and 20 the remaining half share thereof would devolve on my brother-in-law Seyed Mohamed Bin Seyed Abbas or his children if any and if he shall leave no children then on my children subject to the terms in the said clause recited. And I hereby give and devise the said premises bearing assessment No. 3, situated at Grandpass, Colombo, unto my said son Mohamed Sallih Bin Ibrahim to be held and possessed by him subject to the terms, conditions, restrictions and directions hereinafter in Clause No. 10 of this codicil recited and contained.

5. I do hereby also give and devise unto my said son Mohamed Sallih Bin Ibrahim the premises bearing assessment No. 16A, Wellawatte, 30 which is situated behind and adjacent to the premises No. 17A and 17B, Wellawatte, devised to him by me by Clause No. 4 (c) of my said Last Will and Testament to be held and possessed by him subject to the terms, conditions, restrictions and directions hereinafter in Clause No. 10 of this codicil recited and contained.

6. I do hereby also give and devise unto my said son Mohamed Sallih Bin Ibrahim the premises bearing assessment No. 22, Kayman's Gate, also to be held and possessed by him subject to the terms, conditions and restrictions and directions hereinafter in Clause No. 10 of this codicil recited and contained.

40

7. I hereby cancel and revoke the bequest of Rs. 15,000/- (Fifteen thousand Rupees) which I have by Clause No. 17 of my said Last Will and Testament made unto my said son Ahmed Bin Ibrahim as I have since the date of execution of the said Last Will and Testament bought for him an estate at Avissawella and also the premises bearing assessment No. 54, Main Street.

8. I hereby will and desire and direct that if my brother-in-law the said Seyed Mohamed Seyed Bin Abbas shall be living at the date of my death executors shall out of the moneys of my estate purchase a property of the value of Rs. 10,000/- (Ten thousand Rupees) or if I shall leave a property of that value which shall not have been specially devised either by my said Last Will or by this codicil or any subsequent codicil thereto if I shall execute any such convey the property so purchased by them or such property of that value not specially devised by me as aforesaid if they shall deem it advisable or expedient so to do unto him the said Seyed Mohamed Seyed Bin Abbas subject to the condition that he shall not sell, mortgage or otherwise alienate or encumber the same nor lease the same for a period longer than two years at a time nor during the pendency of a subsisting lease execute a fresh lease and that after his death the same shall devolve on my three sons the said Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim in equal shares to be held and possessed by them subject to the terms and conditions and directions in Clause No. 10 of this codicil recited and contained.

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- continued.

9. My brother-in-law the said Seyed Mohamed Seyed Bin Abbas has two daughters and I hereby direct that my executor or executors shall give unto each of the said two daughters the sum of Rs. 5,000/- (Five thousand Rupees) at her marriage if such marriage shall take place after my death.

10. I hereby declare it to be my will and desire and hereby direct that none of my said three sons Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim nor my daughter the said Amina Umma shall sell, mortgage or otherwise save as hereinafter expressly provided alienate or otherwise encumber any of the several properties and premises devised to them by the said Last Will and Testament or by this codicil or any other subsequent codicil thereto which shall or may be executed by me or to which he shall or may become entitled by force or by virtue of the operation of any of the terms, conditions, restrictions or provisions in the said Last Will and Testament or codicil or codicils recited and contained but shall only possess the same and receive, take and enjoy the rents, profits, issues and income thereof during his or her life but without the power of leasing the same for a period exceeding five years at a time and without the power also of executing a fresh lease during the subsistence and before the expiration of an existing lease and after his or her death if he or she shall not have exercised the power of donation hereinafter reserved to him and her the said the said properties and premises shall devolve on his or her respective children in the proportion of two shares male child and one share on each female child, the issue of any deceased on each child taking for himself or herself or amongst themselves if more than one in the proportion of each male issue two shares and each female issue one share the share to which his or her or their parents would have been entitled to if he or she shall have been alive at the date of death of his or her father or mother and in the event of any of my said sons or my said daughter dying without leaving issue then the said properties and premises

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—continued.

shall devolve on his or her brothers in equal shares, and their children by representation subject to the right which is hereby reserved to the widow of any son who shall have died without leaving issue during her life or until she shall marry again to take and enjoy the rents, profits, issues and income thereof. Provided, however, and notwithstanding anything hereinbefore in this clause importing or bearing a construction to the contrary I do hereby give unto each of my said sons and unto my said daughter the full power and liberty by deed or deeds of gift or by Last Will to make such distribution amongst his or her children of the said properties and premises and subject to such terms, conditions and restrictions as to him 10 or her shall or may seem expedient or desirable and in the exercise of this power and liberty to give to any particular child or children any larger or smaller share than he or she or they would otherwise be entitled to in terms of the conditions, restrictions and provisions hereinbefore recited and contained.

11. I have by the said Last Will and Testament devised unto my grand-children by my deceased son Hassan Bin Ibrahim certain properties and premises subject to certain terms, conditions, restrictions and directions in the said Last Will recited and contained. And I hereby declare and direct that none of them shall be entitled to take any further benefit 20 either under the said Last Will or under this codicil or any subsequent codicil or codicils thereto or by force or operation of any of the terms, codicil or restrictions therein contained or in any otherwise howsoever, it being my will and desire that save under the said devise in the said Last Will and Testament contained they shall not inherit any further property benefit or advantage out of my estate either directly from me as my grand-children or through any other heirs or beneficiaries under my said Last Will or this or other codicils thereto.

12. If I shall have any debts due by me at the date of my death I hereby direct that my executor shall in the first instance appropriate any 30 moneys that may be found in my estate for the payment of the expenses of my funeral and the almsgivings in connection therewith and in the payment of the Testamentary charges of my estate and of such debts and if such debts shall not be fully paid and discharged therewith then my executor shall also appropriate towards the payment of the same all moneys that may be due and owing to me and if there still be remaining unpaid any portion of such my debts they shall sell and convert into money my shop goods and other articles in my shop at Main Street and if then too there shall be any further sum still remaining due by my estate they shall call upon my said three sons to pay the same in equal shares. 40 And I hereby direct my said three sons jointly to contribute such deficiency without creating the necessity for the sale of any immovable property of my estate.

13. Save to the extent hereinbefore recited and contained and provided cancelling, revoking or altering the provisions of the said Last Will and Testament I hereby in all other respects confirm the said Last Will and Testament.

In witness whereof I the said Ibrahim Bin Ahmed do hereunto and to the protocol hereof set my hand at Colombo on this twelfth day of November, One thousand Nine hundred and Twenty-one.

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—continued.

Signed, published and declared by the within named Ibrahim Bin Ahmed as his first codicil to his Last Will and Testament No. 3117 dated eighth April, One thousand Nine hundred and Nineteen attested by W. A. S. de Vos in the presence of us who at his request and in his presence and in the presence of one another all being present at the same time have subscribed our names hereto as attesting witnesses and Notary.

(Sgd.) in Arabic Seal of
IBRAHIM BIN Ahmed.

(Sgd.) HARRY DE MEL.
(Sgd.) P. C. DE COSTA.

(Sgd.) C. M. M. G. BRITTO,
Notary Public.

I, Christopher Malloji Marcus Gurunader Britto of Colombo, Notary Public, do hereby certify and attest that the foregoing codicil having been duly read over and explained by me the said Notary to the therein-named Ibrahim Bin Ahmed who is known to me the same was signed by the said Ibrahim Bin Ahmed in Arabic characters and by setting his rubber stamp thereon in the presence of Mr. Harry de Mel, Proctor, Avissawella, and Peter Christopher de Costa of 108, Ferry Street in Colombo, the subscribing witnesses thereto both of whom are known to me same was signed by the said Ibrahim Bin Ahmed as aforesaid by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo on this twelfth day of November, One thousand Nine hundred and Twenty-one.

I further certify and attest that in the original of the said instrument in line 16 of page 3 the letter " ev " were written over letters in line 9 of page 5 " or " was deleted, in line 11 of page 7 the word " after " in " hereinafter " was deleted and " before " was interpolated and in line 7 of page 8 " goods " was interpolated before the said instrument was read over and explained as aforesaid.

Date of attestation :
12th November, 1921.

(Sgd.) C. M. M. G. BRITTO,
Notary Public.

Seal of C. M. M. G. BRITTO,
Notary Public, Colombo.

Last Will No. 1605

This is the second codicil of me Ibrahim Bin Ahmed of No. 63, Hultsdorf Street, Colombo. By my Last Will and Testament bearing No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen attested by W. A. S. de Vos of Colombo, Notary Public, I made certain dispositions of my properties and made certain bequests and imposed certain conditions affecting the same and by my first codicil to the said Last Will and Testament bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one attested by Christopher Malloji Marcus 10 Gurunader Britto I altered the said Last Will and Testament in certain respects.

I hereby confirm in all respects the said Last Will and Testament bearing No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen so far as the same remains unaffected and unaltered by the said first codicil bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one and I also confirm in all respect the said codicil No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one in so far as the same remains unaffected and unaltered by the codicil and I hereby declare this to be my second codicil 20 of me the said Ibrahim Bin Ahmed to my said Last Will No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen attested by W. A. S. de Vos of Colombo, Notary Public.

By the second clause of my said first codicil I devised the premises bearing assessment No. 63, Hultsdorf Street, Colombo, in equal shares unto my three sons Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim, and Mohamed Ismail Bin Ibrahim and my daughter Amina and further declared that my said sons and daughter should hold the said premises subject to the terms conditions, restrictions and directions in the 10th clause of my first codicil recited I now hereby declare and direct that my 30 said three sons and daughter shall take the full benefit of the said devise and hold the same subject to the said terms, conditions, restrictions and directions in the said 10th clause of my said first codicil recited and contained but with the power and authority which I hereby give them notwithstanding the restriction against alienation the said 10th clause contained to sell, gift or otherwise convey their or any of their or his or her share or shares in the said premises bearing assessment No. 63 to their his or her brothers and sister or any of them, or their or his descendants to be held, possessed and enjoyed by such grantee subject and in conformity with all the other conditions in the said 10th clause of my said first 40 codicil recited and contained. In the event of a sale of her share by the said Amina under this clause the price shall be Rs. 5,000/- (Five Thousand Rupees).

I hereby give and devise unto my eldest son Ahmed Bin Ibrahim the premises bearing No. 26, Keyzer Street, in the Pettah of Colombo, and

also the undivided one half share of premises bearing No. 14 presently bearing assessment No. 20, situated at Kayman's Gate, in the Pettah of Colombo, and all that premise presently bearing lot No. 4 and formerly No. 6 forming part of the said premises No. 20, Kayman's Gate, situated at Kayman's Gate aforesaid to be held by him subject to the same terms, conditions and restrictions as are set out and declared in clause No. 10 of my said first codicil No. 1509 dated the twelfth November, One thousand nine hundred and Twenty-one.

P1c
Last Will
No. 1605
13-7-23
-continued.

In witness whereof I the said Ibrahim Bin Ahmed do hereunto and to the protocol hercof set my hand at Colombo this thirteenth day of July, One thousand Nine hundred and Twenty-three.

Signed, published and declared by the within-named Ibrahim Bin Ahmed as his second codicil to his Last Will and Testament No. 3177 dated the eighth April, One thousand Nine hundred and Nineteen attested by W. A. S. de Vos in the presence of us who at his request in his presence and in the presence of one another all being present together at the same time have subscribed our names hereto as attesting witnesses and notary.

(Sgd.) In Arabic.
Seal of Ibrahim Bin Ahmed.

(Sgd.) A. R. M. Razeen.
(Sgd.) M. L. M. M. Shariff.

(Sgd.) C. M. M. G. BRITTO,
N. P.

I, Christopher Malloji Marcus Gurunader Britto of Colombo, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the therein named Ibrahim Bin Ahmed who is known to me the same was signed by the said Ibrahim Bin Ahmed in Arabic characters and by setting his rubber stamp thereon in the presence of Abdul Raheeman Mohamed Razeen. Proctor, and Meera Lebbe Marikar Mohamed Shariff of Main Street, both in Colombo the subscribing witnesses thereto both of whom are known to me the same was signed by the said executant by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo on this thirteenth day of July, One thousand Nine hundred and twenty-three.

I further certify and attest that in the original the said instrument in line 2 of page 2 the word " and " was deleted in lines 19, 20 and 21 of same page the words " In the event of a sale of her share by the said Amina under this clause the price shall be Rs. 5,000/- (Five Thousand Rupees) " were interlined in 20 of same page the word " Ummar " which

P1c
Last Will
No. 1605
18-7-23
—continued.

was interlined was deleted before the said instrument was read over and explained as aforesaid.

Date of Attestation :
13th July, 1923.

Seal of C. M. M. G. BRITTO,
Notary Public.

(Sgd.) C. M. M. G. BRITTO,
Notary Public.

P1D
Last Will
No. 1985
2-4-31

P1D

Last Will No. 1985

10

This is the third codicil of me Ibrahim Bin Ahmed of No. 63, Hultsdorf Street, Colombo.

1. By my Last Will and Testament bearing No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen, attested by W. A. S. de Vos of Colombo, Notary Public, I made certain dispositions of my properties and made certain bequests and imposed certain conditions affecting the same any by my first codicil to the said Last Will and Testament bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one attested by Christopher Malloji Marcus Gurunader Britto of Colombo, Notary Public, I altered my said Last Will and Testament in certain respects and thereafter I also executed my second codicil to my said Last Will and Testament bearing No. 1605 dated the thirteenth July, One thousand Nine hundred and Twenty-three also attested by the said Christopher Malloji Marcus Gurunader Britto whereby I altered in certain respects the terms of my said first codicil and also made a further devise.

2. I hereby confirm in all respects my said Last Will and Testament bearing No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen so far as the same remains unaffected and unaltered by my said first codicil bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one and by my said second codicil bearing No. 1605 dated the thirteenth July, One thousand Nine hundred and Twenty-three and I further in all respects confirm my said Last Will and my said first and second codicils thereto in so far as the same shall remain unaffected and unaltered by this my third codicil to my said Last Will and Testament No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen.

3. I am now seized and possessed of properties which have not been specifically devised by my said Last Will and Testament and by first and second codicils hereto and I desire by this the third codicil to my Last Will 40

and Testament to make the specific devises and directions and provisions hereinafter recited and also in certain respects to alter my said Last Will and Testament and my said codicils thereto.

P1D
Last Will
No. 1085
2-4-31
—continued.

4. I hereby give and devise unto my son Ahmed Bin Ibrahim (1) the house and premises bearing assessment No. 87, Fourth Cross Street, Pettah, Colombo, and (2) the house and garden and premises bearing assessment Nos. 285 and 287, Wellawatte, Colombo, to be held and possessed by him subject to the terms, conditions and directions in the tenth clause of my said first codicil bearing No. 1509 dated the twelfth
10 November, One thousand Nine hundred and Twenty-one recited and contained.

5. I hereby give and devise unto my son Mohamed Sallih Bin Ibrahim (1) the house and premises bearing assessment No. 87A, Old Moor Street, Colombo, (2) the house and premises bearing assessment No. 83, New Moor Street, Colombo, (3) the house and premises bearing assessment No. 11, Maliban Street, Pettah, Colombo, (4) the premises bearing assessment No. 23, Maliban Street, Pettah, Colombo, and (5) the house and premises bearing assessment Nos. 6 and 7, Kuruwe Street, Colombo, to be held and possessed by him subject to the terms, conditions, restrictions
20 and directions in the tenth clause of my said first codicil bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one recited and contained.

6. I have already gifted to my son Mohamed Ismail Bin Ibrahim the land situated in the District of Negombo together with the buildings standing thereon and all the cattle, carts, furniture, tools and implements thereon devised and bequeathed to him by me by Clause 5 (e) of my said Last Will and Testament No. 3117 of the eighth April, One thousand Nine hundred and Nineteen and therefore revoke the said Clause 5 (e) of my said Last Will and Testament and I have also gifted to him the premises
30 No. 11, Second Cross Street, Pettah, Colombo.

7. I hereby declare that with my own moneys I caused to be bought by my son Ahmed Bin Ibrahim the house and garden called and known as "Villa Mufriha" situated at Colpetty, Colombo, and thereafter to be conveyed to my said son Mohamed Ismail Bin Ibrahim and I have also paid the purchase price of three blocks of land situated at Wellawatte bought by my said son Mohamed Ismail Bin Ibrahim from Major T. G. W. Jayawardena.

8. By the 18th clause of my said Last Will and Testament I had bequeathed to N. M. Ahmed Lebbe who was at the date of execution of
40 my said Last Will and Testament a salesman at my shop a sum of Rs. 150/- (One hundred and Fifty Rupees) to be paid to him if he shall be in my service at the date of my death I hereby declare that the said N. M. Mohamed Lebbe is no longer in my service and that I have otherwise benefited him and therefore hereby revoke the said bequests.

9. I had by my second codicil devised unto my eldest son Ahmed Bin Ibrahim a half share of the premises bearing assessment No. 14

P1D
Last Will
No. 1985
2-4-31
—continued.

presently No. 20, Kayman's Gate, Pettah, Colombo, to be held by him subject to certain terms, conditions and restrictions contained in the 10th clause of my said Last Will and Testament I have since become the owner of the entirety of the said premises by right of purchase of the same at a sale thereof held under a decree in an action filed for the sale thereof under the Partition Ordinance and I now devise unto my said son Ahmed Bin Ibrahim the entirety of the said premises No. 14 presently No. 20, Kayman's Gate aforesaid to be held by him subject to the terms conditions and restrictions contained in the said tenth clause of my said first codicil bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one recited and contained. 10

10. I hereby give and devise unto my said son Mohamed Ismail Bin Ibrahim the property situated at Ratnapura bought by me under Deed No. 1857 dated seventeenth December, One thousand Nine hundred and Twenty-seven attested by C. M. M. G. Britto of Colombo, Notary Public, to be held and possessed by him subject to the terms and conditions and restrictions contained in the said tenth clause of my said first codicil bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one recited and contained.

11. I hereby give and devise unto my said three sons Ahmed Bin Ibrahim, Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim all that premises called and known as "The Lawn", situated at Colpetty, Colombo, in equal shares to be held and possessed by them subject to the terms, conditions and restrictions contained in the said tenth clause of my first codicil bearing No. 1509 dated the twelfth November, One thousand Nine hundred and Twenty-one recited and contained. 20

12. I have already conveyed to my son Mohamed Sallih Bin Ibrahim the properties devised to him under clauses 4 (a) and 4 (c) of my said Last Will and Testament No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen. 30

13. My son Mohamed Sallih Bin Ibrahim is of defective mentality and I hereby direct that we shall in any matter concerning any transactions affecting any property which he shall inherit under my said Last Will and Testament and codicils thereto act with the consent and approval and concurrence of my said son Ahmed Bin Ibrahim and that any transaction effected by him without such consent approval and concurrence shall be void.

14. I hereby direct that all the Testamentary and other legal work connected with my estate shall be done by the Notary attesting these presents who is also a Proctor practising in Colombo. 40

This is the signature of Ibrahim
Bin Ahmed :

(Sgd.) In Arabic.
Seal of IBRAHIM BIN AHMED.
(Sgd.) C. M. M. G. BRITTO.

In witness whereof I the said Ibrahim Bin Ahmed do set my hand to two of the same tenor and date at these presents at Colombo on this second day of April, One thousand Nine hundred and Thirty-one.

P1D
Last Will
No. 1985
2-4-31
—continued.

Signed and published and declared by the within-named Ibrahim Bin Ahmed as his third codicil to his Last Will and Testament No. 3117 dated the eighth April, One thousand Nine hundred and Nineteen attested by W. A. S. de Vos in the presence of us who at
10 his request in his presence and in the presence of one another all being present together at the same time have subscribed our names hereto as attesting witnesses and Notary.

This is the signature and seal of Ibrahim Bin Ahmed.

(Sgd.) In Arabic.

Seal of Ibrahim Bin Ahmed

(Sgd.) M. L. M. M. Shariff.

(Sgd.) A. L. Neydorff.

(Sgd.) C. M. M. G. BRITTO,
Notary Public.

I, Christopher Malloji Gurunader Britto of Colombo, Notary Public,
20 do hereby certify and attest that the foregoing codicil having been duly read over and explained by me the said Notary to the therein-named Ibrahim Bin Ahmed who is known to me the same was signed by the said Ibrahim Ahmed in Arabic characters and by setting his rubber stamp thereon in the presence of Mohamed Lebbe Marikar Mohamado Shariff of New Moor Street and Abel Lawrence Neydorff of No. 15, Wilson Street, both of Colombo the subscribing witnesses thereto both of whom are also known to me the same was signed by the said Ibrahim Bin Ahmed as afore-said by the said witnesses and also by me the said Notary in my presence
30 and in the presence of one another all being present together at the same time at Colombo on this second day of April, One thousand Nine hundred and Thirty-one.

I further certify and attest that the original of the said instrument in line 7 of page 1 the letter ' Y ' was typed over in the word ' my ' in line 22 of the same page the word ' and ' was interpolated in line 27 of the same page the letter ' a ' was typed over in the word ' said ' in line 5 of page 2 the letters ' ai ' were typed over in the word ' said ' in line 32 of the same page the word ' clause ' was interpolated in line of page 3 the letter ' e ' was typed over in the word ' be ' in line 13 of the same page the word ' thereof ' was deleted and therefore inter- polated in line 21 of the same
40 page the letters ' on ' was typed over in the word ' done ' before the

P1D
Last Will
No. 1985
2-4-31
—continued.

foregoing instrument was read over and explained as rafoesaid.

Date of Attestation :
2nd April, 1931.

(Sgd.) C. M. M. G. BRITTO,
Notary Public.
Seal of C. M. M. G. BRITTO.
Notary Public.

P4

P4
Mortgage
Bond
No. 2402
21-5-35

Mortgage Bond No. 2402

Prior Registration :—A40/358 ; A40/357 ; A189/20 and A188/262.

10

Know all men by these presents that I Ahmed Bin Ibrahim of "Salonika", Colpetty in Colombo, executor of the Last Will and Testament and estate of Hadjie Ibrahim Bin Ahmed, deceased, of Colombo, admitted to probate in Testamentary Proceedings No. 5686 of the District Court of Colombo (hereinafter sometimes called and referred to as the obligor) am held and firmly bounded unto Koonana Mana Nawenna Soona Pana Natchiappa Chettiar of No. 247, Sea Street, Pettah in Colombo, (hereinafter sometimes called and referred to as the obligee) in the sum of Rupees Thirty Thousand (Rs. 30,000/-) of lawful money of Ceylon being money lent and advanced to me the said obligor in my capacity as the 20 executor of the Last Will and Testament and estate of Hadjie Ibrahim Bin Ahmed, deceased, of Colombo by the said obligee.

And I the said obligor do hereby engage and bind myself and my successor or successors in office as executor or administrator of the estate of the said Hadjie Ibrahim Bin Ahmed to repay the said sum of Rupees Thirty Thousand (Rs. 30,000/-) to the said obligee his certain attorneys or attorney heirs, executors, administrators and assigns on demand and until such repayment to pay interest on the said sum of Rupees Thirty Thousand (Rs. 30,000/-) at and after the rate of twelve (12) per centum per annum to be computed from the date of these presents payable monthly on the 30 fifteenth day of each and every month, the interest from date hereof to the thirty-first instant to be paid on the fifteenth day of June now next ensuing and thereafter monthly on the fifteenth day of each and every following month.

Provided however and it is hereby expressly agreed between the parties that if the interest is paid regularly on the fifteenth day of each and every month as aforesaid I the said obligor shall have the right and privilege to pay the same to the said obligee calculated at and after the reduced rate of eight (8) per centum per annum and the said obligee shall accept the said interest calculated at the aforesaid reduced rate of eight 40 (8) per cent.

And further securing unto the said obligee, his heirs, executors, administrators and assigns the payment of all moneys payable under by virtue or in respect of these presents I the said obligor do hereby with the leave of Court granted to me on the tenth day of April, One thousand Nine hundred and Thirty-five in the said Testamentary Proceedings No. 5686 of the said District Court of Colombo specially mortgage and hypothecate to and with the said obligee, his heirs, executors, administrators and assigns as a first or primary mortgage the several lands and premises with the buildings standing thereon and in the schedule hereunder written fully
 10 described together with all rights, privileges, easements or in my wise appertaining or used or enjoyed therewith or reputed or known as part and parcel thereof and all the estate, right, title, interest, property, claim and demand whatsoever which the said Hadjie Ibrahim Bin Ahmed has and which I the said obligor as the executor of the Last Will and Testament and estate now have in to out of or upon the same.

P4
 Mortgage
 Bond
 No. 2402
 21-5-35
 —continued.

And I the said obligor do hereby for myself and my successors in office covenant and declare with and to the said obligee and his aforewritten that the said several premises hereby mortgaged and hypothecated are not subject to any charge or encumbrance and that I and my aforewritten shall and will always at the request of the said obligee and his
 20 aforewritten to and execute or cause to be done and executed all such further and other acts, deeds and assurance for the more perfectly and effectually assuring to the said obligee by way of mortgage and hypothecation the said several premises or any of them or any part or portion thereof as by the said obligee and his aforewritten shall or may be reasonably required.

In witness whereof I the said obligor do set my hand to these presents and to two others of the same tenor and date at Colombo aforesaid on this twenty-first day of May, One thousand Nine hundred and Thirty-five.

30

THE SCHEDULE ABOVE REFERRED TO :

1. All that ground and boutique No. 15, situated at Kayman's Gate in the Pettah of Colombo, within the Municipality and District of Colombo, Western Province, and the back room No. 1 also situate at Kayman's Gate aforesaid which now form one property bearing new assessment No. 339, Main Street in the Pettah aforesaid and bounded on the North by the Yard of Dr. J. B. Misso, on the East by the boutique bearing assessment No. 16 of Mrs. R. Kelaart, on the South by the Kayman's Gate junction road, and on the West by boutique bearing assessment No. 14 containing in extent one perch and 84/100 of perch (A0. R0. P1, 84/100) of a perch as
 40 per figure of survey dated the fifth October, 1889, made by C. Schwallie, Surveyor.

2. All that ground and boutique No. 11 situate at Kayman's Gate presently bearing new assessment No. 2, St. John's Road and No. 331, Main Street in the Pettah of Colombo within the Municipality and District of Colombo, Western Province, bounded on the North by the boutique

P4
Mortgage
Bond
No. 2402
21-5-35
—continued.

bearing assessment No. 12, on the South by the Kayman's Gate junction road, and on the West by the Government reservation containing in extent 64/100 of a perch (A0. R0. P0. 64/100) of a perch as per figure of survey dated fifth October, 1889, made by C. Schwallie, Surveyor.

3. All that house and ground bearing assessment No. 434 A/5 presently bearing new assessment No. 11, situated at Maliban Street in the Pettah within the Municipality and District of Colombo, Western Province, and bounded on the North by properties of Mitcho but now by the property bearing assessment Nos. 22 and 23 belonging to Mr. Rode, on the East by the house and ground bearing assessment No. 6, Maliban Street, on the South by Land Street now known as Maliban Street, and on the West by the property of Lucia Fernando but now by property bearing assessment No. 4, Maliban Street belonging to C. M. Bappu containing in extent three square perches and seventy-eight one hundredths of a square perch (A0. R0. P3. 78/100) according to the survey plan thereof No. 239 dated the 17th day of July, 1908, made by G. P. Weeraratne, Licensed Surveyor.

4. All that house and ground bearing assessment No. 438/10 presently bearing new assessment No. 23 situated at Maliban Street in the Pettah within the Municipality and District of Colombo, Western Province, and bounded on the North by the house of Baba Appu, on the East by the house of Julian Silva, on the South by Maliban Street, and on the West by house of Louisa Perera containing in extent two decimal fifty five square perches (A0. R0. P2.55) according to the figure of survey dated the 13th day of July, 1830, authenticated by Captain G. Schneider, Surveyor-General.

(Sgd.) A. B. IBRAHIM.

Witnesses :

1. (Sgd.) A. C. M. SALEE.
2. (Sgd.) M. L. M. M. Sheriff.

(Sgd.) N. M. ZAHEED,
Notary Public.

30

I, Nagoormeera Mohamed Zaheed of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the withinsigned Ahmed Bin Ibrahim (who is known to me and who signed this instrument as "A. B. Ibrahim) in the presence of Abdul Careem Mohamed Sallih (who signed as "A. C. M. Sallih) of No. 236, Old Moor Street in Colombo and Meera Lebbe Marickar Mohamed Shariff (who signed as "M. L. M. M. Shariff") of New Moor Street also in Colombo the subscribing witnesses thereto all of whom are known to me the same was signed by the said Ahmed Bin Ibrahim and by the said witnesses and by me the said notary in my presence and in the presence of one another all being present at the same time at Colombo aforesaid on this twenty-first day of May, One thousand Nine hundred and Thirty-five.

I further certify and attest that the consideration within mentioned namely Rs. 30,000/- was deposited by me on behalf of the mortgagee to the credit of Case No. 52566/1088G of the District Court of Colombo in terms of the order made by the District Court of Colombo in the Testamentary Proceedings No. 5686 of the said District Court of Colombo and that five stamps of the value of Rs. 245/- and and a stamp of Re. 1/- supplied by me have been affixed to the duplicate and original respectively of this instrument.

P4
Mortgage
Bond
No. 2402
21-5-35
—continued.

Date of Attestation :
10 21st May, 1935.

(Seal)

(Sgd.) N. M. ZAHEED,
Notary Public.

True copy on a stamp of Re. 1/-.

2D29

Deed No. 2908

2D29
Deed
No. 2908
13-12-38

Prior Registration :—A 221/79.

Regt. A 256/69.

Colombo, 16th January, 1939.

To all whom these presents shall come Ahmed Bin Ibrahim of 20 "Salonika", Colpetty in Colombo, executor of the Last Will and Testament and codicils of the late Hadjie Ibrahim Bin Ahmed of Hultsdorf Street, Colombo, deceased.

SEND GREETING :

Whereas the said Hadjie Ibrahim Bin Ahmed was during his lifetime seized and possessed of and under and by virtue of Deed No. 248 dated the 2nd day of August, 1919—attested by A. C. Mohammadu of Colombo, Notary Public, and otherwise lawfully entitled to the land and premises hereinafter in the schedule hereunder written fully described :

30 And whereas the said Hadjie Ibrahim Bin Ahmed died at Colombo on the 9th day of May, 1931, leaving a Last Will and Testament bearing No. 3117 dated 8th April, 1919, attested by W. A. S. de Vos of Colombo, Notary Public, and three codicils to the Last Will bearing Nos. 1509 dated 12th November, 1921, 1605 dated 13th July, 1923, and 1985 dated 2nd April, 1931, all attested by C. M. M. G. Britto of Colombo, Notary Public (certified copies whereof are annexed to the original hereof).

2D29
Deed
No. 2908
13-12-38
—continued.

And whereas the said Last Will and Testament and the said codicils were duly proved in Testamentary Proceedings No. 5686 of the District Court of Colombo and probate thereof was on the 8th day of May, 1984, issued to the said Ahmed Bin Ibrahim the executor named therein (a certified copy of which probate is also annexed to the original hereof for reference):

And whereas by the last paragraph of the second codicil No. 1605 dated 13th July, 1923, attested by the said C. M. M. G. Britto of Colombo, Notary Public, to the said Last Will and Testament No. 3117 the said Hadjie Ibrahim Bin Ahmed gave devised and bequeathed *inter alia* the 10 said property and premises described in the said schedule hereunder written to his son Ahmed Bin Ibrahim of "Salonika", Colpetty in Colombo and directed therein that he the said Ahmed Bin Ibrahim should hold the said property and premises subject to the same terms, conditions and restrictions as are set out and declared in clause No. 10 (ten) of his aforesaid first codicil No. 1509 dated 12th November, 1921 :

And whereas it has become necessary and expedient for the said Ahmed Bin Ibrahim as the executor as aforesaid to execute these presents for the better manifestation of title and for the purpose of conveying to and vesting the said premises in him the said Ahmed Bin Ibrahim as the 20 devisee as aforesaid subject to the terms, conditions and restrictions mentioned in the aforesaid clause No. 10 (ten) of the said first codicil No. 1509 :

Now know ye and these presents witness that the said Ahmed Bin Ibrahim as the executor as aforesaid in consideration of the premises and in further consideration of the desire and manner expressed in the said second codicil No. 1605 to the aforesaid Last Will No. 3117 and its relative first codicil No. 1509 doth hereby give, grant, assign, transfer, set over and assure unto him the said Ahmed Bin Ibrahim his heirs, executors, administrators and assigns subject however to the terms, conditions and restrictions mentioned in the said Clause No. 10 (ten) of the relative first codicil 30 No. 1509 the said land and premises in the said schedule hereunder written fully described together with all and singular the rights, privileges, easements, servitudes and appurtenances whatsoever to the said premises belonging or used or enjoyed therewith or reputed or known as part and parcel thereof and all the estate, right, title, interest, property, claim and demand whatsoever of the said Hadjie Ibrahim Bin Ahmed, deceased, and of the said Ahmed Bin Ibrahim as executor as aforesaid in to out of or upon the said premises and every part thereof.

To have and to hold the said land and premises described in the said schedule hereunder written unto the said Ahmed Bin Ibrahim, his heirs, 40 executors, administrators and assigns subject however to the terms, conditions and restrictions mentioned in the said clause No. 10 (ten) of the aforesaid first codicil No. 1509.

And the said Ahmed Bin Ibrahim as executor as aforesaid doth hereby covenant with the said Ahmed Bin Ibrahim and his aforesaid that he the said Ahmed Bin Ibrahim has not heretofore as executor as aforesaid

or otherwise made, done or committed or been party or privy to any act, deed, matter or thing whatsoever whereby or by means whereof the said premises or any part, portion thereof may be impeached or encumbered in title, charge, estate or otherwise howsoever.

2D29
Deed
No. 2908
13-12-38
- continued.

In witness whereof he the said Ahmed Bin Ibrahim as executor as aforesaid doth hereby set his hand to these presents and to two others of the same tenor and date at Colombo aforesaid on this thirteenth day of December, One thousand Nine hundred and Thirty-eight.

THE SCHEDULE ABOVE REFERRED TO :

10 All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, and bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to Mr. John Boniface Fernando and his late wife Lindamulage Catherina de Silva Wijeratne, on the South-East by property of Mr. Haniffa and others, and on the South-West by the premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one hundredth of a perch (A0. R0. P1. 71/100) as per 20 figure of survey thereof dated the 30th day of September, 1897, made by David Devapuraratne, Licensed Surveyor, and registered under title A. 221/79.

(Sgd.) Illegible.

Witnesses :

1. (Sgd.) Illegible.
2. (Sgd.) B. AHAMED.

Date of Attestation :
13th December, 1938.

(Sgd.) N. M. ZAHEED,
Notary Public.

30

I, Nagoormeera Mohamed Zaheed of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the withinsigned Ahmed Bin Ibrahim in the presence of Mohamed Ghouse Bin Ahmed (who signed as " M. B. Ahmed ") of Guildford Crescent in Colombo and Mohamed Luthfee Bin Ahmed (who signed as " M. L. Bin Ahmed ") of " Salonica ", Colpetty in Colombo, the subscribing witnesses thereto all of whom are known to me the same was signed by the said Ahmed Bin Ibrahim (who signed illegibly) and by the said witnesses and by me the 40 said Notary in my presence and in the presence of one another all being

2D29
Deed
No. 2908
13-12-38
—continued.

present at the same time at Colombo aforesaid on this thirteenth day of December, One thousand Nine hundred and Thirty-eight.

I, further certify and attest that one stamp to the value of Rupees Ten (Rs. 10/-) and a stamp of Rupee One (Re. 1/-) supplied by me, have been affixed to the duplicate and original respectively of this instrument.

Date of Attestation :
13th December, 1938.

(Sgd.) N. M. ZAHEED,
Notary Public.

2D30
Deed
No. 2909
13-12-38

2D30

10

Deed No. 2909

Reg : A 256/69.

Colombo, 16th January, 1939.

Prior Registration : A 221/79.

Know all men by these presents that Ahmed Bin Ibrahim of "Salonica", Colpetty in Colombo (hereinafter called and referred to as the said donor) in consideration of the natural love and affection which he hath and bear unto his son Mohamed Ghouse Bin Ahmed of Guildford Crescent, Cinnamon Gardens in Colombo (hereinafter called and referred to as the said donee) and for diverse other good causes and considerations him hereunto specially moving do hereby give, grant, convey, assign, transfer, set over and assure into the said donee, his heirs, executors, administrators and assigns as a gift absolute and irrevocable all that and those the land and the property in the schedule hereto described together with all rights, privileges, easements, servitudes and appurtenances whatsoever to the said premises belonging or used or enjoyed therewith or reputed or known as part and parcel thereof and all the estate, right, title, interest, property, claim and demand whatsoever of the said donor in to upon or out of the same which said premises are being held and possessed by the said donor under and by virtue of Deed No. 2908 dated this day attested by the Notary attesting these presents. 30

To have and to hold the said land and premises which are of the value of Rupees Ten Thousand (Rs. 10,000/-) unto the said donee, his heirs, executors and administrators as a gift absolutely and for ever. And he the said donor doth hereby covenant and declare to and with the said donee and his aforewritten that the said donor hath not made, done or committed or been party or privy to any act, deed, matter or thing whereby or by reason whereof the said premises or any part thereof are is can or

may be impeached or encumbered in title, charge, estate or otherwise howsoever and that the said donor and his aforewritten shall and will at all times hereafter at the request but at the cost and charges of the said donee and his aforewritten do and execute or cause to be done and executed all such further and other acts, deeds, matters and things which may be necessary or expedient for the better or more perfectly assuring the said premises or any part thereof unto the said donee and his aforewritten as may be reasonably required.

2D30
Deed
No. 2909
13-12-38
—continued.

And the said Mohamed Ghouse Bin Ahmed the above-named donee doth hereby thankfully accept the gift hereby made.

In witness whereof they the said donor and the said donee do hereunto and to two others of the same tenor and date as these presents set their hands at Colombo this thirteenth day of December, One thousand Nine hundred and Thirty-eight.

SCHEDULE ABOVE REFERRED TO :

All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, and bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to Mr. John Bonifacio Fernando and his late wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others, and on the South-West by the premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one hundredth of a perch (A0. R0. P1. 71/100) as per figure of survey thereof dated the 30th day of September, 1879, made by David Devapuraratne, Licensed Surveyor, and registered under title A. 221/79.

(Sgd.) Illegible.

30 *Witnesses :*

1. (Sgd.) B. AHMED.
2. (Sgd.) Illegible.

(Sgd.) M. B. AHMED.

I, Nagoormeera Mohamed Zaheed, of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said Ahmed Bin Ibrahim and Mohamed Ghouse Bin Ahmed the executants within-named of whom the former signed illegibly and the latter as "M. B. Ahmed) in the presence of Mohamed Luthfee Bin Ahmed of "Salonica", Colpetty in Colombo, and Meera Lebbe Marikar Mohamed Shariff (who

2D30
Deed
No. 2909
13-12-38
—continued.

signed as “ M. L. M. M. Shariff) of No. 164, New Moor Street in Colombo, the subscribing witnesses thereto all of whom are known to me the same was signed by the said executant and also by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at the same time at in Colombo aforesaid on this thirteen day of December, One thousand Nine hundred and Thirty-eight.

And I further certify and attest that the duplicate of this instrument bears five stamps of the value of Rupees One hundred and Fifty-nine (Rs. 159/-) and the original one of Rupee One (Re. 1/-) and that the said stamps were supplied by me.

10

Date of Attestation :
13th December, 1938.

(Sgd.) N. M. ZAHEED,
Notary Public.

Reference No. 873

Assessor's Department,
Town Hall,
Colombo.

29th March, 1939.

Subject : Name of Owner in Assessment Book.

20

Sir,

With reference to the abstract of title forwarded with your letter dated 10th January, 1939, I have to inform you that the name of Mohamed Ghouse Bin Ahmed has been inserted in the Assessment Book as the reputed owner of premises bearing No. 238, Keyzer Street.

I am, Sir,
Your Obedient Servant,

(Sgd.) Illegible,
Municipal Assessor.

N. M. ZAHEED, Esq.,
Proctor S.C. & Notary Public,
“ Old Crown ”,
250, Hultsdorf, Colombo.

30

Prior Registration :—A. 221/79.

Know all men by these presents that I, Mohamed Ghouse Bin Ahmed of Guildford Crescent, Cinnamon Gardens in Colombo (hereinafter some times called and referred to as the said obligor) am held and firmly bound unto Kuna Mana Navenna Suna Pana Natchiappa Chettiar son of Supramaniam Chettiar also known as Suppramaniam Chettiar Natchiappa Chettiar of No. 247, Sea Street in Colombo (hereinafter sometimes called
10 and referred to as the said obligee) in the sum of Rupees Four Thousand Five Hundred (Rs. 4,500/-) of lawful money of Ceylon for money borrowed and received by me from the said obligee (the receipt whereof I do hereby admit and acknowledge) I therefore hereby renouncing the beneficium *non numeratae pecuniae* do hereby engage and bind myself, my heirs, executors and administrators to repay on demand unto the said obligee or to his certain attorneys or attorney heirs, executors, administrators or assigns the said sum with interest thereon at and after the rate of Ten (10) per centum per annum to be computed from date hereof payable monthly in advance.

20 Provided however that if the interest is paid regularly each and every month as aforesaid I the said obligor shall have the right and privilege to pay the same calculated at and after the rate of seven (7) per centum per annum and in that event the said obligee should accept the said interest at the reduced rate of seven (7) per centum per annum.

And for securing the payment of the said principal sum and interest and all other moneys that may become due and payable under by virtue or in respect of these presents I the said obligor do hereby specially mortgage and hypothecate to and with the said obligee, his heirs, executors, administrators and assigns as a first or primary mortgage free from any
30 incumbrance whatsoever and subject to the conditions hereinafter mentioned the premises fully described in the schedule hereunder written together with all right, servitudes, members and appurtenances to the said premises belonging or therewith used or enjoyed and all the estate, right, title, interest, property, claim and demand whatsoever of the said obligor in to out of or upon the said premises which said premises are being held and possessed by me the said obligor under and by virtue of Deed of Gift No. 2909 dated 13th December, 1938, attested by the Notary attesting these presents.

And I the said obligor do hereby covenant and declare with and to
40 the said obligee and his aforewritten that the said premises hereby mortgaged and every part hereof are in no wise encumbered and that I have good right to mortgage the same as aforesaid and that I shall and will at any time thereafter during the continuance of the mortgage hereby created do and execute all such further and other acts, deeds, matters and

2D35
Bond
No. 2913
16-12-38
—continued.

things for the better and more effectually assuring the said premises by way of mortgage unto the said obligee and his aforewritten as by him or his aforewritten shall or may be reasonably required and that the said obligor shall during that subsistence of the mortgage hereby created well and carefully keep and maintain the said premises and appurtenances thereof in a good carefully husband like manner and in proper order and repair and will not execute any other mortgage or any lease touching the said premises or commit any act or deed whereby or reason whereof the rent income or issues thereof may be in anywise encumbered without the consent in writing of the said obligee or his aforewritten having been first had and obtained thereto and any such lease mortgage or incumbrance executed without such consent shall be absolutely null and void.

And I the said obligor do declare further to engage and bind myself, my heirs, executors and administrators for the true performance of the foregoing obligation.

In witness whereof I the said obligor do set my hand hereunto and to two others of the same tenor and date as these presents at Colombo on this sixteenth day of December, One thousand Nine hundred and Thirty-eight.

THE SCHEDULE REFERRED TO :

20

All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, and bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to Mr. John Bonifacio Fernando and his late wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others, and on the South-West by the premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one hundredth of a perch (A0. R0. P1. 71/100) as per figure of survey thereof dated the 30th day of September, 1879, made by David Devapuraratne, Licensed Surveyor, and registered under title A. 221/79.

(Sgd.) M. B. AHMED.

Witnesses :

1. (Sgd.) M. L. BIN AHMED.
2. (Sgd.) M. D. MOHIDEEN.

Notary Public.

(Sgd.) N. M. ZAHEED.

Date of Attestation : } (Sale)
16th December, 1938 }

40

I, Nagoormceera Mohamed Zaheed of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said Obligor Mohamed Ghouse Bin Ahmed (who is known to me and who signed this instrument as "M. B. Ahmed") in the presence of Mohamed Luthfee Bin Ahamed of "Salonica" Galle Road in Colpetty, Colombo, and Mag Doom Marikar Mohamed Mohideen (who signed as "M. D. Mohideen") of the Old Crown, Hulftsdorp Street in Colombo the sub-
 10 scribing witnesses hereto both of whom are known to me the same was signed by the said Obligor and also by me and the said witnesses in my presence and in the presence of one another all being present at the same time at Colombo on this sixteenth day of December, One Thousand Nine Hundred and Thirty-Eight.

And I further certify and attest that the consideration within-mentioned namely Rupees Four thousand five hundred (Rs. 4,500/-) was paid in my presence by a cheque bearing No. BB/3 49861 dated this day drawn on the Imperial Bank of Colombo by the grantee in favour of the grantor; that in line 16 of page 1 of all the copies of this instrument the
 20 words "attorneys or attorney" were interpolated and in the next line in all the copies thereof the words "the said sum" were interpolated before the same was read over and explained by me as aforesaid and that the original of this instrument bears one stamp to the value of Rupee One (Re. 1/-) and that the Duplicate of this instrument bears five stamps of the value of Rs. 38/- (Thirty-eight) and that the said stamps were supplied by me.

Date of Attestation :

16th December, 1938. (Seal)

Which I attest.

(Sgd.) N. M. ZAHEED,
 Notary Public.

30

True copy on a stamp of Re. 1/-.

Colombo, 10th August, 1949.

(Sgd.)
 Notary Public.

2D34

Counterfoil of Receipt Book

No.

HOUSE RENT RECEIPT

2D34
 Counterfoil
 of Receipt
 Book
 1-4-39 to
 10-5-40

Colombo, 1st April, 1939.

Received from Ismail Aboobucker Rupees Two hundred and Fifty
 40 being rent due from the House No. 196, situated at Main Street, Colombo,
 for the month of March, 1939.

Rs. 250/-

2DB4
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 5th April, 1939.

Received from C. L. Beling Rupees One hundred and Twenty-five being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, Colombo, for the month of April, 1939.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 5th April, 1939. 10

Received from V. S. Suppiah Pillai Rupees Twenty-five only being rent due from the House No. 9, situated at Gabos Lane, Colombo, for the month of March, 1939.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th April, 1939.

Received from D. C. Fernando Rupees One hundred only being rent due from the House No. 2, situated at China Street, Colombo, for the month of March, 1939.

20

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th April, 1939.

Received from I. S. M. Sheriff Rupees Thirty-five only being rent due from the House No. 275, situated at Main Street, Colombo, for the month of March, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th April, 1939.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of March, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th April, 1939.

10

Received from Midland Agency Co. Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of March, 1939.

Rs. 75/-

No.

HOUSE RENT RECEIPT

Colombo, 1st May, 1939.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, for the month of April, 1939.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th May, 1939.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, for the month of May, 1939.

Rs. 125/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1939.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of April, 1939.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1939. 10

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of April, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1939.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of April, 1939.

20

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1939.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of April, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st June, 1939.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of May, 1939.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th June, 1939.

10

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, Colombo, for the month of June, 1939.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 5th June, 1939.

Received from D. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for 20 the month of May, 1939.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th June, 1939.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of May, 1939.

Rs. 100/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th June, 1939.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of May 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th June, 1939. 10

Received from I. S. M. Ariffen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of May, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st July, 1939.

Received from Ismail Aboobuckèr Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of June, 1939. 20

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th July, 1939.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, Colombo, for the month of July, 1939.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th July, 1939.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from O. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of June, 1939.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th July, 1939.

10

Received from D. R. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of June, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th July, 1939.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the 20 month of June, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th July, 1939.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of June, 1939.

Rs. 35/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th July, 1939.

Received from O. Meera Sahib Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of June, 1939.

Rs. 75/-

No.

HOUSE RENT RECEIPT

Colombo, 1st August, 1939. 10

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of July, 1939.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th August, 1939.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, Colombo, for the month of August, 1939. 20

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th August, 1939.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of July, 1939.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th August, 1939.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of July, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th August, 1939.

10

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of July, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th August, 1939.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the 20 month of July, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th August, 1939.

Received from O. Meera Shahib Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of July, 1939.

Rs. 75/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 1st September, 1939.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of August, 1939.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th September, 1939. 10

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, Colombo, for the month of August, 1939.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th September, 1939.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of August, 1939.

20

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th September, 1939.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of August, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th September, 1939.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of August, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

10

Colombo, 10th September, 1939.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of August, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st October, 1939.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of September, 1939.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th October, 1939.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, for the month of October, 1939.

Rs. 125/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th October, 1939.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of September, 1939.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th October, 1939. 10

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of September, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th October, 1939.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of September, 1939.

20

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th October, 1939.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of September, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th October, 1939.

2D3A
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of September, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st November, 1939.

10

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of October, 1939.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th November, 1939.

Received from C. L. Beling Rupees One hundred Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, for the month of November, 1939.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th November, 1939.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane 11, Colombo, for the month of October, 1939.

Rs. 25/-

2D84
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th November, 1939.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of October, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th November, 1939. 10

Received from I. S. M. Sheriff Rupees Thirty-five only, being the rent due from the House No. 275, situated at Main Street, Colombo, for the month of October, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th November, 1939.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of October, 1939.

20

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st December, 1939.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of November, 1939.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th December, 1939.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19, situated at Bambalapitiya, Colombo, for the month of December, 1939.

Rs. 125/-

No.

HOUSE RENT RECEIPT

10

Colombo, 10th December, 1939.

Received from V. S. Suppiah Pillai Rupees Thirty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of November, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th December, 1939.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the 20 month of November, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th December, 1939.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of November, 1939.

Rs. 35/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th December, 1939.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of November, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 5th December, 1939. 10

Received from Esoofally Gulam Hassen & Son Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of November, 1939.

Rs. 75/-

No.

HOUSE RENT RECEIPT

Colombo, 1st January, 1940.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of December, 1939. 20

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th January, 1940.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19 "Nalin Bank", situated at Arthur's Place, Bambalapitiya, for the month of January, 1940.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 5th January, 1940.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of December, 1939.

Rs. 25/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 19th January, 1940.

10

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of December, 1939.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th January, 1940.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the 20 month of December, 1939.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th January, 1940.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of December, 1939.

Rs. 35/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 1st January, 1940.

Received from Esoofally Gulam Hasen & Son Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of December, 1939.

Rs. 75/-

No.

HOUSE RENT RECEIPT

Colombo, 1st February, 1940.10

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of January, 1940.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th February, 1940.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19, situated at Arthur's Place, Bambalapitiya, Colombo, for the month of February, 1940. 20

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th February, 1940.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of January, 1940.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th February, 1940.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of January, 1940.

Rs. 100/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th February, 1940.

10

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of January, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th February, 1940.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 227, situated at Main Street, Colombo, for the 20 month of January, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st February, 1940.

Received from Esoofally Gulam Hasen & Sons Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of January, 1940.

Rs. 75/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 1st March, 1940.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of February, 1940.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th March, 1940. 10

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19, situated at Arthur's Place, Bambalapitiya, Colombo, for the month of February, 1940.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th March, 1940.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of February, 1940. 20

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th March, 1940.

Received from D. C. L. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of February, 1940.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th March, 1940.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of February, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th March, 1940.

10

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of February, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 5th March, 1940.

Received from Esoofally Gulam Hussain & Sons Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of February, 1940.

Rs. 75/-

No.

HOUSE RENT RECEIPT

Colombo, 1st April, 1940.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of March, 1940.

Rs. 250/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 1st April, 1940.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19, situated at Arthur's Place, Bambalapitiya, for the month of April, 1940.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th April, 1940. 10

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of March, 1940.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th April, 1940.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of March, 1940. 20

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th April, 1940.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of March, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

2034
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
--continued.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of April, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st April, 1940.

10

Received from Esoofally Gulam Hassein & Sons Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of March, 1940.

Rs. 75/-

No.

HOUSE RENT RECEIPT

Colombo, 1st May, 1940.

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of April, 1940.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th May, 1940.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19, situated at Arthur's Place, Colombo, for the month of May, 1940.

Rs. 125/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of April, 1940.

Rs. 25/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940. 10

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of April, 1940.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of April, 1940.

20

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of April, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 1st May, 1940.

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

Received from A. M. S. Abdul Cader Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of April, 1940.

Rs. 75/-

No.

HOUSE RENT RECEIPT

Colombo, 3rd May, 1940.

10

Received from Ismail Aboobucker Rupees Two hundred and Fifty only, being rent due from the House No. 196, situated at Main Street, Colombo, for the month of April, 1940.

Rs. 250/-

No.

HOUSE RENT RECEIPT

Colombo, 5th May, 1940.

Received from C. L. Beling Rupees One hundred and Twenty-five only, being rent due from the House No. 19, situated at Arthur's Place, Colombo, for the month of May, 1940.

Rs. 125/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

Received from V. S. Suppiah Pillai Rupees Twenty-five only, being rent due from the House No. 9, situated at Gabo's Lane Colombo, for the month of April, 1940.

Rs. 25/-

2D34
Counterfoil
of Receipt
Book
1-4-39 to
10-5-40
—continued.

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

Received from D. C. Fernando Rupees One hundred only, being rent due from the House No. 2, situated at China Street, Colombo, for the month of April, 1940.

Rs. 100/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940. 10

Received from I. S. M. Sheriff Rupees Thirty-five only, being rent due from the House No. 275, situated at Main Street, Colombo, for the month of April, 1940.

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

Received from I. S. M. Ariffeen Rupees Thirty-five only, being rent due from the House No. 277, situated at Main Street, Colombo, for the month of April, 1940.

20

Rs. 35/-

No.

HOUSE RENT RECEIPT

Colombo, 10th May, 1940.

Received from A. M. S. Abdul Cader Rupees Seventy-five only, being rent due from the House No. 238, situated at Keyzer Street, Colombo, for the month of April, 1940.

Rs. 75/-

**Power of Attorney given by Valliammai Atachi to
Ramanathan Chettiar**

2D3
Power of
Attorney
given by
Valliyammai
Atchi to
Ramanathan
Chettiar
12-6-40

TO ALL TO WHOM THESE PRESENTS SHALL COME I,
Valliammai Atchi, widow of Natchiappa Chettiar, son of Suppramaniam
Chettiar also known as Koonana Mana Nawanna Soonana Pana Natchiappa
Chettiar of KM. S. SP. Natchiappa Chettiar of Sembanur, Tiruppatur
Taluk, Ramanad District in South India, an executrix of the Last Will
and Testament of the said Natchiappa Chettiar son of Suppramaniam
10 Chettiar :

SEND GREETING :

Whereas the said Natchiappa Chettiar carried on business at Sea
Street in Colombo in the Island of Ceylon under the name, style and firm
of " Koonana Mana Nawanna Soonana Pana " or " KM. N. SP. "

And whereas the said Natchiappa Chettiar departed this life at
Sebanur aforesaid on the 30th day of December, 1938, leaving a Last
Will and Testament dated the 3rd/4th day of December, 1938.

And whereas by the said Last Will the said Natchiappa Chettiar
appointed me the executrix thereof.

20 And whereas the said Last Will was produced in Court for admittance
to probate and proved in Testamentary Proceedings No. 8802 of the
District Court of Colombo and probate dated the 17th day of April, 1940,
was accordingly granted to me by the said District Court issued under the
hand of C. Nagalingam, Esquire, Additional District Judge of Colombo.

And whereas as executrix as aforesaid I am desirous of appointing
some fit and proper persons as my attorneys in the Island of Ceylon for
the purpose of representing me in the administration of the said estate
and effects of my late husband and generally to act for me as such exe-
cutrix.

30 AND KNOW YE AND THESE PRESENTS WITNESS that I the
said Valliammai Atchi as executrix as aforesaid do hereby nominate
constitute and appoint Ramanathan Chettiar son of Nawanna Kana Veyna
Letchumanan Chettiar of Devakotta in Ramnad District aforesaid
Natukottai Chetty Caste Money Lender presently of No. 247, Sea Street
in Colombo in the Island of Ceylon and Letchumanan Chettiar son of
Movanna Leyna Mayandy Chettiar of Chokkanathapuram in Ramnad
District aforesaid Natukottai Chetty Caste Money Lender presently of
No. 247, Sea Street in Colombo each of them separately or both jointly
40 to my true and lawful attorney or attorneys to act for me and on my
behalf as such executrix and in my name or otherwise for and all each and
every or any of the following purposes that is to say :—

To appear for me in the said Case No. 8802 of the said District Court
of Colombo or before any other Court having jurisdiction in that behalf to

2D3
Power of
Attorney
given by
Valliyammai
Atchi to
Ramanathan
Chettiar
12-6-40

—continued.

administer the said estate and for that purpose to sign and grant all necessary proxy or proxies to any proctor or proctors of the said Courts and the same from time to time recall and revoke.

To file all affidavits, petitions, applications, pleadings and other papers in the said District Court as may become necessary from time to time in respect of the said estate and effects.

To file oaths, bonds inventories, intermediate and final accounts and all other documents as are required or become necessary to be filed in respect of the administration of the said estate.

To transact, conduct and manage the business under the name, style and firm or vilasam of "Koonana Mana Nawanna Soona Pana" of "KM. N. SP." and for that purpose to use or sign my name as executrix as aforesaid to all and every or any document or documents writing or writings whatsoever.

To superintend, manage and control the houses, lands, estates and other landed property as also the ships, vessels and boats which I as such executrix now am or hereafter may become entitled to be possessed of or interested in and to sell and dispose of or to demise and lease or freight or charter or to convey by way of exchange the houses, lands, estates and other landed property, ships, vessels and boats which I as such executrix am or hereafter may become entitled to be possessed of or interested in.

To sell and dispose of or to ship and consign for sale elsewhere the crops and produce of the estates which I as such executrix now am or hereafter may become entitled to be possessed or interested in.

To call for and to give and consent to a partition of the said lands, houses, buildings and premises or any of them between me as such executrix and the other proprietor or proprietors thereof.

To purchase for me any necessary lands, tenements or hereditaments as to my said attorneys or attorney shall seem proper at the realization of the decree entered in favour of the said Natchiappa Chettiar or his estate.

In the event of any such purchase, sale, lease, exchange, partition, freight, charter or for any other purpose whatsoever for me as such executrix and in my name and as my act and deed to sign, execute and deliver all deeds and other documents necessary for giving effect and validity to the same respectively or to any contract, agreement or promise for effecting the same respectively.

To ask, demand, sue for recover and receive of and from all persons liable now or hereafter to pay and deliver the same respectively all sum and sums of money, debts, legacies, goods and effects and things whatsoever now owing, payable or belonging or which shall or may at any time hereafter be due owing and payable coming or belonging to me as such executrix and on payment or delivery thereof to give, sign and execute receipts, releases and other discharge for the same respectively and thereupon to manage, employ and deal with the same as I as such executrix could or might lawfully do and on non-payment or non-delivery thereof

or of any part hereof to commence, carry on and prosecute any action or actions, suit or suits or other proceedings whatsoever before any Court or Courts in the said Island for receiving and compelling the payment on delivery thereof.

2D3
Power of
Attorney
given by
Valliyammai
Atchi to
Ramanathan
Chettiar
12-6-40
—continued.

To state finally, settle and adjust all accounts reckonings and demands whatsoever between me as such executrix and any person or persons whomsoever and to compromise disputes and differences and to refer matters to arbitration and to sign and execute all necessary bonds submissions and references therefor and to enforce any award.

10 To sell and convert into money all goods, effects or things or shares which now belong or at any time hereafter shall belong to me as such executrix and invest the money which now belongs or at any time hereafter may belong to me as such executrix upon such security as my said attorneys or attorney shall consider good and sufficient and from time to time to vary such investments for other or others of the same or like nature or to release such security.

To appear for me as such executrix before any Court or Courts in the said Island either as plaintiff-defendant, petitioner-respondent, claimant or intervenient and to sign and grant all necessary proxy or proxies to any
20 proctor or proctors of the said Courts and the same from time to time to recall and revoke ; and to prosecute or defend any suit or suits or other proceedings now or hereafter to be brought by or against me as such executrix and proceed to judgment thereon or to suffer judgment by way of default to be entered against me as such executrix and to admit any claim or claims which may be brought against me as such executrix in such Court or Courts as my said attorneys or attorney shall think fit and against any judgment order or decree of any of the said Courts to appeal and prosecute such appeal before the Supreme Court of the said Island and from any judgment order or decree of the said Supreme Court to
30 appeal to His Majesty the King in Council and give all necessary securities and sign all necessary bonds for the prosecution of such appeals. And to make all appearance and all applications in the Supreme Court in connection with such appeal to His Majesty the King in Council.

To deposit monies and open current accounts or fixed deposit accounts in the Island of Ceylon with any or all of the banks in Ceylon and in that behalf to sign the necessary account opening forms and to sign effective discharges on the bank of the fixed deposit receipts as they mature on the due dates and further to sign, draw, make, endorse, accept any cheque or bill of exchange or vouchers such as income tax refunds, money orders,
40 postal orders, etc. ; and generally to give effective discharges.

To prove any debt or debts due to me as such executrix by any person who shall be adjudged an insolvent in any Court or Courts in this Island and to note in the election of assignees and to accept any offer of composition and otherwise to represent and act for me as such executrix in such insolvency proceedings.

2D8
Power of
Attorney
given by
Valliyammai
Atchi to
Ramanathan
Chettiar
12-6-40
—continued.

To sign and endorse for me as such executrix cheques, vouchers and orders of payment for the purpose of drawing money out of any banks in the said Island or from any government or private offices.

To attend any meetings of any companies wherein I as such executrix am a shareholder and to vote for me as such executrix on any subject matter or question that may be brought forward at any such meeting at which by the rules and regulations of any such company I as such executrix can or may vote if personally present and to grant proxies to any other persons or person to vote on my behalf as such executrix for any of the said purposes and generally to act for me as such executrix and to execute 10 any and every act, matter or thing in respect of the liquidation or winding up of any such company or otherwise as shall or may be bound necessary or expedient.

To cancel and discharge all security bonds or mortgage bonds on payment being made. To sign any deeds or releases for the purpose of releasing and discharging any property or properties that have been or may hereafter be mortgaged and hypothecated as security and with the said deceased Natchiappa Chettiar or with me as such executrix.

To sign any deed or surrender or any other deed or deeds that might be executed by the mortgagor or mortgagors subsequent to the execution 20 of any mortgage bonds in favour of the said deceased Natchiappa Chettiar or in my favour as such executrix. My attorney or attorneys shall have no power to borrow money on my behalf as executrix.

Generally to do, execute and perform all such further and other acts, deeds, matters and things whatsoever which my said attorney or attorneys shall think necessary or proper to be done in and about or concerning the administration of the said estate as fully and effectually to all intents and purposes as I as such executrix might or could do if I were personally present and did the same in proper person, it being my intent and desire that all matters and things respecting the same shall be under the full 30 management, control and direction of my said attorney or attorneys.

And I do hereby direct that all acts which shall be had, made or done by my said attorneys or attorney before the revocation of the authority contained in these presents shall be as binding and valid to all interests and purposes as if the same had taken place previous to my death or before such revocation any rule or law or equity to the contrary notwithstanding.

And it is hereby expressly declared and agreed that as against me and any person claiming under me as such executrix every act, deed, matter or thing which the said attorneys or attorney shall execute or 40 cause to be and executed in relation to the premises subsequent to the revocation of the powers expressed to be hereby conferred or any of them

shall be binding and conclusive in favour of every person claiming the benefit of such act, deed, matter or thing who shall not prior to the execution or doing thereof have received express notice of such revocation and it is hereby further declared that no such person shall be bound to inquire or ascertain whether I am living or whether the said powers or any of them have or has been revoked or otherwise determined.

2D3
Power of
Attorney
given by
Valliyammai
Atchi to
Ramanathan
Chettiar
12-6-40
—continued.

Provided always that no company, corporation or bank dealing with my said attorneys or attorney shall be concerned to ascertain or inquire whether or not this power of attorney has or has not lapsed, determined or ceased to be in force.

And in respect of any act, deed, matter or thing committed or done by my said attorneys or attorney under or by virtue of these presents prior to the receipt by such company, corporation or bank of notice in writing from me of the revocation of this power of attorney the same shall be as valid and binding on me as such executrix as the same should have been if the said power of attorney had not been revoked.

In witness whereof I the said Valliammai Atchi as such executrix do set my hand to these presents as executrix on this 12th day of June, One thousand Nine hundred and Forty.

(Sgd.) In Tamil.

(Sgd.) In Tamil.

Document 30 of 1940 Book 4.

(Sgd.) N. S. P.,
Sub-Registrar.
12-6-40.

The seal of the Sub-Registrar of Tiruppatur.

True copy on a stamp of Re. 1/-.

(Sgd.) N. M. ZAHEED,
Notary Public.

30

Colombo, 12th November, 1940.

True copy to which a stamp of Rupee One is affixed.

(Sgd.) A. M. M. FUARD,
Notary Public.

Colombo, 26th day of November, 1943.

Agreement No. 3136

Prior Registration :—Colombo A. 221/75 and A. 66/282.

This indenture made and entered into at Colombo this twenty-first day of December, One thousand Nine hundred and Forty-one by and between Mohamed Ghouse Bin Ahmed of No. 17, Horton Place, Cinnamon Gardens in Colombo and Mohamed Luthfee Bin Ahmed of "Salonica", Colpetty in Colombo (hereinafter called and referred to as the said Mohamed Ghouse and Mohamed Luthfee) of the first part, Adham Bin Mohamed Sallih of Cottabodda Estate, Avissawella (hereinafter called and 10 referred to as the said Adham) of the second part and Sithy Nafeesathul Zabeedia daughter of Ahmed Bin Ibrahim of "Salonica" aforesaid (hereinafter called and referred to as the said Sithy Nafeesathul Zabeedia) of the third part :

Whereas a marriage has been arranged and is intended to be solemnized shortly between the said Adham and the said Sithy Nafeesathul Zabeedia sister of the said Mohamed Ghouse and the said Mohamed Luthfee.

And whereas in consideration of the said marriage the said Mohamed Ghouse has agreed with the said Adham the said Sithy Nafeesathul 20 Zabeedia *inter alia* to convey as dowry or marriage gift absolute and irrevocable free from all encumbrances whatsoever and with a perfect title unto the said Sithy Nafeesathul Zabeedia the premises hereinafter in the schedule "A" hereunder written fully described.

And whereas the said Mohamed Ghouse has by Deed No. 1079 dated this day and attested by M. M. A. Raheem of Colombo, Notary Public, conveyed the said premises as aforesaid to the said Sithy Nafeesathul Zabeedia.

And whereas the said premises are subject to mortgage bond bearing No. 2913 dated 16th December, 1938, and attested by N. M. Zaheed of 30 Colombo, Notary Public.

Now this indenture witnesseth that the said Mohamed Ghouse and the said Mohamed Luthfee shall and will within a period of six weeks from date hereof have the said premises released from the effects of the above-mentioned mortgage bond No. 2913, and in the event of the said Mohamed Ghouse and the said Mohamed Luthfee failing or neglecting to release the said premises from the effects of the said mortgage bond No. 2913 within the said period of six weeks from date hereof then the said Mohamed Ghouse and the said Mohamed Luthfee shall and will jointly and severally pay to the said Adham and the said Sithy Nafeesathul Zabeedia a sum of 40 Rupees Five thousand (Rs. 5,000/-) as liquidated damages.

And as security for the due performance of this agreement and for the due payment of the said sum of Rupees Five thousand (Rs. 5,000/-)

as liquidated damages as aforesaid the said Mohamed Ghouse and the said Mohamed Luthfee do hereby jointly and severally mortgage and hypothecate to and with the said Adham and the said Sithy Nafeesathul Zabeedia the premises hereinafter in the schedule " B " hereunder written fully described.

2131
Agreement
No. 3136
21-12-41
—continued.

These presents shall bind and accrue to the benefit of the parties hereto their respective heirs, executors, administrators and assigns.

In witness whereof said Mohamed Ghouse Bin Ahmed, Mohamed Luthfee Bin Ahmed, Adham Bin Mohamed Sallih and Sithy Nafeesathul Zabeedia have hereunto and to two others of the same tenor and date as these presents set their respective hands at Colombo on this twenty-first day of December, One thousand Nine hundred and Forty-one.

THE SCHEDULE " A " ABOVE REFERRED TO :

All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to Mr. John Bonifacio Fernando and his late wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others, and on the South-West by premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one hundredths of a perch (A0. R0. P1, 71/100) as per figure of survey thereof dated 30th September, 1879, and made by David Devapuraratne, Licensed Surveyor, and registered under title Colombo A. 221-79.

THE SCHEDULE " B " ABOVE REFERRED TO :

All that house and ground formerly bearing assessment No. 10 presently bearing new assessment Nos. 81, 85, 87 and 89, situated at Keyzer Street in Pettah within the Municipality and District of Colombo, Western Province, and bounded on the North by the house of Mr. Muller, on the East by the house of J. Alexander, on the South by Keyzer Street, and on the West by house of widow Andansz or Aldons, containing in extent ten square perches and eighty-eight one hundredths of a perch (A0. R0. P10. 88/100) according to the survey and description thereof No. 2159 dated the 5th day of March, 1891, authenticated by G. Schneider, Land Surveyor, and registered under title Colombo A. 66/282.

Witnesses :

(Sgd.) Illegible.
40 (Sgd.) Illegible.

(Sgd.) M. B. Ahmed.
(Sgd.) Illegible.

(Sgd.) SITHY NAFEESATHUL ZABEEDIA.

2D31
Agreement
No. 3136
21-12-41
—continued.

I, Nagoormeera Mohamed Zaheed of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the withinsigned Mohamed Ghouse Bin Ahmed, Mohamed Luthfee Bin Ahmed, Adam Bin Mohamed Sallih and Sitti Nafeesathul Zabeedia in the presence of Seyed Mohamed Bin Seyed Abbas (who signed as "S. M. B. S. Abbas") of Avissawella and Mohamed Maleeh Mohamed Saeed (who signed as "M. of Wellawatte in Colombo, the subscribing witnesses thereto all of whom M. Saeed") are known to me, the same was signed by the said Mohamed 10 Ghouse Bin Ahmed, Mohamed Luthfee Bin Ahmed, Adam Bin Mohamed Sallih and Sitti Nafeesathul Zabeedia (of whom the first named signed as "M. B. Ahmed", the second named as "M. L. Bin Ahmed", the third named as "A. B. M. Sallih" and the fourth named as "Sithy Nafeesa Zabedi") and by the said witnesses and by me the said Notary in my presence and in the presence of one another all being present at the same time at Colombo aforesaid on this twenty-first day of December, One thousand Nine hundred and Forty-one.

I further certify and attest that in all the copies of this instrument wherever the word "Zabeedia" was mentioned the concluding letters 20 "ia" were added to the word "Zabeed" to read as "Zabeedia" before the same was read over and explained by me as aforesaid and that two stamps of the value of Rupees Fifty-two (Rs. 52/-) and a stamp of Rupee One (Re. 1/-) supplied by me, have been affixed to the duplicate and original respectively of this instrument.

Date of Attestation :
21st December, 1941.

(Sgd.)
Notary Public.

2D32
Deed
No. 1079
21-12-41

2D32

30

Deed No. 1079

Prior Registration :—Colombo A. 221/79.

Registered : A. 278/239.

Colombo, 9th January, 1942.

To all to whom these presents shall come Mohamed Ghouse Bin Ahmed of No. 17, Horton Place, Cinnamon Gardens in Colombo (hereinafter sometimes called and referred to as the said donor).

SENDS GREETING :

Whereas the said donor is seized and possessed of or otherwise well and sufficiently entitled to all that allotment of land with the buildings thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipality and District of Colombo and more particularly described in the schedule hereto under and by virtue of Deed No. 2909 dated 13th December, 1938, and attested by N. M. Zaheed of Colombo, Notary Public.

2D32
Deed
No. 1079
21-12-41
—continued.

And whereas a marriage has been arranged and is intended to be solemnized shortly between Sithy Nafeesathul Zabeedia of "Salonica", Kollupitiya Road in Colombo, daughter of Ahmed Bin Ibrahim, deceased, sister of the said donor, and Adham Bin Mohamed Sallih of Avissawella.

And whereas at the treaty of the said intended marriage it was agreed *inter alia* that the said donor should give as a dowry or marriage gift absolute and irrevocable the aforesaid premises free from all encumbrances whatsoever unto his sister the said Sithy Nafeesathul Zabeedia.

Now know ye and these presents witness that the said donor in, consideration of the aforesaid marriage and in further consideration of the natural love and affection which he hath and beareth unto his sister the said Sithy Nafeesathul Zabeedia and for diverse other good causes and considerations him hereunto specially moving doth hereby grant, convey, assign, transfer, set over and assure unto her the said Sithy Nafeesathul Zabeedia her heirs, executors, administrators and assigns as a dowry or a marriage gift absolute and irrevocable the said premises in the schedule hereto particularly described together with all and singular the easements rights, privileges, servitudes and appurtenances whatsoever thereunto belonging or therewith used or enjoyed and all the estate, possession, right, title, interest, claim and demand whatsoever of the said donor in to out of or upon the said premises and every part thereof.

To have and to hold the said premises hereby conveyed or expressed so to be the value of Rupees Fifteen thousand (Rs. 15,000/-) freed of all encumbrances together with the appurtenances thereof unto the said Sithy Nafeesathul Zabeedia, her heirs, executors, administrators and assigns absolutely and for ever.

And the said donor doth hereby for himself, his heirs, executors and administrators covenant and declare to and with the said Sithy Nafeesathul Zabeedia and her heirs, executors, administrators and assigns that the said donor and his aforewritten shall and will at all time hereafter at the request but at the costs and charges of the said Sithy Nafeesathul Zabeedia and her aforewritten do and execute or cause to be done and executed all such further and other acts, deeds, matters and things which may be necessary or expedient for the better or more perfectly assuring the said premises or any part thereof unto his sister the said Sithy Nafeesathul Zabeedia her heirs, executors, administrators or assigns as may be reasonably required and that the said donor and his aforewritten shall and will always warrant and defend the title to the same unto the said Sithy Nafeesathul Zabeedia

2D32
Deed
No. 1079
21-12-41
—continued.

and her aforewritten against every and any person or persons whomsoever.

And the said Sithy Nafeesathul Zabeedia doth hereby thankfully accept the foregoing gift made in her name.

In witness whereof the said Mohamed Ghouse Bin Ahmed and Sithy Nafeesathul Zabeedia do hereunto and to two others of the same tenor and date as these presents set their respective hands at Colombo on this twenty-first day of December, One thousand Nine hundred and Forty-one.

THE SCHEDULE ABOVE REFERRED TO :

10

All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to Mr. John Bonifacio Fernando and his late wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others, and on the South-West by premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one hundredths of a perch (A0. R0. P1, 71/100) as per figure of 20 survey thereof dated 30th September, 1879, and made by David Devapuraratne, Licensed Surveyor, and registered under title Colombo A.221/79.

Witnesses :

(Sgd.) Illegible.
(Sgd.) Illegible.

(Sgd.) M. B. AHMED.
(Sgd.) SITHY NAFEESATHUL ZABEEDIA.

I, Meera Mohideen Mohamed Abdul Raheem of Colombo in the Island of Ceylon, Notary Public, by lawful authority duly admitted, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said Executants Mohamed Ghouse Bin Ahmed and Sitti Nafeesathul Zabeedia both of whom signed in English characters as "M. B. Ahmed" and "Sithy Zafeesa Zabedi" and both of whom are known to me in the presence of Seyed Mohamed Bin Seyed Abbas of Cotta Bodda Estate, Avissawella, and Mohamed Maleeh Mohamed Saeed of No. 8, 23rd Lane, Wellawatte, both of whom signed in English characters as "S. M. B. S. Abbas" and "M. M. Saeed" respectively, and the subscribing witnesses thereto both of whom are also known to me, the same was signed by the said Executants and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo aforesaid on this twenty-first day of December, One thousand Nine hundred and Forty-one.

And I further certify and attest that no consideration was passed in my presence and that in the original on page 2 in line 1 the word "Galle" deleted and the letters and words "—IA, daughter of Ahmed Bin Ibrahim, deceased" were interpolated, in line 2 the word "Colpetty" deleted and the word "Kollupitiya" interpolated in lines 11 and 18 the letters "IA" interpolated, on page 3 in lines 3, 11, 17, 21, 23 and 27 the letters "IA" interpolated and in the duplicate on page 1 in line 17 the words "Galle Road" deleted and the letters and words "IA, daughter of Ahmed Bin Ibrahim, deceased" interpolated, in line 18 the word ^{2D32} ^{Deed} ^{No. 1070} ²¹⁻¹²⁻⁴¹ ^{—continued.} ¹⁰ "Colpetty" deleted and the words "Kollupitiya Road," interpolated on page 2 in lines 9, 12, 25 and 29 the letters "IA" interpolated on page 3 in lines 3, 8, 12, 14 and 18 the letters 'ia' interpolated before the said instrument was read over and explained as aforesaid and that the duplicate of this instrument bears seven stamps to the value of Rupees Two hundred and Thirty-nine (Rs. 239/-) and the original one stamp of Rupee One (Re. 1/-) and that the said stamps were duly supplied by me the said Notary.

Date of Attestation :
21st December, 1941.

20

(Sgd.) M. M. M. A. RAHEEM,
Notary Public.

(Seal)

Reference No. M.A. 351,
Assessor's Department,
Town Hall, Colombo.
11th February, 1942.

Subject : Name of Owner in Assessment Book.

Sir,

With reference to the abstract of title forwarded with your letter ³⁰ dated 22nd January, 1942, I have to inform you that the name of Sithy Nafeesathul Zabeedia, daughter of Ahmed Bin Ibrahim has been inserted in the Assessment Book as the reputed owner of premises bearing No. 238, Keyzer Street.

I am, Sir,

(Sgd.) Illegible.
Municipal Assessor.

M. M. A. RAHEEM, Esq.,
Proctor and Notary.

Bond No. 1580

Prior Registration :—A. 282/136 and A. 282/137.
Registered in A. 296/163 and 164.

Colombo, 31st October, 1945.

Know all men by these presents that Sithy Nafeesathul Zabeedia and Adham Bin Mohamed Sallih (wife and husband) both of "Salonica", Colpetty (hereinafter called and referred to as "the said obligors which term or expression as thereafter used shall wherever the context so requires or admits mean and include the obligors themselves, their and 10 each of their heirs, executors and administrators are jointly and severally held and firmly bound unto Mohamed Zubaidah (daughter of M. M. Sultan, retired Post Master) of Vannarponne (hereinafter called and referred to as the said obligee which term or expression as hereinafter used shall wherever the context so requires or admit mean and include the obligee and her heirs, executors, administrators and assigns) in the sum of Rupees Three thousand (Rs. 3,000/-) of lawful money of Ceylon being money borrowed and received by the said obligors from the said obligee (the receipt whereof the said obligors do hereby expressly admit and acknowledge).

20

And the said obligors do hereby engage and bind themselves and their heirs, executors and administrators to repay the said sum of Rupees Three thousand (Rs. 3,000/-) to the said obligee at Colombo on demand and until such repayment to pay interest on the said sum of Rupees Three thousand (Rs. 3,000/-) at and after the rate of twelve (12) per centum per annum payable every month the first of such payment of interest to be computed from the date hereof and to be made on the 23rd day of November, 1945.

And for securing unto the said obligee the payment of the said principal sum and interest all other moneys that may become due and payable under by virtue or in respect of these presents including the costs of any 30 action or actions for the recovery of the same and the due and faithful observance and performance of the covenants and conditions herein on the said obligors part contained the said obligors do hereby specially mortgage and hypothecate to and with the said obligee as a mortgage free from other encumbrance whatsoever and subject to the conditions hereinafter mentioned :

All those lands, buildings and premises in the schedule hereto particularly described together with all and singular the houses, buildings, plantations and everything standing thereon or to be hereafter constructed or planted thereon and the rents, profits, issues, income and produce 40 thereof and all the ways, privileges, easements, servitudes and appurtenances whatsoever thereto belonging or in anywise appertaining thereto or used or enjoyed therewith or reputed or known as part and parcel thereof and all the estate, right, title, interest, property, claim and demand whatsoever of the said obligors in to upon or out of the said premises,

And the said obligors do hereby covenant and declare with and to the said obligee that the said premises hereby mortgaged and hypothecated and every part thereof are free from encumbrances whatsoever that the same are not subject to mortgage, charge, lien, seizure, sequestration, partition or other proceedings or encumbrances whatsoever that the said obligors have not at any time heretofore made, done or committed or been party or privy to any act, deed, matter or thing whereby the same or any part thereof are is, can, shall or may be impeached or encumbered in title, charge, estate or other wise howsoever or whereby the said obligee shall
 10 or may lose the full benefit of the security hereby given and that the said obligors have good right, full power and lawful and absolute authority to mortgage the said premises in manner aforesaid that the said obligor shall and will at all times hereafter during the continuance of these presents hereby created at the request of the said obligee but at the cost and expense of the said obligors do and execute all such further and other acts, deeds, matters and things as shall or may be necessary or expedient for the better or more perfectly assuring the said premises or any part thereof by way of mortgage unto the said obligee as by the said obligee shall or may be reasonably required and that the said obligors shall during the subsistence
 20 of the mortgage hereby created well and carefully keep and maintain the said premises and appurtenances thereof in clean and tenantable condition and in proper order and repair and shall and will regularly and punctually pay and discharge all assessments, rates, taxes and other charges due in respect of the said premises.

2D:88
 Bond
 No. 1580
 23-10-43
 —continued.

In witness whereof the said obligors Sithy Nafeesathul Zabeedia and Adham Bin Mohamed Sallih have to these presents and to two others of the same tenor and date set their hands at Colombo on this twenty-third day of October, One thousand Nine hundred and Forty-five.

THE SCHEDULE ABOVE REFERRED TO :

30 1. All that land and premises with the buildings thereon bearing assessment Nos. 72 and 73 and presently bearing assessment Nos. 142, 144 (2-14), 144 (29-37), 146 and 148, situated at Barber Street within the Municipality and District of Colombo, Western Province, bounded on the North by Barber Street, on the East by the garden of Mrs. Hyde, on the South by the garden formerly of Coomasamy Chetty Pandammakan Chetty, and on the West by the garden of Simon Barber, containing in extent thirty-nine and fifty-two one hundredths perches (A0. R0. P89, 52/100) which said premises are otherwise described as being bounded on the North by Barber Street, on the East by the premises Nos. 70 and 71
 40 of J. Baldersing and others, formerly of Mrs. Hyde, on the South by the garden formerly of Coomasamy Chetty and Pandammakan Chetty now by a public drain, and on the West by the garden formerly of Simon Barber now premises Nos. 75 and 76 of Ismail Lebbe Abdul Majeed, containing in extent one rood and two perches (A0. R1. P2.) according to Plan dated 18th October, 1905, made by L. de Silva, Surveyor, registered under A. 282/136.

2D38
Bond
No. 1580
23-10-45
—continued.

2. All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situated at Keyzer Street in Pettah within the Municipality and District of Colombo aforesaid and bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 belonging to Mr. John Bonifacio Fernando and his later wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others, and on the South-West by premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one hundredths of a perch (A0. R0. P1 71/100) and made by David 10 Devapuraratne, Licensed Surveyor, and registered under title in Colombo A. 282/137.

Witnesses :

(Sgd.) Illegible.

(Sgd.) Illegible.

(Sgd.) S. N. ZABEEDIA.

I Meera Mohideen Mohamed Abdul Raheem of Colombo in the Island of Ceylon, Notary Public, by lawful authority duly admitted do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said obligors Sithy 20 Nafeesathul Zabeedia and Adham Bin Mohamed Sallih both of whom signed as " S. N. Zabeedia " and " A. B. M. Sallih " respectively and are known to me in the presence of Don Vincent de Paul Jayamanna of Wattala and Palihawadanaaratchige Joachim Perera of Dippitigoda, Kelaniya, both of whom signed as " D. V. de P. Jayamanna " and " P. J. Perera " respectively and the subscribing witnesses thereto both of whom are also known to me the same was signed by the said obligors as aforesaid and by the said witnesses and also by the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo aforesaid on this twenty-third day of October, One thou-30 sand Nine hundred and Forty-five.

And I further certify and attest that the consideration within mentioned Rupees Three thousand (Rs. 3,000/-) was paid by cheque No. P.163578 dated 22nd October, 1945, and drawn on the Chartered Bank of India, Australia and China Ltd., Colombo, and that in both the original and duplicate on page 3 in line 8 the word " other " was typed over erasure before the said instrument was read over and explained as aforesaid and that the duplicate of this instrument bears three stamps to the value of Rupees Twenty-seven and the original thereof one stamp of Rupee One and that the said stamps were duly supplied by me the said Notary. 40

Date of Attestation :
23rd October, 1945.

(Sgd.) M. M. A. RAHEEM,
Notary Public

This indenture made at Colombo on this seventh day of December, One thousand Nine hundred and Forty-six between Sithy Nafeesathul Zabeedia of "Salonica", Galle Road, Kollupitiya, acting with the consent and concurrence of her husband Adham Bin Mohamed Sallih which consent and concurrence is expressed herein by his signing these presents hereinafter sometimes called the lessor, which term shall where the context permits mean and include the said Sithy Nafeesathul Zabeedia her heirs,
10 executors and administrators of the one part and Muthuswamy Pillai Bagawathia Pillai of 238, Keyzer Street, Pettah, Colombo, hereinafter called and referred to as the lessee, which term shall where the context permits mean and include the said Muthuswamy Pillai Bagawathia Pillai his heirs, executors, administrators and assigns of the other part.

The lessor in consideration of the sum of Rupees Three hundred being three months rent in advance well and truly paid by the lessee the receipt whereof the lessor hereby acknowledge to be set off against the rent for the last three months of the term hereof and of the further rent and covenants hereinafter on the part of the lessee to be paid and performed
20 doth hereby let and demise unto the lessee his heirs, executors, administrators and assigns, all that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipal limits and District of Colombo and more particularly described in the schedule hereto.

To hold the said land and property and premises unto the lessee and his aforewritten for the term of five years commencing from the date hereof yielding and paying therefor the rent of Rupees Six thousand only (Rs. 6,000/-) in monthly sums of Rupees One hundred only (Rs. 100/-) on
30 or before the 10th day of each month the first of such payments to be made on or before the 10th day of January, 1947.

The lessee hereby covenants with the lessor that the lessee shall pay to the lessor the said rent in the manner and on the days hereinbefore reserved for payment and shall keep the said premises in a clean and sanitary conditions according to the bye-law and regulations of the Municipal Council of and shall be answerable and liable for all prosecutions, fines and penalties brought or imposed for a breach thereof and shall be responsible for all usual and necessary repairs of a minor nature and shall not sub-lease the said premises or assign these presents without the consent
40 of the lessor in writing thereto first had and obtained or and shall not assign underlet or part with the possession of the said premises without the consent of the lessor in writing thereto first had and obtained but such permission shall not be unreasonably or arbitrarily withheld and shall permit the lessor or his agent or agents with workmen and others or often or in every year or at all reasonable times enter upon the said premises to

2D36
Bond
No. 133
7-12-46
—continued.

view the condition thereof and shall at the expiration of the said term peaceably and quietly deliver over possession of the said premises to the lessor.

Provided always that if the said rent or any part thereof shall be in arrears and unpaid for the space thirty days next after any of the days whereon the same ought to be paid as aforesaid whether the same shall not have been legally demanded or if there shall be any breach of non-observance of any of the lessee's covenants hereinbefore contained then and in any such case it shall be lawful for the lessor at any time thereafter enter into and upon the said premises or any part thereof in the name of 10 the whole to re-enter and the same to have again repossess and enjoy as and in his former estate and possession.

The lessor hereby covenants with the lessee that the lessor shall effect all major repairs which said premises may require during the said terms and shall pay and discharge all taxes, rates and assessments (2) which are now levied or which may hereafter be levied on or in respect of the said premises during the said terms and that the lessee paying the rent herein reserved and performing the covenants herein on the part of the lessee contained shall and may peaceably and quietly held and enjoy the said premises during the said term without any interruption, hinderance or 20 disturbance by the lessor or any person lawfully claiming from or under him. The parties hereto bind themselves, their heirs, executors and assigns by these presents.

It witness whereof we the said Sithy Nafeesathul Zabeedia and Adham Bin Mohamed and Muthuswamy Pillai Bagawathia Pillai do hereunto and to two others of the same tenor and date as these presents set their respective hands at Colombo on this seventh day of December, One thousand Nine hundred and Forty-six.

THE SCHEDULE ABOVE REFERRED TO :

All that allotment of land with the buildings standing thereon formerly 30 bearing assessment No. 26 and presently bearing assessment No. 238, situate at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to John Bonifacio Fernando and his late wife Lindamulage Catherina de Silva Wijeratne, on the South-East by the property of Mr. Haniffa, and others and on the South-West by the premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one-hundredths of perch (A0. R0. P1, 71/100) as per figure of survey thereof dated 30th September, 1879, and made by David 40 Devapuraratne, Licensed Surveyor, and registered under title Colombo A, 221/79.

Witnesses :

We do hereby declare that we are well acquainted with the executants and know their proper names occupations and residences. } (Sgd.) S. N. ZABEEDIA.
 (Sgd.) A. B. M. SALLIH.
 (Sgd.) M. BAGAWATHIA PILLAI.

2D36
 Bond
 No. 133
 7-12-46
 —continued.

1. (Sgd.) S. SHANMUGASUNDARAM PILLAI.
2. (Sgd.) D. P. NANAYAKKARA.

(Sgd.) R. NAMASIVAYAM,
Notary Public.

10 Date of Attestation :
 7th December, 1946.

I, Rasapillai Namasivayam of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named executants Sitti Nafeesathul Zabeedia and Adham Bin Mohamed Sallih and Muthuswamy Pillai Bagavathia Pillai all of whom have signed this deed in English characters as " S. N. Zabeedia ", " A. B. M. Sallih " and " M. Pagavathiya Pillai " respectively all of whom are known to me in the presence of S. Shanmugasundaram Pillai of No. 238,
 20 Keyser Street, Pettah, Colombo, and Don Powlis Nanayakkara of Kalapaluwawa, Rajagiriya, and both of whom have signed this deed in English characters as " S. Shanmugasundaram Pillai " and " D. P. Nanayakkara " respectively the subscribing witnesses hereto both of whom are known to me the same was signed by the said executants and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo on this seventh day of December, One thousand Nine hundred and Forty-six.

And I further certify and attest that in the original on page 4 in line 1 the word " Situate " was deleted and in the duplicate on page 2 in line 4
 30 the word " more " in line 5 the word " hereto " was typed over erasures before the foregoing instrument was so read over and explained as afore-said and the consideration sum of Rs. 300/- was paid in my presence and that the duplicate of this instrument bears a stamp of the value of Rs. 50/- and the original a stamp of the value of Re. 1/- and that the said stamps were supplied by me the said Notary.

Date of Attestation :
 7th December, 1946.

Which I attest.

(Sgd.) R. NAMASIVAYAM,
Notary Public.

40 True Copy.

(Seal)

(Sgd.)
Notary Public.

Mortgage Bond No. 2050

Prior Registration :—Colombo A. 282/136, 282/137 and A. 305/105.

Registered :—A 305/299, 313/38 and 176.

Colombo, 12th August, 1948.

Know all men by these presents that Sithy Nafeesathul Zabeedia, (2) Adham Bin Mohamed Sallih (wife and husband) and (3) Periya Thamby Ayesha Natchia all of "Salonica", Galle Road, Colpetty (hereinafter called and referred to as the said obligors which term or expression as hereinafter used shall wherever the context so requires or admits mean and include the 10 obligors each of them and each of their heirs, executors and administrators) are jointly and severally held and firmly bound unto Mohideen Hassan Marikar Mohamed Mohideen (*alias* M. H. M. Mohideen) and/or Mana Meeyanna Mohamed Abdul Kareem both of Vannarponne (hereinafter called and referred to as the said obligees which term or expression as hereinafter used shall wherever the context so requires or admits mean and include the obligees either of them and each of their heirs, executors, administrators and assigns in the sum of Rupees Six thousand Five hundred (Rs. 6,500/-) of lawful money of Ceylon being money borrowed and received by the said obligor from the said obligee (the receipt whereof 20 the said obligors do hereby expressly admit and acknowledge) and the said obligors do hereby engage and bind themselves and their heirs, executors and administrators to repay the said sum of Rupees Six thousand and Five hundred (Rs. 6,500/-) to the said obligees at Colombo on demand and until such repayment to pay interest on the said sum of Rupees Six thousand Five hundred (Rs. 6,500/-) at and after the rate of fifteen (15) per centum per annum payable monthly the first of such payments of interest to be computed from the date hereof and to be made on the 8th day of September, 1948.

And for securing unto the said obligees the payment of the said 30 principal sum and interest and all other moneys that may become due and payable under by virtue or in respect of these presents including the costs of any action or actions for the recovery of the same and the due and faithful observance and performance of the covenants and conditions herein on the said obligors part contained the said obligors do hereby specially mortgage and hypothecate to and with the said obligees as a mortgage free from all encumbrances whatsoever and subject to the conditions hereinafter mentioned the lands and premises in the schedule hereto particularly described together with all and singular the houses, buildings, plantations and everything standing thereon or to be hereafter constructed 40 or planted thereon and the rents, profits, issues, income and produce thereof and all the ways, privileges, easements, servitudes and appur-

tenances whatsoever thereto belonging or in anywise appertaining thereto or used or enjoyed therewith or reputed or known as part and parcel thereof and all the estate, right, title, interest, property claim and demand whatsoever of the said obligors into upon or out of the said premises, and the said obligors do hereby covenant and declare with and to the said obligees that the said premises hereby mortgaged and hypothecated and every part hereof are free from all encumbrances whatsoever that the same are not subject to any other mortgage, charge, lien, seizure, sequestration, partition or other proceedings or encumbrances whatsoever that the said obligors have not at any time heretofore made, done or committed or been party or privy to any act, deed, matter or thing whereby the same or any part thereof are or may be impeached or encumbered in title, charge estate or other wise howsoever or whereby the said obligees shall or may lose the full benefit of the security hereby given and that the said obligors have good right full power and lawful and absolute authority to mortgage the said premises in manner aforesaid that the said obligors shall and will at all times hereafter during the continuance of these presents hereby created at the request of the said obligees but at the cost and expense of the said obligors do and execute all such further and other acts, deeds, matters and things as shall or may be necessary or expedient for the better or more perfectly assuring the said premises or any part thereof by way of mortgage unto the said obligees as the said obligees shall or may be reasonably required and that the said obligors shall during the subsistence of the mortgage hereby created well and carefully keep and maintain the said premises and appurtenance thereof in clean and tenantable conditions and in proper order and repair and shall and will regularly and punctually pay and discharge all assessments, rates, taxes and other charges due in respect of the said premises.

In witness whereof the said Sithy Nafeesathul Zabeedia, Adham Bin Mohamed Sallih and Periya Thamby Ayesha Natchia have to these presents and to two others of the same tenor and date set their hands at Colombo on this ninth day of August, One thousand Nine hundred and Forty-eight.

THE SCHEDULE ABOVE REFERRED TO :

1. All that land and premises with the buildings thereon bearing assessment Nos. 72 and 73 and presently bearing assessment Nos. 142, 144 (2-14), 144 (29-37), 146 and 148, situated at Barber Street within the Municipality and District of Colombo, Western Province, bounded on the North by Barber Street, on the East by the garden of Mrs. Hyde on the South by the garden formerly of Coomaraswamy Chetty Pandamakan Chetty, and on the West by the garden of Simon Barber, containing in extent thirty-nine and fifty-two one hundredth perches (A0. R0. P39, 52/100) which said premises are otherwise described as being bounded on the North by Barber Street, on the East by the premises Nos. 70 and 71 of J. Baldersing and others formerly of Mrs. Hyde, on the South by the

2139
Mortgage
Bond
No. 2050
9-8-48
—continued.

2D39
Mortgage
Bond
No. 2050
9-8-48
—continued.

garden formerly of Coomaraswamy Chetty and Pandammakan Chetty now by a public drain, and on the West by the garden formerly of Simon Barber now premises Nos. 75 and 76 of Ismail Lebbe Majeed, containing in extent one rood and two perches (A0. R1. P2.) according to plan dated 18th October, 1905, made by L. de Silva, Surveyor, registered under title Colombo A. 282/136.

2. All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situated at Keyzer Street in Pettah within the Municipality and District of Colombo aforesaid, and bounded on the North-West by Keyzer 10 Street, on the North-East by lot No. 2 bearing assessment No. 25 belonging to Mr. John Bonifacio Fernando and his late wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others, and on the South-West by premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one hundredths of a perch (A0. R0. P1, 71/100) as per figure of survey thereof dated 30th September, 1879, and made by David Devapuraratne, Licensed Surveyor, and registered under title Colombo A. 282/137 (the aforesaid premises described under items 1 and 2 above are subject to mortgage bonds No. 1183 dated 11th March, 1943, No. 1327 dated 20 14th February, 1944, No. 1527 dated 24th May, 1945, No. 1549 dated 13th August, 1945, and No. 1624 dated 17th February, 1946, all attested by the notary attesting these presents).

3. All that right, title and interest of the obligors in and to all that divided lot marked " D " (being a portion of the allotment of land and buildings bearing assessment No. 130), situated at Kollupitiya Road within the Municipality and District of Colombo aforesaid, with all the buildings thereon bearing assessment No. 130D presently bearing assessment No. 698 (called and known as " Salonica "), and bounded on the North by lot " E ", on the East by the Colombo-Galle High Road, on the West by a passage 30 fourteen feet wide, and on the South by a passage sixteen feet wide containing in extent one rood twenty-four and forty-six one hundredths perches (A0. R1. P24, 46/100) according to the plan or figure of survey thereof dated the 18th November, 1906, and made by C. A. O. Buyzer, Surveyor, registered under title Colombo A. 305/105. (The said premises is subject to mortgage bonds No. 1758 dated 23rd December, 1946, No. 1793 dated 15th April, 1947, No. 1934 dated 1st December, 1947 and No. 2022 dated 8th June, 1948, and all attested by the notary attesting these presents).

Witnesses :

(Sgd.) Illegible.

(Sgd.) S. N. ZABEEDIA.

40

Date of Attestation :
9th August, 1948.

I, Meera Mohideen Mohamed Abdul Raheem of Colombo in the Island of Ceylon, Notary Public, by lawful authority duly admitted do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the obligors Sitti Nafecsathul Zabeedia who signed as "S. N. Zabeedia" Adham Bin Mohamed Sallih who signed as "A. B. M. Sallih" and Periya Thamby Ayesha Natchia who signed in Arabic characters and all of whom are known to me in the presence of Vanpulliparambil Karuppan Krishnan of No. 52, Silversmith Lane, Colombo, and Don Vincent do Paul Jayamanna of Wattala both of whom signed as "V. K. Krishnan" and "D. V. de P. Jayamanna" respectively, the subscribing witnesses thereto both of whom are also known to me, the same was signed by the said obligors as aforesaid and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo aforesaid on this ninth day of August, One thousand Nine hundred and Fifty-eight.

2139
Mortgage
Bond
No. 2050
9-8-48
—continued.

And I further certify and attest that the within mentioned consideration Rupees Six thousand Five hundred (Rs. 6,500/-) was paid to the obligors as follows:—

20	Cheque No. 783244 dated 19-7-48 for	...	Rs. 500...00
	Cheque No. 783272 dated 9-8-48 for	...	„ 3,000...00
	Cheque No. 783273 dated 9-8-48 for	...	„ 1,000...00
	Cheque No. 783274 dated 9-8-48 for	...	„ 2,000...00
			<hr/>
			Rs. 6,500...00
			<hr/>

and the said cheques were drawn on the Bank of Ceylon, Pettah Branch, Colombo, and that the duplicate of this instrument bears three stamps to the value of Rupees Fifty-six (Rs. 56/-) and the original thereof one stamp of Rupees One and that the said stamps were duly supplied by me the said Notary.

30 Date of Attestation :
9th August, 1958.

(Sgd.) M. M. M. A. RAHEEM,
Notary Public.

2D39
Mortgage
Bond
No. 2050
9-8-48
—continued.

(Annexure to 2D39)

**Application for Registration of Address for Service of
Legal Documents**

To

THE REGISTRAR OF LANDS,
COLOMBO.

I, M. M. A. Raheem of Colombo, Proctor and Notary Public, apply under section 8 of the Mortgage Ordinance No. 21 of 1927 for registration in or in continuation of the volume and folio specified in B below of the address specified in A below as the address for service on the mortgagee of 10 legal documents in any hypothecary action to enforce any mortgage registered in the volumes and folios specified in B below ; particulars of the instrument under which the mortgagees derive title are given in C below.

A. Name and address :

1. M. H. M. Mohideen,
c/o M. M. A. Raheem,
Proctor and Notary,
254, Hulftsdorp, Colombo.
2. Mana Meeyanna Mohamed Abdul Kareem, 20
c/o M. M. A. Raheem,
Proctor and Notary,
254, Hulftsdorp, Colombo.

B. Volumes and folios in which the address are to be registered :
Volumes A282 and 305 volume.
Folios 136, 137 and 105. Folio.

C. Particulars of instrument under which mortgagee derives title :

- (1) Number and date of deed : No. 2050 dated 9th August, 1948.
- (2) Name of attesting Notary : M. M. A. Raheem.
- (3) Volumes and folios where the deed is registered : 30

A 282/136, 137 and
A 305/105.

3. The registration fee Rs. 1.20 is enclosed in stamps.

Colombo, 11th August, 1948.

(Sgd.)
Proctor and Notary.

Prior Registration :—Colombo A. 278/239.

Know all men by these presents that we Sithy Nafeesathul Zabeedia and Adham Bin Mohamed Sallih (wife and husband) both of No. 698, Galle Road, Colpetty in Colombo (hereinafter called and referred to as the said obligors) are jointly and severally held and firmly bound unto Dana-pathy Dorai of No. 123, New Buller's Road in Colombo (hereinafter called and referred to as the said obligee) in the sum of Rupees Eighteen thousand
 10 (Rs. 18,000/-) of lawful money of Ceylon being money borrowed and received by us the said obligors from the said obligee (the receipt whereof we do hereby expressly admit and acknowledge) and we hereby renouncing the *beneficium non numeratae pecuniae* do hereby engage and bind ourselves our respective heirs, executors and administrators to repay the said sum of Rupees Eighteen thousand (Rs. 18,000/-) on receiving from or giving to the said obligee or her aforewritten two months previous notice in writing demanding payment thereof or signifying a readiness to repay the same (which said notice or any other notice as far as the said obligors or their
 20 aforewritten are concerned shall be deemed sufficient and as duly given if addressed and sent by post to us the said obligor at No. 698, Galle Road, Colpetty in Colombo, and as far as the said obligee or her aforewritten are concerned if addressed and sent by post to the said obligee at No. 123, New Buller's Road in Colombo) and shall and will in the meantime and until such repayment to pay to the said obligee or her aforewritten interest on the said sum of Rupees Eighteen thousand (Rs. 18,000/-) at and after the rate of twelve per centum per annum payable monthly in advance at Colombo on the tenth day of each and every month and the first of such payments of interest being computed from the date of these presents and the same to be made at the execution of these present.

30 Provided however and it is hereby agreed that if interest shall be paid regularly and punctually on the due dates or within ten days from the due dates it shall be lawful for us the said obligors to pay interest at the reduced rate of nine per centum per annum.

And for further securing to the said obligee her heirs, executors, administrators and assigns the payment of all moneys payable under and by virtue or in respect of these presents we the said obligors do hereby specially mortgage and hypothecate to and with the said obligee her heirs, executors, administrators and assigns as a first or primary mortgage free
 40 the buildings thereon and fully described in the schedule hereto together with all rights, servitudes, members and appurtenances to the said land and premises belonging or therewith held and used or enjoyed and all the estate, right, title, interest, property, claim and demand whatsoever of us the said obligors into out of or upon the said land and premises.

2D37
Bond
No. 3336
10-11-49
—continued.

And we the said obligors do hereby covenant and declare with and to the said obligee and her aforewritten that the said land and premises hereby mortgaged and every part or portion thereof are in no wise encumbered and that we have full power and legal right to mortgage and hypothecate the same as aforesaid and will warrant and defend the title to the said land and premises against all other claims whatsoever and that we the said obligors shall and will at all times hereafter during the continuance of the mortgage hereby created at the proper cost and charge of us do and execute or cause to be done and executed all such further and other acts, deeds, matters and things for the better and more perfectly assuring the said 10 land and premises by way of mortgage unto the said obligee and her aforewritten as by her or her aforewritten shall or may be reasonably required and further that we and our aforewritten during the continuance of the mortgage hereby created shall and will well and carefully keep and maintain the said land and premises and appurtenance thereof in good careful husband like manner and in proper order and repair and will not execute any other mortgage or any lease touching the said land and premises or commit any act or deed whereby or by means whereof the rent income or issues thereof may be in anywise encumbered without the consent in writing of the said obligee and her aforewritten having been first had and obtained 20 thereto and any such lease, mortgage and encumbrances executed without such consent shall be absolutely null and void.

And it is hereby further agreed that if default shall be made by us the said obligors or our aforewritten in the payment of the said monthly interest or of any portion thereof on any of the due dates or if we the said obligors or our aforewritten shall and will commit a breach of any of the other covenants and conditions entered into by us in these presents and on our part to be done, observed and performed or in case we the said obligors be declared or adjudged insolvent, or insolvents or shall enter into a composition with our creditors then and in such case it shall be lawful for 30 the said obligee or her aforewritten at once to sue for and recover payment of all moneys payable under by virtue or in respect of these presents as if the aforesaid notice of two months had been given and had expired anything herein contained to the contrary notwithstanding. In witness whereof we the said obligors do set our respective hands hereunto and to two others of the same and date as these presents at Colombo on this tenth day of November, One thousand Nine hundred and Forty-nine.

THE SCHEDULE ABOVE REFERRED TO :

All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, 40 situate at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to Mr. John Bonifacio Fernando and his late wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of

Mr. Haniffa and others, and on the South-West by premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one hundredth of a perch (A0. R0. P1, 71/100) as per figure of survey thereof dated 30th September, 1879, and made by David Devapuraratne, Licensed Surveyor and Leveller.

Witnesses who hereby declare that they are well acquainted with the executants and known their proper names, occupations and residences. } (Sgd.) S. N. ZABEEDIA.
(Sgd.) A. B. M. SALLIH.

10 *Witnesses :*

(Sgd.) M. M. A. RAHEEM.
(Sgd.) E. A. FERNANDO.

(Sgd.) H. V. RAM ISWERA,
Notary Public.

I, Harichandra Veerasingham Ram Iswera of Colombo, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me to the said Sithy Nafeesathul Zabeedia and duly read over by the said Adham Bin Mohamed Sallih the executants within-named who have signed as " S. N. Zabeedia " and " A. N. H. Sallih " respectively, the first of whom is not known to me and the second of whom is known to me in the presence of Meera Mohideen Mohamed Abdul Raheem, Proctor of Colombo, and Edrickpullige Alexander Fernando of Hulftsdorf, Colombo, and who have signed as " M. M A. Raheem " and " E. A. Fernando " respectively, the subscribing witnesses thereto both of whom are known to me the same was signed by the said executants by the said witnesses and also by me the said notary in my presence and in the presence of one another all being present at the same time at Colombo on this tenth day of November, One thousand Nine hundred and Forty-nine.

30 I further certify and attest that in the original of the said instrument page 1 line 3 " 6 " typed over page 3 line 13 " execute " typed over and page 4 lines 8 and 16 " insolvents or " and " We " interpolated and in the duplicate page 4, line 7 " insolvents or " interpolated before the said instrument was read over explained and signed as aforesaid and that the within-named consideration was paid as follows :—

1.	Per cheque No. FQ. 808382 of this day drawn on the National Bank	...	...	...	Rs. 17,000·00
2.	Deducted at the request of the said obligors on account of stamps and fees and costs of obtaining copies of title deeds, etc.	...	...	..	1,000·00
					<u>Rs. 18,000·00</u>

40

2D37
Bond
No. 3336
10-11-49
—continued.

and that the duplicate of this instrument bears five stamps of the value of Rs. 146/- and the original a stamp of Re. 1/- and that the said stamps were supplied by me.

Date of Attestation :
10th November, 1949.

(Sgd.) H. V. RAM ISWERA,
Notary Public.

(Seal)

2D40
Indenture
of Lease
No. 220
21-1-52

2D40

Indenture of Lease No. 220

10

Prior Registration :—A. 221/79.
Registered A. 336/281.

Colombo, 19th February, 1952.

(Sgd. M. A. FERNANDO,
R. L.

This indenture made at Colombo on this twenty-first day of January, One thousand Nine hundred and Fifty-two between Sithy Nafeesathul Zabeedia of "Salonica", Galle Road, Kollupitiya, acting with the consent and concurrence of her husband Adham Bin Mohamed Sallih which consent and concurrence is expressed herein by his signing these presents 20 (hereinafter sometimes called "the lessor" which term shall where the context so permits mean and include the said Sithy Nafeesathul Zabeedia her heirs, executors and administrators and assigns) of the one part and Muthuswamy Pillai Bagawathia Pillai of No. 238, Keyzer Street, Pettah, Colombo (hereinafter called and referred to as "the lessee" which term shall where the context so permits mean and include the said Muthuswamy Pillai Bagawathia Pillai his heirs, executors, administrators and assigns) of the other part.

Whereas the lessor is the owner of and well and sufficiently entitled to the property and premises in the Schedule hereto fully described. 30

And whereas the lessor has agreed to lease to the lessee the said property and premises on the terms and conditions hereinafter contained.

Now this indenture witnesseth as follows :—

(1) In consideration of the rents hereinafter reserved and the covenants on the part of the lessee hereinafter contained the lessor doth hereby let and demise unto the lessee the property and premises in the Schedule hereto fully described with the buildings standing thereon. To hold the same unto the lessee from the 1st of February, 1952, for a period of five

years paying therefor during the said terms that monthly rental of Rupees One hundred (Rs. 100/-) payable on or before the twentieth day of each successive month.

2D40
Indenture
of Lease
No. 220
21-1-52
—continued.

(2) The lessee hereby covenants with the lessor as follows :—

- (a) That he shall immediately on the execution of these presents pay to the lessor the sum of Rupees Three hundred (Rs. 300/-) being the month's rent paid in advance which said sum of Rupees Three hundred (Rs. 300/-) shall be applied by the lessor as rent for the last three months of the term of the lease.
- 10 (b) To keep the said premises in a clean and sanitary condition and to comply with all By-Laws, Regulations and Orders of the Municipal Council of Colombo and to reimburse and indemnify the lessor against any fines that may be imposed by reason of any such contravention.
- (c) To permit the lessor or her agent or agents twice in every year after asking permission of the lessee at reasonable times to enter upon the premises for the purposes of inspecting the conditions thereof.

(3) The lessor hereby covenants with the lessee as follows :—

- 20 (a) That the lessee paying the said rent and performing the covenants herein contained shall peaceably hold and enjoy the said property and premises hereby demised during the said term without interruption by the lessor or any person claiming under or in trust for her.
- (b) The lessor will during the said terms pay and discharge all taxes, rates, assessments imposition dues and charges now levied or hereafter may be levied by the Central Government or Local Government authority in respect of the said property and premises and also to do all necessary repairs and colour washing to the said property and premises.
- 30

(4) It is hereby further agreed that if the said rent should be in arrears for a period of three months after the same shall have become due (whether legally demanded or not) or there shall be a breach of any of the foregoing covenants on the part of the lessee then the lessor may re-enter upon the property and premises and determine the lease and wherever the power of re-entry shall arise (whether the same be exercised or not) the rent for the month then current shall immediately become payable.

In witness whereof the said Sithy Nafeesathul Zabeedia, Adham Bin Mohamed Sallih, Muthuswamy Pillai Bagawathia Pillai have set their
40 respective hands to these presents and to two others of the same tenor and date at Colombo on this twenty-first day of January, One thousand Nine hundred and Fifty-two.

THE SCHEDULE ABOVE REFERRED TO :

2D40
 Indenture
 of Lease
 No. 220
 21-1-52
 —continued.

All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situated at Keyzer Street in the Pettah within the Municipality and District of Colombo, Western Province, bounded on the North-West by Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 and belonging to John Bonifacio Fernando and his late wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others, and on the South-West by premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and 10 seventy-one hundredths of a perch (A0. R0. P1, 71/100) as per figure of survey thereof dated 30th September, 1879, and made by David Devapuraratne, Licensed Surveyor, and registered under title Colombo A. 221/79.

Witnesses :

- | | |
|-----------------------|-------------------------|
| 1. L. GOMATHINAIAGAM. | (Sgd.) S. N. ZABEEDIA. |
| 2. D. P. NANAYAKKARA. | (Sgd.) A. B. M. SALLIH. |
| | (Sgd.) Illegible. |

Date of Attestation :
 21st January, 1952.

(Sgd.) R. NAMASIVAYAM, 20
Notary Public.

I, Rasapillai Namasivayam of Colombo in the Island of Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the within-named executants Sitti Nafeesathul Zabeedia and Adham Bin Mohamed Sallih and Muthuswamy Pillai Bagavathia Pillai all of whom have signed this deed in English characters as " S. N. Zabeedia ", " A. B. M. Sallih " and " M. Pagavathy " respectively, who are known to me in the presence of Lakshmana Pillai Gomathinaigam of No. 238, Keyzer Street, Pettah, Colombo, and Don Powlis Nanayakkara of Kalapaluwawa 30 Rajagiriya, and both of whom have signed this deed in English characters as " L. Gomathinaigam " and " D. P. Nanayakkara " respectively, the subscribing witnesses hereto both of whom are also known to me the same was signed by the said executants and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo on this twenty-first day of January One thousand Nine hundred and Fifty-two.

And I further certify and attest that a sum of Rs. 300/- being three months' rent in advance was paid in my presence by cheque bearing No. FU 862959 dated 21-1-52 drawn on the National Bank of India Limited, Colombo, and that in the duplicate on page 1 in line 16 the word "entitled" was interpolated, before the foregoing instrument was so read over and explained as aforesaid and that the duplicate of this instrument bears a stamp of the value of Rs. 50/- and the original a stamp of the value of Re. 1/- and that the said stamps were supplied by me the said Notary.

2D40
Indenture
of Lease
No. 220
21-1-52
-- continued.

Date of Attestation :
10 21st January, 1952.

Which I attest.

(Sgd.)

Notary Public.

(Seal)

2D33

Deed No. 2682

2D33
Deed
No. 2682
9-5-52

Prior Registration :—Colombo A. 296/164.
Registered : A. 336/281.

Colombo, 26th May, 1952.

To all to whom these presents shall come Sithy Nafeesathul Zabeedia and Adham Bin Mohamed Sallih (wife and husband) both of "Salonica", Galle Road, Colpetty, Colombo (thereinafter called and referred to as the said vendors which term or expression as hereinafter used shall wherever the context so requires or admits, mean and include the said vendors either of them their and either of their heirs, executors, administrators).
Send Greetings :

Where the said first-named vendor is under and by virtue of Deed No. 1079 dated 21st December, 1941, and attested by M. M. A. Raheem of Colombo, Notary Public, seized and possessed of or otherwise well and sufficiently entitled to all that land and premises in the schedule hereto fully and particularly described.

And where the said vendors have agreed with Ahmed Refai Bin Adham Sallih and Zubire Sallih Bin Adham Sallih both of "Salonica", Galle Road, Colpetty, Colombo (hereinafter called and referred to as the said vendees which terms or expression as hereinafter used shall wherever the context so requires or admits, mean and includes the said vendees either of them their and either of their heirs, executors, administrators and assigns) for the absolute sale and conveyance to the said vendees of the said land and premises in the Schedule hereto fully and particularly described free from all encumbrances whatsoever at or for the price or sum of Rupees Ten thousand (Rs. 10,000/-) of lawful money of Ceylon.

2D33
Deed
No. 2682
9-5-52
—continued.

Now know Me and these presents witness that the said vendors Sithy Nafeesathul Zabeedia and Adham Bin Mohamed Sallih in pursuance of the said agreement and in consideration of the said sum of Rupees Ten thousand (Rs. 10,000/-) well and truly paid to the said vendors by the said vendees (the receipt whereof the said vendors do hereby expressly admit and acknowledge) do hereby bargain, sell, grant, convey, assign, transfer, set over and assure unto the said vendees, Ahmed Refai Bin Adham Sallih and Zubire Sallih Bin Adham Sallih and their heirs, executors, administrators and assigns all that land and premises in the schedule hereto fully and particularly described together with all houses, buildings, plantations 10 and everything standing thereon and all rights, ways, paths, privileges, easements, servitudes, advantages and appurtenances whatsoever to the said premises belonging or in any wise appertaining thereto or usually held, used or enjoyed therewith or reputed or known to be part and parcel or member thereof and all the estate, right, title, interest, property, possession, claim and demand whatsoever or howsoever of the said vendors of into out of or upon the said premises and every part or portion thereof.

To have and to hold all that land and premises in the schedule hereto full and particularly described hereby conveyed and transferred or expressed or intended so to be with all and singular their rights, members 20 and appurtenances thereunto belonging or appertaining thereunto the said vendees absolutely for ever subject to the mortgage bond No. 2680 dated this day for Rupees Ten thousand (Rs. 10,000/-) and attested by the notary attesting these presents.

And the said vendors do hereby covenant and declare with and to the said vendees that the said vendors have good right, full power and lawful and absolute authority to transfer and convey the said premises in manner aforesaid and that the same are free from all other encumbrances whatsoever and are not subject to any other mortgage, charge, lien, seizure, sequestration, partition or other proceedings or encumbrances whatsoever 30 except as aforesaid and that the said vendors have not at any time heretofore made, done or committed or been party or privy to any act, deed, matter or thing whereby the same or any part thereof are, is, can, shall or may be impeached or encumbered in title, charge, estate or otherwise howsoever whereby the vendees shall or may lose the full benefit and advantage of the absolute sale and assignment hereby effected and that the said vendor—shall and will always warrant and defend the title to the said premises and every part or portion thereof unto the said vendees against any and every person or persons whomsoever and that the said vendors shall and will at all times hereafter at the request and cost of the 40 said vendees make, do, execute and perfect or cause or procure to be made, done, executed and perfected all such further and other acts, deeds, assurances, matters and things for the better and more perfectly satisfactory and effectually conveying, assuring and vesting the said premises in and unto the said vendees as by them or any of them shall or may be reasonably required.

In witnesses whereof the said vendors Sithy Nafeesathul Zabeedia²⁰³³ and Adham Bin Mohamed Sallih have to these presents and to two others^{Deed No. 2682 of 9-5-52} of the same tenor and set their hands at Colombo on this ninth day of May, One thousand Nine hundred and Fifty-two. *- continued.*

THE SCHEDULE ABOVE REFERRED TO :

All that allotment of land with the buildings standing thereon formerly bearing assessment No. 26 and presently bearing assessment No. 238, situated at Keyzer Street in Pettah within the Municipality and District of Colombo, Western Province, and bounded on the North-West by 10 Keyzer Street, on the North-East by lot No. 2 bearing assessment No. 25 belonging to Mr. John Bonifacio Fernando and his wife Lindamulage Catherine de Silva Wijeratne, on the South-East by the property of Mr. Haniffa and others and on the South-West by premises No. 27 allotted to Francis Gabriel de Silva Wijeratne, containing in extent one perch and seventy-one one hundredths of a perch (A0. R0. P1, 71/100) as per figure of survey thereof dated 30th September, 1879, and made by David Devapuraratne, Licensed Surveyor.

Witnesses :

(Sgd.) Illegible.

(Sgd.) S. N. ZABEEDIA.

20 Date of Attestation :
9th May, 1952.

(Sgd.) M. A. RAHEEM,
Notary Public.

I, Meera Mohideen Mohamed Abdul Raheem of Colombo in the Island of Ceylon, Notary Public, by lawful authority duly admitted, do hereby certify and attest that the foregoing instrument having been duly read over and explained by me the said Notary to the said vendors Sitti Nafeesathul Zabeedia and Adham Bin Mohamed Sallih both of whom signed as "S. N. Zabeedia" and "A. B. M. Sallih" respectively, and are known to me in the presence of Vanpulliparambil Karuppan Krishnan of No. 131/86, Dematagoda Road, Colombo, and Watarekapeli Adikaram 30 Disanayakage Somapala Disanayaka of Akurumulla, both of whom signed as "V. K. Krishnan" and "S. Disanayake" respectively, the subscribing witnesses thereto both of whom are known to me the same was signed by the said vendors as aforesaid and by the said witnesses and also by me the said Notary in my presence and in the presence of one another all being present together at the same time at Colombo aforesaid on this ninth day of May, One thousand Nine hundred and Fifty-two.

And I further certify and attest that no consideration was passed in my presence but the within mentioned consideration was acknowledged by the vendors to have been previously received and that in both the

2D33
Deed
No. 2682
9-5-52
-- continued.

Original and Duplicate on page 1 in line 9 the word "Vendor" were deleted and in the Original alone on page 3 in line 5 the word "Forty" was deleted and in the Duplicate on page 3 in line 1 the word "Nafeesathul" was typed over erasures before the said instrument was read over and explained as aforesaid and that the Duplicate of this instrument bears seven stamps to the value of Rupees Three hundred and Nineteen (Rs. 319/-) and the original thereof one stamp of Rupee One and that the said stamps were supplied by me the said Notary.

Date of Attestation :
9th May, 1952.

(Sgd.)
Notary Public.

10

(Seal)

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Journal Entries in D.C. Colombo Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

In the matter of the estate of the late H. Ibrahim Bin Ahmed, deceased.

AHMED BIN IBRAHIM.....*Petitioner.*

Testamentary Jurisdiction No. 5686.

This 27th day of May, 1931.

20

Mr. C. M. Brito files proxy, affidavit and a petition of the petitioner together with documents A-D and the affidavits praying for Letters of Probate to the estate of the above-named deceased, and moves that an Order Absolute be entered in the 1st instance.

Let an *Order Nisi* be issued for publication in the Government Gazette and twice in the Independent newspaper for 18-6-31.

O/N entered.
Stamps Rs. 107/-
(Intld.) Illegible.

18-6-31. Case called—Gazette and papers filed.
Proxy of M. Ismail Ibrahim filed.

30

Objections on 9th July.

(Intld.) G. C. T.,
D. J.

9-7-31. Case called—objections filed.

Mr. Adv. Nagalingam states that in view of the objections which do not affect the Will and the two codicils Probate be issued to the petitioner limited for the purposes and for the administration of the estate, of the Will and the first two codicils pending this inquiry.

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Allowed and ordered accordingly, subject to the payment of estate duty. Inquiry 9th September. (Special).

10

(Intld.) G. C. T.,
D. J.

18-8-31. Mr. M. K. Cassim files Bin Ibrahim's list of witnesses.

File.

(Intld.) G. C. T.,
D. J.

22-8-31. Mr. Kamer Cassim moves that the Court be pleased to postpone the inquiry fixed for 9th September, 1931, for some date at the end of October or in November, 1931.

Mr. C. M. Brito, Proctor for applicant consents.

20

Refused. No reasons given to support the application.

(Intld.) G. C. T.,
D. J.

4-9-31. Mr. Adv. Markar in support states that the Proctor for the party impugning the Will is away in Jaffna and is not likely to be back on the date fixed for the inquiry.

Re-fix inquiry for 6th November, 1931.

(Intld.) G. C. T.,
D. J.

30 1-10-31. M. S. Bin Ibrahim moves for an order of payment in his favour for Rs. 110/- being the amount deposited by the Standard Oil Co. as house rent due to him in respect of the premises at Avissawella gifted by the deceased to him by Deed No. 1233 of 27-3-31. Proctor for petitioner.

Issue order of payment for Rs. 110/-.

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(Intld.) G. C. T.,
D. J.

- 2-10-31. Order of payment No. 4868 for Rs. 110/- issued in favour of Mohamed Sallih Bin Ibrahim.

(Intld.) G. C. T.,
D. J.

- 2-11-31. Mr. M. Kamer Cassim files the list of witnesses of M. Ismail Bin Ibrahim.
Proctor for applicant received notice. 10

(Intld.) M. W. H. De S.,
D. J.

- 3-11-31. Mr. M. Kamer Cassim moves to issue summons on Dr. C. O. Perera and Dr. Lucian de Zylva to produce the certificates referred in the list of witnesses which are in the custody of his client and the Registrar of Births and Deaths to produce the death certificate mentioned in the list of witnesses a certified copy of which has been already obtained ; they being material witnesses for the inquiry.

Allowed on payment of witnesses expenses. 20

(Intld.) M. W. H. DE S.,
D. J.

- 3-11-31. One original to two witnesses issued by objector Bin Ibrahim.

(Intld.) Illegible.

- 5-11-31. The executor not being quite ready to proceed on with the inquiry fixed for 6th inst. and Court being also desirable that a clear date may be fixed for the inquiry. Mr. M. Kamer Cassim moves that the said inquiry may be postponed for some day before the X'mas vacation.

Inquiry postponed for 28-1-32. Specially fixed. 30

(Intld.)
D. J.

- 19-12-31. The dispute between the applicant and the opponent to the probate and the other heir Mohamed Sallih Bin Ibrahim have

been adjusted between the parties A. Bin Ibrahim, M. S. Bin Ibrahim and M. I. Bin Ibrahim pray that the terms of settlement (a copy whereof is filed herewith) be filed in Court as an adjustment or compromise between the said parties.

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File.

(Intld.) G. C. T.,
D. J.

28-1-32. Case called—*Vide* minute of consent from the opponent.
The 3rd codicil is admitted to Probate.

10

(Intld.) G. C. T.,
D. J.

29-2-32. D.O. No. B. 528 for Rs. 835/- issued to A.S.P., Avissawella
vide his letter No. P. 459/31 of 20-2-32.

(Intld.) Illegible.

23-3-32. *Vide* petition dated 26th February, 1932, from Ahmed Bin Hassen of No. 35, Guildford Crescent, Colombo, and another filed of record.

Refer to the executor for his remarks by 2-6-32.

20

(Intld.) G. C. T.,
D. J.

Referred accordingly letter No. 509 of 29-4-32.

Inquire whether deed and statement of property has been sent to Commissioner of Stamps for 12/5.

(Intld.) Illegible.
3/5

No. 557 of 3-5-32 to Mr. C. M. Brito.

(Intld.) J. H. F.
3-5-32.

30

12-5-32. Case called—declaration and statement.
Proctor written to.

Vide Proctor's explanation.
Summons order for 26/5.

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Inform Commissioner of Stamps.

(Intld.) G. C. T.,
D. J.

- 26-5-32. Case called—declaration and statement.
Proctor undertakes to forward declaration and statement.

Call 2/6.

(Intld.) G. C. T.,
D. J.

- 2-6-32. Case called—declaration and statement on 9/6.

2. Report on petition filed.

10

The petitioners are informed that executor will pay them the rents.

(Intld.) G. C. T.,
D. J.

Replied to petitioners.

(Intld.) J. H. F.
5/6

- 9-6-32. Case called—declaration and statement forwarded.

S.O. inform Commissioner of Stamps.

(Intld.) G. C. T., 20
D. J.

S.O. 4-8-32 for certificate of Commissioner of Stamps.
S.O. 13-10-32 for certificate of Commissioner of
Stamps.

- 24-6-32. P.C. filed.

(Intld.) Illegible.

- 0-7-32. The Assistant Superintendent of Police, Avissawella, moves that the sum of Rs. 835/- deposited by him in Court be withheld until it is claimed by the person to whom it is due : (No. P. 459/31 of 3-6-32).

30

Acknowledge receipt and say that the money will be paid to the proper party.

(Intld.) G. C. T.,
D. J.

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No. of 5-7-32 to Assistant Superintendent of Police, Avissawella.

—continued.

(Intld.) J. H. F.,
3/7

10 6-9-32. M. S. Bin Ibrahim, 2nd respondent, moves to draw Rs. 835/- due to him.

Issue order of payment.

(Intld.) G. C. T.,
D. J.

7-9-32. Order of payment No. 48752 for Rs. 835/- issued in favour of M. Sallih Bin Ibrahim.

(Intld.) G. C. T.,
D. J.

S.O. 8-12-32 for certificate of Commissioner of Stamps.

20 10-10-32. The 2nd respondent moves to draw Rs. 800/- being rent for February-September due to him.

Pay when the rents are deposited.

(Intld.) G. C. T.,
D. J.

2-11-32. The Assistant Superintendent of Police, Avissawella, asks for a Deposit Order for Rs. 800/-.

Issue.

(Intld.) G. C. T.,
D. J.

D.O. No. B. 64517 issued for Rs. 800/-.

30

(Intld.) J. H. F.

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12-11-32. Sent to Assistant Superintendent of Police, Avissawella,
No. of 2-11-32.

(Intd.) J. H. F.
2-11-32

14-11-32. Order of Payment No. 54520 for Rs. 800/- issued in favour of
M. Sallih Bin Ibrahim.

(Intd.) G. C. T.,
D. J.

S.O. 23-2-33 for certificate of Commissioner of Stamps.

24-2-33. *Vide* Memo dated from the Commissioner of Stamps 10
moving for the issue of citation on the executor for the recovery
of Rs. 50/- being penalty imposed on him for failure to comply
with the requirements in notice dated 5th July, 1932.

Issue citation for 9-3-33.

(Intd.) G. C. T.,
D. J.

Issued.

(Intd.) Illegible.
24-2-33

9-3-33. Case called—Penalty Rs. 50/-.
2. Requisitions of the Commissioner of Stamps to be complied with—Citation on *Citee*—not served. 20

Re-issue 25th May, 1933.

(Intd.) G. C. T.,
D. J.

Re-issued.

(Intd.) Illegible.
10-3-33

23-3-33. *Vide* letter No. P. 459/31 dated 21-3-33 from the Assistant
Superintendent of Police, Avissawella, asking for a deposit
order for Rs. 600/-.

Issue.

D.O. No. B. 65184 for Rs. 600/- issued.

(Intd.) Illegible.
24-3-33

4-4-33. The 2nd respondent moves to draw in his favour Rs. 600/- being amount deposited by the Assistant Superintendent of Police, Avissawella, being house rent.

Issue order of payment.

(Intd.) G. C. T.,
D. J.

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8-5-33. Order of Payment No. 54243 for Rs. 600/- issued in favour of M. S. Bin Ibrahim.

(Intd.) G. C. T.,
D. J.

10

25-5-33. Case called—Penalty Rs. 50/-.

2. Requisition of the Commissioner of Stamps to be complied with—Citation on *Citee*—not served.

Re-issue 6th July, 1933.

(Intd.) G. C. T.,
D. J.

Re-issued.

(Intd.) Illegible.
30-5-33

20 5-6-33. Notice of Provisional Assessment filed.

8-6-33. *Vide* Letter No. P 459/31 dated 31-5-33 from the Assistant Superintendent of Police, Avissawella, asking for a deposit order for Rs. 200/-.

Issue.

(Intd.) G. C. T.,
D.J.

D.O. No. B.65590 for Rs. 200/- issued.

(Intd.) Illegible.
8/6

30 3-7-33. Case called—Penalty Rs. 250/-.

2. Requisition of the Commissioner of Stamps to be complied with.

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3. Cost of Citation—Rs. 4/02.
Citation served on Citee as for 6-7-33.
Re-issue Citation for 3/8.

(Free of stamps)

(Intd.) G. C. T.,
D.J.

Re-issued.

(Intd.) Illegible.

3-8-33. Case called—Penalty Rs. 250/-.

2. Requisitions of the Commissioner of Stamps to be complied with. 10

3. Cost of Citation—Rs. 4/02.

No return to Citation on Citee.

He is absent.

Await and reissue for 31-8-33.

(Intd.) G. C. T.,
D.J.

Re-issued.

(Intd.) Illegible.
24-8-33

31-8-33. Case called—Penalty Rs. 250/-.

20

2. Requisition of the Commissioner of Stamps to be complied with.

3. Cost of Citation—Rs. 4/02.

Citation served on Citee.

He is absent.

Mr. Brito for Citee moves for time.

Allowed till 14-9-33.

(Intd.) G. C. T.,
D.J.

14-9-33. Case called—Penalty Rs. 250/-.

30

2. Requisition of the Commissioner of Stamps to be complied with.

3. Cost of Citation—Rs. 4/02 tendered.

Proctor moving—S.O. 21-9-33 for Receipt.

(Intd.) G. C. T.,
D.J.

Rs. 4/02 affixed to O/N.

(Intd.) Illegible.,
14/9

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15-9-33. *Vide* Letter No. P 459/31 dated 14 September 1933 from the Assistant Superintendent of Police, Avissawella asking for a deposit order for Rs. 400/-.

Issue.

(Intd.) G. C. T.,
D.J.

10 D.O. No. B 74727 for Rs. 400/- issued.

(Intd.) Illegible.
15/9

20-9-33. Voucher for Rs. 50/- issued. On account penalty.

21-9-33. Case called—Penalty Rs. 250/-.

2. Requisition of the Commissioner of Stamps to be complied with.
Proctor moving S.O. 12-10-33.

(Intd.) G. C. T.,
D.J.

20 10-10-33. M. S. Bin Ibrahim moves for an order of payment in his favour for Rs. 600/-.
Await payment of Estate Duty.

D.J.

12-10-33. Case called—Penalty Rs. 200/-.

2. Requisitions of the Commissioner of Stamps to be complied with.
Proctor moves for time.
S.O. 2-11-33.

30 Forward Kachcheri Receipt for Rs. 50/- to the Commissioner of Stamps.

(Intd.)
D.J.

Kachcheri Receipt No. 32750 for Rs. 50/- sent to Commissioner of Stamps with Memo No.——of 14-10-33.

(Intd.) Illegible.

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- 2-11-33. Case called—Penalty Rs. 200/-.
Issue Order of Payment out of funds in credit.
2. Requisitions of the Commissioner of Stamps to be complied with.
S.O. 16/11.
(Intd)
D.J.
- 7-11-33. Mr. C. M. Brito files affidavit of the applicant for Probate and moves that he be authorised to sell the premises No. 110 (now No. 195/197) 4th Cross Street for Rs. 52,500/- and to mortgage 10 premises No. 100-102. Main Street and 83 to 87, 2nd Cross Street, Pettah for Rs. 50,000/-. The proceeds of such sale and of the mortgage to be brought into Court in the first instance less commission and incidental expenses.

The sale and the mortgage seem to be in the interest of the estate and necessary for the payment of estate duty and other debts. The application is allowed. Proceeds to be applied first for the payment of estate duty. The consent of the heirs should be filed.

(Intd.) G. C. T., 20
D.J.
- 16-11-33. Case called—Requisitions of the Commissioner of Stamps to be complied with.
Proctor absent.
Notice for 30/11.

(Intd.) G. C. T.,
D.J.
- 20-11-33. Order of Payment No. 55261 for Rs. 200/- issued in favour of the Commissioner of Stamps.

(Intd.) G. C. T., 30
D.J.
- 30-11-33. Case called—Requisitions of the Commissioner of Stamps to be complied with.
Notice on Proctor—not issued.

Issue now for 21st December 30.

(Intd.) G. C. T.,
D.J.

- 14-12-33. *Vide* Letter of 13-12-33 from Commissioner of Stamps to suspend action on Citation—S.O. 15-3-34. P5
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- (Intd.) Illegible.
- 20-2-34. *Vide* petition of 9-12-33 from A. B. Hassan filed of record. Refer to the Executor for his report by 8/3.
- (Intd.) G. C. T.,
D.J.
- Referred.
- (Intd.) Illegible.
22/2
- 10
- 8-3-34. Case called—Report on petition filed.
C.A.V.
- (Intd.) G. C. T.,
D.J.
- S.O. 21-6-34 for Cert.
- 20-3-34. *Vide* Letter No. P. 459/31 of 14-3-34 from the Assistant Superintendent of Police, Avissawella, asking for permission to instal electricity.
- Refer to Executor for report by.....
S.O. inform.
- 20
- (Intd.) G. C. T.,
D.J.
- Done.
- (Intd.) Illegible.
20/3
- 8-5-34. Oath of office tendered.
Probate issued.
- Inventory—29-11-34.
Final account—31-5-35.
- 30
- (Intd.) G. C. T.,
D.J.
- 15-5-34. M. S. Bin Ibrahim moves for an Order of Payment in his favour for Rs. 400/- being house rent deposited by Superintendent of Police, Avissawella.
- Issue Order of Payment.
- (Intd.) G. C. T.,
D.J.

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15-5-34. Order of Payment No. 63189 for Rs. 40/- issued to M. S. Bin Ibrahim.

(Intd.) G. C. T.,
D.J.

15-5-34. Mr. Brito moves that the Court may be pleased to sanction the Executor to mortgage to Plaintiffs in Cases Nos. 53251 and 53252 the various properties detailed in the schedules to the deed No. 2084 a copy is herewith filed as collateral security for the amounts due to them on the said decrees whereupon the said Plaintiffs have agreed to grant the Executor two years' 10 time for the payment of the said decrees.

File further particulars with regard to the claims of other creditors (both secured and unsecured). To be brought up again.

(Intd.) G. C. T.,
D.J.

15-5-34. Mr. Brito files a list of the secured and unsecured creditors. There being no other unsecured creditors who are likely to be prejudiced by this arrangement the Executor is authorised to execute a mortgage as set out in the motion in favour of the 20 two unsecured creditors.

(Intd.) G. C. T.,
D.J.

15-5-34. Mr. Brito moves that the Executor be authorised to sell the properties mentioned in the motion. The Executor has obtained advances from the intending purchasers of the said properties amounting to Rs. 25,172/- which has been appropriated in the payment of certain debts of the estate. The abovementioned property is subject to a mortgage of Rs. 10,000/- under decree in action No. 53062 of this Court 30 and the Executor proposes to pay the same out of the said proceeds sale and to pay all balance available proceeds sale to the Plaintiffs. In actions Nos. 53251 and 53252 on payment whereof they have agreed to grant him time for repayment of the amount due to them on the said decrees and to stay sale of the several properties of the estate seized thereunder. File further particulars with regard to the claims of other creditors (secured and unsecured).

(Intd.) G. C. T.,
D.J. 40

17-5-34. Mr. Brito states that the premises No. 111 now Nos. 195 & 197 Fourth Cross Street, valued at Rs. 35,000 is arranged to be sold for Rs. 52,500/-. The premises No. 87 now No. 61, Fourth Cross Street, valued at Rs. 30,000/- is arranged to be sold for Rs. 22,000/-. The premises No. 87, Maliban Street and No. 10, Norris Road, valued at Rs. 20,000/- is arranged to be sold for Rs. 22,000/-. This property is subject to a mortgage decree in Case No. 53062 D.C. Colombo for Rs. 10,000/- interests and costs. The Executor has made arrangement with the Plaintiff in Case Nos. 53251 and 53252 of this Court to pay them the proceeds of the above sales after paying the mortgage in part payment of the amounts due to them as stated in his motion of 14-5-34 and to have the sales fixed for the 24th and 25th May 1934 stayed. He also moves that the Court may be pleased to allow his application of 14th May 1934.

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10 Mr. Adv. Nadaraja in support.

20 He draws my attention to Gazette Notification advertising this property in the Gazette of 2-4-34 for sale on 24/5. A forced sale will not realise fair prices. The amounts for which the Executor proposes to sell the lands seem reasonable.—(Vide official valuation). The sales are sanctioned.

The Executor should deposit to the credit of Mortgage Action No. 53062 D.C. Colombo a sum of Rs. 10,000/- and interest and costs on account of the claim of the Plaintiff on or before 24-5-34.

(Intd.) G. C. T.,
D.J.

23-5-34. Mr. N. M. Zaheed files Proxy of the Executor—(Mr. Brito having died).
30 File.

(Intd.) G. C. T.,
D.J.

26-5-34. Deposit Order No. B. 85218 for Rs. 674/92 issued to Mr. S. R. Amarasekere.

(Intd.) E. E.

12-10-34. Mr. Zaheed files affidavit from the Executor together with a statement showing the debts already paid the debts that still due and the assets available and moves that the Court may be pleased to sanction the proposed mortgage.

40 The Executor is authorised to execute the Mortgage bond. He is also directed to bring into Court the full amount raised on

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.....loan for payment of estate duty, mortgage debts
and.....liabilities of the estates.

(Intd.) G. C. T.,
D.J.

26-10-34. D.O. No. B. 85800 for Rs. 165,000/- issued.

(Intd.) Illegible.

6-11-34. With reference to the order of Court dated 12th October, 1934
Mr. N. M. Zaheed files Kachcheri Receipt for Rs. 165,000/-
and moves:

(a) that Rs. 47,315/68 being amount due the Plaintiff in 10
Case No. 53251 (of 1933) of this Court be transferred to the
credit of Case No. 53251.

(b) that Rs. 60,370/31 being amount due to Plaintiff in
Case No. 53252 (of 1933) of this Court be transferred to the
credit of the said case No. 53252 ;

(c) that Rs. 959/95 being amount due to the Plaintiff in
Case No. 237 (of 1934) of this Court be transferred to the credit
of said Case No. 237 ; and (b) that an Order of Payment be
issued in favour of the Commissioner of Stamps for Rs. 57,000/-
on account of Estate Duty payable by the Executor pending 20
the Final Assessment.

The full amount now lying to the credit of this Case is
Rs. 165,674/92.

Transfer to the respective cases the amounts mentioned in the
motion and issue Order of Payment to Commissioner of Stamps
for Rs. 57,000/-.

(Intd.) G. C. T.,
D.J.

6-11-34. The following orders of payment have been issued—(1) No.
64107 for Rs. 47,315/68 issued to the Government Agent, 30
Western Province (to be transferred to District Court,
Colombo No. 53251).

(2) No. 64108 for Rs. 60,370/31 issued to Government Agent,
Western Province (to be transferred to District Court, Colombo
No. 53252).

(3) No. 64109 for Rs. 959/95 issued to Government Agent, Western Province (to be transferred to District Court, Colombo No. 237).

(4) No. 64110 for Rs. 57,000/- to Commissioner of Stamps.

(Intd.) G. C. T.,
D.J.

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- 10 6-12-34. Mr. N. M. Zaheed filed affidavit from the Executor together with minutes of consent from the other two sons of the deceased and for the reason stated therein moves that the Court do sanction and authorize the sale of premises Nos. 81, 83 and 85, Main Street, Pettah, Colombo for the sum of Rs. 75,000/-.

The Executor is entitled to sell property for the payment of debts and I see nothing in the Will which fetters his right of sale. The sale is sanctioned.

(Intd.) G. C. T.,
D.J.

- 13-12-34. Case called—Inventory S.O. 31-1-35.

Proctor moving.

(Intd.) G. C. T.,
D.J.

20

- 31-1-35. Case called—Inventory filed.

(Intd.) G. C. T.,
D.J.

- 25-2-35. S. M. B. S. Abbas moves that the Court may be pleased to issue an order of payment in his favour for Rs. 100/- as per details given.

Move after deficiency if any, is paid.

(Intd.) G. C. T.,
D.J.

- 30 13-3-35. Mr. Zaheed files the affidavit from the Executor together with minutes of consent from the other two sons of the deceased, and moves that the sale of the premises called "The Lawn" be sanctioned for Rs. 100,000/-.

In view of the consent of the person to whom the property has been specifically devised I see no reason why the proposed sale should not be sanctioned. The sale is sanctioned. I am also informed that the payment of estate duty has been secured.

D.J.

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- 21-3-35. Mr. Zaheed filed minutes of consent from the other two sons and moves that the sale of premises No. 188, Old Moor Street, for Rs. 5,000/- be authorised.

I do not see why the sanction of Court is required. The Executor is entitled to sell property for the payment of debts.

(Intd.) G. C. T.,
D.J.

- 10-4-35. Mr. Zaheed filed affidavit from the executor together with minutes of consent from the other two sons of the deceased, and moves that the Court may be pleased to sanction and to authorise the sale of premises Nos. 335, 347 and 353 Kayman's Gate for Rs. 75,000/- (2) the mortgage of premises No. 11 and 23, Maliban Street, No. 2, St. John's Road and 331, Kayman's Gate and No. 339, Kayman's Gate for Rs. 30,000/-.

Allowed.

The entire proceeds to be deposited to credit of Action No. 52556.

(Intd.) G. C. T.,
D.J.

- 29-5-35. Mr. Zaheed moves for six months time to file the Final A/c. 20 for the reasons stated in the motion.

File an intermediate A/c. on 4th July.

(Intd.) G. C. T.,
D.J.

- 4-6-35. Mr. C. M. Kumaravelpillai files the proxy of Mrs. M. Brito, the Executrix of the Last Will of Mr. C. M. Brito together with Probate in Case No. 6876 and the Bill of Costs payable to the said Mr. Brito for services rendered by him in the case, and moves that the same be taxed by Court to be recovered from the estate. 30

Let the Bill be taxed.

(Intd.) G. C. T.,
D.J.

Mr. C. M. Brito's Bill of Costs taxed at Rs. 1,317/19.

(Intd.) Illegible.
15-6-35

- 4-7-35. Case called.
Intermediate account not filed.
Proctor moving S.O. 18/7.

(Intd.) G. C. T., 40
D.J.

- 18-7-35. Case called.
Intermediate Account filed.
Report 5/9.
Final A/c. 12/12.
(Intd.) G. C. T.,
D.J.
- 29-8-35. The Chairman, U.D.C., Ratnapura forwards a cheque for
Rs. 200/- to be deposited to the credit of this case.
Issue deposit order.
- 10 D.O. No. B 88820 for Rs. 200/-.
Issued.
(Intd.) Illegible.
- 7-9-35. Commissioner's Certificate received.
Deficiency—Rs. 203/73.
(Intd.) Illegible.
- Notice Proctor for 10-10-35.
(Intd.) Illegible.
7/9
- 20 Issued.
(Intd.) Illegible.
9-9-35
- 10-10-35. Case called—Deficiency Rs. 203/72.
Costs 2.40 tendered. *Vide* motion filed.
Issue Order of Payment out of funds in Court.
(Intd.) C. N.,
D.J., 14/10
- 12-10-35. Order of Payment No. 55493 for Rs. 203/22 issued to the
Government Agent, Western Province—(deficiency of stamp
duty).
(Intd.) C. N.,
D.J., 14/10
- 30 Kachcheri Receipt for Rs. 203/75 filed.
(Intd.) Illegible.
- 30-11-35. Notice of additional assessment filed.
(Intd.) W.

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12-12-35. Case called.

Final Account—See motion filed.
S.O. 30th January for intermediate account.

(Intd.)
D.J.

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30-1-36. Case called.
Intermediate A/c. not filed.
Proctor moving S.O. for 5/2 for Final A/c.

(Intd.) G. C. T.,
D.J.

10

6-2-36. Case called.
Intermediate account filed.
Secretary for report 30/4.
F/A on 30-7-36.

(Intd.) G. C. T.,
D.J.

2-7-36. Mr. Zaheed moves for six months time to file the Final A/c.
for the reasons given in the motion.
Allowed.
S.O. 3-12-36 for Final A/c.

(Intd.) G. C. T.,
D.J.

20

10-9-36. Mr. N. M. Zaheed files appointment as Proctor for the Executor
Appellant together with his petition and moves that a date to
hear and determine the matter of such appeal be fixed.

Notice Commissioner of Stamps for 23/10.

(Intd.) G. C. T.,
D.J.

Notice issued.

(Intd.) Illegible.
17-9-36

30

23-10-36. No return to notice on Commissioner of Stamps.
Proxy filed. Called on 21/12 with Case No. 5830.

(Intd.) G. C. T.,
D.J.

- 1-12-36. Mr. Zaheed moves for a month's time to file a further inter-
mediate A/c. in view of the reasons given.
File intermediate A/c. on 10/12.
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- (Intd.) G. C. T.,
D.J.
- 10-12-36. Case called.
Intermediate A/c. filed.
For report.
- 4-3-37
- 10 S.O. 4-3-37 for Final A/c.
- (Intd.) G. C. T.,
D.J.
- 21-12-36. Case called.
Vide Journal Entry of 23-10-36.
Mention on 1-2-37 for.....of Commissioner of Stamps.
- (Intd.) G. C. T.,
D.J.
- 1-2-37. *Vide* order in D.C. Case No. 5830 (Civil).
Stand over 19-2-37.
- 20 (Intd.) M. W. H. de S.,
D.J.
- 10-2-37. *Vide* Letter from the Commissioner of Stamps forwarding a
voucher for Rs. 14,863/86 being the amount of estate duty
over-paid to be placed to the credit of this case.
- Issue Dep. order for Rs. 14,863/86.
- (Intd.) M. W. H. de S.,
D.J.
- D.O. No. B. 91213 for Rs. 14,863/86 issued.
- 20-2-37. Mr. Zaheed moves order of payment in favour of KM. N. SP.
Natchiappa Chettiar for Rs. 14,863/85 in part payment of the
amount due on Bond No. 2338.
- 30
- This amount may be paid to Natchiappa Chettiar in
reduction of the mortgage amount. A receipt to that effect
should be filed in Court before the amount is drawn.
- (Intd.) M. W. H. de S.,
D.J.

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- 23-3-37. Order of Payment No. 67697 for Rs. 14,863/85 to KM. N. SP. Natchiappa Chettiar. (Intd.) M. W. H. de S.,
D.J.
- 20-2-37. Messrs. Zaheed and Gratiaen move that the appeal be dismissed without cost as the parties have come to a settlement. Allowed. (Intd.) M. W. H. de S.,
D.J.
- 24-2-37. Mr. Zaheed files receipt from the mortgagee (KM. N. SP. 10 Natchiappa Chettiar). Allowed. (Intd.) M. W. H. de S.,
D.J.
- 12-3-37. Mr. Zaheed moves for six months time to file the Final A/c. Allowed. Intermediate A/c. to be filed before 6-5-37. (Intd.) M. W. H. de S.,
D.J.
- 31-3-37. Yellow Kachcheri Receipt for Rs. 14,863/86 filed. 20 (Intd.) Illegible.
- Mr. E. G. Gratiaen's Bill of Cost taxed at Rs. 73/46. (Intd.) Illegible.
1-5-37
- 6-5-37. Case called.
Final Account—*Vide* motion filed.
File Intermediate Account on 20-5-37 and renew application. (Intd.) M. W. H. de S.,
D.J.
- 15-5-37. Mr. Zaheed files affidavit from the Executor and moves that 30 the sale of premises Nos. 10 & 12, Hultsdorf Street for the sum of Rs. 11,000/- sanctioned. A minute of consent from the devisees is also filed. File consent of Mortgagee. D.J.
- 18-5-37. Mr. Zaheed files minute of consent from the mortgagee and moves that his application be allowed. Allowed. (Intd.) M. W. H. de S.,
D.J. 40

20-5-37. Case called.
Intermediate A/c. tendered.
Report 8-7-37.
F.A. 18-11-37.

(Intd.) M. W. H. de S.,
D.J.

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10 5-7-37. Mr. Zaheed files affidavit from the Executor and moves that the sale of the premises Nos. 5 & 7, Paranawadiya Road, for Rs. 8,500/- be sanctioned. A minute of consent from the Mortgagee is also filed.

Move with consent of the sons of the deceased.

(Intd.) M. W. H. de S.,
D.J.

31-7-37. The Commissioner of Stamps by his Memo No. A.I. 223 of 24-7-37 moves to issue Citation on (1) Periya Tamby Aysha Natchia and (2) Mohamed Ismail Bin Ibrahim for the recovery of Rs. 7,097/01 & Rs. 6,476/61. and interest respectively.
Issue Citation for 9-9-37.

(Intd.) M. W. H. de S.,
D.J.

20 Issued (1) W.P.
(2) Negombo

(Intd.) Illegible.
31-7-37

30-8-37. Mr. S. A. I. Deen files proxy of the appellant M. I. Bin Ibrahim together with his petition and moves that the Court be pleased to fix a date to have and determine the matter of such appeal.

Fix for 29-9-37.
Notice Commissioner of Stamps.

30 (Intd.) M. W. H. de S.,
D.J.

Notice issued on Commissioner of Stamps.

(Intd.) Illegible.
2-9-37

40 9-9-37. Case called.
Estate Duty due from :—
1. Periya Tamby Ayesha Natchia—Rs. 7,097/01 and interest
Cost of Citation—Rs. 13/80.
Citation on Citee—not served.
Not to be found at address given.
Re-issue 28-10-37.

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Re-issued.

(Intd.) Illegible.
11-2-37.

(Intd.) M. W. H. de S.,
D.J.

2. Mohamed Ismail Bin Ibrahim ; Rs. 6,476/61 & Interest
Cost of Citation—Rs. 13/80.
Citation served on Citee.
Await decision of appeal.

(Intd.) M. W. H. de S., 10
D.J.

29-9-37. Case called.
Mr. Gratiaen files proxy.
Mr. Zaheed for Plaintiff.
Fix inquiry on 16-12-37 (“ A ” Court).

(Intd.) M. W. H. de S.,
D.J.

28-10-37. Case called—*Vide* entry of 9-9-37.
Citation on 1st Citee—not served—not to be found.
Re-issue on fresh address being furnished for 16-12-37.20

(Intd.) M. W. H. de S.,
D.J.

Re-issue to fresh address.

(Intd.) Illegible.

8-11-37. Mr. Zaheed files minute of consent from (1) M. I. Bin Ibrahim
(2) the heirs of M. S. Bin Ibrahim and moves that the Executor
be authorised and sanctioned to sell the premises Nos. 5 & 7,
Paranawadiya Road, Colombo.
Allowed.

(Intd.) M. W. H. de S., 30
D.J.

11-11-37. Mr. N. M. Zaheed tenders supplementary Inventory.
File—Send copy to Commissioner of Stamps.

(Intd.) M. W. H. de S.,
D.J.

Copy sent to Commissioner of Stamps.

(Intd.) Illegible.
12-11-37

- 12-11-37. Mr. Zahced files affidavit from the Exccutor together with P5 minutes of consent from (a) M. S. Bin Ibrahim and (b) the Journal Entries in heirs of M. S. Bin Ibrahim and moves that the Court be pleased D.C. to sanction and authorise the sale of (1) premises No. 23, Colombo Case Maliban Street for Rs. 5,000/- (2) premises No. 11, Maliban No. 5686 Street for Rs. 6,000/- and (3) the land and buildings at Ratna-27-5-31 to pura for Rs. 4,000/-. He also files minute of consent from the 12-7-51 —continued. mortgagee.
- 10 Allowed. (Intd.) M. W. H. de S.,
D.J.
- 18-11-37. Mr. Zahced moves for three months' time to file the Final Account.
Allowed for 10-2-38. (Intd.) M. W. H. de S.,
D.J.
- 9-12-37. As the case is likely to be settled Messrs. S. A. I. Dheen and E. G. Gratiaen move that the inquiry fixed for 16th December, 1937 be postponed, that the case be taken off the trial roll and 20 restored to the general testamentary roll and that it be mentioned two months hence for terms of settlement or to fix a date for Inquiry.
Call 17-2-38. (Indt.) M. W. H. de S.,
D.J.
- 16-12-37. Case called—*Vide* entry of 28-10-37.
Citation on 1st Citee—not served.
Re-issue for 3-2-38. (Intd.) M. W. H. de S.,
30 Re-issued. (Intd.) Illegible.
22-12-37
- 3-2-38. Case called—Estate Duty—Rs. 7,097/01 and interest—Cost of Citation—Rs. 13/80.
Citation served on Citee on being pointed out.
Affidavit of identity.
Call 10-2-38. (Intd.) M. W. H. de S.,
D.J.
- 40 8-2-38. Mr. M. M. A. Raheem files petition of appeal against the assessment of estate duty made by the Commissioner of Stamps.

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Fix for inquiry—25-3-38.
Notice Commissioner of Stamps.

(Intd.) M. W. H. de S.,
D.J.

Notice issued.

(Intd.) Illegible.
18-2-38

8-2-38. Mr. Zaheed files the fifth intermediate account and moves for further three months' time to file the Final Account.

For report on 24-2-38.
Final Account for 7-4-38.

19

(Intd.) M. W. H. de S.,
D.J.

16-2-38. As the appellant and the respondents have agreed upon a certain basis for the settlement of matters in dispute, Messrs. S. A. I. Dheen and E. G. Gratiaen move that the case be called two months hence.

Mention on 26-5-38.

(Intd.) M. W. H. de S.,
D.J. 20

7-3-38. Stamp duty checked.
Deficiency Rs. 58/80.

(Intd.) Illegible.

7-3-38. Deficiency Rs. 58/80.
Report to await filing of final account.
Write to Proctor for 31/3.

Written.

(Intd.) Illegible.
8/3

25-3-38. Proxy of Commissioner of Stamps filed.
Call on 26-5-38 as there is a prospect of settlement.

30

(Intd.) M. W. H. de S.,
D.J.

28-3-38. Mr. Zaheed files affidavit from the Executor together with minute of consent from M. I. Bin Ibrahim and the heirs of M. S. Bin Ibrahim two of the three residuary legatees and moves that the Court be pleased to sanction and authorise the sale of premises 177, 179, 181 & 183, 2nd Cross Street and

160, 162, 164 & 166, Main Street, Pettah, Colombo for Rs. 161,000/- and pay the proceeds to the mortgagee whose minute of consent is filed.

Allowed.

Receipt from the mortgagee to be filed on or before 26-5-38.

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(Intd.) M. W. H. de S.,
D.J.

10 28-3-38. Mr. Zahed states that there are two appeals pending against the assessment of the Commissioner of Stamps and that in the event of either of the appeals succeeding, the value of the estate will be reduced, and therefore moves for time to pay the deficiency if any.

Call 16-6-38 for deficiency.

(Intd.) M. W. H. de S.,
D.J.

20 7-4-38. Case called.
Final Account—not tendered.
S.O. 26-5-38.

(Intd.) M. W. H. de S.,
D.J.

16-5-38. Mr. Zahed files affidavit from the Executor together with minutes of consent from (a) M. I. B. Ibrahim (b) the heirs of M. S. Bin Ibrahim (c) A. Umma and moves that the Court be pleased to sanction and authorise the sale of the premises No. 18, Hultsdorf Street for Rs. 8,000/-.

Allowed.

Discharged bonds to be filed on 26/5.

(Intd.) W. S.,
D.J.

30 26-5-38. Case called.
1. Final Account.
2. Discharged Bond for 23/6.

(Intd.) W. S.,

16-6-38. Case called.
Deficiency Rs. 58/84 tendered.

(Intd.) W. S.,

40 23-6-38. Case called.
Final Account not filed.
2. Discharged Bonds not filed.

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S.O. for 7/7.
Inquiry re Estate Duty—Call 1/9.

- (Intd.) W. S.,
- 7-7-38. Case called.
Final Account—not tendered.
2. Discharged Bonds—not tendered.
- Vide* motion.
S.O. 28-7-38.
- (Intd.) M. W. H. de S.,
- 28-7-38. Case called. 10
Final Account—S.O. 1/9.
2. Discharged Bonds—filed.
- 1-9-38. F/A S.O. for 7/10.
The appeals re-assessment have been settled for re-assessment
3-11-38.
- (Intd.) W. S.,
- 6-10-38. Final Account due.
Mr. Zaheed moves for three months time to file the Final A/c.
The amended assessment of Estate Duty has not been received
from Commissioner of Estate Duty. 20
- Call 3/11.
- (Intd.) W. S.,
D.J.
- 2-11-38. Notice of amended assessment and apportionment of Estate
Duty filed.
- (Intd.) Illegible.
- 3-11-38. Case called.
Final Account—*Vide* motion—S.O. 19-1-39.
The Executor accepts the new assessment and appeals are
withdrawn without costs. 30
- (Intd.) W. S.,
- 7-12-38. Respondent's Proctor's bill of costs (payable by Respondent)
taxed at Rs. 149/91.
- (Intd.) Illegible.
- 19-1-39. Case called.
Final Account—S.O. 9/2.
- (Intd.) C. N.,

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- 9-2-39. Case called.
Final Account—*Vide* motion—S.O. 11/5.
(Intd.) W. S.,
- 11-5-39. Case called.
Final Account—S.O. 22/6.
(Intd.) C. N.,
- 22-6-39. Case called.
Final Account not filed.
Proctor moving—Notice Executor for 20/7.
(Intd.) C. N.,
- 10 20-7-39. Case called.
Final Account—Cost of Notice Rs. 2/40.
Notice on Executor—not served not to be found.
Re-issued notice for service through Colpetty Police
for 24/8.
(Intd.) C. N.,
- 24-8-39. Case called.
Final Account—S.O. 23/11.
Cost of Notice—Rs. 2/40 filed.
20 No return to notice from Colpetty Police.
Intermediate account filed.
Secretary for report 28/9.
(Intd.) C. N.,
- 28-9-39. S.O. 12/10.
(Intd.) C. N.,
- 29-9-39. Stamp duty checked.
Deficiency—Rs. 142/-.
(Intd.) Illegible.
- 30 (Submitted). The receipt for Rs. 158,894/35 has not been
witnessed. The Executor may be asked to have it witnessed.
2. The Executor may be asked to give his reasons for further
delaying to file the Final A/c. This is the 6th Intermediate
A/c. Probate was issued to him in May 1934.
 3. The Executor may be asked to pay the deficient stamp
duty of Rs. 142/-.
- (Intd.) C. N.,
4/10.

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Deficiency Rs. 142/- on 23/11.

(Intd.) C. N.,

Informed.

- 23-11-39. Case called.
Final Account—S.O. 25/1.
2. Deficiency Rs. 142/-.

Vide letter of Proctor.
Secretary for further report 25/1.

(Intd.) C. N.,

Proceedings re loss of 2 stamps from 2 affidavits are made into 10 a separate file.

(Intd.) C. N.,
12/12

- 2-12-39. *Vide* letter dated 20-11-39 from the Commissioner of Estate Duty forwarding a Certificate of Estate Duty in default together with a writ form and a list of immovable property and requesting that writ be issued against Mrs. Periya Tamby Ayesha Natchia of Kottebodda Estate, Avissawella for the recovery of the sum of Rs. 6,514/40 with interest at 4% per annum from 10th May, 1939 to date of payment being balance 20 estate duty due and a further sum of Rs. 324/03 being outstanding interest.

Issue writ returnable 16-5-40.

(Intd.) C. N.,
D.J.

Writ issued to Fiscal Western Province.

(Intd.) Illegible.
4-12-39.

- 9-12-39. *Vide* letter dated 7-12-39 from the Commissioner of Estate Duty stating that a sum of Rs. 500/- has been paid on behalf of 30 the Citee, Mrs. Periya Tamby Ayesha Natchia and that he has allowed an extension of time on the following terms :—

Rs.1,000/- to be paid on or before 15th January, 1940.
A further sum of Rs. 1,000/- to be paid on or before 28th February, 1940. The balance to be paid definitely by 31-5-1940. In default of any of the instalments writ to re-issue.

1. Enter order accordingly.
2. Instruct Fiscal to stay execution proceedings pending further orders.

(Intd.) C. N.,
D.J.

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Order issued to Fiscal, Western Province.

(Intd.) Illegible.
9-12-39.

25-1-40. Case called—Final Account—S.O. 29/2.

10 28-2-40. Case called—No appearance—No order.

(Intd.) C. N.,

Final Account 6/6.

6-6-40. Case called—Final A/c. not filed.
Write to Proctor for 18/7.

(Intd.) C. N.,
D.J.

7-6-40. Proctor noticed.

18-7-40. Case called—Final A/c. not filed.
Write to Proctor for 12/9.

20

(Intd.) C. N.,
D.J.

Proctor N. M. Zaheed written to.

(Intd.) Illegible.
23/7/40.

12-9-40. Case called.
Final Account—not filed.

Notice proctor for 31/10.

(Intd.) C. N.,
D.J.

80

Issued.

(Intd.) Illegible.
13/9

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- 31-10-40. Mr. N. M. Zaheed for Petitioner.
Final Account—S.O. 16/1.
Notice on Proctor served. Costs of Notice Rs. 2/40 tendered.
He is present.
(Intd.) C. N.,
D.J.
- 16-1-41. Final Account not tendered.
Notice Proctor for 6-3-41.
(Intd.) C. N.,
D.J. 10
- 18-2-41. P. T. Ayesha Natchia widow of the deceased informs the Court that her husband was the son, heir and devisee of the estate of his deceased father. Her husband died 4 years ago leaving her and 5 children, three of whom are minors. Her husband's father died in 1931 and still after 10 years his estate has not been judicially closed. She and her children are in very poor circumstances. The Proctor for Administratrix promised to settle the estate judicially for the last 4 years but he has not done so. She therefore begs that the Proctor may be ordered to file the Final A/c. and close the estate.
Call 6/3
(Intd.) C. N.,
D.J. 20
- 6-3-41. Mr. N. M. Zaheed for Petitioner.
Final Account due—not filed.
Notice on Proctor served.
Costs of notice Rs. 2/40.
He is present.
Mr. Zaheed says the man is *actually dead*.
Call 8/5 for steps re administration *de bonis non*.
(Intd.) C. N.,
D.J. 30
- 8-5-41. Mr. N. M. Zaheed for Executor (dead).
1. Case called for steps re administration *de bonis non*.
2. Costs of notice Rs. 2/40.
S.O. 19/6.
(Intd.) C. N.,
D.J.
- 19-6-41. 1. Steps re administration *de bonis non*—Not taken.
2. Costs of notice 2/40.
Notice proctor for 24/7.
(Intd.) C. N.,
40

20-6-41. Notice issued on Proctor.

(Intd.) E. D. G.,
D.J.

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- 24-7-41. 1. Notice on Proctor for Executor (dead) served.
He is absent.
2. Steps re administration *de bonis non*.
3. Costs of 2 notices Rs. 4/80.

Issue writ against Proctor for recovery of Rs. 4/80
for 18/9.

10

(Intd.) J. J.,
D.J.

- 18-9-41. Writ not issued—Stamps Rs. 4/80 affixed to (9).
Steps re administration *de bonis non*.
Notice heirs for 20/11.

(Intd.) J. J.,
D.J.

- 20-9-41. Notice issued on P. T. Ayesha Natchia, the widow of late
Executor, to D. F. Avissawella.

(Intd.) E. D. G.,
D.J.

20

- 20-11-41. Mr. N. M. Zahced for Petitioner.
Notice on P. T. Ayesha Natchia not served.
Ascertain address and re-issue for 15/1.

(Intd.)

- 15-1-42. Notice on P. T. Aysha Natchia not issued.
Issue now for
Secretary: Please look into this record and report about its
present stage. Call on 29/1.

(Intd.) J. J.,

30

D.J.: The Executor is dead and Final A/c. has not been filed.
Mr. Zahced's Proctor appeared for the deceased Executor. The
heirs should be asked to apply for Letters *de bonis non*. The
heirs (exclusive of other devisees) are named in paragraph 6
of the Petition of 26-5-35. Notice may issue on them why
any one of them may not apply for Letters *de bonis non* with a
copy of the Last Will annexed thereto.

(Intd.) C. E.,
Secretary, 19/1

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Issue Notice as above for 26/2.

(Intd.) J. J.,
19/1

27-1-42. Notice issued on Mohamed Ismail Bin Ibrahim to Deputy Fiscal, Negombo.

(Intd.) E. D. G.,

27-1-42. Notice issued on Amina Umma to Deputy Fiscal, Colombo.

(Intd.) E. D. G.,

27-1-42. Notice issued on P. T. Ayesha Natchia to Deputy Fiscal, Avissawella. 10

(Intd.) E. D. G.,

26-2-42. Notice to show cause why any one of the heirs should not take steps to administer the estate not served on P. T. Ayesha Natchia.

Re-issue for 7/5.

It is served on Amina Umma and Mohamed Ismail Bin Ibrahim. They are absent.

(Intd.) J. J.,
D.J.

10-3-42. Notice extended and re-issued on P. T. Ayesha Natchia to 20 Deputy Fiscal, Avissawella.

(Intd.) E. D. G.,

7-5-42. No return to Notice on P. T. Ayesha Natchia to show cause why any one of the heirs should not take steps to administer the estate.

Await and re-issue for 25/6.

(Intd.) J. J.,

8-5-42. Notice on P. T. Ayesha Natchia served on 7-5-42.

26-8-42. With reference to his letter No. A.J. 223 of 7-12-39, Commissioner of Estate Duty states that Mrs. Periya Tamby Ayesha Natchia, the Administratrix has defaulted in the payment of the balance Estate Duty. He requests that writ be re-issued

to the Fiscal for seizure for sale of the property already indicated for recovery of the balance duty. The balance duty now amounts to Rs. 1,707/42 with interest thereon at 4% per annum from 10-5-41 to date of payment and accrued interest Rs. 8/25.

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Re-issue writ.

(Intd.) S. C. S.,

18-9-42. Writ issued to W.P. returnable 18-2-43.

(Intd.) Illegible.

10 19-9-42. Commissioner informed of action taken—*Vide* his letter of 15-9-42.

(Intd.) Illegible.

12-11-42. Deputy Fiscal, Avissawella reports that by virtue of the writ issued in this case he forwarded on 21-10-42 a notice under S. 232 C.P.C. to the D.J., Avissawella, prohibiting him from paying the judgment debtor (Respondent) and the Judgment Debtor from receiving a sum sufficient to satisfy the amount of the writ out of the sum of Rs. 31,000/- lying in deposit in D.C., Avissawella Case No. 60 Special.

20

(Intd.) Illegible.

25-11-42. With reference to the writ issued in this case Commissioner of Estate Duty requests to be informed what the present position is with regard to the recovery of the balance Estate Duty.

Inform.

(Intd.) J. J.,
A.D.J.

26-11-42. Reply sent.

(Intd.) Illegible.

30 3-12-42. Commissioner of Estate Duty moves that notice be issued on the District Judge, Avissawella to bring to Court a sum sufficient to satisfy the amount of the writ in this case out of the sum of Rs. 31,000/- lying in deposit in D.C. Avissawella, Case No. 60 Special.

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Inform Commissioner of Estate Duty that this Court has no jurisdiction to direct the Judge of another Court to bring the monies which are under his charge. The proper procedure would be to make the application to the Judge who holds the money in deposit.

(Intd.) J. J.,
A.D.J.

4-12-42. Commissioner of Estate Duty informed accordingly.

(Intd.) J. J.,
A.D.J. 10

4-6-34. Writ returned by Deputy Fiscal, Avissawella through Fiscal, Western Province. Reference is requested to his money seizure report.

Vide order (25).

(Intd.) J. J.,
A.D.J.

27-11-43. Mr. A. M. M. Fuard files his appointment as Proctor for Petitioner with her petition and affidavit of her attorney and for reasons stated therein moves that Secretary of this Court be appointed Administrator *de bonis non*, He moves that Letters with Will be granted to him and for costs of this application.

Move with consent of the Secretary.

(Intd.) S. J. C. S.,
A.D.J.

23-12-43. Mr. C. Emmanuel, Secretary consents to his being appointed Administrator *de bonis non* for due administration of the Estate of deceased and prays that Letters with Will be granted to him.

Call on 27-1-44.

(Intd.) W. S.,
A.D.J. 30

27-1-44. Mr. A. M. Fuard for Secretary D.C. Colombo.
Case called—*Vide* above order.
Let Secretary be appointed Administrator *de bonis non*.

(Intd.) S. J. C. S.,

- 22-2-44. Mr. A. M. M. Fuard files his appointment as Proctor for Official Administrator and moves that Letters of Administration with Will annexed be granted to him. He also moves that *Order Nisi* be published in the Gazette and the Ceylon Daily News Paper.

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Enter O/N for 4-5-44.

(Intd.) S. J. C. S.,
A.D.J.

- 3-3-44. *Vide* Order Nisi entered.

- 10 4-5-44. Mr. A. M. Fuard for Administrator.
Gazette and Papers.

Notice Proctor for 15/6.

(Intd.) S. J. C. S.,

- 5-5-44. *Vide* Notice issued on Proctor.

(Intd.) W. M. H. P.,

- 19-5-44. Mr. M. J. N. Culanthaivelu, Secretary of this Court, moves that he may be substituted as Official Administrator in the above case in place of Mr. C. Emmanuel, Retired Secretary.

Enter fresh O/N 6-7-44.

20

(Intd.) S. J. C. S.,
A.D.J.

- 26-5-44. Mr. A. M. M. Fuard files his appointment as Proctor for Muhandiram J. N. Culanthaivelu the present Secretary of this Court and moves that he may be substituted in place of Mr. C. Emmanuel, retired Secretary and Official Administrator and that *Order Nisi* be amended and extended for publication in above case.
Mr. Culanthaivelu consents.

30

1. Proxy filed.
2. Re O/N. *Vide* J.E.

(Intd.) S. J. C. S.,
A.D.J.

- 7-6-44. *Vide* Order Nisi entered.

(Intd.) W. M. H. P.,

- 16-6-44. Mr. F. Rustomjee for A. Bin Hassan and M. Bin Hassan states that he is instructed by them not to consent to any terms or enter into any terms with the Administrator of the estate of

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K.M. N. S.P. Natchiappa Chettiar relating to a Mortgage Bond bearing No. 2402 of 21-5-35 or any actions on same without prior consultations or instructions from his said clients or from him. The alleged M. B. No. 2402 affects the 3 properties named in motion. His clients are taking steps to have the said premises freed from the encumbrance or to have the said M. B. set aside.

(Intd.) Illegible.

6-7-44. Mr. A. M. Fuard for Petitioner.
Gazette and papers filed. 10
Order nisi made absolute.
Oath and bond on 3/8.

(Intd.) S. J. C. S.,

3-8-44. Oath and Bond.

Notice Proctor for 28/9.

(Intd.) S. J. C. S.,

7-8-44. *Vide* Notice issued on Proctor.

(Intd.) W. M. H. P.,

26-9-44. Mr. A. M. Fuard, for Official Administrator files Oath from Administrator *de bonis non* and moves for Letters with Will 20 annexed.

1. Oath filed.
2. Personal bond in Rs. 500/-.

(Intd.) S. J. C. S.,
D.J.

28-9-44. Mr. A. M. Fuard for Petitioner.
1. Notice served on Proctor.
2. Oath filed.
3. Bond—S.O. 2/11.

10-10-44. Mr. A. M. Fuard, for Petitioner files bond from Official Administrator and moves for Letters with Will annexed.

1. File.
2. Issue Letters.

(Intd.) S. J. C. S.,
A.D.J.

12-10-44. *Vide* Letters entered in favour of Official Administrator.
Final Account on 25-1-45.

(Intd.) S. J. C. S.,
A.D.J.

- 30-10-44. Mr. F. Rustomjee files his appointment as Proctor for Petitioner with Petition and Affidavit and for reasons stated moves that (1) that the debts due on the alleged M. B. No. 2402 of 21-5-35 be paid by deceased's estate (2) that the 3 sons of deceased or their estates be called upon to pay the said debt by equal shares (3) that in default of such payment, the properties transferred by Executrix and the properties 1 to 6 referred to in 2nd Schedule to Petition be declared liable to be seized and sold for payment of debts and if the amount be still insufficient then the 4 devisees namely the Petitioners and their brothers be called upon to pay the balance in equal shares (4) that the said properties in 1st Schedule be transferred to Petitioners free from all encumbrances including the alleged mortgage debt by estate under Bond No. 2402 (5) that the Estate and all due account be judicially settled (6) that all amounts due to Petitioners as balance rents to date of delivery of possession of their properties be paid to Petitioners out of the Estate (7) that the Petitioners be paid their costs of these proceedings.
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10
20 Proctor for Respondent received notice with copy of motion and copy of Petition.

Support application.

(Intd.) S. J. C. S.,

Mr. Adv. Kandiah in support of application.

Call case on 23/11 in order that official Administrator may be present either in person or through his Proctor. The matter will be fixed for inquiry on that date.

(Intd.) S. J. C. S.,
A.D.J., 2/11.

- 30 23-11-44. Mr. A. M. Fuard for Official Administrator-petitioner.
Mr. F. Rustomjee for Petitioners.
Case called—*Vide* above order.
Of consent Citation to be taken out by Administrator *de bonis non* and persons referred to in para. of petition for 25-1-45.

(Intd.) S. J. C. S.,

5-1-45. *Vide* Citation entered.

(Intd.) S. J. C. S.,
A.D.J.

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- 25-1-45. Citation served on Sir H. M. Markar and Y. M. Naina Marikar
—their proxy is filed—Citation not served on G. B. Ahmed, S.
N. Zaheedia, M. L. Bin Ahmed and S. M. Ummu Nachia.

Re-issue on them for 1/3.

Mr. Rustomjee files statement of parties interested in the
respective properties referred to in para 9 of his petition.

(Intd.) S. J. C. S.,

Citation re-issued on 8 & 9 Negombo—1, 2, 5 & 10 to Colombo
and 3 & 4 to Avissawella.

(Intd.) S. J. C. S., 10

- 1-3-45. Mr. A. M. Fuard for Official Administrator.
Mr. F. Rustomjee for Petitioners.
Mr. J. Wilson for Sir H. M. Markar and Y. M. Naina Marikar.
Citation on 1st, 2nd, 3rd, 4th, 5th, 8th, 9th & 10th Respondents
not issued. Issue now for 26/4.

(Intd.) S. J. C. S.,

- 2-3-45. *Vide* (50) Citation re-issued on 8 & 9 to Negombo 3 & 4 Avissa-
wella and 1, 2, 5 & 10 to Colombo.

(Intd.) W. M. H. P.,

- 26-4-45. Citation served on 5th Respondent. He is absent. Not served 20
on 1st, 2nd, 3rd, 4th, 8th, 9th and 10th Respondents.

Re-issue Citation on them for 24/5.

(Intd.) V. E. R.,

- 15-5-45. *Vide* Citations re-issued on 1 to 4, 8 (9 & 11) Respondents.

(Intd.) W. M. H. P.,

- 24-5-45. Citation not served on 3, 4, 8 & 9 parties and 12 and 10 parties.

Re-issue for 5/7.

(Intd.) V. E. R.,

- 13-6-45. *Vide* (54) Citation re-issued on 1 to 4, 8, 9 & 10. Respondents.

(Intd.) W. M. H. P., 30

- 5-7-45. Mr. F. Rustomjee for Petitioners.
Mr. A. M. Fuard for Official Administrator.
Citation on 1st party not served—gone out of Colombo.
Citation on 2nd party not served—in Galle.
Citation on 3rd party not served—evading.
Citation on 4th party not served—evading.
Citation on 8th party not served—evading.
Citation on 9th party not served—in Kandy.
Citation on 10th party not served—He does not come out to
10 accept the notice.
Extend and Re-issue for 30/8.

(Intd.) V. E. R.,
- 16-7-45. Citation extended on 1st, 2nd, 3rd, 4th, 8th, 9th & 10th
Respondents.

(Intd.) W. M. H. P.,
- 30-8-45. Citation on 1st, 2nd, 3rd, 4th, 8th-10th parties not served.

Re-issue for 11/10.

(Intd.) V. E. R.,
- 17-9-45. Citation extended and reissued on 1st to 4th, 8th, 9th & 10th
20 Respondents.

(Intd.) W. M. H. P.,
- 11-10-45. Mr. F. Rustomjee for Petitioner-Administrator.
Mr. A. M. M. Fuard for Official Administrator.
Citation not served on 1st, 2nd, 3rd, 4th, 8th and 10th parties.

Re-issue for 22-11-45.

(Intd.) V. E. R.,
A.D.J.
- 9-11-45. Citation reissued on 1st to 4th & 8th to 10th Respondents.

(Intd.) W. M. H. P.,
- 30 22-11-45. Citation served on 9th party—Mr. Deen moves for 3 months
time to file objections of 9th party.

Allowed for 7-2-46.

Not served on 1st, 2nd, 3rd, 8th and 10th Respondents.

Re-issue for 7-2-46.

No return to notice on 4th Respondent.

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Call for and re-issue for 7-2-46.

(Intd.) V. E. R.,

16-1-46. *Vide* Citation extended and re-issued on 1st, 2nd, 3rd, 4th, 8th and 10th Respondents.

(Intd.) W. M. H. P.,

7-2-46. 1. Citation not served on 1st, 2nd, 4th, 8th and 10th parties.

Re-issue for 14/3.

2. Mr. Deen to file objections of 9th party cited.

Mr. Deen and his client absent.

(Intd.) V. E. R., 10

14-3-46. Mr. F. Rustomjee for Petitioner.
Mr. A. M. Fuard for Official Administrator.
Citation not re-issued on 1st, 2nd-4th, 8th and 10th parties cited.

On steps taken and no order.

11-8-48. Proctor for M. N. Peiris, Present Secretary, District Court of Colombo files his appointment as Proctor for M. N. Peiris together with his petition and affidavit, and moves that the Court be pleased to appoint and substitute the said Secretary of this Court in place of Muhandiram J. N. Culanthaivelu 20 and that the *Order Nisi* entered of record be amended accordingly and be extended for publication in this case.

1. Enter fresh O/N for 7/10.

2. Publish once in the Gazette and twice in the Ceylon Daily News.

3. Proof of publication for 7/10.

(Intd.) S. J. C. S.,
A.D.J.

12-8-48. Fresh O/N entered.

(Intd.) A. E. S., 30

7-10-48. Mr. A. M. M. Fuard for Administrator.

1. Gazette and papers filed.

O/N made absolute.

Oath and Bond 18/11.

(Intd.) N. S.,

- 8-11-48. Proctor for Petitioner moves that the Petitioner be allowed to enter into a personal bond in a sum to be fixed by court. Annual income of the property is Rs. 2,000/-. Filed personal bond in Rs. 4,000/-.
(Intd.) N. S.,
A.D.J.
- 18-11-48. Mr. A. M. M. Fuard for Petitioner.
Oath and Bond.
- 10 18-11-48. Proctor for Petitioner files Oath of Office and Bond.
Issue Letters.
(Intd.) N. S.,
A.D.J.
- 30-11-48. Letters entered.
Final Account 24-2-49.
(Intd.) N. S.,
A.D.J.
- 24-2-49. Mr. A. M. Fuard for Administrator.
Final Account.
- 20 S.O. 19/5.
(Intd.) N. S.,
- 19-5-49. Mr. A. M. Fuard for Executor—absent.
Final Account—Notice Proctor and Executor 7/7.
(Intd.) N. S.,
- 20-5-49. Notice issued on Proctor.
(Intd.) A. E. S.,
- 7-7-49. Notice to file Final A/c. served on Proctor for Petitioner.
He is absent.
2. Cost of Notice Rs. 2/40.
- 30 Mr. Fuard files Proxy as Proctor for Mr. C. A. F. Palliyaguru, Secretary of this Court and moves that Mr. Palliyaguru be substituted in place of the Secretary—who has retired.
Substitute.
Final Account on 6/10.
(Intd.) N. S.,
- 6-10-49. Mr. A. M. Fuard for Petitioner (Secretary, D.C. Colombo) absent.
Final Account not filed.

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- Petitioner for attention on 10/11. (Intd.) L. W. de S.,
- 10-11-49. Mr. A. M. Fuard for Official Administrator.
Final Account—*Vide* motion—S.O. 11-5-49. (Intd.) N. S.,
A.D.J.
- 20-2-50. Proctor for Official Administrator moves for a notice informing
Ahmed Bin Hassan and Mohamed Bin Hassan about Case No.
2565/M.B. of this Court against the Official Administrator
with regard to premises No. 399 Main Street and No. 11, 10
Kayman's Gate presently bearing No. 331, Main Street and
No. 2 St. John's Road which have been devised and bequeathed
to them.
- Notice allowed for 4/5. (Intd.) N. S.,
A.D.J.
- 8-3-50. Notice issued on M. B. Hassan and A. B. Hassan to
Fiscal Western Province. (Intd.) J.,
- 4-5-50. Mr. A. M. Fuard for Official Administrator. Notice re action 20
filed against the Administrator in D.C. Colombo Case No.
2565/M.B. on Bond in 2402 served on Mohamed Bin Hassan.
He is absent.
Not served on Ahmed Bin Hassan.
- Re-issue for 22/6. (Intd.) N. S.,
- 11-5-50. Mr. A. M. Fuard for Official Administrator—Absent.
Final Account—Notice Proctor 22/6. (Intd.) N. S.,
- 11-5-50. Notice issued on Proctor. (Intd.) J., 30
- 15-5-50. Notice issued on Ahmed Bin Hassan. (Intd.) J.,
- 22-6-50. Mr. A. M. Fuard for Administrator.
Notice on Proctor to file Final Account served.
He is absent.
Cost of Notice Rs. 2/40.

2. Notice on Ahmed Bin Hassan—2nd party not served.

Re-issue for 20/7.

(Intd.) N. S.,
A.D.J.

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- 9-7-50. Notice re-issued on A. B. Hassen.

(Intd.) J.,

- 20-7-50. Mr. A. M. Fuard for Official Administrator—Notice to file Final Account and pay costs of notice Rs. 2/40 already served on Proctor for Administrator.

- 10 2. Notice re action filed against official Administrator in D.C. Colombo Case No. 2565/M.B. served on Ahmed Bin Hassen.

He is present and is informed of the action.

He is asked to collaborate with Secretary.

Final Account—S.O. 21/12.

(Intd.) N. S.,

- 18-9-50. Mr. A. M. Fuard moves to revoke the Proxy granted to him by the Official Administrator in this case.

Official Administrator for report.

(Intd.) N. S.,
A.D.J.

20

- 21-12-50. Final Account due—not filed.

File on 8-2-51.

(Intd.) K. D. de S.,
A.D.J.

- 8-2-51. Final Account—S.O. 8/3.

(Intd.) M. C. S.,

REPORT :

30 A proxy was given to Mr. Fuard to enable him to do all what is needed in this estate. But the present Secretary has not received any rents or income and has not dealt with the Estate in any form and is not in possession of any papers connected with the administration of the Estate and it is not clearly understood why Mr. Fuard wants to revoke the proxy without bringing this matter to a finality or recovering his fees, if any due to him.

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I, (present Secretary) as Official Administrator has no objection to the cancellation of the proxy as I claim nothing against this Estate. But before the cancellation is done, all stamp duty due from this estate should be checked and recovered from this Estate and a date may be given for checking stamp duty and report.

(Intd.) C. F. A. P.,
7-3-51.

Call for this purpose and Final Account on 24/5.

- (Intd.) M. C. S., 10
- 24-5-51. 1. For report on stamp duty.
2. Final Account.
Call 14/6.
Stamp Duty to be checked by Office.
- (Intd.) M. C. S.,
- 31-3-51. Deficiency Rs. 712/-.
- (Intd.) A. E. S.,
- 14-6-51. Mr. A. M. Fuard for Official Administrator.
Vide Secretary's report.
1. Final Account. 20
2. Deficiency Rs. 712/-.

Notice Administrator's Proctor for 12/7.

- (Intd.) M. C. S.,
- 16-6-51. Notice issued on Proctor.
- (Intd.) S. F. J.,
- 12-7-51. Notice on Proctor for Official Administrator to file.
Final Account and deficiency served—absent.
Cost of Notice Rs. 2/40.
Vide Secretary's report.
Issue Writ to recover Rs. 712/- due as stamp duty 30
from the Estate, returnable 1-11-51.

(Sgd.) M. C. SANSONI.

“ True Copy of Journal Entries in D.C.
Colombo Case No. 5686/Testamentary.

(Sgd.) Illegible.
*Assistant Secretary,
District Court, Colombo.*

Certified this 29th day of April, 1954.

Probate in D.C. Colombo Case No. 5686

Nett Value of Estate.....(torn)
Estate Duty—Rs. 51,304/27.

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Probate
in D.C.
Colombo
Case
No. 5686
May, 1934

Probate

IN THE DISTRICT COURT OF COLOMBO

Testamentary }
Jurisdiction } No. 5686.

10 In the matter of the Estate of the late Hadjie Ibrahim Bin Ahmed deceased, of Hultsdorf in Colombo.

Be it known to all men that on the 28th day of January, 1932 the Last Will and Testament of Hadjie Ibrahim Bin Ahmed, deceased, a copy of which is hereunto annexed was exhibited, read and proved before this Court and administration of all the property and estate rights ; and credits of the deceased was and is hereby committed to Ahmed Bin Ibrahim of "Salonica," Bambalapitiya in Colombo the Executor in the said Last Will and Testament named.....(torn).....Ahmed Bin Ibrahim being first affirmed faithfully to execute the said Will by paying the debts and legacies of the deceased Testator as far as the present Will extend and the Law will bind, and also to exhibit unto this Court a.....(torn)full and perfect Inventory of the said property on or before the.....(torn).....day of November, 1934 and to file true and just account of his executorship on or before the 31st of May, 1935.

And it is hereby certified that the Declaration and Statement of(torn).....under the Estate Duty Ordinance have been delivered, and that the value.....(torn).....said estate on which estate duty is payable, as assessed by the Commissioner of Stamps amount to Rs. 758,175·35.

80 And it is further certified that it appears by a certificate granted(torn).....Commissioner of Stamps, and dated the 11th day of April.....(torn).....that Rs. 51,304·27 on account of estate duty and interest on.....(torn).....duty has been secured.

P1
 Probate
 in D.C.
 Colombo
 Case
 No. 5686
 May, 1934
 —continued.

Given under my hand and.....(torn).....
 day of May, 1954.

True Copy of Probate filed of record in
 District Court, Colombo—Case No.
 5685/T.

(Sgd.) Illegible.
Assistant Secretary, D.C.
 Colombo, 6-3-54.

P2
 Inventory
 Filed
 in D.C.
 Colombo
 Case
 No. 5686
 31-1-35

P2

Inventory Filed in D.C. Colombo Case No. 5686 10
 IN THE DISTRICT, COURT OF COLOMBO

In the matter of the Last Will and Testament and Codicils of Ibrahim Bin
 Ahmed.

Testamentary }
 Jurisdiction } No. 5686.

Inventory

IMMOVABLE PROPERTY

1.	Premises No. 81, 83 & 85, Main Street	...	Rs.	75,000·00	
2.	Premises No. 331, 335, 337, 339, 347, 349 & 353, Kayman's Gate and No. 2, St. John's Road, Pettah, Colombo	... ..	..	140,000·00	20
3.	Premises No. 285 & 287, Pereira Lane, Galle Road	..	..	13,000·00	
4.	Premises at Maliban Street	... ..	..	17,000·00	
5.	Premises at Norris Road	... ..	..	34,000·00	
6.	"The Lawn" Colpetty	... ..	..	155,000·00	
7.	Premises No. 19/25, Hultsdorf and 243, 255, 261, 265, 267, 271, 275/285, Old Moor Street	... ..	..	21,000·00	
8.	Premises No. 11, 15 & 17, Grandpass Road, Colombo	..	..	15,000·00	
9.	Premises No. 238, Keyzer Street	... ..	..	10,000·00	30
10.	"Hameedia Buildings" Main Street, Colombo	... ..	..	175,000·00	

I, Ahmed Bin Ibrahim of Colombo, not being a Christian do hereby
 solemnly sincerely and truly declare and affirm as follows :—

1. I am the Executor above-named.

2. To the best of my knowledge, information and belief the above-written inventory contains a full, true and correct account of the properties, rights and credits of the above-named deceased so far as I have been able with due diligence to ascertain the same.

P2
Inventory
Filed
in D.C.
Colombo
Case
No. 5686
31-1-35

—continued.

3. I have made a careful estimate and valuation of the properties, the particulars of which, are set forth and contained in the said Inventory and to the best of my judgment and belief the same set opposite to the respective items in the said inventory fully and fairly represent the present values of the items to which they are set opposite.

10 The foregoing inventory was read over and explained by me to the within-named affirmant in Tamil his own language and he appearing to understand the contents thereof the same was signed and affirmed to at Colombo, this 31st day of January, 1935.....

(Sgd.) A. B. Ibrahim.

Before me,

(Sgd.) L. H. DE KRETZER.,
Commissioner for Oaths.

20 True Copy of Inventory by Items I to X
filed of record in District Court Colombo
Case No. 5686/T.

(Sgd.) Illegible.
*Asst. Secretary,
District Court.*

P3

Motion filed in D.C. Colombo Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

P3
Motion
Filed
in D.C.
Colombo
Case
No. 5686
9-4-35

In the matter of the Last Will and Testament and Codicils of Ibrahim
30 Bin Ahmed of Hultsdorf Street in Colombo.

Testamentary }
Jurisdiction } No. 5686.

AHMED BIN IBRAHIM of 'Salonica,' Bambalapitiya in Colombo—*Executor.*

P3
Motion
Filed
in D.C.
Colombo
Case
No. 5686
9-4-35
—continued.

I file affidavit from the executor together with minutes of consent from the other two sons of the deceased and for the reasons stated therein move that the Court may be pleased to sanction and authorise (1) the sale of premises Nos. 335, 337, 347 and 353, Kayman's Gate for the aggregate amount of Rs. 75,000/- and (2) the mortgage of premises Nos. 11 and 13 Maliban Street, Nos. 2, St. John's Road and 321, Kayman's Gate and No. 339, Kayman's Gate for Rs. 30,000/-.

Colombo, 9th April, 1935.

(Sgd.) N. M. ZAHEED,
Proctor for Executor. 10

Allowed—The entire proceeds to be deposited to credit of Action No. 52556.

(Intd.) G. C. T.,
D.J., 10/4.

True Copy of motion dated 9th April, 1935 and Order of Court thereon, in D.C. Colombo—Case No. 5686/Testamentary.

(Sgd.)
Assistant Secretary,
District Court, Colombo.

Certified this 29th day of April, 1954.

P3A
Affidavit of
A. Bin
Ahmed
Filed
in D.C.
Colombo
Case
No. 5686
9-4-35

P3A

20

Affidavit of A. Bin Ahmed filed in D.C. Colombo Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will and Testament and Codicils of Ibrahim Bin Ahmed of Hultsdorf Street in Colombo (deceased).

Testamentary }
Jurisdiction } No. 5686.

AHMED BIN IBRAHIM of 'Salonica,' Bambalapitiya in Colombo—*Executor.*

I, Ahmed Bin Ibrahim of "Salonica," Bambalapitiya in Colombo not being a Christian do hereby solemnly, sincerely and truly declare and so affirm as follows :—

1. I am the Executor above-named and am well acquainted with the facts herein stated.

2. The Testator above-named in paragraph 12 of the First Codicil bearing No. 1509 of the 12th November, 1921 attested by C. M. Brito of Colombo, Notary Public and annexed to his Last Will and Testament which said Last Will and Codicil have been duly proved by me provided as follows :—

P3A
Affidavit of
A. Bin
Ahmed
Filed
in D.C.
Colombo
Case
No. 5680
9-4-35
—continued.

10 “ If I shall leave any debts due by me at the date of my death I hereby direct that my Executor shall in the first instance appropriate any moneys that may be found in my estate for the payment of the expenses of my funeral and the alms-giving in connection therewith and in the payment of the Testamentary charges of my estate and of such debts and if such debts shall not be fully paid and discharged therewith then my Executor shall also appropriate towards the pay-
ment of the same all moneys that may be due and owing to me and if there shall still be remaining unpaid any of such my debts they shall sell and convert into money my shop goods and other articles in my shop at Main Street and if then too there shall be any further sum still remaining due by my said estate they shall call upon my said three sons to pay the same in equal shares. And I hereby direct my
20 said sons jointly to contribute such deficiency without creating the necessity for the sale of any immovable property of my estate.”

3. The Testator died leaving debts amounting at the time of his death to Rs. 350,294/87 and this figure was increased to Rs. 407,294/87 by the Estate Duty which became payable in respect of the said Estate.

4. The statement I have already filed in these proceedings shows that (1) the moneys found in the said Estate at the date of the said death amounted to Rs. 213/78 (2) the moneys owing to the deceased on the same date amounted to Rs. 41,094/16 and (3) the value of the shop goods and other articles in the deceased's shop was Rs. 12,000/-.

5. These assets being quite insufficient for the payment of the
30 Testator's debts and the Testator's sons having no means wherewith to pay such debts and in these circumstances it is necessary to sell certain immovable properties belonging to the Estate in order to pay and discharge the foregoing debts.

6. On a mortgage bond executed by the Testator and put in suit in Case No. 52566/10836 of this Court there is still due a sum of Rs. 105,000/-. The properties bound under the said decree are (1) No. 335, Kayman's Gate (2) No. 337, Kayman's Gate (3) No. 347, Kayman's Gate (4) No. 353, Kayman's Gate (5) No. 11, Maliban Street (6) No. 23, Maliban Street (7) No. 2, St. John's Road and No. 331, Kayman's Gate and (8) No. 339,
40 Kayman's Gate.

7. The Plaintiff in the said Action No. 52566 have taken steps to sell the said mortgaged properties and it is necessary to pay their claim in full.

P3A
Affidavit of
A. Bin
Ahmed
Filed
in D.C.
Colombo
Case
No. 5686
9-4-35
—continued.

8. I have arranged to sell premises No. 335 and 337, Kayman's Gate for Rs. 35,000/- premises No. 347, Kayman's Gate for Rs. 20,000/- and premises No. 353, Kayman's Gate for Rs. 20,000/-. These figures represent the fair market value of the said premises today. I have also arranged to raise a loan of Rs. 30,000/- on the remaining four properties at 8 per cent. per annum.

9. In view of the provisions recited in paragraph 2 hereof the purchasers are unwilling to complete the purchase and the mortgagee is unwilling to lend the money unless obtain the sanction and authority of the Court to effect the said sales and mortgage and from my point of view I also I desire to have such sanction and authority.

10. The mortgagee has also agreed that as each property is sold he would release such property on payment of the proceeds to him and to charge interest only on the balance principal then outstanding.

The foregoing affidavit having been duly read over and explained by me to the within-named affirmant in Tamil his own language and he appearing to understand the contents thereof the same was signed and affirmed to at Colombo on this 9th day of April, 1935.

(Sgd.) A. B. Ibrahim.

20

Before me,
(Sgd.) L. H. DE KRETZER,
Commissioner for Oaths.

“ True Copy ” of Affidavit dated 9th April, 1935 filed of record in D.C. Colombo, Case No. 5686/T.

(Sgd.) Illegible.
*Assistant Secretary,
District Court, Colombo.*

30

Certified this 29th day of April, 1954.

P3B

P3B
Journal
Entry dated
10th April,
1935, in
D.C.
Colombo
Case
No. 5686
10-4-35

Journal Entry dated 10th April, 1935 in D.C. Colombo
Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will and Testament of Ibrahim Bin Ahmed of Hultsdorf Street, Colombo—Deceased.

Testamentary }
Jurisdiction } No. 5686.

P3B
Journal
Entry dated
10th April,
1935, in
D. C.
Colombo
Case
No. 5686
10-4-35
—continued.

Journal Entries

10-4-35. Mr. Zaheed files affidavit from the Executor together with minute of consent from the other two sons of the deceased, and moves that the Court may be pleased to sanction and authorise the sale of premises No. 335, 337, 347 and 353, Kayman's Gate for Rs. 75,000/- (2) the mortgage of premises No. 11 & 23, Maliban Street, No. 2, St. John's Road and 331, Kayman's Gate and No. 339, Kayman's Gate for Rs. 30,000/-

Allowed.
The entire proceeds to be deposited to credit of Action No. 52556.

(Intd.) G. C. T.,
D.J.

2D24

**Motion of A. M. M. Fuard, Proctor, filed in D.C.
Colombo Case No. 5686**

2D24
Motion of
A. M. M.
Fuard,
Proctor,
Filed in
D.C.
Colombo
Case
No. 5686
26-11-43

20 **IN THE DISTRICT COURT OF COLOMBO**

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed(*deceased.*)

Testamentary }
Jurisdiction } No. 5686.

Valliyammai Atchi, Executrix of the Estate of K.M. N. S.P. NATCHIAPPA CHETTIAR (deceased).....*Petitioner.*

I file my appointment as Proctor for the Petitioner above-named together with her petition and affidavit of her attorney and for the reasons stated therein move that the Secretary of this Court be appointed
30 administrator *de bonis non* for the due administration of the estate of the above-named Ibrahim Bin Ahmed deceased ; and Letters of Administration with the Will annexed be granted to him in the above case and for costs of this application.

Colombo, 26th November, 1943.
(Sgd.) A. M. FUARD,

2D24
Motion of
A. M. M.
Fuard,
Proctor,
Filed in
D.C.
Colombo
Case
No. 5686
26-11-43
—continued.

Proctor for Petitioner.
Vallaiyammai Atchi Exe-
cutrix of the Estate of
K.M.N.S.P. Natchaiappa
Chettiar deceased.....

“ True Copy ” of Proxy dated 1-7-49
Motions dated 4-7-49,7-11-49, 16-2-50,
31-8-50 and 26-11-43 in D.C. Colombo
Case No. 5686/Testamentary.

(Sgd.) Illegible.
*Assistant Secretary,
District Court, Colombo.*

10

Certified this 22nd day of May, 1954.

2D1

2D1
Petition
of the
Petitioner
in D.C.
Colombo
Case
No. 5686
26-11-43

Petition of the Petitioner in D.C. Colombo Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased*.

Testamentary }
Jurisdiction } No. 5686.

20

VALLIYAMMAI ATCHI, of Sembanur, Tiruppatur Taluk, Ramnad District.
(also of 247, Sea Street, Colombo)—South India Executrix of the
Estate of the late Natchiappa Chettiar, son of Supramaniam Chettiar,
also known as K. M. N. S. P. Natchiappa Chettiar.....*Petitioner*,

On this 26th day of November, 1943.

The petition of the Petitioner above-named appearing by Assena
Marikar Mohamed Fuard, her Proctor, states as follows :—

1. Ibrahim Bin Ahmed died leaving his Last Will and Testament
whereby he nominated and appointed Ahmed Bin Ibrahim the Executor
of the said Last Will and Testament which was admitted to probate in the
above case.

2. The said Ahmed Bin Ibrahim, the Executor died on or about the
5th day of November, 1940 without duly administering the estate of the
said Ibrahim Bin Ahmed deceased.

3. Notices have been issued by this Court on the heirs of the said Ibrahim Bin Ahmed, deceased and the same were duly served on them but no steps have been taken by them for the administration of the estate of the said deceased.

211
Petition
of the
Petitioner
in D.C.
Colombo
Case
No. 5080
26-11-43
—continued.

4. The said Ahmed Bin Ibrahim as Executor as aforesaid became indebted to K. M. N. S. P. Natchiappa Chettiar in the sum of Rs. 30,000/- under and by virtue of Bond No. 2402 dated 21st May, 1935 attested by N. M. Zaheed of Colombo, Notary Public and thereby promised to pay the same together with interest thereon as provided in the said bond.

10 5. The said Natchiappa Chettiar also died at Sembanur in South India on or about the 30th day of December, 1938 leaving his Last Will and Testament dated 3/4th day of December, 1938 whereby he nominated and appointed his wife Valliyammai Atchi the Executrix of the said Last Will and Testament.

6. The said Last Will and Testament of the said K.M.N.S.P. Natchiappa Chettiar was duly proved in Testamentary proceedings No. 8802 of this Court and Probate dated 17th April, 1940 was accordingly granted to the said Valliyammai Atchi as the Executrix named in the said Will.

7. There is a sum of Rs. 39,424/99 to wit : Rs. 23,522/97 being 20 balance principal and Rs. 15,909/02 being interest up to 18th November, 1943 is justly and truly due and owing from the estate of the said Ibrahim Bin Ahmed to the said Valliyammai Atchi as the Executrix of the estate of the said K. M. N. S. P. Natchiappa Chettiar on the aforesaid Bond No. 2402.

8. For the purpose of instituting an action for the recovery of the said sum of Rs. 39,424/99 with further interest accruing under the said Bond it is necessary that an administrator *de bonis non* should be appointed in the above case.

9. The Secretary of this Court is a fit and proper person to be 30 appointed administrator *de bonis non* for the purpose of the administration of the estate of the said Ibrahim Bin Ahmed, deceased to enable the petitioner above-named to institute an action for the recovery of the amount due on the aforesaid bond No. 2402.

Wherefore the petitioner prays :—

(a) That the Secretary of this Court be appointed administrator *de bonis non* for the due administration of the estate of the said Ibrahim Bin Ahmed deceased and Letters of Administration with the Will annexed, be granted to him in the above case.

2D1
Petition
of the
Petitioner
in D.C.
Colombo
Case
No. 5686
26-11-43
—continued.

(b) for costs of this application and for such other and further relief as to this Court shall in the premises may seem meet.

(Sgd.) A. M. FUART,
Proctor for Petitioner.

(Vallaiyammai Atchi, Executrix of the Estate of K. M. N. S. P. Natchiappa Chettiar—deceased).

Documents filed with the petition.

1. Power of Attorney dated 12th June, 1940.

(Sgd.) A. M. FUART, 10
Proctor for Petitioner.

2D2

2D2
Proxy given
by Valli-
yammai
Atchi to
A. M. M.
Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5686
26-11-43

**Proxy given by Vallaiyammai Atchi to A. M. M. Fuard,
Proctor, in D.C. Colombo Case No. 5686**

KNOW ALL MEN BY THESE PRESENTS THAT I, Vallaiyammai Atchi of Sembanur, Tiruppatur Taluk, Ramnad District in South India also of No.247, Sea Street in Colombo, Executrix of the estate of the late Natchiappa Chettiar son of Suppramaniam Chettiar also known as K. M. N. S. P. Natchiappa Chettiar have nominated, constituted and appointed and do hereby nominate, constitute and appoint Assena 20 Marikar Mohamed Fuard, Proctor of the Honourable the Supreme Court of the Island of Ceylon to be my true and lawful Proctor or in his absence any other Proctors of the said Court to be my Proctor and for me and in my name and behalf before the District Court of Colombo to appear and this proxy to exhibit and by virtue hereof to appear for me and file my Petition and Affidavit in Case No. 5686/T of the said District Court of Colombo and to apply to have the Secretary of the said Court appointed Administrator *De Bonis Non* for the due administration of the estate of Ibrahim Bin Ahmed, deceased and for the issue of Letters of Administration with the Will annexed, to recover my costs of the said application 30 and generally to act for me and to do all needful things on my behalf in the premises and to file all other necessary papers and to draw, receive and take all moneys that may be deposited, paid or recovered in this suit for and in respect of my claim and costs and without notice to me to move for and obtain in his name any order or orders from the said Court for payment of any sum or sums of money that may be so deposited, paid or recovered therein and to give all necessary receipts, releases and discharges therefor and if need be to refer the said claim and all money matters in respect of the action instituted by virtue of these proceedings to the award

and decision of arbitrators and to name an arbitrator for purpose and to sign any motion, application, submission, bond or any other writing or instrument whatsoever nature or kind for the purpose or in respect of the arbitration and to appear before the arbitrators and to take all steps in respect of any award on such submission or reference to the said Proctor shall deem necessary and generally and otherwise to take all such lawful ways and means to do and perform such acts, matters and things as may be needful and necessary in and about the premises as my said Proctor or Proctors, his or their substitutes may consider necessary towards procuring
 10 or carrying into execution any judgment, order, or a definite sentence or final decree to be made and interposed herein and from any judgment order or decree interlocutory or final of the said Court to appeal; and every bond or recognizance whatsoever necessarily needful in the course of proceedings for the prosecution of such appeal or for appearance or for the performance of any order or judgment or the said Court for and in my name and as my act and deed to sign and deliver and before the Supreme Court upon any such appeal by virtue thereof for and in my behalf to appear and to appoint if necessary one or more substitutes, or Advocate or Advocates both in the District Court and in the Supreme Court. And
 20 again at pleasure to revoke such appointment and appoint anew and also if the said Proctor shall see cause the said action or suit to discontinue, compromise, settle or refer to arbitration. And every such compromise, settlement or reference in my name and behalf to settle sign and to make a rate of Court, hereby promising to release all kinds of irregularities, and to ratify, allow and confirm all and whatsoever the said Proctor, his substitute or the said Advocate or Advocates shall do herein.

IN WITNESS WHEREOF I have hereunto set my hand at Colombo this 26th day of November, 1943.

The address of the said Proctor for Service of Process under the
 30 Provisions of the Civil Procedure Code is at No. 130, Hultsdorf Street, Colombo.

(Sgd.) (in Tamil Characters).

N. K. V. Letchumanan Chettiar,
 Attorney of Valliyammai Atchi,
 Executrix of the Estate of K.M.N.S.P.
 Natchiappa Chettiar.

2D4

Consent of C. Emmanuel to being appointed Administrator
 de bonis non in D.C. Colombo Case No. 5686

40 IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased*.
 No. 5686/N.T.

2D2
 Proxy given
 by Valli-
 yammai
 Atchi to
 A. M. M.
 Fuard,
 Proctor,
 in D.C.
 Colombo
 Case
 No. 5686
 26-11-43
 —continued.

2D4
 Consent of
 C. Emma-
 nuel to being
 appointed
 Adminis-
 trator *de*
bonis non
 in D.C.
 Colombo
 Case
 No. 5686
 21-12-43

2D4
Consent of
C. Emma-
nuel to being
appointed
Adminis-
trator *de*
bonis non
in D.C.
Colombo
Case
No. 5686
12-12-43
—continued.

VALLIYAMMAI ATCHI, Executrix of the Estate of K. M. N. S. P. Natchi-
appa Chettiar deceased.....*Petitioner.*

I, Christopher Emmanuel, Secretary of this Court hereby consent to
my being appointed administrator *de bonis non* for the purpose of due
administration of the estate of the above-named deceased and pray that
Letters of Administration with the Will annexed be granted to me
accordingly.

Colombo, 21st December, 1943.

(Sgd.) EMMANUEL,
Secretary, D.C. Colombo. 10

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed, *deceased.*

No. 5686/N.T.

CHRISTOPHER EMMANUEL, Secretary of the District Court of Colombo
.....*Official-Administrator.*

I file my appointment as Proctor for the Official Administrator above-
named and move that Letters of Administration with the Will annexed, be
granted to him for the due administration of the estate of the above-named
deceased in the above case.

I also move that *order nisi* be published in the Ceylon Government
Gazette and in the Ceylon Daily News Paper.

Colombo, 18th February, 1944.

(Sgd.) A. M. M. FUARD,
Proctor for Official Administrator.

I do hereby Certify that the foregoing
is a " True Copy " of Petition dated
26-11-43, Proxy dated 26-11-43 Power
of Attorney of Vallaiyammai Atchi,
Minute of Consent dated 21-12-43 and
Motion dated 18-2-44 in D.C. Colombo
Case No. 5686/Testamentary.

(Sgd.) Illegible.

30

*Assistant Secretary,
District Court, Colombo.*

Certified this 22nd day of May, 1954.

**Proxy given by C. Emmanuel to A. M. Fuard, Proctor,
in D.C. Colombo Case No. 5686**

2D6
Proxy given
by C. Emma-
nuel to A.
M. M. Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5686
7-2-44

Know all men by these presents I, Christopher Emmanuel, Secretary of the District Court of Colombo, have nominated, constituted and appointed and do hereby nominate, constitute and appoint Assena Marikar Mohamed Fuard, Proctor of the Honourable the Supreme Court of the Island of Ceylon to be my true and lawful Proctor and for me and in my name and behalf before the said District Court of Colombo to appear and
 10 this proxy to exhibit, and by virtue hereof to appear for me in Testa-
 mentary Proceedings No. 5686 of the said Court and to apply to the said
 Court to have me appointed administrator *de bonis non* for the purpose of
 due administration of the estate of Ibrahim Bin Ahmed, deceased and to
 file all necessary papers in that behalf and to recover my costs and generally
 to act for me and to do all needful things on my behalf in the premises.
 And to draw 'receive and take all moneys that may be recovered' deposited
 or paid in this suit for and in respect of my claim and costs, and without
 notice to me move for and obtain in his name any other or orders from the
 said Court for payment of any sum or sums of money that may be so
 20 deposited, paid or recovered therein and to give all necessary receipts,
 releases and discharges therefor and if need be to refer the said claim and
 all or any matters in respect of the action instituted by virtue of these
 proceedings to the award and decision of arbitrators and to name an
 arbitrator for that purpose and to sign any motion, application, sub-
 mission, bond or any other writing or instrument whatsoever nature or
 kind for the purpose of or in respect of the arbitration and to appear
 before the arbitrators and to take all steps in respect of any award on such
 submission or references to the said Proctor shall seem necessary; and
 generally and otherwise to take all such lawful ways and means and to
 30 do and perform such acts, matters and things as may be needful and
 necessary in and about the premises as my said Proctor or Proctors, his
 or their substitutes, may consider necessary towards procuring or carrying
 into execution any judgment or order or a definite sentence of final decree
 to be made and interposed herein and from any judgment order or decree
 interlocutory or final of the said Court to appeal and every bond or
 recognizance whatsoever necessary or needful in the course of proceedings
 for the prosecution of such appeal or for appearance or for the performance
 of any order or judgment of the said Court for and in my name and as my
 act and deed to sign and deliver and before the Supreme Court upon any
 40 such appeal by virtue thereof for and in my behalf to appear and plead
 and to appoint if necessary, one or more substitutes, or Advocate or
 Advocates both in the District Court and in the Supreme Court and
 again at pleasure to revoke such appointment and appoint anew; and
 also if the said Proctor shall so cause the said action or suit to discontinue,
 compromise, settle or refer to arbitration; and every such compromise,
 settlement or reference in my name and behalf to settle, sign and to make

2D6
Proxy given
by C. Emmanuel to A.
M. M. Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5686
7-2-44
—continued.

a rule of Court I hereby promising to release all kinds of irregularities and to ratify, allow and confirm all and whatsoever the said Proctor, his substitute or the said Advocate or Advocates shall do herein.

IN WITNESS WHEREOF I have hereunto set my hand at Colombo, this 7th day of February, 1944.

The address for service of process under the provisions of the Civil Procedure Code is at No. 130, Hultsdorf Street, Colombo.

(Sgd.) C. EMMANUEL,
Official Administrator in Testy.
Case No. 5686 D.C. Colombo. 10

2D5
Order Nisi
in D.C.
Colombo
Case
No. 5686
22-2-44

2D5

Order Nisi in D.C. Colombo Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed of Hultsdorf Street, Colombo.—deceased.

Testamentary	} No. 5686.
Jurisdiction	

AHMED BIN IBRAHIM, of “Salonica”, Bambalapitiya, Colombo—*Petitioner*.

This matter coming on for disposal before S. J. C. Schokman, Esquire, 20 Additional District Judge of Colombo on the 22nd day of February, 1944 in the presence of Mr. A. M. M. Fuard, Proctor on the part of the Petitioner above-named and the affidavit of the Petitioner dated 26th November, 1943 having been read :—

It is ordered that the Secretary of the District Court of Colombo be and he is hereby declared entitled to have Letters of Administration *de bonis non* to the estate of the deceased above-named issued to him accordingly unless any person or persons interested shall on or before the 4th day of May, 1944 show sufficient cause to the satisfaction of this Court to the contrary ;

30

(Sgd.) S. J. C. SCHOKMAN,
A.D.J.

The 22nd day of February, 1944.

“ True Copy ” of *Order Nisi* dated 22nd February, 1944 in D.C. Colombo Case No. 5686/Testamentary/D.C. Colombo.

Certified this 22nd day of May, 1954.

2D5
Order Nisi
in D.C.
Colombo
Case
No. 5686
22-2-44
—continued.

(Sgd.) Illegible.
Assistant Secretary.

2D7

Motion of J. N. Culanthaivelu filed in D.C. Colombo
Case No. 5686

2D7
Motion of
J. N. Culan-
thaivelu
filed in D.C.
Colombo
Case
No. 5686
19-5-44

10 IN THE DISTRICT COURT OF COLOMBO

Testamentary }
Jurisdiction } No. 5686.

As Mr. C. Emmanuel, Secretary of this Court and Official Administrator in the above case, has retired from this post with effect from 1-4-44 I, as his successor in the post of Secretary, move that I may be substituted as Official Administrator in his place.

(Sgd.) J. N. CULANTHAIVELU,
Secretary, District Court, Colombo.

20 D.C. Colombo,
19th May, 1944.

2D8

Motion of A. M. M. Fuard, Proctor, filed in D. C. Colombo
Case No. 5686

2D8
Motion of
A. M. M.
Fuard,
Proctor,
filed in D.C.
Colombo
Case
No. 5686
19-5-44

IN THE DISTRICT COURT OF COLOMBO

No. 5686/T.

In the matter of the Last Will and Testament of the late Ibrahim Bin Ahmed—deceased.

30 C. EMMANUEL, Secretary of the District Court of Colombo.....*Official Administrator.*

2D8
Motion of
A. M. M.
Fuard,
Proctor,
filed in D.C.
Colombo
Case
No. 5686
19-5-44
—continued.

Mr. C. Emmanuel having ceased to be the Secretary of this Court, I file my appointment as Proctor for Muhandiram J. N. Culanthaivelu the present Secretary of this Court and move that he may be substituted in place of the abovenamed Official Administrator and that *order nisi* entered of record be amended accordingly and be extended for publication in the above case.

Colombo, 19th May, 1944.

(Sgd.) A. M. M. FUARD,
Proctor for Muhandiram J. N.
Culanthaivelu, Secretary. 10

D.C. Colombo.

I consent.

(Sgd.) J. N. CULANTHAIVELU,
Secretary, D.C. Colombo,
24-5-1944.

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased*.

No. 5686/T.

MUHANDIRAM J. N. CULANTHAIVELU, Secretary of the District Court of Colombo.....*Official Administrator* 20

I file Oath of Office from the Administrator *de Bonis Non* of the estate of the above-named deceased and move that the bond be dispensed with.

I also move that Letters of Administration with the Will annexed be granted him in the above case.

(Sgd.) A. M. M. FUARD.,
Proctor for *Official Administrator*.

Colombo, 25th September, 1944.

A.D.J.

- (1) May file Oath.
- (2) The Secretary may give security in this case as so in other administrable cases.
- (3) He may give a personal Bond in Rs. 500/-.

(Intd.) Illegible.

Proxy given by J. N. Culanthiavelu to A. M. M. Fuard,
Proctor, in D.C. Colombo Case No. 5686

2D9
Proxy given
by J. N.
Culanthai-
valu to
A. M. M.
Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5686
10-5-44

KNOW ALL MEN BY THESE PRESENTS that I, Joseph Naganathar Culanthaivelu, Secretary of the District Court of Colombo, have nominated, constituted and appointed and do hereby nominate, constitute and appoint Assena Marikar Mohamed Fuard, Proctor of the Honourable the Supreme Court of the Island of Ceylon, to be my true and lawful Proctor and for me and in my name and behalf before the District
10 Court of Colombo to appear and this Proxy to exhibit and by virtue hereby to appear for me in Case No. 5686/N.T. of the said Court and to have me appointed Official Administrator for the administration of the estate of Ibrahim Bin Ahmed, deceased and to obtain Letters of Administration with the Will annexed and in that behalf to file all necessary papers in the said case and to recover my costs and generally to act for me and to do all needful things on my behalf in the premises.

And to draw, receive and take all moneys that may be recovered, deposited or paid in this suit for and in respect of my claim and costs and, without notice to me to move for and obtain in my name any orders from
20 the said Court payment of any sum or sums of money that may be so recovered, paid or deposited therein and to give all necessary receipts, releases and discharges thereof and if need be to refer the said claim and all matters in respect of the action instituted by virtue of these proceedings to the award and decision of arbitrators and to name an arbitrator for that purpose and to sign any motion, application, submission or bond for the purpose of the arbitration and to appear before the arbitrators and to take all steps in respect of any award on such submission or reference as
to the said Proctor shall seem necessary and generally and otherwise to take all such lawful ways and means and to do and perform such acts,
30 matters and things as may be needful and necessary in and about the premises as my said Proctor or his substitute or substitutes may consider necessary towards procuring or carrying into execution any judgment order or definitive sentence or final decree to be made and interposed herein and from any judgment order or decree interlocutory or final of the said Court to appeal and every bond or recognizance whatsoever necessary or needful in the course of proceedings for the prosecution of such appeal or for appearance or for the performance of any order or judgment of the said Court for and in my name and as my act and deed to sign and deliver and before the said Court upon any such appeal by
40 virtue hereof for and in my behalf to appeal and plead and to appoint if necessary one or more substitute or substitutes, advocate or advocates and again at pleasure to revoke such appointment and appoint anew ; and also if the said Proctor shall see cause the said action or suit to discontinue, compromise, settle or refer to arbitration and every such compromise, settlement or reference in my name and behalf to sign and hereby

2D9
Proxy given
by J. N.
Culanthai-
valu to
A. M. M.
Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5686
19-5-44
—continued.

promising to release all kinds of irregularities and to ratify, allow and confirm all and whatsoever the said Proctor or his substitute or substitutes or the said advocate or advocates shall do herein.

IN WITNESS WHEREOF I have hereunto set my hand at Colombo on this 19th day of May, 1944.

The address of the said Proctor for service of process under the provisions of the Civil Procedure Code is at No. 130, Hultsdorf Street, Colombo.

(Sgd.) J. N. CULANTHAIVELU,
Secretary, District Court, Colombo, 10
24-5-44.

I do hereby certify that the foregoing }
is a "True Copy" of Proxy dated }
7-6-44 Motions dated 19-5-44, 19/24-5-44 } (Sgd.) Illegible.
and 25-9-44 in D.C. Colombo, Case }
No. 5686/Testamentary. }

Assistant Secretary,
District Court, Colombo.

Certified this 22nd day of May, 1954.

2D10

2D10
Order Nisi
in D.C.
Colombo
Case
No. 5686
26-5-44

Order Nisi in D.C. Colombo Case No. 5686

ORDER NISI
IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will and Testament of Ibrahim Bin Ahmed of Hultsdorf Street, Colombo—deceased.

Testamentary }
Jurisdiction } No. 5686

MOHAMED BIN IBRAHIM, of "Salonica", Bambalapitiya, Colombo
.....Petitioner. 30

This matter coming on for disposal before S. J. C. Schokman, Esquire., Additional District Judge of Colombo on the 22nd day of February, 1944, in the presence of Mr. A. M. M. Fuard, Proctor, on the part of the Petitioner above-named and the affidavit of the Petitioner dated the 26th day of November, 1943 having been read :—

It is ordered that Muhandiram Joseph Naganather Culanthai-^{2D10} velu, Secretary of the District Court of Colombo, be and he is hereby ^{Order Nisi} appointed Official Administrator of the estate of the above-named ^{in D.C.} deceased and that he is declared entitled to Letters of Administration ^{Colombo} to the above estate issued to him accordingly unless the Respondent ^{Case} above-named or any person or persons interested shall on or before ^{No. 5686} the 8th day of July, 1944 show sufficient cause to the satisfaction of ²⁶⁻⁵⁻⁴⁴ this Court to the contrary ; ^{—continued.}

(Sgd.) S. J. C. SCHOKMAN.,
A.D.J.

10

The 26th day of May, 1944.

“ True Copy ” of *Order Nisi* dated
26-5-44 in District Court Colombo
Case No. 5686/T.

(Sgd.) Illegible.
Assistant Secretary,
District Court, Colombo.

Certified this 22nd day of May, 1954.

2D11

20

Oath of Office taken by J. N. Culanthaivelu in D.C.
Colombo Case No. 5686

OATH OF OFFICE
IN THE DISTRICT COURT OF COLOMBO

2D11
Oath of
Office taken
by J. N.
Culanthai-
velu in D.C.
Colombo
Case
No. 5686
25-9-44

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased*.

No. 5686/T.

MUHANDIRAM J. N. CULANTHAIVELU, Secretary of the District Court of
Colombo.

You affirm that you are the administrator *de bonis non* of the estate
of the above-named deceased and that you will faithfully administer and
30 dispose of the property and estate rights and credits of the said deceased
by paying the debts and legacies of the deceased so far as the property will
extend and the law find and by demanding and recovering whatever debts
may belong to his estate and that you will exhibit into this court a true,
full and perfect Inventory of all the property movable and immovable
and all the rights and credits of the deceased on or before the 28th day of

2D11
Oath of
Office taken
by J. N.
Culanthaivelu in D.C.
Colombo
Case
No. 5686
25-9-44
—continued.

February, 1945 and that you will file a true account of the administration on or before the 31st day of August, 1945 if necessary.

(Sgd.) M. CULANTHAIVELU,
Secretary, District Court.

Affirmed to at Colombo on this 25th day of September, 1944.

Before me,
(Sgd.) W. E. PERERA.,
J.P.

“ True Copy ” of Oath of Office dated 25-9-44 filed in D.C. Colombo, Case No. 5686/T.

10

(Sgd.) Illegible.,
*Assistant Secretary,
District Court, Colombo.
22-5-54.*

2D13
Bond
entered into
by J. N.
Culanthaivelu in D.C.
Colombo
Case
No. 5686
9-10-44

2D13

Bond entered into by J. N. Culanthaivelu in D.C.
Colombo Case No. 5686

SECURITY BOND BY ADMINISTRATOR

20

IN THE DISTRICT COURT OF COLOMBO

In the matter of the property and Estate, Rights and Credits of Ibrahim Bin Ahmed, deceased.

Testamentary }
Jurisdiction } No. 5686.

MUHANDIRAM JOSEPH NAGANATHER CULANTHAIVELU, Secretary, District Court, Colombo.....*Official Administrator.*

KNOW ALL MEN BY THESE PRESENTS that I, Muhandiram Joseph Naganathar Culanthaivelu, Official Administrator of the Estate of the deceased above-named, am held and firmly bound unto Muhandiram Joseph Naganather Culanthaivelu, Secretary of the District Court of Colombo or to the Secretary of that court for the time being in the sum of Rupees five hundred (Rs. 500/-) of lawful money of Ceylon for which payment well and truly to be made to the said Muhandiram Joseph Naganathar Culanthaivelu, the Secretary, or to the Secretary for the time being I do hereby bind myself and my heirs, executors and Administrators firmly by these Presents.

WHEREAS by order of this Court of the — day of September, 1944 it is ordered that Letters of Administration of the Properties and Estate rights and credits of the said Ibrahim Bin Ahmed deceased, with the Will annexed be granted to the said Muhandiram Joseph Naganathar Culanthaivelu on his giving security for the due administration thereof.

2D13
Bond entered into by J. N. Culanthaivelu in D.C. Colombo Case No. 5686 9-10-44 —continued.

AND WHEREAS the Estate of the said deceased has been appraised and valued at the sum of Rupees..... Now the condition of this Obligation is that if the above-bounded Muhandiram Joseph Naganather Culanthaivelu do render into this Court a true and perfect Inventory of all the property and Estate, rights and credits of the said deceased which have or shall come to the possession or knowledge of the said Muhandiram Joseph Naganather Culanthaivelu or of any other person for him on or before the 28th day of February, 1945 and shall well and truly administer the same according to law ; and further shall render to this Court a true and just account of his said administration on or before the 31st day of August, 1944 and shall deliver and pay over the rent and residue of the said property and estate rights, credits which shall be found remaining upon the said administration to the person or persons lawfully entitled to the same ; then this obligation to be void and of none effect otherwise to remain in full force.....

(Sgd.) N. CULANTHAIVELU.,
Secretary, D.C., Colombo.

Signed, sealed and delivered in Colombo this 9th day of October, 1944.....
Before me.
(Sgd.) W. E. PERERA,
J.P.

2D12

Letters of Administration granted to J. N. Culanthaivelu in D.C. Colombo Case No. 5686

30

NETT VALUE OF ESTATE Rs. 785,175/35—ESTATE DUTY Rs. 51,304/27

Letters of Administration (with the Will annexed)

IN THE DISTRICT COURT OF COLOMBO

Testamentary }
Jurisdiction } No. 5686.

To : Muhandiram Joseph Naganathar Culanthaivelu, Secretary of the District Court of Colombo.

2D12
Letters of Administration granted to J. N. Culanthaivelu in D.C. Colombo Case No. 5686 12-10-44

2D12
 Letters of
 Adminis-
 tration
 granted
 to J. N.
 Culanthai-
 velu in D.C.
 Colombo
 Case
 No. 5686
 12-10-44
 —continued.

WHEREAS Hadji Ibrahim Bin Ahmed of Hultsdorf in Colombo, deceased, lately departed this life leaving a Will which has been duly proved in the Court a copy of which is hereunto annexed :

You are therefore fully empowered and authorized by These Presents to administer and faithfully dispose of the property and rights, and credits of the said deceased and to demand and recover whatever debts may belong to his estate and to pay whatever debts the said deceased did owe so far as such property and estate, rights and credits shall extend you having been already affirmed well and faithfully to administer the same and to render a true and just account of your administration thereof on or 10 before the 25th day of January, 1945.

And you are therefore by These Presents deputed and constituted Administrator of all the property and estate, rights and credits of the said deceased.

(You are nevertheless hereby prohibited from settling any immovable property of the estate unless you shall be specially authorized by the Court so to do).

And it is hereby certified that the Declaration and Statement of Property under the Estate Duty Ordinance have been delivered, and that the value of the said estate on which estate duty is payable as assessed by the 20 Commissioner of Stamps, amounts to Rs. 758,175/35.

And it is further certified that it appears by a Certificate granted by the Commissioner of Stamps and dated the 11th day of April, 1944 that Rs. 51,304/27 on account of Estate Duty (and interest on such duty) has been paid.

Given under my hand and the Seal of the Court
 this 12th day of October, 1944.

(Sgd.) S. J. C. SCHOKMAN.,
A.D.J.

“ True Copy ” of Letters of Administra-
 tion issued in D.C. Colombo, Case No.
 5686/T.

30

(Sgd.) Illegible.
D.C. Colombo.

Certified this 22nd day of May, 1954.

Letters of Administration in D.C. Colombo Case No. 5686

NETT VALUE OF ESTATE Rs. 758,175·35—ESTATE DUTY Rs. 51,304·27

Letters of Administration (with the Will annexed)**IN THE DISTRICT COURT OF COLOMBO**

Testamentary	} No. 5686.
Jurisdiction	

To : Muhandiram Joseph Naganathar Culanthaivelu, Secretary of the
10 District Court of Colombo.

WHEREAS Hadji Ibrahim Bin Ahmed of Hultsdorf in Colombo deceased, lately departed this life leaving a Will which has been duly proved in this Court, a copy of which is hereunto annexed :

You are therefore fully empowered and authorised by these Presents to administer and faithfully dispose of the property and estate rights and credits of the said deceased, and to demand and recover whatever debts may belong to his estate and to pay whatever debts the said deceased did owe so far as such property and estate, rights and credits shall extend to you having been already affirmed well and faithfully to administer the
20 same, and to render a true and just account of your administration thereof on or before the 25th day of January, 1945.

And you are therefore by these Presents deputed and constituted Administrator of all the property and estate rights, and credits of the said deceased.

(You are, nevertheless, hereby prohibited from selling any immovable property of the estate unless you shall be specially authorized by the Court so to do.)

And it is hereby certified that the Declaration and Statement of Property under the Estate Duty Ordinance have been delivered, and that
30 the value of the said estate on which estate duty is payable as assessed by the Commissioner of Stamps, amounts to Rs. 758,175/35.

And it is further certified that it appears by a Certificate granted by the Commissioner of Stamps and dated the 11th day of April, 1944 that Rs. 51,304/27 on account of Estate Duty (and interest on such duty) has been paid.

P6
Letters of
Adminis-
tration
in D.C.
Colombo
Case
No. 5686
12-10-44

Given under my hand and the Seal of the Court this 12th day of October, 1944.

(Sgd.) S. J. C. SCHOKMAN.,
A.D.J.

—continued. “ True Copy ” of Letters of Administra-
tion dated 12th October, 1944 issued in
D.C. Colombo Case No. 5686/Testa-
mentary.

(Sgd.) Illegible.,
Assistant Secretary, 10
D.C., Colombo.

Certified this 29th day of April, 1954.

P7

P7
Petition
of the
Petitioners
in D.C.
Colombo
Case
No. 5686
26-10-44

Petition of the Petitioners in D.C. Colombo Case
No. 5686

Testamentary }
Jurisdiction } No. 5686.

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will and Testament and Codicils of Ibrahim Bin 20
Ahmed—Deceased.

- 1. AHMED BIN HASSAN, AND
- 2. MOHAMED BIN HASSAN, both of Colombo.....*Petitioners.*

vs

MUHANDIRAM JOSEPH N. CULANTHAIVELU, The Secretary of the District
Court of Colombo, Administrator *de bonis non*.....*Respondent.*

On this 26th day of October, 1944.

The Petition of the Petitioners above-named appearing by Framroz
Rustomjee their Proctor states as follows :—

- 1. The deceased (Testator) died leaving his Last Will and Testament 30
No. 3117 dated 8th April, 1919 and Three Codicils Nos. 1509, of 12th
November, 1921, Nos. 1605 of 13th July, 1921 and 1985 of 2nd April,
1931. The said Will and Codicils were duly proved and admitted to Probate
in these proceedings and Probate was duly issued to Ahmed Bin Ibrahim
the Executor name in the Will.

2. By the said Will and Codicils the Testator specifically devised to the first Petitioner premises now bearing assessment No. 331, Main Street and No. 2, St. John's Road and to the 2nd Petitioner premises bearing assessment No. 339, Main Street in Colombo which said premises are fully described in the First Schedule hereto.

P7
Petition
of the
Petitioners
in D.C.
Colombo
Case
No. 5686
26-10-44

3. The said documents contained the following directions to the Executor for payment of debts due from the estate :—

(1) By appropriation of moneys found in the estate (towards payment of the debts).

10 (2) If such debts are not fully paid, by appropriation of all moneys to due and owing to the estate.

(3) If still there should be debts remaining unpaid shop goods and other articles in the deceased's shop to be converted into money for payment of the debts.

(4) And if still there should be debts remaining unpaid the three sons mentioned in the said documents should pay the remaining debts in equal shares. The three sons referred to are Ahmed Bin Ibrahim (the Executor himself) Mohamed Ismail Bin Ibrahim and Mohamed Salih Bin Ibrahim.

20 (4) The Executor paid various debts by the sale of immovable properties. The immovable properties were sold much below their value at the time of sale and without notice to the Petitioners.

5. The Executor by wilfull suppression of the directions for payment of debts contained in the First Codicil and of details regarding such of the other properties of the deceased which could have been sold or dealt with for the payment of the remainder of the debts of the deceased's estate sought to obtain sanction of Court by his motion of the 9th April, 1935 to Mortgage *inter alia* the properties specifically devised to the Petitioners and the Court appears to have sanctioned same. The Petitioners
30 respectfully submit that the alleged order sanctioning sale was made :—

- (1) per incuriam,
- (2) without jurisdiction,
- (3) contrary to the direction contained in the deceased Codicil No. 1509 and that the said order is bad and of no avail or force in law.

6. By Bond No. 2402 dated 21st May, 1935 attested by N. M. Zaheed, Notary Public, the Executor has purported to Mortgage *inter alia* the two properties specifically devised to the Petitioner by the deceased above-named to secure the principal sum of Rs. 30,000/- and interest due thereon.

P7
 Petition
 of the
 Petitioners
 in D.C.
 Colombo
 Case
 No. 5686
 26-10-44
 —continued.

7. The Executor delivered possession of the said premises in 1936 and promised and agreed to Transfer same to the Petitioners free from all encumbrances in terms of the said Will and Codicils. The Executor paid by various instalments a portion of the rents of the said premises from the date of the death of the Testator to the date of delivery of possession and promised to pay to the petitioners the balance amount of such rent.

8. The Executor duly transferred to two other devisees namely, Hamid Bin Hassan and Rashid Bin Hassan properties specifically devised to them by the deceased in a manner similar to the devise made to the Petitioners and free from all encumbrances by two deeds bearing Nos. 10 2868 and 2869 both dated 15th August, 1938 and attested by N. M. Zaheed, Notary Public. These premises bear Nos. 134, 135, 136, 136A in Second Division, Maradana and Paranawadiya Lane, Colombo and Nos. 1 and 2 presently (2 and 4) at Rifle Street and No. 1, Church Street, Slave Island, Colombo. These Properties are referred to as the 7th and 8th lands in the Second Schedule hereto.

9. The Executor wilfully failed or neglected to observe and to follow the directions given to him in the Will for payment of debts due from the estate. The said Executor has contrary to express terms and conditions contained in the said Will transferred to himself or to his heirs or to his 20 two brothers or to others the following properties *inter alia*.

(1) Land and buildings No. 239, Keyser Street, Colombo (Firstly described in the Second Schedule hereto) which are conveyed by the Executor to himself by deed No. 2908 dated 13th December, 1936 attested by N. M. Zaheed, Notary Public.

(2) Land and buildings Nos. 1, 3, 5, 7, 1/1, 1/2 at Kuruwe Street, Colombo (Secondly described in the Second Schedule hereto) are conveyed by the Executor to Periyatamby Ayesha Natchia, the Administratrix, of the estate of Mohamed Sally Bin Ibrahim (Executor's brother) deceased by Deed No. 571 dated 9th July 1938 attested by M. M. A. Raheem, 30 Notary Public.

(3) Land and buildings No. 216, New Moor Street, Colombo (Thirdly described in the second schedule hereto) are transferred by the Executor to his own son, Mohamed Luthfy Bin Ahmed, by deed No. 2879 dated 8th September, 1938 attested by N. M. Zaheed, Notary Public.

(4) Land and buildings Nos. 716-720 at Kollupitiya (Fourthly described in the Second Schedule hereto) are transferred by the Executor to his brother Mohamed Ismail Bin Ibrahim by Deed No. 2789 dated 10th November, 1937 attested by N. M. Zaheed Notary Public.

(5) Land and buildings Nos. 24-26, Java Lane, Colombo and Nos. 40 21, 23, 25 (1-4), Leechman's Lane, Colombo (Fifthly described in the Second Schedule hereto) are transferred by the Executor to one Seyadu Mohamed Umma Nasiha by Deed No. 1159, dated 29th June, 1938 attested by A. R. M. Razeen, Notary Public.

The Executor should not have made the said transfers before transferring the properties specifically devised to the Petitioners. The Petitioners further find that premises formerly bearing No. 62 and presently No. 18, Hultsdorf, Colombo (Sixthly described in the second schedule hereto) which belonged to the deceased above-named upon deed No. 2031 dated 16th April, 1907 attested by F. A. Prins, Notary Public, have not been conveyed by the Executor to any one and is one which requires to be dealt with for the settlement of the debts of the estate of the deceased above-named.

P7
Petition
of the
Petitioners
in D.C.
Colombo
Case
No. 5080
26-10-44
—continued.

10 10. The Petitioners respectfully submit :—

(i) That the properties specifically devised to them and referred to in paragraph 2 hereof and in the first schedule hereto should be transferred to them free from the effects and operation of the Mortgage on any other encumbrances created in respect of same by the Executor.

(ii) that the said three sons namely Ahmed Bin Ibrahim, Mohamed Ismail Bin Ibrahim and Mohamed Sallih Bin Ibrahim or their estate of their heirs who have benefited by the fraudulent conveyances executed by the said Executor or otherwise should be called upon to pay the debts still due by the estate of the deceased, above-named, in equal shares
20 according to the deceased's expressed wishes.

(iii) That the properties referred to herein either forming part of the ordinary estate or which have been already transferred by the Executor to himself, to his brothers and to his son and to others and referred to in the 2nd schedule are liable to be seized for the payment of the said debts due by the estate of the deceased above-named.

(iv) That the properties referred to in paragraph 9 hereof (lands 1, 2, 3, 4, 5, 6 in the 2nd schedule hereto and transferred to himself or to his brothers and to his son and to others are primarily subject to the payment of the debts of the estate of the deceased above-named.

30 (v) That at the date of the execution of the said Bond No. 2402 both the Executor and his Proctor on record Mr. N. M. Zaheed of Colombo were fully aware of the existence of the different properties belonging to the estate of the deceased above-named and referred to in paragraphs 7, 8 and 9 hereof; that the Mortgagee named in the Bond No. 2402 was fully aware of the rights of the Petitioners in respect of the two properties Nos. 331, Main Street and 1 and 2 St. John's Road and No. 339, Main Street fully described in the 1st schedule hereto which have been fraudulently secured under Bond No. 2402.

40 (vi) That in marking applications to Court for the mortgage of the properties of the Petitioners the Mortgage under Bond No. 2402 the sons of the deceased who have expressed their consent to such hypothecation

P7
Petition
of the
Petitioners
in D.C.
Colombo
Case
No. 5686
26-10-44
—continued.

and the executor had concealed from Court the facts that the properties referred to in paragraph 9 hereof and other properties were then available for sale and that proceeds sale of such properties would be more than adequate for the payment of the sum of Rs. 30,000/- which was to be made up to discharge the debt of the deceased's estate.

(vii) That the Executor with the direct complicity in these transactions and with the connivance of the other sons of the deceased, namely Mohamed Sallih Bin Ibrahim and Mohamed Ismail Bin Ibrahim have acted in a manner calculated to deprive the Petitioners of the devise made to them by the deceased.

10

(viii) That by acts which are fraudulent and calculated to render the Petitioners property solely liable for a major portion of the debts due to the Mortgagee of Bond No. 2402 the two other properties hypothecated under the Bond No. 2402 to wit premises No. 10, Maliban Street, Colombo and 11, Maliban Street, Colombo were both conveyed away by the Executor by Deed Nos. 2820 and 2821 both dated 28th February, 1939 attested by N. M. Zaheed, Notary Public to Mohamed Nizar Sitti Ahyne of 168, Bambalapitiya, Colombo and to Zainudeen Hadjar Mohamed Nizar of 168, Bambalapitiya, Colombo respectively, for nominal considerations, which were arranged to be paid to the Mortgagee of Bond No. 2402 in reduction of the claim under his Bond. The said Mortgagee has released the said two properties from the effects and operations of the said Bond No. 2402 and the bulk of the liability by the sale of under the said Bond No. 2402 has now been left to be discharged by the sale of the Petitioners' properties fully described in the First Schedule hereto.

11. The said Executor died in or about the year 1940 and the Secretary of this Court has been appointed Administrator *De Bonis Non*.

12. The Executor was at all times fully aware that the debts had to be paid by himself and his other two brothers above-named from the properties devised to them and constituting the residuary estate. In certain affidavits and petitions filed of record in these proceedings the Executor has referred to residuary estate as distinct from specific devises.

WHEREFORE THE PETITIONERS PRAY :—

(1) that the said debts due on the alleged Mortgage Bond No. 2402 dated 21st May, 1935 attested by N. M. Zaheed, Notary Public be directed to be paid by the estate of the deceased.

(2) that the said three sons of the deceased, above-named to wit Ahmed Bin Ibrahim, Mohamed Ismail Bin Ibrahim and Mohamed Sallih Bin Ibrahim or other estate be called upon to pay the said debt in equal shares.

40

(3) that in default of such payment the properties which have been transferred by the Executor and the properties numbered 1 to 6 referred to in the 2nd schedule hereto be declared liable to be seized and sold for the realisation and payment of the debts of the deceased's estate and if the amount be still insufficient then the four devisees namely the petitioners and their brothers Hamid Bin Hassan and Rashin Bin Hassan be called upon to pay the balance in equal shares.

P7
Petition
of the
Petitioners
in D.C.
Colombo
Case
No. 5686
—continued.

(4) that the said properties referred to in the first schedule hereto be transferred to the petitioners free from all encumbrances including the alleged mortgage debt due by the estate under Bond No. 2402.

(5) that the estate and all account and affairs relating to same be judicially settled.

(6) that all amount due to the petitioners as balance rents to date of delivery of possession of their properties be paid to the petitioners out of the estate.

(7) that the petitioners be paid their costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) F. RUSTOMJEE.,
Proctor for Petitioners.

20

2D15

**Proxy given by M. N. Peiris to A. M. M. Fuard, Proctor,
in D.C. Colombo Case No. 5686**

KNOW ALL MEN BY THESE PRESENTS THAT I, Michael Norman Peiris, presently Secretary of the District Court of Colombo, have nominated, constituted and appointed and do hereby nominate, constitute and appoint Assena Marikar Mohamed Fuard, Proctor of the Honourable the Supreme Court of the Island of Ceylon, to be my true and lawful Proctor or in his absence any other Proctor or Proctors of the said Court to be my Proctor and for me and in my name and behalf before the District Court of Colombo to appear and this proxy to exhibit and by virtue hereof to have myself substituted in place of the last Official Administrator in Case No. 5686/T of the said Court and for that purpose to file all necessary papers and do all necessary things and generally to act for me as Official Administrator in the said case and to recover the costs, and to draw, receive and take all moneys that may be deposited, paid or recovered in this suit for and in respect of my claim and costs and without notice to me to move for and obtain in his name any order or orders from the said Court for payment of any sum or sums of money that may be so

2D15
Proxy given
by M. N.
Peiris to
A. M. M.
Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5686
8-6-48

2D15
 Proxy given
 by M. N.
 Peiris to
 A. M. M.
 Fuard,
 Proctor,
 in D.C.
 Colombo
 Case
 No. 5686
 8-6-48
 —continued.

deposited, paid or recovered therein and to give all necessary receipts, releases and discharges therefor and if need be to refer the said claim and all money matters in respect of the action instituted by virtue of these proceedings to the award and decision of arbitrators and to name an arbitrator for that purpose and to sign any motion, application, submission bond or any other writing or instrument whatsoever nature or kind for the purpose or in respect to the arbitration and to appear before the arbitrators and to take all steps in respect of any award on such submission or reference to the said Proctor shall deem necessary and generally and otherwise to take all such lawful ways and means to do and perform 10 such acts, matters and things as may be needful and necessary in and about the premises as my said Proctor or Proctors, his or their substitutes may consider necessary towards procuring or carrying into execution any judgment order or a definite sentence or final decree to be made and interposed herein and from any judgment order or decree interlocutory or final of the said Court to appeal; and every bond or recognizance whatsoever necessarily needful in the course of proceedings for the prosecution of such appeal or for the performance of any order or judgment of the said Court for and in my name and as my act and deed to sign and deliver and before the Supreme Court upon any such appeal by virtue thereof for 20 and in my behalf to appear and to appoint if necessary one or more substitute or Advocate or Advocates both in the District Court and in the Supreme Court and again at pleasure to revoke such appointment and appoint anew and also if the said Proctor shall see cause the said action or suit to discontinue, compromise, settle or refer to arbitration. And every such compromise, settlement or reference in any name and behalf to settle sign and to make a rate of Court I hereby promising to release all kinds of Irregularities and to ratify, allow and confirm all and whatsoever the said Proctor, his substitute or the said Advocate or Advocates shall do herein.

30

In witness whereof I have hereunto set my hand at Colombo this 8th day of June, 1948.

The address of the said Proctor for Service of Process under the provisions of the Civil Procedure Code is at No. 30, Hultsdorf Street, Colombo.

(Sgd.) M. N. PEIRIS.

Petition of M. N. Peiris in D.C. Colombo Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

2D14
 Petition
 of M. N.
 Peiris in D.C.
 Colombo
 Case
 No. 5686
 9-8-48

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased*.

No. 5686/Testamentary.

MICHAEL NORMAN PEIRIS, Secretary, District Court, Colombo—*Petitioner*.

On this 9th day of August, 1948.

The petition of the Petitioner above-named appearing by A. M. Fuard, his Proctor, states as follows :—

10 1. The Petitioner is the present Secretary of the District Court, Colombo.

2. Muhandiram J. N. Culanthaivelu, the then Secretary of the District Court of Colombo, was appointed administrator *de bonis non* of the estate of Ibrahim Bin Ahmed as the Official Administrator and Letters of Administration with the Will annexed was granted to him in the above case.

3. The said Muhandiram J. N. Culanthaivelu has ceased to be the Secretary of the District Court of Colombo.

4. For the due administration of the above estate it has become
 20 necessary to appoint and substitute the petitioner in place of the said Muhandiram J. N. Culanthaivelu as the administrator *de bonis non*.

WHEREFORE THE PETITIONER PRAYS :—

(1) that the Petitioner, the present Secretary of this Court, be substituted and appointed Administrator *de bonis non* for the due administration of the estate of Ibrahim Bin Ahmed and Letters of Administration with the Will annexed be granted to him in the above case ;

(2) that the *Order Nisi* entered of record be amended accordingly and be extended for publication in the above case ;

(3) for costs of this application and for such other and further relief
 30 as to this Court shall in the premises seem meet.

(Sgd.) A. M. FUARD.,
Proctor for Petitioner.

2D16
Affidavit
of M.N.
Peiris in D.C.
Colombo
Case
No. 5686
9-8-48

Affidavit of M. N. Peiris in D.C. Colombo Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased*.
No. 5686/Testamentary.

MICHAEL NORMAN PEIRIS, Secretary, D.C., Colombo.....*Petitioner*

I, Michael Norman Peiris, Secretary of the District Court of Colombo
make oath and say as follows :—

1. I am the present Secretary of the District Court of Colombo.

2. Muhandiram J.N. Culanthaivelu, the then Secretary of the District Court of Colombo, was appointed Administrator *de bonis non* of the estate of Ibrahim Bin Ahmed as the Official Administrator and Letters of Administration with the Will annexed was granted to him in the above case.

3. The said Muhandiram J. N. Culanthaivelu has ceased to be the Secretary of the District Court of Colombo.

4. For the due administration of the above estate it has become necessary to appoint and substitute me, the present Secretary of the said District Court, in place of the said J.N. Culanthaivelu as the Administrator *de bonis non*.

20

Signed and sworn to at Colombo this }
9th day of August, 1948..... } (Sgd.) M. N. PEIRIS.

Before me,
(Sgd.) T. H. JAYASEKERA.,
Commissioner for Oaths.

“ True Copy ” of Affidavit dated 9-8-48
filed in D.C. Colombo Case No. 5686/
Testamentary.

(Sgd.) Illegible.
*Assistant Secretary,
District Court, Colombo.*

30

Certified this 22nd day of May, 1954.

Order Nisi in D.C. Colombo Case No. 5686

Order Nisi

2D17
Order Nisi
in D.C.
Colombo
Case
No. 5686
12-8-48

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will and Testament of Ibrahim Bin Ahmed of
Hultsdorf Street, Colombo—deceased.

Testamentary }
Jurisdiction } No. 5686.

10 MICHAEL NORMAN PEIRIS, Secretary, District Court, Colombo—*Petitioner.*

C. A. F. PALLIYAGURU, Secretary, District Court, Colombo substituted in
place of Mr. N. M. Peiris.....*Substituted Petitioner.*

This matter coming on for disposal before S. J. C. Schokman, Esquire.,
District Judge of Colombo on the 11th day of Augst, 1948 in the presence
of Mr. A. M. M. Fuard, Proctor on the part of the Petitioner above-named
and the affidavit of the Petitioner dated 9th day of August, 1948 having
been read :—

It is ordered that Mr. Michael Norman Peiris, Secretary of the District
Court, Colombo, be and he is hereby appointed Official Administrator of
20 the Estate of the above-named deceased and that he is declared entitled
to Letters of Administration to the above estate issued to him accordingly
unless any person or persons interested shall on or before the 7th day of
October, 1948 show sufficient cause to the satisfaction of this Court to
the contrary ;

(Sgd.) S. J. C. SCHOKMAN.,
District Judge.

The 12th day of August, 1948.

“ True Copy ” of *Order Nisi* dated
12-8-48 in D.C. Colombo Case No.
30 5686/T.

(Sgd.) Illegible.
Assistant Secretary,
District Court, Colombo.

22nd May, 1954.

2D18
Oath of
Office taken
by M. N.
Peiris
in D.C.
Colombo
Case
No. 5686
18-11-48

Oath of Office taken by M. N. Peiris in D.C. Colombo

Case No. 5686

Oath of Office

IN THE DISTRICT COURT OF COLOMBO

In the matter of the property and Estate Rights and Credits of Ibrahim Bin Ahmed—deceased.

Testamentary }
Jurisdiction } No. 5686.

10

MICHAEL NORMAN PEIRIS, Secretary of the District Court of Colombo
.....*Petitioner.*

You affirm that you believe the writing now produced to you bearing date the 8th day of April, 1919 and marked " A " to be the Last Will and Testament of the above-named deceased.

That you are the Official Administrator of the property and estate, rights and credits of the said deceased with the said Will annexed.

That you will faithfully execute the said Will by paying the debts and legacies of the said deceased as far as the property will extend and the law bind, and by demanding and recovering whatever debts may belong to his estate.

That you will exhibit into this Court a true, full and perfect Inventory of all the property movable and immovable and all the rights and credits of the said deceased on or before the day of 1949 and that you will file a true account of your administration on or before the day of 1949.

Affirmed to at Colombo on this 18th }
day of November, 1948..... } (Sgd.) M. N. PEIRIS.

Before me,
(Sgd.) T. H. JAYASEKERA., 30
Commissioner for Oaths

Bond entered into by M. N. Peiris in D.C. Colombo

Case No. 5686

SECURITY BOND BY ADMINISTRATOR

IN THE DISTRICT COURT OF COLOMBO

In the matter of the property and estate rights and credits of Ibrahim Bin Ahmed—deceased.

Testamentary }
10 Jurisdiction } No. 5686.

Know all men by these presents, that I, Michael Norman Peiris, Secretary of the District Court of Colombo, am held and firmly bound unto N. Sinnetaimby, District Judge of Colombo or to the District Judge of Colombo for the time being in the sum of Rupees four thousand (Rs. 4,000/-) for which payment well and truly to be made to the said N. Sinnetaimby, Esquire., District Judge of Colombo or to the District Judge of Colombo for the time being I do hereby bind myself my heirs, executors and administrators firmly by these presents.

Whereas by order of this court of the 7th day of October, 1948, it is
20 ordered that Letters of Administration of the property and estate, rights and credits of the said Ibrahim Bin Ahmed be granted to the said Michael Norman Peiris Secretary of the District Court of Colombo on his giving security for the due administration thereof.

AND WHEREAS the estate of the said deceased has appraised and valued at the sum of Rs.

NOW THE CONDITION of this Obligation is that if the above bounded Michael Norman Peiris, Secretary of the District Court do render into this Court a true and perfect Inventory of all the property and estate, rights and credits of the said deceased, which have or shall come to the
30 possession of the said Michael Norman Peiris, Secretary of the District Court of Colombo or of any other person for him on or before the day of 1949 and shall well and truly administer the same according to law; and further shall render to this Court a true and just account of his said administration on or before the day of 1949 and shall deliver and pay over the rest and residue of the said property and estate, rights and credits which shall be found remaining upon the said administration to the person or persons lawfully entitled to the same; then this Obligation to be void and of no effect otherwise to remain in full force.

2D19
Bond
entered into
by M. N.
Peiris in D.C.
Colombo
Case
No. 5686
18-11-48

2D19
Bond
entered into
by M. N.
Peiris in D.C.
Colombo
Case
No. 5686
18-11-48
—continued.

Signed and delivered in Court on this }
18th day of November, 1948..... }

(Sgd.) M. N. PEIRIS.

Before me,
(Sgd.) N. SINNETAMBY.,
District Judge.

“ True Copy ” of Oath of Office and
Security Bond dated 18th November,
1948 filed in D.C. Colombo Case No.
5686/T.

10

(Sgd.) Illegible.
Assistant Secretary,
District Court, Colombo.

Certified this 22nd day of May, 1954.

P8
Letters of
Adminis-
tration
in D.C.
Colombo
Case
No. 5686
30-11-48

P8

Letters of Administration in D.C. Colombo Case No. 5686

NETT VALUE OF ESTATE RS. 758,175·35—ESTATE DUTY RS. 51,304·27

Letters of Administration (with the will annexed, and otherwise)

IN THE DISTRICT COURT OF COLOMBO

Testamentary }
Jurisdiction } No. 5685.

20

To : Michael Norman Peiris, Secretary of the District Court of Colombo.

WHEREAS Hadji Ibrahim Bin Ahmed of Hultsdorf in Colombo, deceased, lately departed this life leaving a Will which has been duly proved in this Court, a copy of which is hereunto annexed. You are therefore fully empowered and authorised by these Presents to administer and faithfully dispose of the property and estate rights and credits of the said deceased and to demand and recover whatever debts may belong to his estate and to pay whatever debts the said deceased did owe so far as 30 such property and estate rights and credits shall extend, you having been already affirmed well and faithfully administer the same and to render a true and just account of your administration thereof on or before the 24th February, 1948. And you are therefore by these presents deputed and constituted administrator of all the property and estate rights and credits

of the said deceased. You are nevertheless, hereby prohibited from selling any immovable property of the estate unless you shall be specially authorised by the Court so to do. And it is hereby certified that the declaration and statement of property under the Estate Duty Ordinance have been delivered and that the value of the said estate on which estate duty is payable as assessed by the Commissioner of Stamps, amounts to Rs. 753,175/35. And it is further certified that it appears by a Certificate, granted by the Commissioner of Stamps and dated the 11th day of April 1944 that Rs. 51,304/27 on account of estate duty and interest on such duty 10 has been paid.

Given under my hand and the
Seal of the Court this 30th day of
November, 1948.

(Sgd.) Illegible.,
A.D.J.

2D20

**Letters of Administration granted to M. N. Peiris in
D.C. Colombo Case No. 5686**

NETT VALUE OF ESTATE Rs. 756,175/35—ESTATE DUTY Rs. 51,304/27

20 *Letters of Administration (with the Last Will annexed, and otherwise)*

IN THE DISTRICT COURT OF COLOMBO

Testamentary }
Jurisdiction } No. 5686.

To : Michael Norman Peiris, Secretary of the District Court of Colombo.

Whereas Hadji Bin Ibrahim Bin Ahmed of Hultsdorf in Colombo, deceased, lately departed this life leaving a Will which has been duly proved in this Court a copy of which is hereto annexed.

You are therefore fully empowered and authorised by These Presents 30 to administer and faithfully dispose of the property and estate, rights and credits of the said deceased and to demand and recover whatever debts may belong to his estate and to pay whatever debts the said deceased did owe so far as such property and estate right, and credits shall extend, you having been already affirmed well and faithfully to administer the same and to render a true and just account of your administration thereof on or before the 24th February, 1949.

2D20
Letters of
Adminis-
tration
granted to
M. N. Peiris
in D.C.
Colombo
Case
No. 5686
30-11-48

2D20
Letters of
Adminis-
tration
granted to
M. N. Peiris
in D.C.
Colombo
Case
No. 5686
30-11-48
—continued.

And you are therefore by These Presents constituted Administrator of all the property and estate rights and credits of the said deceased.

(You are nevertheless, hereby prohibited from selling any immovable property of the estate unless you shall be specially authorised by the Court so to do.)

And it is thereby certified that the Declaration and Statement of Property under the Estate Duty Ordinance have been delivered and that the value of the said estate on which estate duty payable as assessed by the Commissioner of Stamps amounts to Rs. 758,175/35. And it is further certified that it appears by a Certificate granted by the Commissioner of 10 Stamps and dated the 11th day of April, 1944 that Rs. 51,304/27 on account of Estate Duty (and interest on such duty) has been paid.

Given under my hand and the
Seal of the Court this 30th day
of November, 1948.

(Sgd.) N. SINNETAMBY.,
A.D.J.

“ True Copy ” of Letters of Administration
dated 30-11-48 issued in D. C. Colombo
Case No. 5686/T.

20

(Sgd,) Illegible.,
Assistant Secretary,
District Court, Colombo.

Certified this 22nd day of May, 1954.

2D22

2D22
Proxy given
by C. F. A.
Palliyaguru
to A. M. M.
Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5686
1-7-49

Proxy given by C. F. A. Palliyaguru to A. M. M. Fuard,

Proctor, in D.C. Colombo Case No. 5686

Know all men by These Presents that, I, Cornelius Frederick Akmi-
mana Palliyaguru, the Secretary of the District Court of Colombo, have
nominated, constituted and appointed and do hereby nominate, constitute 30
and appoint Assana Marikar Mohamed Fuard, Proctor of the Honourable
the Supreme Court of the Island of Ceylon to be my true and lawful Proctor
or in his absence any other Proctor or Proctors of the said Court to be
Proctor and for me and in my name and behalf before the District Court
of Colombo to appear and this proxy to exhibit and by virtue hereof to
appear for me in D.C. Case No. 5686/N.T. of the said Court and to have me

appointed or substituted the Official Administrator of the administration of the estate of Ibrahim Bin Ahmed and in the behalf to file all necessary papers in the said case and to recover my costs and generally to act for me and to do all needful things.

2D22
Proxy given
by C. F. A.
Palliaguru
to A. M. M.
Fuard,
Proctor,
in D.C.
Colombo
Case
No. 5080
1-7-49

And to draw, receive and take all moneys that may be deposited, paid or recovered in this suit for and in respect of my claim and costs and without notice to me to move for and obtain in his name any order or orders from the said Court for payment of any sum or sums of money that may be so deposited, paid or recovered therein, and to give all necessary
10 receipts, releases and discharges therefor and if need be to refer the said claim and all money matters in respect of the action instituted by virtue of these proceedings to the award and decision of arbitrators and to name an arbitrator for that purpose and to sign any motion, application, submission, bond or any other writing or instrument whatsoever nature or kind for the purpose or in respect of the arbitration and to appear before the arbitrators and to take all steps in respect of any award on such submission or reference to the said Proctor shall deem necessary ; and generally and otherwise to take all such lawful ways and means to do and perform such acts, matters and things as may be needful and necessary in and about
20 the premises as my said Proctor or Proctors, his or their substitutes may consider necessary towards procuring or carrying into execution any judgment, order or a definite sentence or final decree to be made and interposed herein and from any judgment, order or decree, interlocutory or final, of the said Court to appeal ; and every bond or recognizance whatsoever necessarily needful in the course of proceedings for the prosecution of such appeal or for appearance or for the performance of any order or judgment of the said Court for and in my name and as my act and deed to sign and deliver and before the Supreme Court upon any such appeal by virtue thereof for and in my behalf to appear and to appoint if necessary one or
30 more substitutes of Advocate or Advocates both in the District Court and in the Supreme Court, and again at pleasure to revoke such appointment and appoint anew ; and also if the said Proctor shall see cause the said action or suit to discontinue, compromise, settle or refer to arbitration. And every such compromise, settlement or reference in name and behalf to settle sign, and to make a rate of Court I hereby promising to release all kinds of irregularities and to ratify, allow and confirm all and whatsoever the said Proctor, his substitutes or the said Advocate or Advocates shall do herein.

—continued.

WITNESS WHEREOF I have hereunto set my hand at Colombo
40 this 1st day of July, 1949.

The address of the said Proctor for Service of process under the provisions of the Civil Procedure Code is at No. 130, Hultsdorf Street, Colombo.

(Sgd.) C. F. A. PALLIYAGURU.

2D21
Motion of
A. M. M.
Fuard,
Proctor,
filed in D.C.
Colombo
Case
No. 5686
4-7-49

Motion of A. M. M. Fuard, Proctor, filed in D.C. Colombo

Case No. 5686

IN THE DISTRICT COURT OF COLOMNO

In the matter of the Last Will and Testament of Ibrahim Bin Ahmed.

No. 5686/T.

C. F. A. PALLIYAGURU, Secretary, District Court of Colombo.....*Official Administrator.*

I filed my appointment as Proctor for C. A. F. Palliyaguru, the Secretary of this Court, and move that the Court be pleased to substitute 10 Mr. Palliyaguru, the Official Adminstrator in the above case in place of the late Secretary who has retired.

Colombo, 4th July, 1949.

(Sgd.) A. M. M. FUARD.,
Proctor for Official Administrator.

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased.*

No. 5686/Testamentary.

C. A. F. PALLIYAGURU, Secretary, District Court of Colombo, present—
Official Administrator.....*Petitioner 20*

As a sum of Rs. 45,122/60 is due by the above Estate to K.M.N.S.P. Natchiappa Chettiar of 247, Sea Street, Colombo on Bond No. 2402 dated 21st May, 1935 attested by N. M. Zaheed, Notary Public, over the mortgage of premises Nos. 2, St. John's Road and 331, Main Street and No. 339, Main Street, Colombo and the same has to be paid by the sale of the above properties I move for 6 months' time to file the final account in the above case.

Colombo, 7th November,1949.

(Sgd.) A. M. M. FUARD.,
Proctor for Official Administrator. 30

Motion of A. M. M. Fuard, Proctor, filed in D.C. Colombo

Case No. 5686

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will and Testament of Ibrahim Bin Ahmed of Hultsdorf Street, Colombo.

No. 5686/T.

C. F. A. PALLIYAGURU, Secretary of the District Court of Colombo
.....*Official Administrator*

10 The Official Administrator in the above case is being sued in Case No. 2565/M.B. of this Court in respect of a Mortgage Bond No. 2402 dated 21st May, 1935 and attested by N. M. Zaheed, Notary Public, which had been executed with the leave of Court relating to premises No. 339, Main Street and No. 11, Kayman's Gate presently bearing No. 331, Main Street and No. 2, St. John's Road. The said premises have been devised and bequeathed to Ahmed Bin Hassan and Mohamed Bin Hassan of Colombo by the Testator.

I move for a notice informing them about the said cases against the Official Administrator.

20 Colombo, 16th February, 1950.

(Sgd.) A. M. M. FUARD.,
Proctor for Official Administrator.

IN THE DISTRICT COURT OF COLOMBO

In the matter of the Last Will & Testament of Ibrahim Bin Ahmed *deceased.*

No. 5686/T.

I move to revoke the proxy granted to me by the Official Administrator in the above case.

Colombo, 31st August, 1950.

(Sgd.) A. M. M. FUARD.,
Proctor for Official Administrator.

P11
Journal
Entries
in D.C.
Colombo
Case
No. 2565/
M.B.
23-11-49 to
17-8-53

Journal Entries in D.C. Colombo Case No. 2565/M.B.

IN THE DISTRICT COURT OF COLOMBO

No. 2565/M.B.

Amount : Rs. 45,341/-.

Class : V.

Nature : Mortgage Bond.

Procedure : Regular.

VALLAIYAMMAI ATCHI.....*Plaintiff*

vs.

THE SECRETARY, District Court, Colombo.....*Defendant*

Journal

10

The 23rd day of November, 1949.

Mr. A. H. M. Sulaiman, Proctor, files appointment and plaint together with Mortgage Bond and Conditions of Sale.

Plaint accepted subject to the power of the Court to give other or further directions under section 12 of the Mortgage Ordinance 1927, (Chapter 74) as to the terms on which the mortgagee may be allowed to purchase, etc.,
Summons ordered for 30-1-50.

(Intd.) N. S., 20
A.D.J.

2-12-49. Summons issued to defendant with precept returnable the day of 19 .

30-1-50. Mr. A. H. M. Sulaiman for Plaintiff.
Summons served on the Defendant. He is—
Proxy filed—Answer 13/3.

(Intd.) N. S.

13-3-50. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. A. M. Fuard for Defendant.
Answer S.O. 15/5.

30

(Intd.) N. S.

15-5-50. Answer S.O. 26/6.

(Intd.) N. S.

26-6-50. Answer—S.O. for 24/7 finally.

(Intd.) N. S.

P11
Journal
Entries
in D.C.
Colombo
Case
No. 2505/
M.B.
23-11-49 to
17-8-53
—continued.

24-7-50. Answer—final date.

Mr. Fuard not filing answer.

Mr. Rustomjee files proxy of Ahmed Bin Hassan and states he will file papers seeking to intervene.

Let him do so on 21/8.

(Intd.) N. S.

10 21-8-50. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. A. M. Fuard for Defendant-Petitioner.
Mr. F. Rustomjee for A. Bin Hassan and another.
Mr. Rustomjee to file papers to intervene—filed.
Mr. Fuard has no objection.
Notice plaintiff's proctor for 11/9.

(Intd.) N. S.

20 22-8-50. Mr. F. Rustomjee, Proctor for Petitioners with reference to his application to be added as party Defendants; moves for an order to file their answer.
Mr. A. H. M. Sulaiman, Proctor for Plaintiff receives notice for 11-9-50.

Call on 11-9-50.

(Intd.) N. S.
A.D.J.

4-9-50. Mr. A. M. Fuard for Defendant moves to revoke his proxy granted to him by the Official Administrator in view of the allegations made by the clients of Mr. Rustomjee who have intervened in this case.

Call on 11-9-50.

(Intd.) N. S.
A.D.J.

30

11-9-50. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. A. M. Fuard for Defendant.
Mr. F. Rustomjee for A. Bin Hassan and another—Case called—*Vide* J.E.E. of 22-8-50 and 4-9-50.
Mr. Adv. Charavanamuttu for Plaintiff-Objector and intervenients.

For objection 2/10.

(Intd.) N. S.

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- 2-10-50. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. A. M. Fuard for Defendant.
Mr. F. Rustomjee for A. Bin Hassan and another.
1. to consider applications of Mr. Fuard to revoke his proxy
—*Vide* J.E. of 4-9-50.—what has the Secretary to say—
Mr. Fuard absent.
 2. Objections of 1st Respondent-Plaintiff filed.
Inquiry on 6/11.

(Intd.) N. S.

- 28-10-50. Proctor for Petitioners moves that the Court be pleased to fix 10 any date for the inquiry after the 6th of November, 1950 as Counsel for the Petitioners is engaged on the date of inquiry fixed in this case in another Court. Proctor for Plaintiff consents.

Allowed—Call 6/11 to fix date.

(Intd.) N. S.

- 6-11-50. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. A. M. Fuard for Defendant,
Mr. F. Rustomjee for A. Bin Hassan and another.
Case called to fix date of inquiry. 20
Inquiry on 15/11.

(Intd.) N. S.

- 11-11-50. Mr. F. Rustomjee for Petitioners files list of documents and witnesses and moves for summons.
Proctor for Plaintiff has received notice with copy of list.
Allowed.

(Intd.) M. C. S.

- 11-11-50. Summons issued on 4 Witnesses by Petitioner.

- 15-11-50. Mr. A. H. M. Sulaiman for Plaintiff. 30
Mr. A. M. Fuard for Defendant.
Mr. F. Rustomjee for A. Bin Hassan and another.
Inquiry—*Vide* proceedings.
The Defendant consents to Mr. A. M. Fuard's application to revoke the proxy given by him and moves for a date for filing answer.
Mr. F. Rustomjee files proxy of the Defendant with his revocation.

Stamps to the value of Rs. 24/- also stamps tendered to be affixed to the proxy given to Mr. Fuard.

Of consent to file answer on 4-12-50.

(Intd.) N. S.,
A.D.J.

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4-12-50. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. F. Rustomjee for Defendant & A. Bin Hassan and another.

Answer filed.
Trial on 25-4-51.

10

(Intd.) K. D. DE S.

23-4-51. Mr. F. Rustomjee for Defendant files list of Defendant's witnesses and moves for Summons.

Allowed.

(Intd.) M. C. S.,
A.D.J.

25-4-51. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. F. Rustomjee for Defendant and Appellant.
Bin Hassan and another.
Trial (1)—No time.

20

Trial 3/8.

(Intd.) M. C. S.

26-4-51. Mr. A. H. M. Sulaiman for Plaintiff has filed list of witnesses on 24-4-51 and also an additional list.
He has moved for Summons.

Allowed—File.

(Intd.) M. C. S.,
A.D.J.

30

1-8-51. Proctor for Plaintiff moves to postpone the trial fixed for 3-8-51 to some other date convenient to Court as Counsel has by an oversight entered in his diary the trial date as 3-9-51 instead of 3-8-51.

Proctor for Defendant consent.
Call 3/8 to refix trial.

(Intd.) M. C. S.,
A.D.J.

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3-8-51. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. F. Rustomjee for Defendant.
Case called to refix trial.
Trial 24/10.

(Intd.) M. C. S.

19-9-51. As Mr. C. A. F. Palliyaguru, the Official Administrator, who is the Defendant in the case has relinquished office, Proctor for Plaintiff moves that this case be taken off the trial pending the substantiation of the present Secretary, District Court, Colombo.
Refused as Mr. Palliyaguru is still Secretary and 10
Official Administrator.

(Sgd.) M. C. SANSONI.

10-10-51. With reference to the trial fixed for 24-10-51 Plaintiff submits that his books of Account which have been forwarded to the Income Tax Office have not been returned yet and as such Proctor for Plaintiff with the consent of Proctor for Defendant moves that Court do postpone the trial for a date after December. It is extremely probably that the matter may be settled in the meantime.
The books should be obtained from the Authorities. 20

(Intd.) M. C. S.

24-10-51. Mr. A. H. M. Sulaiman for Plaintiff.
Mr. F. Rustomjee for Defendant.
Trial—*Vide* proceedings Exparte 26/11.

Proceedings filed.

(Intd.) P.,
25-10-51.

(Intd.) M. C. S.,
A.D.J.

18-11-51. On perusing the order of Court made in the above case dated 30 24-10-51, Proctor for Petitioners find that premises No. 15, Kayman's Gate now bearing No. 339 is erroneously mentioned as No. 309, Main Street. The Schedule 1 in the plaint filed in this gives the correct number as 339, Main Street and not 309, Main Street. He, therefore, moves that the Court do alter the said No. 309, Main Street to read as 339, Main Street. Proctor for Plaintiff has no objection.

(Intd.) M. C. S.,
A.D.J.

- 26-11-51. Mr. A. H. M. Sulaiman for Plaintiff.
Ex-parte inquiry—Plaintiff and Proctor absent.
 Later motion filed—File affidavit and move.
 (Intd.) M. C. S.,
 A.D.J.
- 7-12-51. Mr. A. H. M. Sulaiman for Plaintiff files *ex-parte* affidavit
 from the plaintiff and for the reasons stated therein moves that
 decree be entered in terms of the Order of Court made herein
 on 24-10-51.
 10 Enter decree as prayed for.
 (Intd.) M. C. S.,
 A.D.J.
- 8-4-52. Proctor for Plaintiff files decree.
 Decree entered.
 (Sgd.) L. B. DE S.,
 19-11-52.
- 13-8-52. Proctor for Plaintiff applies for execution of decree by issue of
 writ of execution against the immovable property of the estate
 of the Deceased.
 20 Allowed.
 (Intd.) M. C. S.,
 D.J.
- 22-8-52. Writ of execution issued against Defendant, Western Province
 returnable 17-8-53.
 (Intd.) S. J.
- 29-12-52. The Deputy Fiscal, Colombo reports that the immovable
 property seized under the Writ in the above case has been
 valued at Rs. 54,000/-.
 30 (Intd.) K. K.,
 29-12-52.
- 2-12-52. Deputy Fiscal, Western Province forwards claim sheet in
 respect of the property advertised for sale in this case.
 Name of Claimant A. M. Sallih through Mr. M. M. A. Rahim,
 Proctor, Supreme Court.
 Date of Sale not yet fixed.
 Pay binding fees and thereafter notice Proctors.
 (Intd.) L. B. DE S.,
 A.D.J.

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13-1-53. Mr. M. M. A. Rahim, Proctor, files appointment together with Petition and Affidavit and for reasons stated therein moves that the Petitioner be appointed the next friend of the 1st and 2nd Minor Respondents abovenamed.

2. He further moves (a) that the Fiscal Western Province be directed to stay all further Proceedings in respect of the seizure of premises No. 26 and bearing No. 238, Keyzer Street, Pettah, Colombo under the Writ issued ; (b) for a notice on the Plaintiff to show cause if any why the claim of the Claimant should not be upheld with costs. 10

Proctor also tenders binding stamps.

Vide order on motion.

Petitioner and the minor respondents present.

The Petitioner is appointed Next Friend over the Minor Respondents.

Enter Formal Order.

(Intd.) G. M. DE S.,
A.D.J.

Later Stamps to the value of Rs. 3/60 supplied.

Stay all proceedings on payment of Fiscal's charges, if any 20
Notice parties for 23-2-53.

(Intd.) G. M. DE S.,
A.D.J.

Deficiency Rs. 11/85 supplied.

(Intd.) M. V. S.

11-2-53. Notice issued on Plaintiff, Western Province.

(Intd.) S. J.

23-2-53. Mr. M. R. M. Rahim for Petitioner.

1. Formal order due.

2. Notice to stay execution, etc., reported served on Plaintiff. 30

Enquiry for 18-5-53.

(Intd.) G. M. DE S.,

Formal order on 9/3.

9-3-53. Formal order due tendered.

(Intd.) G. M. DE S.,

Deficiency of stamp duty Rs. 24/- on formal order.

(Intd.) M. V. S.

19-3-53. Proctor requested to tender deficiency.

(Intd.) G. D.

23-3-53. Proctor for Claimants tenders deficiency Rs. 24/-.
Account Stamps.

(Intd.) G. M. DE S.,
A.D.J.

15-5-53. Proctor for Claimants files list of witnesses and documents.
Proctor for Plaintiff received notice for 14-5-53.
File.

10

(Sgd.)
A.D.J.

15-5-53. Proctor for Plaintiff files list of witnesses and documents with
notice to proctor for Claimants.
File.

A.D.J.

18-5-53. *Vide Judgment Entered Claim Inquiry.*
Mr. M. M. A. Rahim for Claimants.
Mr. A. H. Sulaiman for Plaintiff.
Vide proceedings.

20

(Intd.) G. M. DE S.,
A.D.J.

17-8-53. Deputy Fiscal reports that execution was stayed on order of
Court.

(Intd.) Illegible.,
17-8-53

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15-11-50.

Mr. Adv. Charavanamuttu, for the plaintiff instructed.

Mr. Adv. Somasunderam, for the petitioners instructed.

30 Proxy of the defendant in favour of Mr. Fuard is revoked and fresh
proxy in favour of Mr. Rustomjee is filed.

Of consent, defendant to file answer on 4-12-50.

In view of this, the application to intervene is with drawn and it is
accordingly dismissed.

Stamps for Rs. 24/- being deficiency on the old proxy filed by Mr.
Fuard tendered.

(Sgd.) N. SINNETAMBY.

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Plaint in D.C. Colombo Case No. 2565/M.B.

IN THE DISTRICT COURT OF CCELOMBO

No. 2565/M.B.

Class : V.

Procedure : Regular.

Amount : Rs. 45,431/-.

Nature : Mortgage Bond.

VALLAIYAMMAI ATCHI, of 247, Sea Street, Colombo, Executrix of the Last Will, Testament and Estate of K. M. N. S. P. Natchiappa Chettiar deceased.....*Plaintiff*

vs.

10

THE SECRETARY OF THE DISTRICT COURT OF COLOMBO, as Administrator *de bonis non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.....*Defendant.*

On this 21st day of November, 1949.

The Plaintiff of the Plaintiff above-named appearing by A. H. M. Sulaiman, her Proctor, states as follows :—

1. The Plaintiff is the duly constituted Executrix of the Estate and effects of K. M. N. S. P. Natchiappa Chettiar, deceased, and probate in respect of the Estate of the said deceased issued to her in Testamentary Case No. 8802 of this Court. 20

2. The Defendant is the Secretary of the District Court, Colombo and was in the said capacity appointed Administrator *de bonis non* of the Estate and effects of the deceased Hadjie Ibrahim Bin Ahmed in Testamentary Case No. 5686 of this Court.

3. (i) By his bond or writing obligatory bearing No. 2402 of the 21st May, 1935 (herewith filed marked "A" and pleaded as part and parcel of this plaint) executed at Colombo within the jurisdiction of this Court and attested by N. M. Zaheed, Notary Public, one Ahmed Bin Ibrahim, as the executor of the Last Will and Testament of Hadjie Ibrahim Bin Ahmed, deceased (which said Last Will and Testament was admitted to Probate in Testamentary Case No. 5686 of this Court) with the leave of Court granted to him in the said Testamentary case on the 10th April, 1935 became held and firmly bound unto the said K.M.N.S.P. Natchiappa Chettiar in the sum of Rs. 30,000/- lent and advanced to him the said Ahmed Bin Ibrahim as Executor as aforesaid.

(ii) The said Ahmed Bin Ibrahim as Executor as aforesaid, after reciting that he had bond himself and his successors in office to repay the

said sum of Rs. 30,000/- to the said K.M.N.S.P. Natchiappa Chettiar, his heirs, executors, administrators and assigns on demand and until such repayment to pay interest on the said sum of Rs. 30,000/- at or after the rate of 12 per cent. per annum payable monthly on the 15th day of each and every month, as security for the payment of the aforesaid principal and interest in and by the said bond and with the leave of the Court granted as aforesaid, specially mortgaged and hypothecated with the said obligee and his afore-written as a first or primary mortgage the several lands and premises with the buildings standing thereon and in the schedule thereto fully described.

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4. The said Ahmed Bin Ibrahim as Executor as aforesaid paid to the said K.M.N.S.P. Natchiappa Chettiar a sum of Rs. 5,000/- on account of the principal due and secured by the said bond and the said K.M.N.S.P. Natchiappa Chettiar at the request of the said Ahmed Bin Ibrahim, as such Executor and in consideration of the said payment released the two lands and premises with the buildings standing thereon described in paragraphs 3 and 4 of the schedule to the said bond. The said Ahmed Bin Ibrahim as Executor aforesaid paid a further sum of Rs. 1,477/03 to the said Natchiappa Chettiar.

20 5. The aforesaid Ahmed Bin Ibrahim died on or about the 5th November, 1940 without having fully administered the Estate of the aforementioned Hadjie Ibrahim Bin Ahmed and the defendant was accordingly appointed Administrator *de bonis non* of the said Estate as averred in paragraph 2.

6. There is now due and owing to the Plaintiff under and respect of the said bond the sum of Rs. 45,431/- to wit Rs. 25,522/97 being balance principal and Rs. 21,908/03 being interest thereon at 8 per cent. per annum (which rate of interest the said Natchiappa Chettiar had agreed to accept if the said monthly interest was paid regularly) from 1st April, 1938 to date hereof, and all times have elapsed and all conditions have been fulfilled to entitle the plaintiff to sue the defendant for the recovery thereof.

Wherefore the plaintiff prays for judgment against the defendant as Administrator *de bonis non* as aforesaid as follows :—

40 (1) that the Defendant as Administrator as aforesaid be ordered and decreed to pay to the Plaintiff for with the said sum of Rs. 45,431/- together with interest on Rs. 23,522/97 at the rate of 8 per cent per annum from 22 and November, 1949 up to date of decree and thereafter on the aggregate amount of the decree at 5 per centum per annum till payment in full and costs of suit on some day to be named by Court ;

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- (2) that the said mortgaged premises described in paragraphs 1 and 2 to the schedule hereto together with all and singular the rights, privileges, servitudes and appurtenances whatsoever thereunto belonging and all the estate eight tile interest claim and demand whatsoever of the said Hadjie Ibrahim Bin Ahmed and of the Defendant as Administrator as aforesaid be declared bound and executable for the payment of the said sum of Rs. 45,431/- together with further interest as aforesaid and the costs of suit on the footing of the Mortgage Bond No. 2402 dated 21st May, 1935 and attested by N. M. Zaheed, Notary Public. 10
- (3) that in default of payment of the said sum of Rs. 45,431/- and interest and costs of suit within the period aforesaid the said premises declared bound and executable as aforesaid be sold by R. C. McHeyzer, Licensed Auctioneer, by public auction after such advertisement as he may consider sufficient upon the annexed conditions of sale or such other conditions of sale as may be prescribed by Court the said Auctioneer being directed and bid for and purchase the said premises at such sale and authorised to allow the Plaintiff or any one else on her behalf to bid for and purchase the said premises at such sale and do so upon such special terms as the Court may impose. If the Court imposes any, and in the event of the Plaintiff becoming the purchaser thereof to allow the Plaintiff's credit to the extent of her claim and costs ; 20
- (4) that the Secretary of this Court do execute the necessary conveyance in due form of law in favour of law in favour of the purchaser or purchasers at such sale on his or their complying with the conditions of sale and on being satisfied if the purchaser be the plaintiff that she had been allowed credit and in the event of the purchaser or purchasers being a third party or parties that the purchase amount has been deposited in Court ; 30
- (5) that the proceeds of such sale be applied in and towards the payment of the said sum of Rs. 45,431/- and interest and costs of suit ;
- (6) that if the proceeds of such sale shall not be sufficient for the payment in full of such amount the Defendant as Administrator as aforesaid be ordered to pay to the Plaintiff the amount of the deficiency with legal interest thereon until realization and that for that purpose all proper directions be given and account taken by the Court ; and
- (7) for such other and further relief in the premises as to this Court shall seem meet. 40

(Sgd.) A. H. M. SULAIMAN,
Proctor for Plaintiff.

Settled by :
 J. R. V. FERDINANDS,
Advocate.

THE SCHEDULE REFERRED TO

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1. All that ground and boutique No. 15 situated at Kayman's Gate in the Pettah of Colombo within the Municipality and District of Colombo, Western Province and the back room No. 1 also situated at Kayman's Gate aforesaid which now form one property bearing new Assessment No. 339, Main Street in the Pettah aforesaid and bounded on the North by the yard of Dr. J. B. Misso, on the East by the boutique bearing Assessment No. 16 of Mrs. R. Kelaart on the South by the Kayman's Gate Junction Road and on that West by boutique bearing Assessment No. 14 containing in
 10 extent one perch and 84/100 of a perch (A0-R0-P1,84/100) as per figure of survey dated 5th October, 1889 made by C. Schwellie, Surveyor.

2. All that ground and boutique No. 11 situated at Kayman's Gate presently bearing new assessment No. 2, St. John's Road and No. 331, Main Street in the Pettah of Colombo within the Municipality and District of Colombo, Western Province bounded on the North by the boutique bearing Assessment No. 1, on the East by the boutique bearing assessment No. 12, on South by the Kayman's Gate Junction Road and on the West by the Government reservation containing in extent 84/100 of perch (A0-R0-P0,84/100) as per figure of survey dated 5th October, 1889 made
 20 by C. Schwellie, Surveyor.

3. All that house and ground bearing Assessment No. 434, A/5 presently bearing new Assessment No. 11 situated at Maliban Street in the Pettah within the Municipality and District of Colombo, Western Province and bounded on the North by the properties of Mitcho but now by the property bearing Assessment Nos. 22 and 23 belonging to Mr. Rode on the East by the house and ground bearing Assessment No. 6, Maliban Street, on the South by Land Street now known as Maliban Street and on the West by the property of Lucia Fernando but now by property bearing Assessment No. 4, Maliban Street belonging to C. M. Bappu containing in
 30 extent three square perches and seventy eight one hundredths of a square perch : (A0-R0-P3,78/100) according to the survey plan thereof No. 279 dated the 17th July, 1908 made by G. P. Weeraratne, Licensed Surveyor.

4. All that house and ground bearing Assessment No. 438/10 presently bearing new Assessment No. 23 situated at Maliban Street in the Pettah within the Municipality and District of Colombo, Western Province and bounded on the North by the house of Baba Appu, on the East by the house of Julian Silva, on the South by Maliban Street and on the West by house of Louisa Perera containing in extent two decimal five square perches (A0-R0-P2.55) according to the figure of survey dated the
 40 13th day of July, 1830 authenticated by Captain G. Schneider, Surveyor General.

(Sgd.) A. H. M. SULAIMAN,
Proctor for Plaintiff.

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Documents filed with the Plaintiff :

1. Bond marked " A " and referred to in the plaint.
2. Conditions of sale marked " B "

(Sgd.) A. H. M. SULAIMAN,
Proctor for Plaintiff.

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 30-1-50.

Proxy filed in D.C. Colombo Case No. 2565/M.B.

KNOW ALL MEN BY THESE PRESENTS THAT I, C. F. A. Palliyaguru, Secretary, District Court of Colombo, Official Administrator in D.C. Testamentary Case No. 5686/T have nominated, constituted and appointed and do hereby nominate, constitute and appoint Assena Marikar Mohamed Fuard, Proctor of the Honourable the Supreme Court of the Island of Ceylon to be my true and lawful Proctor and for me and in my name and my behalf before the District Court of Colombo to appear and this proxy to exhibit and by virtue hereof to file answer if necessary and plead and defend Action No. 2565 M.B., D.C. Colombo after consulting the heir of the Estate.

And draw, receive and take all moneys that may be deposited, paid or recovered in this suit for and in respect of my claim and costs and without notice to me to move for and obtain in his name any order or orders from the said Court for the payment of any sum or sums of money that may be so recovered, paid or deposited therein and to give all necessary receipts, releases and discharges therefor. And if need be to refer the said claim and all or any matters in respect of the action instituted by virtue of those proceedings to the award and decision of arbitrators and to name an arbitrator or arbitrators for that purpose and to sign any motion, application, submission or bond for the purpose of the arbitration and to appear before the arbitrators and to take all steps in respect of any award on such submission or reference as the said Proctor shall seem necessary and generally and otherwise to take and use all such lawful ways and means and to do and perform such acts, matters and things as may be needful and necessary in or about the premises as my said Proctor, his substitute or substitutes may consider necessary towards procuring, carrying into execution any Judgment or order definitive sentence or final decree to be made and interposed herein and from any judgment or order, decree interlocutory or final of the said Court to appeal and for every bond or recognizance whatsoever necessary or needful in the course of proceeding for the prosecution of such appeal or for appearance or for the performance of any order, judgment of the said Court for and in my name and as my act and deed to sign and deliver and to appoint if necessary one or more substitute or substitutes or Advocate or Advocates both in the District Court and in the Supreme Court again at pleasure to

revoke such appointment and appoint anew. And also if the said Proctor shall see cause the said action or suit to discontinue, compromise, settle or refer to arbitration and every such compromise, settlement or reference in my name and behalf settle, sign and make a rule of Court and I hereby promise and agree to release all kinds of irregularities and to ratify, allow and confirm all and whatsoever the said Proctor, his substitute or substitutes or the said Advocate or Advocates shall do herein.

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—continued.

IN WITNESS whereof I have hereunto set my hand at Colombo on this 30th day of January, 1950.

10 The address of the said Proctor for Service of process under the provisions of the Civil Procedure Code is at No. 130, Hultsdorf Street, Colombo.

(Sgd.) C. F. A. PALLIYAGURU.

“ True Copy ” of Proxy dated 30-1-50 filed of record in D.C. Colombo Case No. 2565/M.B.

(Sgd.) Illegible.,
Assistant Secretary,
District Court, Colombo.

20 Certified this 29th day of April, 1954.

2D25

Petition of the Petitioners in D. C. Colombo Case No. 2565/M.B.

IN THE DISTRICT COURT OF COLOMBO

VALLAIYAMMAI ATCHI, of 27, Sea Street, Colombo.....*Plaintiff.*

vs.

THE SECRETARY OF THE DISTRICT COURT COLOMBO.....*Defendant.*

AND

- 1. AHMED BIN HASSEN, of Aroonia Estate, 209, Nawala in Rajagiriya.
- 2. MOHAMED BIN HASSEN, of Station Road, Wellawatte.....*Petitioners.*

30

vs.

- 1. VALLAIYAMMAI ATCHI, of 247, Sea Street,

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Petition of
the Petitioners in
D.C. Colombo Case
No. 2565/
M.B.
21-8-50.

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Petition of
the Peti-
tioners in
D.C. Col-
ombo Case
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2. SECRETARY, DISTRICT COURT, COLOMBO.....*Respondents.*

On this 21st day of August, 1950.

The Petition of the Petitioners above-named appearing by F. Rustomjee, their Proctor, states as follows :—

1. In this action the 1st Respondent sued the 2nd Respondent for the recovery of certain sums alleged to be due on Mortgage Bond No. 2402 and for a hypothecary decree over properties 1 and 2 in the schedule to the plaint.

2. Properties 1 and 2 in the schedule were specific devises to the 2nd and 1st petitioner respectively under Will and Codicils duly proved and 10 admitted to probate in Testamentary proceedings No. 5686 of this Court.

3. The 1st Petitioner and 2nd Petitioner are owners of properties described under items 2 and 1 respectively of the schedule to the plaint. The petitioners have full interest in the said properties. The said properties should not have been mortgaged by the executor in the said Testamentary proceedings. The petitioners state and plead the alleged order sanctioning mortgage of the properties by Court was made :—

(a) per incuriam

(b) without jurisdiction

(c) contrary to directions contained in the deceased's Codicils No. 20 1509 and that the said order is bad and of no effect in law.

4. The petitions set out their case in detail in their petition dated 26th October, 1944 and their affidavit filed in the said Testamentary proceedings on 20th October, 1944. The petitioners file herewith certified copy of the said petition dated 26th October, 1944 marked " A " and the corresponding and relevant journal entry of the 30th October, 1944 marked " B " and pleads these as part and parcel of this petition. The reliefs prayed in the said petition have not been adjudicated upon and the matter is still pending before Court.

5. The defendant in this case is the Secretary of this Court. The 30 plaintiff in this case sought to have the Secretary appointed administrator *de bonis non*. The Proctor for the defendant in this case (Mr. A. M. Fuard) was for (plaintiff's) Proctor in the Testamentary proceedings. The petitioners file herewith marked " C " and " D " Petition and Affidavit of the plaintiff appearing by her Proctor Mr. A. M. M. Fuard. The Petitioners state that Mr. Fuard is the said Proctor in this case and that the Proctor on record is nominally her Proctor. Mr. Fuard attends to this case for the plaintiff. The petitioners respectively submit that it is neither fair nor proper for Mr. Fuard to act as Proctor for Defendant.

6. The Secretary, the Defendant, in this case represents the estate and in this action the petitioners' interest only are involved. Orders in this case adverse to the defendant affect the petitioners adversely and will cause them irreparable loss and damage. In the Testamentary proceedings the 1st petitioner was asked to collaborate with the secretary in this action. It is necessary that the Secretary should collaborate with these petitioners and safeguard this interest ; it is necessary that these petitioners should be added as parties to this action and be allowed to defend this action.

2D25
Petition of
the Petitioners in
D.C. Colombo Case
No. 2565/
M.B.
21-8-50.
—continued.

7. The alleged case of action of the plaintiff as stated in the plaint and in point of fact is prescribed ; the plaint has not shown the ground upon which exemption from prescription is claimed. The Petitioners respectfully submit that this plaint should have been rejected and now move that the plaint be rejected particularly in view of the provisions in Section 44 and Section 46 of the Civil Procedure Code.

Wherefore the petitioners pray :—

- (a) that the petitioners be added as parties to this action and be allowed to defend this action.
- (b) that the defendant be ordered to defend this action and to revoke the proxy granted by him to his present Proctor.
- (c) that the plaint be rejected.
- (d) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) F. RUSTOMJEE.,
Proctor for Petitioners.

2D26

Statement of Objections of 1st Plaintiff in D.C. Colombo

Case No. 2565/M.B.

IN THE DISTRICT COURT OF COLOMBO

VALLAIYAMMAI ATCHI, of 247, Sea Street, Colombo.....*Plaintiff.*

No. 2565/M.B.

vs.

THE SECRETARY OF THE DISTRICT COURT OF COLOMBO*Defendant.*

vs.

1. AHMED BIN HASSAN, of Aronica Estate, 209, Nawala in Rajagiriya.

2D26
Statement of
Objections of
1st Plaintiff
in D.C. Colombo Case
No. 2565/
M.B.
2-10-50.

2D26
Statement of
Objections of
1st Plaintiff
in D.C. Col-
ombo Case
No. 2565/
M.B.
2-10-50.
—continued.

2. MOHAMED BIN HASSAN, of Station Road, Wellawatte.....*Petitioners.*

vs.

1. VALLAIYAMMAI ATCHI, of 247, Sea Street, Colombo.

2. SECRETARY, DISTRICT COURT, COLOMBO.....*Respondents.*

On this 2nd day of October, 1950.

The statement of objections of the 1st plaintiff respondent above-named appearing by A. H. M. Sulaiman her Proctor states as follows :—

1. That the plaintiff respondent filed this action for the recovery of moneys due to her on a mortgage bond marked “ A ” executed by A. Bin Ibrahim, Executor in D.C. Testamentary Case No. 5686 of this Court. 10

2. That the defendant respondent has been appointed administrator *de bonis non* in the aforesaid Testamentary Case.

3. That the rights of the petitioners if any are confined to the aforesaid Testamentary Case and they have no status or right to be added in this case.

4. That the petitioners are not necessary parties and are not persons entitled to notice under the mortgage Act No. 6 of 1949.

5. That under the mortgage Act No. 6 of 1949 the petitioners are not entitled to be added as parties wherefore the plaintiff-respondent prays that the petitioners’ application to be added as parties be dismissed with 20 cost and for such other and further relief as to this Court shall seem meet.

(Sgd.) A. H. M. SULAIMAN.,
Proctor for Plaintiff-Respondent.

2D27

2D27
Proceedings
of 15-11-50
in D.C. Col-
ombo Case
No. 2565/
M.B.
15-11-50.

Proceedings of 15-11-50 in D.C. Colombo Case No. 2565/M.B.

D.C. 2565/M.B.

15-11-50.

Mr. Advocate Charavanamuttu, for the plaintiff instructed.

Mr. Advocate Somasunderam, for the petitioners instructed.

Proxy of the defendant in favour of Mr. Fuard is revoked and fresh 30 proxy in favour of Mr. Rustomjee is filed.

Of consent, defendant to file answer on 4-12-50. In view of this the application to intervene is withdrawn and it is accordingly dismissed. Stamps for Rs. 24/- being deficiency on the old proxy filed by Mr. Fuard tendered.

(Sgd.) N. SINNETAMBY.,
A.D.J.

Answer of the Defendant in D. C. Colombo Case No. 2565/M.B.

IN THE DISTRICT COURT OF COLOMBO

VALLAIYAMMAI ATCHI, of 247, Sea Street, Colombo, Executrix of the Last Will and Testament and Estate of K.M. N. S.P. Natchiappa Chettiar.
.....*Plaintiff.*

2565/M.B.

vs.

THE SECRETARY OF THE DISTRICT COURT OF COLOMBO as Administrator *de bonis non* of the Estate and effects of Hadjie Ibrahim Bin Ahmed
10 Deceased.....*Defendant.*

On this 4th day of December, 1950.

The answer of the defendant above-named appearing by Framroz Rustomjee, his Proctor states as follows :—

1. The Defendant admits the averments in paragraph 1 and 2 of the
plaint.

2. Answering paragraphs 3, 4 and 6 of the plaintiff the defendant denies the averments contained therein and pleads that the order obtained by the Executor from Court on the 10th of April, 1935 authorising the Executor to execute the mortgage Bond No. 2402 of the 21st May, 1935
20 is bad and has no effect in Law since the said order was made :—

- (a) per incuriam.
- (b) without jurisdiction
- (c) contrary to the directions contained in the deceased's Codicil No. 1509 the defendant further states that the said order was obtained by the executor by the supression of certain facts which ought to have been brought to the notice of Court. The defendant pleads that the said Bond No. 2402 of the 21st May, 1935 in unenforceable in law. The defendant denies that Rs. 45,431/- or any sum whatsoever is due to the plaintiff on the said Bond.

30 3. (a) That cause of action pleaded in the plaintiff is prescribed on the averments in the plaintiff. The plaintiff has not set out grounds on which exemption from prescription is claimed in terms of action 34 of the Civil Procedure Code the defendant states that the plaintiff should have been rejected and that it should be rejected now.

- (b) that the claim if any of the plaintiff is prescribed.
- (c) that in any event the present plaintiff is not entitled to maintain and enforce this action.

2D28
Answer of
the Defen-
dant in D.C.
Colombo
Case No.
2565/M.B.
4-12-50.
—continued.

Wherefore the defendant prays :—

- (a) that the plaint be rejected with costs or that the plaintiff's action be dismissed with costs.
- (b) for such other and further relief as to this Court seem meet.

(Sgd.) F. RUSTOMJEE.,
Proctor for Defendant.

I do hereby certify that the foregoing is a true copy of petition dated 21-8-1950. Statement of objections dated 2nd. October, 1950. Proceedings dated 15th November, 1950. Answer dated 4-12-50 filed of record in D.C. Colombo Case No. 2565/M.B.

(Sgd.) Illegible. 10

*Assistant Secretary,
District Court, Colombo.*

Certified this 22nd day of May, 1954.

P12
Proceedings
of 24th
October, 1951
in D.C. Col-
ombo Case
No. 2565/
M.B.
24-10-51.

P12

**Proceedings of 24th October, 1951 in D.C. Colombo Case
No. 2565/M.B.**

D.C. 2565/M.B.
24-10-51.

20

Mr. Advocate Kadirgamar, for plaintiff instructed.

Mr. F. Rustomjee, for defendant.

Mr. Advocate Kandiah, for the petitioners instructed.

Mr. Rustomjee says that he is not appearing for the defendant today.

As between the plaintiff and the two petitioners it is agreed that the properties described 1 and 2 in the plaint be released from the mortgage bond. They are the same properties 1 and 2 in the schedule to the mortgage bond. They bear Nos. 15, Kayman's Gate, now bearing No. 339, Main Street and the 2nd No. 11, Kayman's Gate now bearing No. 2, 30 St. John's Road and No. 311, Main Street, Pettah. No hypothecary decree will be entered in respect of these properties and in no event will the plaintiff go against these two properties for execution of the decree.

The petitioners have no objection to decree being entered against the defendant on the plaintiff satisfying the Court as to the amount due subject to the reservation already made.

There will be no costs as between the plaintiff and the petitioners. Plaintiff also undertakes not to ask for costs against the defendant. *Ex-parte* inquiry on 26th November, 1951.

(Sgd.) M. C. SANSONI.,
A.D.J.

P12
Proceedings
of 24th
October, 1951
in D.C. Col-
ombo Case
No. 2565/
M.B.
24-10-51.
—*continued.*

P13

Motion filed in D.C. Colombo Case No. 2565/M.B.

IN THE DISTRICT COURT OF COLOMBO

P13
Motion filed
in D.C.
Colombo
Case No.
2565/M.B.
26-11-51.

VALLAIYAMMAI ATCHI, of 247, Sea Street, Colombo, Executrix of the Last
10 Will and Testament of K. M. N. S. P. Natchiappa Chettiar—deceased.
.....*Plaintiff.*

vs.

THE SECRETARY, DISTRICT COURT, COLOMBO, as Administrator, *de bonis*
non of the Estate and Effects of Hadjie Ibrahim Bin Ahmed deceased,
.....*Defendant.*

As the *ex-parte* affidavit which was sent to India to be affirmed by
the plaintiff, who is presently there, has not been returned yet I move that
the Court be pleased to give me time till 10th December, 1951 to file the
said *ex-parte* affidavit.

20 Colombo 26th November, 1951.

(Sgd.) A. H. M. SULAIMAN.,
Proctor for Plaintiff.

P15

Affidavit of Vallaiyammai Atchi filed in D.C. Colombo Case

No. 2565/M.B.

IN THE DISTRICT COURT OF COLOMBO

P15
Affidavit of
Valliyam-
mai Atchi
filed in D.C.
Colombo
Case No.
2565/M.B.
28-11-51.

VALLAIYAMMAI ATCHI, of No. 247, Sea Street, Colombo, Executrix of the
Last Will Testament and Estate of K.M. N. S.P. Natchiappa Chettiar,
deceased.....*Plaintiff.*

30 No. 2565/M.B.

vs.

P15
Affidavit of
Vallaiyam-
mai Atchi
filed in D.C.
Colombo
Case No.
2565/M.B.
28-11-51.
--continued.

THE SECRETARY OF THE DISTRICT COURT OF COLOMBO, as Administrator
de bonis non of the Estate and Effects of Hadjie Ibrahim Bin Ahmed
deceased.....*Defendant.*

I, Vallaiyammai Atchi of Colombo presently in India, being a Hindu
do hereby solemnly, sincerely and truly declare and affirm as follows :—

1. That I am the Plaintiff above-named and the duly constituted
Executrix of the Estate and Effects of K.M.N.S.P. Natchiappa Chettiar,
deceased, and probate in respect of the Estate of the said deceased issued
to me in Testamentary Case No. 8802 of this Court.

2. The Defendant is the Secretary of the District Court of Colombo 10
and was in the said capacity appointed Administrator *de bonis non* of the
Estate and Effects of the deceased, Hadjie Ibrahim Bin Ahmed in Testa-
mentary Case No. 5686 of the Court.

3. (1) By his Bond or writing obligatory bearing No. 2402 of the 21st
May, 1935 filed in these proceedings marked " A " executed at Colombo
within the jurisdiction of this Court and attested by N. M. Zaheed of
Colombo, Notary Public, one Ahmed Bin Ibrahim as the Executor of the
Last Will and Testament of Hadjie Ibrahim Bin Ahmed, deceased (which
said Last Will and Testament was admitted to Probate in Testamentary
Case No. 5686 of this Court) with the leave of Court granted to him in the 20
said Testamentary case on the 10th April, 1935, became held and firmly
bound unto the said K. M. N. S. P. Natchiappa Chettiar in the sum of
Rs. 30,000/- lent and advanced to him the said Ahmed Bin Ibrahim as
Executor as aforesaid.

(ii) The said Ahmed Bin Ibrahim as Executor as aforesaid after
reciting that he had bound himself and his successors in office to repay the
said sum of Rs. 30,000/- to the said K.M.N.S.P. Natchiappa Chettiar, his
heirs, executors, administrators and assigns on demand and until such
repayment to pay interest on the said sum of Rs. 30,000/- at or after the
rate of 12 per cent per annum payable monthly on the 15th day of each 30
and every month, as security for the payment of the aforesaid principal
and interest in and by the said Bond and with the leave of the Court
granted as aforesaid specially mortgaged and hypothecated with the said
obligee and his afore-written as a first or primary mortgage the several
lands and premises with the buildings standing thereon and in the schedule
thereto fully described.

4. That the said Ahmed Bin Ibrahim as Executor as aforesaid
paid to the said K.M.N.S.P. Natchiappa Chettiar a sum of Rs. 5,000/- on
account of the principal due and secured by the said Bond and the said
K.M.N.S.P. Natchiappa Chettiar at the request of the said Ahmed Bin 40
Ibrahim as such Executor and in consideration of the said payment
released the two lands and premises with the buildings standing thereon
described in paragraphs 3 and 4 of the schedule.

5. That the aforesaid Ahmed Bin Ibrahim died on or about the 5th November, 1940 without having fully administered the Estate of the aforesaid Hadjie Ibrahim Bin Ahmed and the Defendant was accordingly appointed Administrator *de bonis non* of the said Estate as averred in paragraph 2.

P15
Affidavit of
Valliyammai Atchi
filed in D.C.
Colombo
Case No.
2505/M.B.
28-11-51.

6. That there is now due and owing to the Plaintiff under and in respect of the said Bond the sum of Rs. 49,220/80 to wit Rs. 23,522/97 being balance principal and Rs. 25,697/83 being interest thereon at 8 per cent per annum which rate of interest the said Natchiappa Chettiar had agreed to accept if the said monthly interest was paid regularly from 1st April, 1938 to date hereof.

—continued.

The foregoing affidavit having been read and explained to the affirmant in Tamil and she appearing to understand the contents thereof the same was signed and affirmed to at Karaikudi Ramnad District on this 28th day of November, 1951.

(Sgd.) in Tamil characters,
Valliyammai Atchi

Before me,
(Sgd.) O. V. ZACHARIAH,
28-11-51.

20

P14

Decree in D.C. Colombo Case No. 2565/M.B.

IN THE DISTRICT COURT OF COLOMBO

P14
Decree in
D.C. Col-
ombo Case
No. 2565/
M.B.
7-12-51.

VALLIYAMMAI ATCHI, of No. 247, Sea Street, Colombo, Executrix of the Last Will and Testament and Estate of K.M. N. S.P. Natchiappa Chettiar, deceased.....*Plaintiff*.

No. 2565/M.B. vs.

THE SECRETARY, DISTRICT COURT OF COLOMBO, as Administrator *de bonis non* of the Estate and Effects of Hadjie Ibrahim Bin Ahmed, deceased.....*Defendant*.

- 1. AHMED BIN HASSEN, of 'Aroonia Estate,' 209, Nawala in Rajagiriya.
- 2. MOHAMED BIN HASSEN, of Station Road, Wellawatte.....*Petitioners*.

This action coming on for disposal before M. C. Sansoni, Esquire., Additional District Judge, Colombo, on the 24th day of October, 1951, in the presence of Mr. Advocate Kadirgamar instructed by Mr. A. H. M. Sulaiman, Proctor on the part of the Plaintiff. The defendant not appearing in person or by Proctor and Mr. Advocate V. Kandiah instructed by Mr. F.

30

P14
Decree in
D.C. Col-
ombo Case
No. 2565/
M.B.
7-12-51.
—continued.

Rustomjee, Proctor on the part of the Petitioners, it is agreed that the properties described as 1 and 2 in the plaint be released from the Mortgage Bond No. 2402 dated 21st May, 1935. It is also agreed that no hypothecary decree will be entered in respect of these two properties, and in no event will the plaintiff go against these two properties for execution of the decree in this case.

It is also agreed that the petitioners have no objection to decree being entered against the defendant on the plaintiff satisfying the Court as to the amount due, subject to the reservation already made. It is also agreed that there will be no costs as between the plaintiff and the petitioners. 10
Plaintiff also undertakes not to ask for costs against the defendant.

The action coming on for final disposal before M. C. Sansoni Esquire, Additional District Judge, on the 7th day of December 1951, in the presence of Mr. A. H. M. Sulaiman, Proctor on the part of the plaintiff and the defendant not appearing in person or by proctor and the plaintiff having filed *ex-parte* affidavit it is ordered and decreed that the defendant do pay to the plaintiff the sum of Rs. 45,431/- together with interest on Rs. 23,522/97 at the rate of 8 per centum per annum from 22nd November, 1949 to date hereof and hereafter on the aggregate amount of the decree at 5 per centum per annum till payment in full. 20

It is further ordered and decreed that in consideration of the payment already made the two lands and premises with the buildings standing thereon described in paragraphs 3 and 4 of the Schedule hereto be released.

THE SCHEDULE ABOVE REFERRED TO :

1. All that ground and boutique No. 15 situated at Kayman's Gate in the Pettah of Colombo within the Municipality and District of Colombo Western Province and the back room No. 1 also situate at Kayman's Gate aforesaid which now from one property bearing new assessment No. 339, Main Street aforesaid.

2. All that ground and boutique No. 11, Kayman's Gate presently 30 bearing Assessment No. 2, St. John's Road and No. 331, Main Street aforesaid.

3. All that house and ground bearing Assessment No. 434/A/5 presently bearing Assessment No. 11, Maliban Street aforesaid.

4. All that house and ground bearing Assessment No. 438/10, presently bearing new Assessment No. 23, Maliban Street aforesaid.

(Sgd.) L. B. DE SILVA.,
A.D.J.

The 7th day of December, 1951.

Drawn by :
Proctor for Plaintiff.

(Sgd.) A. H. M. SULAIMAN.,
Proctor & Notary.

IN THE DISTRICT COURT OF COLOMBO

VALLAIYAMMAI ATCHI, of No. 247, Sea Street, Colombo, Executrix of the Last Will and Testament and Estate of K.M. N. S.P. Natchiappa Chettiar, deceased.....*Plaintiff.*

P14
Decree in
D.C. Col-
ombo Case
No. 2565/
M.B.
7-12-51.
—continued.

vs.

THE SECRETARY, DISTRICT COURT OF COLOMBO, as Administrator *de bonis non* of the Estate and Effects of Hadjie Bin Ibrahim Bin Ahmed deceased.....*Defendant.*

1. AHMED BIN HASSEN, of 'Aroonia Estate,' 209, Nawala in Rajagiriya.
102. MOHAMED BIN HASSEN, of Station Road, Wellawatte.....*Petitioners.*

To :

THE FISCAL OF THE WESTERN PROVINCE.

Levy and make of the houses, lands, goods, debts and credits of the above-named defendant by seizure, and, if necessary, by sale thereof the sum of Rs. 45,431/- with interest on Rs. 23,522/97 at 8 per cent per annum from 22-11-1949 to date of decree and thereafter on the aggregate amount of the decree at 5 per cent per annum till payment in full, which the said Plaintiff has recovered against the said defendant by a judgment of this Court bearing date the 7th day of December, 1951, and have that money before this Court on or before the 17th day of August, 1953, to render to the said plaintiff and inform this Court for what sum or sums, and to what person or persons you have sold the said property respectively; and have you there this mandate.

By Order of Court,
(Sgd.) S. JEGAPATHY.,
Clerk of the Court.

This 22nd day of August, 1952.

I do hereby certify that the foregoing is a
"True Copy" of Journal Entries Pro-
ceedings dated 15-11-1950 and 24-10-1951
Decree and Writ in D.C. Colombo Case
No. 2565/Mortgage Bond.

(Sgd.) Illegible.

*Assistant Secretary,
District Court, Colombo.*

Certified this 29th day of April, 1954.