

GL 162

6, 1962

No. 49 1960

Supreme Court of Ceylon  
No. 515 (Final) of 1955.

District Court, Point Pedro  
No. 4323.

UNIVERSITY OF LONDON  
INSTITUTE OF ADVANCED  
LEGAL STUDIES  
29 MAR 1963  
25 RUSSELL SQUARE  
LONDON, W.C.1.

IN HER MAJESTY'S PRIVY COUNCIL  
ON AN APPEAL FROM  
THE SUPREME COURT OF CEYLON 68130

BETWEEN

VEERAGATHIPILLAI RAJARATNAM of Thondamannar .. *Deceased Plaintiff-Appellant.*

RAJARATNAM SIVAKUMARAN of Thondamannar, Executor  
of the Estate of VEERAGATHIPILLAI RAJARATNAM .. *Substituted Plaintiff-Appellant.*

AND

VEERAGATHIPILLAI RAJASEGARAM of Thondamannar .. *Defendant-Respondent.*

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RECORD  
OF  
PROCEEDINGS

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No. 1.  
Journal Entries

No. 1  
Journal Entries  
28.7.52 to  
26.3.59

IN THE DISTRICT COURT OF POINT PEDRO

V. Rajaratnam of Tondamannar (Dead).  
No. 4323. Rajaratnam Sivakumaran of Tondamannar  
Amount : Rs. 600,000/- duly appointed legal representative.....  
Nature : Money. ....Plaintiff.  
vs.  
V. Rajasegaram of Tondamannar.. Defendant.

10

JOURNAL

The 28th day of July, 1952. Mr. S. Nagalingamudaly, Proctor, files appointment and plaint together with Statement of Accounts and moves that the same be accepted and summons be ordered to issue on the defendant.

Plaint accepted and summons ordered for 22.8.52.

(Sgd.) A. W. NADARAJAH,  
District Judge.

6.8.52.

Summons issued on defendant with Precept returnable the 20 20th day of August, 1952, through Fiscal Marshal, Pt. Pedro.

12.8.52.

Return to summons filed.

22.8.52.

Mr. S. Nagalingamudaly, proctor for plaintiff. Summons served on Defendant.

He is absent.

Mr. Ratnasingham files Proxy of the defendant and moves for 6 weeks to file answer of the defendant.

Mr. Nagalingamudaly has no objection for 6 weeks' time being 30 granted for filing of answer.

Answer on 3.10.

(Intld.) A. W. N.,  
D.J.  
22.8.

3.10.52.

Mr. S. Nagalingamudaly, proctor for plaintiff. Mr. K. Ratnasingham proctor for defendant. Present.

Answer due. Filed.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

Mr. Nagalingamudaly moves for a date to file replication.  
Replication if any on 31.10.

(Intld.) A. W. N.,  
D. J.  
3.10.

21.10.52.

Mr. K. Ratnasingham, proctor for defendant, files amended answer in the above case and moves that the same be accepted and further states that a copy of the amended answer has been sent by registered post to the Proctor for plaintiff. 10

Proctor for defendant to specify proper amendments first and then move Court with notice to other parties. (Section 93 of the Civil Procedure Code.)

(Intld.) A. W. N.,  
D. J.  
23.10.

31.10.52.

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

(1) Replication due. Filed. 20

(2) With reference to the Journal Entry dated 21.10.52, and the order made thereon, Mr. K. Ratnasingham, proctor for defendant, begs to submit that the amendment affects many of the paragraphs of the answer filed and as they cannot be conveniently set out separately, he has filed a fresh answer as altered (or found to as amended answer) and moves that this matter may be considered on 31.10.52 when the case is to be called.

For compliance with order of 21.10. 52 first by proctor for defendant for 14.11.

Consideration of amendments to answer thereafter. 30

(Intld.) A. W. N.,  
D. J.  
3.10.

14.11.52.

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

Case called—*Vide* Journal Entry of 31.10.52—Mr. Ratnasingham files amendment in the answer as per Journal Entry of 21.10.52.

Filed.

Consideration for 20.11.

(Intld.) A. W. N., 40  
D. J.  
14.11.

20.11.52. Consideration (1).

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

*Vide* Proceedings.

Proceedings

filed 20.11.52.

Consideration 5.12 for fresh motion to amend answer.

(Intld.) A. W. N.,

*D. J.*

20.11.

10

5.12.52.

Fresh motion to amend answer filed.

Consideration for 15.1.53.

(Intld.) A. W. N.,

*D. J.*

5.12.

10.1.53.

Mr. K. Ratnasingham, proctor for defendant, states that he is unable to be present in Court on 15.1.53 on personal grounds and moves with the consent of the proctor for plaintiff that the Court be pleased to refix the consideration in the above case.

Application allowed.

Mention on 15.1 to refix matter.

(Intld.) A. W. N.,

*D. J.*

10.1.

15.1.53. *Consideration* (2).

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

30 Consideration re-fixed for 23.1.

(Intld.) A. W. N.,

*D.J.*

15.1.

23.1.53. *Consideration* (3).

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

*Vide* Proceedings call on 29.1 for amended para 15 (*d*) of answer sought to be amended.

(Intld.) A. W. N.

23.1.

40

29.1.53.

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

Amended para of para 15(d) of amended answer due. Filed.

Mr. K. Ratnasingham, proctor for defendant, moves to amend para 15(d) as follows:—"That at all relevent times after the death of the said Veeragathipillai in 1933, his widow Walliammai mother of the parties lived with the defendant and was maintained by the defendant from 1933, till her death in 1946, when such maintenance was the responsibility of the plaintiff as much as the plaintiff was enjoined by his late father Veeragathipillai to look after and maintain the said Walliammai.

The defendant therefore claims a sum of Rs. 10,000/- for such 10 maintenance."

Amendment allowed.

Amended answer on 19.2.

(Intld.) A. W. N.,  
D.J.  
29.1.

19.2.53.

Amended answer due. Filed.

Amended replication for 5/3.

(Intld.) A. W. N., 20  
D.J.  
19.2.

5.3.53.

Amended replication due. Filed.

Proctors move that case be called on 12.3 to fix trial date.

Application allowed.

Call on 12.3 to fix trial date along with D.C. 4316 Pt. Pedro.

(Intld.) A. W. N.,  
D.J.  
5.3. 30

12.3.53.

Case called *Vide* Journal Entry of 5.3.53.

Trial on 25.6.1953.

(Intld.) A. W. N.,  
D.J.  
12.3.53.

12.6.53.

Mr. S. Nagalingamudaly files list of witnesses and documents and moves to cite the witnesses mentioned in the list (Witnesses Nos. 3 and 5 are official witnesses.) 40

(Cite on batta being deposited.)

(Intld.) A. W. N.,  
D.J.



13.6.53.

T. R. 137/S/10, No. 67963 for Rs. 150/-

3 Summonses to witnesses issued through Fiscal, Northern Province. 2 Summonses to witnesses issued through Fiscal, Western Province, Colombo.

(Intld.).....

18.6.53.

Mr. K. Ratnasingham, proctor for defendant, files defendant's list of witnesses and documents. Posted copy to proctor for plaintiff.

10

(Intld.) .....

19.6.53.

Return to summons filed.

22.6.53.

I. Summons to witness (plaintiff) for defendant issued through Fiscal Marshal, Point Pedro, from list filed.

25.6.53. *Trial.*

Mr. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

*Vide* proceedings.

20

Proceedings filed 30.6.53.

Issues framed and adopted.

Further hearing postponed for 29th and 30th October, 1953.

(Intld.) T. M.,  
*D.J.*

25.6.53.

Mr. I. E. G. Palagarajah of the Kachcheri, Jaffna, moves for a requisition for Rs. 10/- in his favour for appearing as witness in case No. 4323 on 25.6.53.

Issue requisition.

30

(Intld.) T. M.,  
*D.J.*

1.7.53.

Requisition for Rs. 10/- in favour of Mr. I. E. G. Palagarajah, clerk, Kachcheri, Jaffna, issued. *Vide* Journal Entry of 25.6.53.

(Intld.) T. M.,  
*D.J.*

22.7.53.

Mr. S. Nagalingamudaly, proctor for plaintiff, moves that the case be refixed for trial on 4th and 6th November, 1953, as the dates now fixed for trial are not suitable to Counsel. Mr. K. Ratnasingham, proctor for defendant, consents. Allowed.

Refix trial for 4th and 6th November, 1953.

(Intld.) T. M.,  
*D.J.*

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

29.8.53.

Take steps to have Acting D.J. who heard the case to hear rest of case on 4th and 6th November, 1953. *Vide* Journal Entry of 22.7.53.

(Intld.) A. W. N.,  
D.J.  
29.8.

Mr. T. Muttusamipillai is appointed by Judicial Service Commission.

(Intld.) ..... 10  
19.9.

2.10.53.

Mr. K. Ratnasingham, proctor for defendant, moves that witnesses filed on behalf of the defendant on 18th June, 1953, and numbered as 3, 4, 6, 8, 12, 14 and 25 be cited.

Cite witness No. 25 (plaintiff). *re* others call on 8.10 to be supported.

Proctor to state if certified copies have been applied for *re* documents required to be produced.

Inform proctor for defendant.

(Intld.) A. W. N.,  
D.J.  
2.10. 20

Done.

(Intld.) .....  
2.10.

8.10.53.

Mr. K. Ratnasingham, proctor for defendant. Case called to be supported *re* citing witnesses.

Mr. Ratnasingham heard in support of the application. Cite 30 witnesses No. 3, 8, 12 only.

Proctor for defendant to renew application *re* summons on witnesses 6 and 14 giving more particulars with dates regarding the correspondence or documents to be produced by these witnesses.

(Intld.) A. W. N.,  
8.10.

8.10.53.

T.R. 69/L/11, No. 039150 of 8.10.53 for Rs. 30/- being batta filed.

3 summons to witnesses (Nos. 3, 8 and 12 from list) issued through Fiscal Marshal, Point Pedro.

(Intld.) ..... 40

9.10.53.

Return to summons filed.

9.10.53.

Mr. K. Ratnasingham, proctor for defendant, states that in view of Court Order dated 8.10.53 *re* his application for citing witnesses 4, 6 and 14, moves that Court be pleased to order summons on the afore-said witnesses to produce or cause to be produced the following documents relating to specific periods.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

(a) Witness No. 4, The Government Agent, Northern Province, Jaffna to produce or cause to be produced the Pawn Brokers' Licences for the years 1935-40 and 1950-52 issued to M/s. Veeragathipillai & Sons, Jaffna, and letter sent by the plaintiff during year 1952.

(b) Witness No. 6, Post Master-General, Colombo, to produce or cause to be produced letters written by the plaintiff on 8.5.52 through Sub-Post Master, Tondamannar, relating to the delivery of letters of Messrs. S. Veeragathipillai & Sons, Tondamannar, and the reply thereto.

(c) Witness No. 14 to produce or cause to be produced the documents and letters relating to the importing of tiles by Messrs. S. Veeragathipillai & Sons, Jaffna and Tondamannar, and V. Rajaratnam during January, 1952 to May, 1952.

20 Cite witness No. 4 to cause to produce items in (a) above and witness No. 6 to cause to produce items in (b) and witness No. 14 to cause to produce item in (c).

9.10.53.

Mr. K. Ratnasingham, proctor for defendant, with notice to proctor for plaintiff files additional list of witnesses and documents and moves for summons on the witnesses on list.

Cite these witnesses to cause to produce documents referred to in list.

(Intld.) A. W. N.,

30

*D.J.*

9.10.53.

14.10.53.

Return to summons filed.

15.10.53.

T.R. 133/L/11, No. 039214 of 15.10.53 for Rs. 117.50 filed. 2 summons to witnesses issued through Fiscal, Western Province. Journal Entries dated 9.10.53.

*Eodie*

1 summons to witness issued through Fiscal, Northern Province, 40 and 1 summons to witness issued through Fiscal Marshal, Point Pedro.

(Intld.).....

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

16.10.53.

Mr. S. Nagalingamudaly, proctor for plaintiff, moves to cite witnesses Nos. 1, 3, 4, 5, 10 and 18 in the list filed by him on behalf of the plaintiff.

He further submits that the certified copies of all documents referred to in the list have been obtained and that batta for witnesses 1,3,4,5 and 10 have been deposited earlier.

Issue summons on witnesses required to produce documents to produce same, *viz.* witnesses 3, 5, and 10. Cite others 1, 4 and 18 witnesses. Proctor for plaintiff to state details of batta payable to 10 each witness before summons is taken out.

(Intld.) A. W. N.,  
*D.J.*  
16.10.

20.10.53.

2 Summonses to witnesses for plaintiff issued through Fiscal, Western Province. 4 Summons to witnesses through Fiscal, Northern Province.

21.10.53.

Return to summons filed.

20

28.10.53.

Return to summons filed.

4.11.53.

Trial (2).

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

Plaintiff and defendant present.

*Vide* proceedings.

(Intld.) T. M.,  
*D.J.* 30

Trial to be continued on 6.11.53.

(Intld.) T. M.,  
*D.J.*

6.11.53.

Trial (3) continued.

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. Ratnasingham, proctor for defendant.

Plaintiff and defendant present.

*Vide* proceedings.

(Intld.) T. M., 40  
*D.J.*

Trial to continue on 11th and 12th January, 1954.

(Intld.) T. M.,  
D.J.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

Take steps to have me gazetted to hear this case on 11th and 12th January, 1954.

(Intld.) T.M.

1.

Done. 11/11.

6.11.53.

10 Mr. C. Sri Ranganathan of the Bank of Ceylon, Jaffna, moves personally for a requisition for Rs. 10/- being his batta for having attended Court on 4.11.52. and 6.11.53.

Pay.

(Intld.) .....  
A.D.J.

6.11.53.

20 Mr. E. J. Palagarajah of the Kachcheri, Jaffna, moves for a requisition for Rs. 30/- for having attended Court on behalf of the Government Agent, Northern Province, and the Registrar of Business Names on 4.11.53 and 6.11.53.

Pay.

(Intld.).....  
A.D.J.

17.11.53.

Requisition for Rs. 10/- issued in favour of Mr. C. Sri Ranganathan. *Vide* Journal Entry of 6.11.53.

(Sgd.).....  
A.D.J.

17.11.53.

30 Requisition for Rs. 30/- issued in favour of Mr. E. J. Palagarajah. *Vide* Journal Entry of 6.11.53.

(Sgd.).....  
A.D.J.

3.12.53.

40 Mr. S. Nagalingamudaly, proctor for plaintiff, files consent paper of the plaintiff and moves for a requisition in his favour for the sum of Rs. 125/- being batta deposited for witnesses, namely, S. Cumaraswamy, Chartered Accountant and The Controller of Imports. He further submits that the batta due to the said witnesses have been paid and annexes their receipts.

Issue requisition for Rs. 125/- in favour of Mr. S. Nagalingamudaly, proctor for plaintiff.

(Intld.) A. W. N.,  
D.J.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

3.12.53.

Requisition for Rs. 125 issued to Mr. S. Nagalingamudaly *Vide*  
Journal Entry of 3.12.53.

(Intld.) A. W. N.,  
D.J.

28.12.53.

Summons to witness (defendant) issued through Fiscal Marshal,  
Point Pedro.

31.12.53.

Mr. K. Ratnasingham, proctor for defendant, states that Rs. 150/- 10  
is lying to the credit of this case and he moves that the following alloca-  
tions be made to the respective mentioned witnesses to attend Court  
on 11th and 12th January, 1954.

(1) The Manager, Chartered Bank, Colombo, Rs. 50/-.

(2) The Secretary, D.C., Jaffna, Rs. 10/-.

(3) The Bank of Ceylon, Jaffna, Rs. 10/-.

Allowed.

Cite.

(Intld.) V. M. C.,  
A.D.J. 20

31.12.53.

Summons to witnesses mentioned in Journal Entry of 31.12.53  
issued through Fiscal, Western Province, Colombo, (1) through  
Fiscal, Northern Province, Jaffna, (2 and 3) and on the plaintiff  
through Fiscal Marshal, Pt. Pedro, precept returnable on 9.1.54.

(Intld.).....  
31.12.53.

4.1.54.

Return to summons to witness (defendant) issued by plaintiff  
filed. 30

5.1.54.

Return to summons on witness (plaintiff) issued by defendant  
filed.

6.1.54.

Return to summons on defendant's witness (Manager, Chartered  
Bank, Colombo) filed.

7.1.54.

Return to summons on witnesses of defendant 2 and 3 of Journal  
Entry dated 31.12.53. Filed.

11.1.54. Trial (4) continued. 40

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

Parties present.

Mr. Thiagalingam with Mr. Soorasangaram and Mr. Sivapathasunderam instructed by Mr. Nagalingamudaly for plaintiff.

Mr. Kulasingham with Mr. Nadesan, Mr. Kanaganayagam and Mr. Thanabalasingham instructed by Mr. Ratnasingham for defendant.

*Vide* proceedings.

(Intld.) T. M.,  
D.J.

Proceedings filed.

10

(Intld.).....  
11.1.54.

Trial refixed for 15th and 16th March, 1954.

(Intld.) T. M.,  
D.J.

11.1.54.

Mr. C. Sri Ranganathan of the Bank of Ceylon, Jaffna, moves for a requisition for the amount deposited for the attendance of the witness, The Bank of Ceylon, Jaffna.

Issue requisition for Rs. 10/- in favour of Mr. C. Sri Ranganathan  
20 of Bank of Ceylon, Jaffna.

(Intld.) A. W. N.,  
D.J.  
12.1.

12.1.54.

Mr. Chellappah Gulasingham the officer deputed by the Manager, Chartered Bank of India, Australia and China, Colombo, to attend Courts on summons moves that a requisition in his favour for the sum of Rs. 50/- deposited as Batta for his attendance be issued.

Proctor for defendant consents.

30

Pay.

(Intld.) A. W. N.,  
D.J.  
12.1.

12.1.54.

Requisition for Rs. 10/- in favour of Mr. C. Sri Ranganathan, Bank of Ceylon, Jaffna, and Requisition for Rs. 50/- in favour of Mr. C. Gulasingham, Chartered Bank of India, Australia and China, Colombo, issued. *Vide* Journal Entry of 11.1.54 and Journal Entry of 12.1.54.

40

(Intld.) A. W. N.,  
D.J.

No. 1  
Journal Entries  
28.7. 52 to  
26.3.59—  
*Continued*

20.1.54.

*Record Keeper,*

The following documents were sent to me to be kept in Safe.

- (1) D24, D23, D22, D21, D26.
- (2) D25.
- (3) P3, P4A and P7.

These documents may now be filed of record and Stamp Duty due on the documents may be recovered.

(Intld.).....

*Secretary.* 10

21.1.54.

Notice parties and their proctors for 5.2.1954 for case to be called re-fixing of further trial dates, since Mr. Muttuswamy Pillai, A.D.J., will not be able to hear this matter on 15th and 16th March, 1954.

(Intld.) A. W. N.,

*D.J.*

21.1.

22.1.54.

*Vide* Journal Entry of 21.1.54.

Notice issued through Fiscal Marshal, Pt. Pedro, on parties and 20 their proctors.

25.1.54.

D24, D23, D22, are paid cheques.

(1) and D26 bears a stamp.

(2) D25 bears no stamp. It has to be stamped with Rs. 34·20 stamps.

(3) P3 and P7 bear no stamps. P3 and P7 have to be stamped with Rs. 34·20 stamps each.

25.1.54.

Mr. K. Ratnasingham, proctor for defendant-appellant, files petition of appeal of the defendant-appellant in this case and tenders stamps to the value of Rs. 171/- for certificate in appeal and Rs. 318/- for Supreme Court Decree and also notice of tendering security and moves that the petition of appeal be accepted and the stamps affixed to the respective documents and that the notice of tendering security be issued for service on the plaintiff and his proctor, Mr. S. Nagalingamudaly, proctor S.C., Point Pedro.

(1) Appeal accepted.

(2) Issue notice of Security returnable on 3.2.54.

(Intld.)..... 40

*A.D.J.*



Notice of tendering security issued on plaintiff and his proctor through Fiscal Marshal, Pt. Pedro.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

(Intld.).....  
29.1.

27.1.54.

Return to notice, *vide* Journal Entries of 21.1.54, filed.

3.2.54.

Mr. S. Nagalingamudaly, proctor for plaintiff, present.

Mr. K. Ratnasingham, proctor for defendant, present.

10 Notice of tendering security served on plaintiff and his proctor.

Mr. Nagalingamudaly present.

Plaintiff absent.

Of consent. Security is fixed at Rs. 200/- costs for plaintiff-respondent.

Case need not be called now on 5.2.54.

(Intld.) A. W. N.,  
*D.J.*  
3.2.54.

5.2.54.

20 Mr. K. Ratnasingham, proctor for appellant tenders Rs. 25/- being fee for typewritten brief.

(Intld.).....  
*Secretary.*

5.2.54.

Mr. K. Ratnasingham, proctor for defendant, files bond to prosecute appeal duly perfected with Treasury Receipt No. L/11 74/051632 attached thereto together with application for typewritten copy with cash Rs. 25/- in payment of fee thereof and notice of appeal and moves that the same be accepted and notice of appeal be issued for service  
30 on the plaintiff.

Issue notice of appeal for 4.3.54.

(Intld.) A. W. N.,  
*D.J.*

9.2.54.

Notice of appeal issued on plaintiff through Fiscal Marshal, Pt. Pedro.

9.2.54.

Mr. K. Ratnasingham, proctor for defendant, moves that a requisition be issued in his favour for the sum of Rs. 57.50 lying to the credit of the case, being balance of the money deposited by him as advance Batta for witnesses and which did not become necessary to  
40 be paid to them.

Pay.

(Intld.) A. W. N.,  
*D.J.*

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

11.2.54.

Requisition for Rs. 57·50 issued in favour of Mr. K. Ratnasingham, proctor for defendant. *Vide* Journal Entry of 9.2.54.

(Intld.) A. W. N.,  
*D.J.*

11.2.54.

Request proctor for appellant and proctor for respondent, to specify the nature of documents to be typed for appeal.

(Intld.) A. W. N.,  
*D.J.* 10

Received requisition.  
K. Ratnasingham,  
Proctor. 11.2.54.

12.2.54.

Written to proctor for appellant. *Vide* Journal Entry of 11.2.54.

12.2.54.

Return to notice of appeal on plaintiff filed.

15.2.54.

Mr. K. Ratnasingham, proctor for defendant-appellant, writes to say that the following portions of the record may be typed. 20

(1) Plaint, amended answer, amended replication.

(2) Issue No. 32.

(3) Proceedings on 11.1.54 and thereafter together with petition of appeal.

Typist to note.

(Intld.) A. W. N.,  
*D.J.*

22.2.54.

Issue notice on parties and proctors for 4.3.54 that further trial in the suit will proceed as originally fixed for 15th and 16th March, 30 1954, before the A.D.J., Mr. T. Muttusamypillai.

(Intld.) A. W. N.,  
*D.J.*

23.2.54.

Notice on parties and their proctors issued through Fiscal Marshal, Point Pedro.

26.2.54.

Return to notice, *vide* Journal Entry of 23.2.54 filed.

2.3.54.

Mr. K. Ratnasingham, proctor for the defendant, moves to amend 40 the amended answer filed by the defendant as indicated in the motion filed.

He also submits a fair copy of the amended answer.

He states that a copy of this motion and a fair copy of the amended answer were posted to the proctor for plaintiff.

Mention on 4.3.54.

(Intld.) A. W. N.,  
D.J.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

4.3.54.

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

(1) Notice of appeal served on plaintiff-respondent.

10 He is present.

Forward record to Supreme Court after 16.3.54.

(2) Notice re-trial dates of 15th and 16th March, 1954, served on plaintiff, defendant and their proctors.

They are—

Plaintiff—present, his proctor—present.

Defendant—absent, his proctor—present.

(3) Case mentioned. *Vide* Journal Entries of 2.3.54 where proctor for defendant moves to amend the amended answer. To be amended on 16.3 before A.D.J.

20 *Vide* proceedings.

Call case on 16.3.54 before Mr. T. Muttuswamypillai, Crown Advocate, as A.D.J.

(Intld.) A. W. N.,  
D.J.  
4.3.

For action to have Mr. Muttuswamypillai, Crown Advocate, Jaffna, appointed A.D.J., Point Pedro, for further hearing—His case on 16.3.54.

30

(Intld.) A. W. N.,  
D.J.  
4.3.

Done.

(Intld.) .....  
*Secretary.*

Appointed by Judicial Service Commission.

Proceedings filed.

16.3.54.

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

40 (1) Case called. *Vide* proceedings and Order of 4.3.54.

(2) To consider motion to amend the amended answer. *Vide* Journal Entries of 2.3.54 and of 4.3.54.

(3) Record to be forwarded to Supreme Court after 16.3.54.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

*Vide* Journal Entry of 4.3.54.

Plaintiff is present.

Defendant is present.

Mr. Shivapathasunderam instructed by Mr. Nagalingamudaly for plaintiff.

Mr. Kulasingham and Mr. Kanaganayagam instructed by Mr. Ratnasingham for defendant.

Of consent amendment as set out in the motion of 2nd March, 1954, is accepted.

Mr. Shivapathasunderam denies the averments now sought to be incorporated in the said amendment. Mr. Kulasingham moves that I do not hear the case any further as the case is between two brothers.

An attempt was made to settle the matter in Court.

The matter was almost settled but the settlement fell through on account of some trivial difficulty in connexion with a school.

The defendant feels I am irritated and biassed against him. I shall be biassed in considering the evidence he (the defendant) may lead.

The defendant has nothing against my personal integrity.

Mr. Kulasingham further states that in the event of my making order that I shall be hearing the case he would put in an affidavit by defendant in support of the application. 20

Mr. Sivapathasunderam objects to the application as the case has been heard on 26.6.53, 4.11.53, 6.11.53 and on 11.1.54, and the case had to be postponed as further issues were suggested by Counsel for defendant.

The case was refixed for hearing on 15th and 16th March, 1954.

Plaintiff's case is nearly closed.

The defendant is attempting to protract the proceedings. Defendant is in possession of the business and stands to benefit by delay. 30

A litigant ought not to be permitted to choose or elect the Judge who hears a case.

#### ORDER

The material reason urged by learned Counsel for defendant to support the application that I ought not to hear the case is based on the statement that I am irritated with the defendant and so biassed that I shall not be able to give an impartial consideration to the evidence defendant may lead. I do not think that there can be any truth in the statement. I practised as an advocate for over 25 years and acted as District Judge many times and trivial incidents have never irritated me or made me biassed. 40

I have to state that if an application that I ought not to hear the case had been made before the trial commenced I would have allowed the application even without asking for any reason, for I was an Acting Judicial Officer and the case was heavy if both parties so wished. I am afraid that it is now rather late, and I therefore refuse the application.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

Mr. Kulasingham tenders an affidavit now. I admit it although the purpose of the affidavit is to canvass the Order I have already made.

10 A copy of the affidavit is tendered to proctor for plaintiff.

I have read through the affidavit. I have to state that the facts set out in the affidavit are not quite correct or true. I have already stated that I am not biassed. I think that the defendant has not done this on his own but has been made to do this by some other person or persons. I think that the defendant is a good man but he has been persuaded to think that I shall be biassed or prejudiced. I shall if necessary later state in detail what portions of the affidavit are not correct.

I refix hearing of the case for 26th and 27th July, 1954.

20 (Intld.) T. M.,  
A.D.J.

An appeal has been lodged against the Order made on 11.1.54.

Although relevant portions of the record have to be forwarded to the Supreme Court for the consideration of the appeal—*vide* Journal Entry of 15.2.54—I think it will be advisable to forward the entire record. A copy of the pleadings and proceedings and lists of witnesses may be kept for use by me at the trial which can proceed despite the appeal for the appeal is only about an order for costs.

(Intld.) T. M.,  
A.D.J.

30 2.4.54.

The Registrar, Supreme Court, requests that this case record be forwarded to Supreme Court as an application for revision has been made to the Supreme Court.

Forward record to Supreme Court.

(Intld.) A. W. N.,  
D.J.  
3.4.

4.6.54.

40 The Registrar, Supreme Court, forwards the record in this case with a copy of the Supreme Court Order and application No. 191 and requests to obtain the comments of Mr. T. Muttusamypillai, Crown Advocate, and forward the papers to the Supreme Court with least possible delay.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued

Forward record and connected papers to Mr. T. Muttusamy-pillai, Crown advocate, Jaffna.

(Intld.) A. W. N.,  
D.J.  
4.6.

26.7.54.

*Trial (5)*

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

Plaintiff and defendant present.

10

Mr. Ratnasingham states that the defendant has made an application to the Supreme Court that the case be heard by another Judge and moves that the case be called on some day to refix date of hearing.

I think that if the case be called only to fix a date of hearing the trial will have to be fixed on such calling date and there will be delay.

I therefore refix trial for 20th and 21st September, 1954. If the Supreme Court makes Order allowing defendant's application the case will be called before the permanent D. J. and date of trial refixed.

(Intld.) T. M. 20

18.9.54.

Registrar, Supreme Court, wires as follows :—

“ D. C. Point Pedro case 4323 to be tried before another Judge other than Mr. Muttusamypillai. Petitioner entitled to costs of application. Record and Supreme Court Order will follow.”

Mention on 20.9.54.

20.9.54.

Mr. S. Nagalingamudaly, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

The Registrar, Supreme Court, forwards the record in this case with a copy of the Supreme Court Order: “ It is ordered that the trial in this case do take place before a Judge other than Mr. Muttusamypillai. The question whether the trial should be continued from the point to which it has already proceeded or started *de novo* would be governed by the provisions of section 88 of the Courts Ordinance. The petitioner will be entitled to the costs of this application.”

Call before D. J. on 29.9.54 to fix date of trial.

(Intld.) V. M. C.,  
A.D.J.

22.9.54.

*Vide* Memo by Secretary enquiring if the record is to be forwarded in appeal retaining copies to continue proceedings.

Mention on 29/9.

(Intld.).....

*D.J.*

29.9.54.

Mr. S. Nagalingamudaly for plaintiff.

Mr. K. Ratnasingham for defendant.

10 Case called *vide* Journal Entry of 20.9.54.

Case mentioned *vide* Journal Entry of 22.9.54.

*Vide* proceedings.

Trial refixed specially for 26th, 27th, 28th and 29th January, 1955.

(Intld.) S. T.

Filed. 6.10.54.

Briefs supplied to proctors for appellant and respondent.

(Intld.).....

7.12.54.

20 Appeal forwarded to the Supreme Court with copies of relevant portions necessary for considering the appeal as ordered by the Court.

(Intld.).....

*Secretary.*

5.1.55.

Summons on 3 witnesses for plaintiff issued through Fiscal, Northern Province.

Summons on 2 witnesses for plaintiff issued through Fiscal, Western Province.

Kachcheri Receipt for Rs. 175/- filed.

30 (Intld.).....

12.1.55.

Return to summons on witnesses for plaintiff filed.

(Intld.).....

12.1.55.

Summons on 1 witness for defendant served through Fiscal Marshal, Pt. Pedro.

Summons on 1 witness for....Fiscal, Western Province.

Summons on 3 witnesses....Fiscal, Northern Province.

(Intld.).....

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

- 17.1.55. Return to summons on witnesses filed.  
(Intld.).....
- 18.1.55. *Vide* letter from Controller of Imports.  
Paying-in Voucher for Rs. 25/- issued in favour of Mr. S. Nagalingamudaly, proctor.  
(Intld.).....
- 19.1.55. Return to summons on witnesses for defendant filed.  
(Intld.)..... 10
- 26.1.55. *Trial* (6)  
Mr. S. Nagalingamudaly for plaintiff.  
Mr. K. Ratnasingham for defendant.  
*Vide* proceedings.  
Trial refixed tomorrow.  
(Intld.) S. T.
- 26.1.55. Mr. K. Nagaratnam requests that a requisition for Rs. 75/- be issued in his favour for attending Court on behalf of the Controller of Imports and Exports in order to give evidence in the above case. 20  
Issue requisition for Rs 75/-  
(Intld.).....  
*D.J.*
- 26.1.55. Requisition for Rs. 75/- issued in favour of Mr. K. Nagaratnam.  
(Intld.).....  
*D.J.*
- 27.1.55. *Trial* (6)  
Mr. S. Nagalingamudaly for plaintiff.  
Mr. K. Ratnasingham for defendant. 30  
*Vide* proceedings.  
Further hearing tomorrow.  
(Intld.) S. T.  
Proceedings filed.  
(Intld.).....
- 31.1.
- 28.1.55. *Trial* (6)  
Mr. Nagalingamudaly for plaintiff.  
Mr. K. Ratnasingham for defendant. 40  
*Vide* proceedings.  
Trial refixed 3, 4 and 5th March, 1955.  
(Intld.) S. T.



Proceedings filed.  
 (Intld.).....  
 9.2.

No. 1  
 Journal Entries  
 28.7.52 to  
 26.3.59—  
*Continued*

27.1.55.

29.1.55.

Mr. E. J. Palagarajah of Jaffna Kachcheri moves for a requisition for the sum of Rs. 20/- being batta deposited for his attendance in the above case.

Issue requisition for Rs. 20/-.

10

(Intld.).....

*D.J.*

29.1.55.

Requisition for Rs. 20/- issued in favour of Mr. E. J. Palagarajah.

(Intld.).....

*D.J.*

10.2.55.

Mr. S. Nagalingamudaly, proctor for plaintiff, states that the batta due to Mr. S. Cumarasamy, Chartered Accountant, has been paid out of Court and moves for a requisition in favour of the plaintiff for the sum of Rs. 100/- deposited in this case as batta for witness Mr. Cumarasamy whose receipt is annexed.

Pay.

(Intld.).....

*D.J.*

11.2.55.

Requisition for Rs. 100/- issued in favour of Mr. V. Rajaratnam, plaintiff. *Vide* Journal Entry of 10.2.55.

(Intld.).....

*D.J.*

Requisition posted under Registered cover.

30

(Intld.).....

23.2.55.

Summons on 2 witnesses for defendant issued through Fiscal, Northern Province.

(Intld.).....

23.2.55.

Mr. K. Ratnasingham, proctor for defendant, files defendant's additional list of witnesses and documents.

Copy said to have been posted to proctor for plaintiff.

1. File.

40

2. Cite witnesses.

(Intld.).....

*A.D.J.*

24.2.55.

Summons on witness issued for defendant through Fiscal Marshal, Point Pedro.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

- 3.3.55. *Trial (7)*  
Mr. S. Nagalingamudaly for plaintiff.  
Mr. K. Ratnasingham for defendant.  
*Vide* proceedings.  
Further hearing tomorrow.  
  
(Intld.) S. T.,  
D.J.
- Proceedings filed.  
(Intld.).....  
9.3. 10
- 4.3.55. *Trial (7)*  
Mr. S. Nagalingamudaly for plaintiff.  
Mr. K. Ratnasingham for defendant.  
*Vide* proceedings.  
Further hearing 25.3 and 26.3.  
Filed. (Intld.) S. T.
- 11.3.55.  
11.3.55.  
Registrar of Business Names, Northern Province, states that his office copy of the certificate of Registration No. 668 of 10.4.53 was 20 surrendered to Court on 6.11.53 and he requests that a copy of the certificate be sent to him for use in his files.  
Send a copy.  
  
(Intld.).....  
D.J.
- 25.3.55. *Trial (8)*  
Mr. S. Nagalingamudaly for plaintiff.  
Mr. K. Ratnasingham for defendant.  
*Vide* proceedings.  
Further addresses for 26.3.55. 30  
  
(Intld.) S. T.,  
D.J.
- Proceedings filed.  
(Intld.).....  
30.3.
- 26.3.55. *Further Addresses*  
Mr. S. Nagalingamudaly for plaintiff.  
Mr. K. Ratnasingham for defendant.  
Further addresses 28, 29 and 30th April, 1955.  
  
Proceedings filed. (Intld.) S. T.,  
(Intld.)..... D.J. 40  
30.3.

28.4.55. *Trial (9) Addresses*  
 Mr. S. Nagalingamudaly for plaintiff.  
 Mr. K. Ratnasingham for defendant.  
*Vide* proceedings. Further addresses for 29.4.55.

No. 1  
 Journal Entries  
 28.7.52 to  
 26.3.59—  
*Continued*

(Intld.) S. T.,  
 D.J.

29.4.55. *Further Addresses*  
*Vide* proceedings. Further addresses for 30.4.55.

(Intld.) S. T.,  
 D.J.

10 Proceedings filed.  
 (Intld.).....  
 5.5.

30.4.55.  
 Further addresses. *Vide* proceedings. Call for documents 19.5.55.  
 (Intld.) S. T.,  
 D.J.

19.5.55.  
 Case called for documents.  
 Documents of both tendered. Call 20.5.55 to fix date for judgment.  
 20 ment.

(Intld.) S. T.,  
 D.J.

20.5.55.  
 Case called to fix date for judgment.  
 C. A. V. 24.6.55.

(Intld.) S. T.

30.5.55.  
 Mr. K. Ratnasingham for defendant moves to certify the payment of Rs. 1883.30 being costs of Revision application in S. C. 161 D. C. Pt. Pedro 4323 due to the defendant from the plaintiff.

30 Payment certified.  
 (Intld.).....  
 D.J.

24.6.55.  
 Judgment not ready. Same for 15.7.55.  
 (Intld.) S. T.,  
 A.D.J.

15.7.55.  
 Judgment not ready. Same for 5.8.55.

40 5.8.55. *Judgment*  
 Mr. S. Nagalingamudaly for plaintiff. } Present.  
 Mr. K. Ratnasingham for defendant. }  
 Judgment delivered in the presence of proctors for both sides.  
 Decree 1.9.55.

(Intld.) S. T.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
Continued!

*Afternoon. Vide order dictated.*  
Security fixed at 200/-

(Intld.) S. T.

16.8.55.

Mr. K. Ratnasingham, proctor for defendant-appellant, files petition of appeal of the defendant-appellant and tenders stamps to the value of Rs. 171/- for certificate of appeal and Rs. 318/- for Supreme Court Decree and also notice of tendering security and moves that—

(a) the petition of appeal be accepted and registered; 10  
(b) the stamps be affixed to the respective documents; and  
(c) the notice of tendering security be issued for service on the plaintiff and his proctor, Mr. S. Nagalingamudaly.

1. Accept petition of appeal.
2. Allow notice tendering security for 25.8.55.

(Intld.) V. M. C.,  
A.D.J.

17.8.55.

Notice tendering security issued to the plaintiff and his proctor, S. Nagalingamudaly, through Fiscal Marshal, Point Pedro. 20

(Intld.).....

25.8.55.

Notice of Security served on plaintiff.

Proctor for plaintiff present.

*Vide* proceedings.

Call for Order in the afternoon.

(Intld.) S. T.

25.8.55. *Afternoon.*

*Vide* proceedings. Security fixed at Rs. 200/-

(Intld.) S. T. 30

25.8.55.

Mr. K. Ratnasingham, proctor for defendant, files bond to prosecute appeal duly perfected with the Treasury receipt S/12 No. 073975 attached thereto together with application for typewritten copies and notice of appeal and moves that the bond be accepted and notice of appeal be issued on the plaintiff.

- (1) Bond accepted.
- (2) Issue notice of appeal.

Call case on 29.9.55.

(Intld.) S. T., 40  
D.J.

Proceedings filed.

(Intld.).....

26.8.

- 29.8.55.  
Notice issued to the plaintiff through Fiscal Marshal, Point Pedro.  
(Intld.).....
- 1.9.55.  
Decree due—not filed.  
Same 15.9.  
(Intld.) S. T.
- 2.9.55.  
Return to notice filed.  
(Intld.).....
- 10 2.9.55.  
Registrar, Supreme Court, returns the following records—Supreme Court Decree—Petition of Appeal—Security Bond—Secretary's Certificate in Appeal copy of the Order to forward copies of the proceedings.  
“ It is considered and adjudged that the order to pay ‘ incurred costs ’ be and the same is hereby set aside. The plaintiff however is entitled to costs which are fixed at Rs. 1,000/-. There will be no costs of this appeal.”  
Call on Bench on 15.9.55 to communicate Supreme Court Order.  
(Intld.) M. C.,  
A.D.J.
- 20 15.9.55.  
Mr. S. Nagalingamudaly for plaintiff. } Present.  
Mr. K. Ratnasingham for defendant. }  
Supreme Court Order announced in open Court.  
(Intld.) S. T.  
Decree filed—Check and submit.  
(Intld.) S. T.,  
15.9.
- 30 15.9.55.  
Decree entered.  
(Intld.).....
- 29.9.55.  
Notice of appeal served on plaintiff.  
Plaintiff is absent.  
Forward record.  
(Intld.) S. T.
- 4.10.55.  
Mr. S. Nagalingamudaly, proctor for plaintiff, moves that the pay-  
40 ment of Rs. 1,000/- by the defendant, being the amount fixed by the Supreme Court as costs of 11th and 12th January, 1954, to him be certified of record.  
Payment certified.  
(Intld.) S. T.,  
D.J.

No. 1  
Journal Entries  
28.7.52 to  
26.3.59—  
*Continued*

12.10.55.

Mr. K. Ratnasingham, proctor for defendant, states that the appeal presented against the order for costs made on 11.1.54 has been decided without cost on either side and that he moves for a requisition in his favour for the sum of Rs. 200/- being the security for costs of appeal deposited by the defendant for the prosecution of the said appeal also files minute of consent by the proctor for plaintiff and the defendant. Proctor C. Mahasen identifies the defendant's signature.

Pay.

(Intld.)..... 10  
*D.J.*

14.10.55.

Requisition for Rs. 200/- issued to Mr. K. Ratnasingham, Proctor S.C., Point Pedro.

(Intld.).....

Received.

(Sgd.) K. Ratnasingham,  
17.10.55.

15.10.55.

The Registrar of Business Names, Jaffna District, enquires the result of this case and whether the appealable period is over. If so he wants to know whether an appeal has been made by the party in question. He also requests that the productions P3, P4A and P7 surrendered to Court by Mr. Palagarajah of this office on 6.11.53 be returned to him if they are no longer required.

Inform—The case is under appeal.

(Intld.) S.T.

20.10.55.

Written to Registrar of Business Names, Jaffna.

26.8.55.

*Fees for typewritten copies.*

30

Proctor Mr. K. Ratnasingham for appellant deposits Rs. 25/- for typewritten copies. *Vide* Treasury receipt No. 073982 of 26.8.55.

(Intld.).....

*Secretary.*

17.11.55.

Proctor S. Nagalingamudaly for respondent deposits Rs. 50/- for 2 copies of the typewritten copy. *Vide* Treasury receipt No. 074897 of 17.11.55 for Rs. 50/-.

(Intld.).....

*Secretary. 40*

5.2.58.

The Registrar, Supreme Court, returns the record with the following Supreme Court decision :

“ It is considered and adjudged that the judgment and decree appealed from be and the same are hereby set aside and the plaintiff’s action is dismissed.

It is further decreed that the respondent do pay to the appellant the taxed costs in this Court and in the Court below.”

Call case on 13.2.58 to communicate the Supreme Court decision.

(Intld.) S. T.,  
*D.J.*

13.2.58.

10 Supreme Court Order communicated in open Court.

(Intld.) S. T.,  
*D.J.*

10.4.58.

Registrar, Supreme Court, forwards record with a copy of the Supreme Court Order for necessary action. This is in regard to an application for substitution of a suitable person in place of the plaintiff-appellant who is now dead.

Inform proctor for plaintiff-appellant and call case on 23.4.58.

(Intld.) V. M. C.,  
*A.D.J.*

20

Received notice.

(Intld.) Ngalingamudaly.

23.4.58.

Mr. S. Nagalingamudaly for plaintiff.

Mr. K. Ratnasingham for defendant. Case called *vide* Journal entry of 10.4.58.

Mr. Nagalingamudaly moves to have this called with case 604 T.  
Call 8.5.58 with 604 T.

(Intld.) S. T.

30 8.5.58.

Case called—*vide* Journal Entry of 23.4.58 with 604 T.

Call 27.6.58.

(Intld.) S. T.

Letter sent to Registrar, Supreme Court.

27.6.58.

Case called—*vide* Journal Entry of 8.5.58.

Call on 1.8.58 with connected case T 604.

(Intld.).....  
*A.D.J.*

40 1.8.58.

Mr. S. Nagalingamudaly for plaintiff.

Mr. K. Ratnasingham for defendant.

Case called—*vide* Journal Entry of 27.6.58 with connected case  
T 604.

Call 29.8.58.

(Intld.) S. T.

29.8.58.

Case called *vide* Journal Entry of 1.8.58.

Call 10.10.58.

(Intld.) S. T.

10.10.58.

Case called—*vide* Journal Entry of 29.8.58.

10

Call case 14.11.58 as certificate has not been received in case  
No. 604 T.

(Intld.) S. T.

14.11.58.

Mr. S. Nagalingamudaly for plaintiff.

Mr. K. Ratnasingham for defendant.

Case called.

Call 28/11/58.

(Intld.) S. T.

28.11.58.

20

Case called along with 604 T.

Call 16.1.59.

(Intld.) S. T.

4.12.58.

The Registrar, Supreme Court, invites attention to our letter  
No. 4323 of 6.9.58 and requests Court to let him know the present  
position of this case.

Inform Registrar, Supreme Court, of the present position.

(Intld.) S. T.,

D.J. 30

Done.

(Intld.) K. K.

16.1.59.

Case called along with 604 T.

Call 20.2.59.

(Intld.) S. T.



20.2.59.

Case called along with 604 T.  
Call 13. 3. 59.

(Intld.) S. T.

19 2 59.

The Registrar, Supreme Court, Colombo, invites attention to our letter No. 4323 of 4.12.58 and requests Court to let him know the present position of this case.

Inform Registrar, Supreme Court, of the present position.

10

(Intld.) S. T.  
(Intld.).....,  
D.J.

Informed.

(Intld.) K. K.

13.3.59.

Case called along with 604 Ty.  
Steps for 20.3.59.

(Intld ) S T.

16.3.59.

20 Mr. S. Nagalingamudaly, proctor, files proxy, petition, affidavit and probate and for reasons stated therein moves for a notice on the respondent to show cause why the petitioner should not be substituted in place of the deceased plaintiff.

Issue notice for 26.3.59.

(Intld.) S. T.,  
D.J.

17.3.59.

Notice issued on the respondent through Fiscal Marshal, Point Pedro.

30 Mr. S. Nagalingamudali for plaintiff.

26.3.59.

Notice served on respondent.

V. Rajasekeran—absent.

Substitution allowed.

Secretary to see if further steps are necessary and if not to forward record to Supreme Court.

(Intld.) S. T.,  
D.J.

Caption amended.

40 (Intld.).....

No. 2  
Plaint of the  
Plaintiff  
28.7.52.

**No. 2**  
**Plaint of the Plaintiff**

IN THE DISTRICT COURT OF POINT PEDRO

(Dead) Veeragathipillai Rajaratnam of Tondamannar.  
(Journal Entry of 26.2.59) Rajaratnam Sivakumaran of Tondamannar,  
duly appointed legal representative.....  
..... *Plaintiff*.

No. 4323.

*vs.*

Case : Money Value : Rs. 600,000/- Veeragathipillai Rajasegaram of Tondamannar ..... *Defendant* 10

This 28th day of July, 1952.

The plaint of the abovenamed plaintiff appearing by S. Nagalingamudaly, his proctor, states as follows :—

1. The defendant resides and the cause of action hereinafter set out arose within the jurisdiction of this Court.

2. Prior to the year 1929, certain Sinnathamby Veeragathipillai was sole owner of and as such carrying on business at Jaffna and at Point Pedro in Rice, Paddy, Tiles, Tobacco, Timber and other goods and as Pawn Broker and Money-lender. The business name of S. V. under which the said business was then carried on was duly registered. 20

3. In or about the year 1929 the said Sinnathamby Veeragathipillai gifted a one-third share of the said business and the assets and goodwill thereof to each of his sons, the plaintiff and the defendant, and the said Sinnathamby Veeragathipillai, the plaintiff and the defendant thereupon became each entitled to an undivided one-third share of the said business the assets and the goodwill thereof. The said business was thereafter carried on under the name of "S. Veeragathipillai & Sons" and the said change was duly notified to the Registrar of Business names.

4. The said Sinnathamby Veeragathipillai died on the 3rd day 30 of December, 1933, leaving a Last Will No. 22277 dated 14th day of October, 1933, and attested by S. Subramaniam, Notary Public, which was duly proved in Testamentary case No. 58 of the District Court of Jaffna by which the said Sinnathamby Veeragathipillai bequeathed his one-third share of the said business the assets and goodwill thereof to the plaintiff abovenamed. The Plaintiff thereupon became entitled

to a two-third shares of the said business the assets and goodwill thereof and on that footing the plaintiff and the defendant continued to carry on the said business at Jaffna and at Point Pedro.

No. 2  
Plaint of the  
Plaintiff  
28.7.52—  
*Continued*

5. On the 7th day of June, 1952, the defendant abovenamed wrongfully and fraudulently and with a view to deprive the plaintiff of his rights applied to the Registrar of Business Names, Northern Province, to have himself registered as the sole proprietor of the said business and falsely alleged in his said application that the plaintiff had on the 6th day of June, 1952, ceased to have any interest or right  
10 to the said business.

6. The accounts of the said business carried on at Jaffna up to 31.12.50 have been duly audited and the balance sheet in respect of the business carried on at Jaffna as on 31.12.50 duly certified by the duly appointed auditors is hereto annexed marked " X " and pleaded as part and parcel of the plaint.

7. No account has been rendered to the plaintiff in respect of the business carried on at Jaffna since 31st December, 1950, and the defendant has since 7th June, 1952, taken possession of the said business, the assets thereof and the books relating thereto, excluding  
20 the plaintiff therefrom and is denying the rights of the plaintiff in respect thereof, is refusing to render an account thereof and is making use of the said business and assets as property solely belonging to him.

8. The plaintiff states that the defendant is holding the said business carried on at Jaffna the assets and goodwill thereof, in respect of a 2/3rd share in trust for the plaintiff and is liable to account to the plaintiff, on the footing of the balance sheet referred to in paragraph 6 above, for all assets taken charge of by him as at that date and all other assets and profits coming into his possession from time to time  
30 in the course of carrying on the said business.

9. A cause of action has accrued to the plaintiff to sue the defendant to obtain a declaration that he is the owner of two-thirds share of the said business carried on at Jaffna the assets and goodwill thereof and to obtain an order for an accounting of all the assets taken charge of by the defendant and other assets and profits thereafter coming into defendant's possession from time to time in the course of carrying on the said business.

10. The plaintiff values his 2/3 share of the business the assets and goodwill at Jaffna at Rs. 600,000.

40 11. The subject-matter of the action is reasonably worth Rs. 600,000/-

No. 2  
 Plaintiff of the  
 Plaintiff  
 28.7.52—  
 Continued

Wherefore the plaintiff prays :—

- (i) that he be declared entitled to two-thirds owner of the said business the assets and goodwill thereof ;
- (ii) that the defendant be ordered to render an account of all assets taken charge of by him and other assets and profits thereafter coming into defendant's possession from time to time in the course of carrying the said business.

*Or in the alternative*

- (iii) that the defendant be ordered to pay to the plaintiff the said sum of Rs. 600,000/- ; 10
- (iv) for costs ; and for such other and further relief as to this Court shall seem meet.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for plaintiff.*

Settled by us.

(Sgd.) T. ARULANANDAN.

(Sgd.) H. V. PERERA.

Annexure to  
 Plaintiff

**Annexure to Plaintiff**

**" X "**

**FINANCIAL STATEMENTS OF** 20  
**MESSRS. S. VEERAGATHIPILLAI & SONS,**  
**Jaffna and Point Pedro**  
**For The Year Ended**  
**31st December, 1950**

M. N. SAMBAMURTI & CO.  
 CHARTERED ACCOUNTANTS,  
 INCORPORATED ACCOUNTANTS  
 Imperial Bank Buildings,  
 P. O. Box 210, Colombo.



**MESSRS. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Profit and Loss Account for the Year Ended 31st December, 1950**

	Rs.	c.	Rs.	c.		Rs.	c.
To Establishment .. .. .			6,580	00	By Balance from Tading A/c. ..	55,591	27
„ Rent and lighting .. .. .			1,356	65	„ Interest from Ceylon Govt. Bonds..	1,225	00
„ Printing and stationery .. .. .			290	60	„ Interest from Foreign Banks ..	80	01
„ Postage and telegrams .. .. .			413	75	„ Pawn interest .. .. .	18,486	81
„ Mess, etc., to staff .. .. .			5,092	64	„ Lorry takings .. .. .	3,860	70
„ Travelling .. .. .			391	80	„ Sale of old battery .. .. .	10	00
„ Legal and audit .. .. .			1,066	40	„ Cheque commissions .. .. .	10	00
„ Licences :							
Pawn .. .. .	Rs. 80						
Gun .. .. .	.. .. .	5					
Tiles store .. .. .	.. .. .	200					
Revolver .. .. .	.. .. .	10					
Cycle .. .. .	.. .. .	1					
Radio .. .. .	.. .. .	10	306	00			
„ Survey fees .. .. .			35	00			
„ Repairs : Cycle .. .. .	.. .. .	21	50				
Typewriter .. .. .	.. .. .	4					
Time piece .. .. .	.. .. .	6	31	50			
„ Bank charges and cheques commis- sions .. .. .			479	78			
„ Signboard expenses .. .. .			37	00			
„ <b>Lorry Maintenance :</b>							
Petrol, oil, etc... .. .			2,036	63			
Repairs, etc. .. .. .			1,064	05			
Tyres and tubes .. .. .			607	95			
Battery .. .. .			118	00			
Licence .. .. .			140	00			
Insurance .. .. .			144	25	4,110	88	
„ <b>Car Maintenance :</b>							
Petrol, oil, etc. .. .. .	Rs. 2,195		99				
Repairs, etc. .. .. .	.. .. .	709	00				
Tyres and tubes .. .. .	.. .. .	133	50				
Battery .. .. .	.. .. .	148	00				
Licence .. .. .	.. .. .	35	00				
Insurance .. .. .	.. .. .	107	40	3,328	89		
Carried over .. .. .	Rs. ..		23,520	89	Carried over Rs. ..	79,263	79

**MESSRS. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Profit and Loss Account—(Contd.)**

	Rs. c.	Rs. c.		Rs. c.	Rs. c.
		Brought forward	23,520 89	Brought forward ..	79,263 79
To Rebates allowed (sundry persons) ..			160 93		
„ Newspapers and periodicals ..			52 55		
„ Advertisement ..			50 00		
„ Bad debts written off ..			13,376 60		
„ Charity, presents, etc. ..			637 00		
„ Nett profit C/d. ..			41,465 82		
		Rs. ..	<u>79,263 79</u>	Rs. ..	<u>79,263 79</u>

**Profit and Loss Appropriation Account**

**To Transfer to Partners Current Account :**

V. Rajaratnam ..	Rs. 24,249 34½		By Balance as per last Balance Sheet	Rs. c.	Rs. c.
V. Rajasekaram ..	.. 12,124 67	36,374 01½	„ Nett profit as per Profit and Loss Account ..		41,465 82
„ Balance to Balance Sheet ..		41,465 82		Rs. ..	<u>77,839 83½</u>
	Rs. ..	<u>77,839 83½</u>			

Examined and found correct (subject to our report of even date).

Colombo,  
8th January, 1952.

(Sgd.) M. N. SAMBAMURTHY,  
*Chartered and Incorporated Accountants.*









**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA****Advertisement**

Rs. c.	
50 00	Advertisement in Linga Lights Carnival Magazine.
	<b>Bad Debts Written off</b>
4,858 50	Exchange Bank of India & Africa, Ltd., Balance on 31.12.49 was Rs. 11,073.12. Last receipt of Rs. 1,214.62 was on 31.5.50. Balance has been written off.
1,826 10	N. Subramaniam Balance on 1.1.50 was Rs. 30,442.50. Legal and Auction expenses of Rs. 1,383.60 was debited to accounts on various dates during year. The mortgaged property was bought over by the assesses on the auction sale for Rs. 30,000/- on 6.3.50. The balance has been written off.
6,692 00	Doubtful debts regarded bad written off (inadmissible as per last Balance Sheet).
<u>13,376 60</u>	

**Sundry Creditors**

			Rs. c.
Hindu College, Jaffna	..	..	60 01
P. M. Thambiyah	..	..	388 44
N. Vallipuram, Vasavilan	..	..	3,000 00
Raman	..	..	15 00
K. Murugesu, Kaithady	..	..	100 00
P. S. Subramaniam	..	..	25 00
M. T. Ponnambalam	..	..	140 14
Dr. V. Duraisamy	..	..	484 22
			<u>4,212 81</u>
Per Balance Sheet	Rs. ..		4,212 81

**Statement of Depreciation**

	<i>Written down value on 1.1.50</i>	<i>Depreciation for the Year</i>	<i>Claimed for Business</i>	<i>Written down value on 31.12.50</i>
	Rs.	Rs.	Rs.	Rs.
Lorries	.. 2,522	.. 630	.. 630	.. 1,892
Car CL 5684	.. 6,305	.. 1,576	.. 1,051	.. 5,254
	<u>Rs. .. 8,827</u>	<u>.. 2,206</u>	<u>.. 1,681</u>	<u>.. 7,146</u>

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA****Schedule of Money Lending**

	<i>Balance on 1.1.50</i>	<i>Balance on 31.12.50</i>	<i>Remarks</i>
	Rs. c.	Rs. c.	
Sellathurai	.. 112 63	112 63	
N. S. Sethuraja	.. 46,316 00	46,316 00	
S. Ganapathy	.. 265 00	265 00	
V. Thambipillai	.. 890 00	625 00	Interest on settlement
S. S. Nagalingam	.. 5,000 00	5,000 00	
S. Muthuammal	.. 3,500 00	3,500 00	
N. Subramaniam	.. 30,442 50	—	Property auctioned A/c. settled.
M. J. Ignatius	.. 24,675 05	24,091 25	
T. Ramaratnam Chettiar and Ramiah Chettiar..	.. 75,350 00	73,630 00	Interest on settlement.
	<u>Rs. .. 186,551 18</u>	<u>153,539 88</u>	



**MESSRS. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Profit and Loss Appropriation Account**

	Rs. c.	Rs. c.		Rs. c.	Rs. c.
<b>To Transfer to Partners Current A/c.:</b>			<b>By Balance as per last Balance Sheet..</b>		
V. Rajaratnam .. ..	4,933	30½	„ Net profit as per P. & L. A/c. ..		7,399 96
V. Rajasekaram .. ..	2,466	65½			12,489 00
Balance to Balance Sheet ..		12,489 00			
	Rs. ..	<u>19,888 96</u>		Rs. ..	<u>19,888 96</u>

**Balance Sheet as on 31st December, 1950**

LIABILITIES		Rs. c.	Rs. c.	ASSETS		Rs. c.	Rs. c.
Capital A/c. V. Rajaratnam ..	600,000 00			Closing stock .. ..			5,184 00
V. Rajasekaram .. ..	300,000 00	900,000 00		Shares .. ..			500 00
				Car A/c. .. ..			10,360 00
Partners Current A/c. .. ..		3,225 26		Sundry debtors :			
<b>Sundry Creditors :—</b>				Loans and Mortgages .. ..	59,750 00		
On open accounts Rs. 4,692 39				For goods .. ..	4,513 68		
For salaries .. ..	6·19			N. Alagasunderam (Staff—Jaffna) ..	1,300 00	65,563 68	
charities .. ..	16·52	4,715 10					
				Advances : Staff .. ..	Rs. 274 50		
P. & L. Account balance .. ..		12,489 00		Captain of Athi- poorani ..	1,530·97		
				Legal .. ..	150·00	1,955 47	
				Jaffna Branch .. ..		804,458 77	
				Cash on hand .. ..		32,407 44	
	Rs. ..	<u>920,429 36</u>				Rs. ..	<u>920,429 36</u>

**Profit and Loss Adjustment Account for Purposes of Income Tax**

	Rs. c.	Rs. c.		Rs. c.	Rs. c.
<b>To Depreciation of Car :—</b>			<b>By Net Profit as per P. &amp; L. A/c. ..</b>		
W/d. value on 1.1.50 Rs. 5,826/-..			„ <b>Items Inadmissible :—</b>		12,489 00
(as settled at an interview)			Bad debts .. ..	166 88	
Depreciation at 25% Rs. 1,456/-			Car maintenance 1/3 .. ..	641 59	808 47
2/3rd thereof .. ..		970 00	Charity collections .. ..		16 52
Adjusted Profit .. ..		12,343 99			
	Rs. ..	<u>13,313 99</u>		Rs. ..	<u>13,313 99</u>

Examined and found correct (subject to our Report of even date).

Colombo,  
8th January, 1952.

(Sgd.) M. N. SAMBAMOORTHY,  
*Chartered and Incorporated Accountants.*

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Notes, Explanations and Reservations**

The following are the abstracts of certain ledger accounts furnished with a view to reconcile the opening and closing balances as on the respective Balance Sheets.

**Partners' Current Account (V. Rajaratnam)**

	Rs.	c.		Rs.	c.
To Drawings .. .. .	17,097	70	By Balance as per last B/S. ..	10,226	49
„ Drawings in Jaffna Branch transferred .. .. .	16,761	34	„ <b>Profit Transferred</b> :—		
„ Boat Working Suspense as per last B/S. transferred ..	952	59	Jaffna .. .. .	24,249	34½
„ Loss in running of Athipoorani .. .. .	1,372	25	Point Pedro .. .. .	4,933	30½
„ Balance to B/S. .. .. .	3,225	26			
	<u>Rs. ..</u>	<u>39,409 14</u>		<u>Rs. ..</u>	<u>39,409 14</u>

**Charity Account**

	Rs.	c.		Rs.	c.
To Payments .. .. .	56	57	By Balance as per last B/S. ..	56	57
„ Balance to B/S. .. .. .	16	52	„ Collections .. .. .	16	52
	<u>Rs. ..</u>	<u>73 09</u>		<u>Rs. ..</u>	<u>73 09</u>

**Details of Boat Running Account (Athipoorani)**

	Rs.	c.		Rs.	c.
To Voyage expenses .. .. .	11,171	29	By Voyage receipts .. .. .	11,530	75
„ Loading and unloading .. .. .	1,137	78	„ Loss transferred to Partners' Current A/c. ..	1,372	25
„ Repairs, etc. .. .. .	501	93			
„ Sundry stores .. .. .	92	00			
	<u>Rs. ..</u>	<u>12,903 00</u>		<u>Rs. ..</u>	<u>12,903 00</u>

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(Sgd.) M. N. SAMBAMOORTHY,  
*Chartered and Incorporated Accountants.*

**Establishment**

	Rs.	c.
S. Narayanasamy Naidu .. .. .	420	00
K. Sellathamby (driver) .. .. .	1,200	00
S. Sandrasegaram (extra driver) .. .. .	50	00
S. Karali .. .. .	126	00
	<u>Rs. ..</u>	<u>1,796 00</u>

## Sundry Creditors

					Rs. c.
C. Ponniah ..	..	..	..	..	152 52
R. Sivadas ..	..	..	..	..	4,340 65
A. Nesaratnam ..	..	..	..	..	199 22
				Rs. ..	<u>4,692 39</u>

## Messrs. S. VEERAGATHIPILLAI &amp; SONS, POINT PEDRO

## Schedule of Money Lending

	Balance on 1.1.50	Interest Received	Balance on 31.12.50	Remarks
	Rs. c.	Rs. c.	Rs. c.	
K. Ponnamah ..	655 00	—	655 00	
N. Manganayagam ..	1,000 00	150 00	1,500 00	
K. Ponnuthurai ..	1,700 00	—	1,700 00	
S. Devasikamani ..	5,000 00	—	5,000 00	Person has died.
K. Arunasalam ..	2,000 00	—	1,520 00	
K. Visalachi ..	3,000 00	—	3,000 00	
V. Nagappan ..	3,000 00	—	3,000 00	
K. Sivakalimuthu ..	7,000 00	—	7,000 00	
V. Ramasamy ..	15,000 00	1,800 00	15,000 00	
M. Visvalingam ..	6,000 00	—	6,000 00	
S. Kidnasamy ..	—	—	5,000 00	Given on 10.6.50.
V. Nagappan ..	—	—	10,000 00	Rs. 16,000 was given on 27.9.50, Rs. 6,000/- was received on 30.12.50.
V. Nagappan ..	—	—	375 00	
V. Nagappan ..	15,000 00	2,575 00	—	Account settled 27.9.50.
S. Seenivasan ..	100 00	30 00	—	do.
K. Murugupillai ..	4,000 00	620 00	—	do. 13.12.50.
K. Ponnuthurai ..	1,000 00	200 00	—	do. 2. 8.50.
S. Renganayaki ..	3,000 00	100 00	—	do. 8. 3.50.
S. Sinnathurai ..	5,000 00	396 00	—	do. 6.11.50.
Rs. ..	<u>72,455 00</u>	<u>5,871 00</u>	<u>59,750 00</u>	

## No. 3

## Answer of the Defendant

## IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Thondamannar.....  
 ..... Plaintiff

No. 4323.

vs.

Veeragathipillai Rajasegaram of Thondamannar.....  
 ..... Defendant.

This 3rd day of October, 1952.

The answer of the abovenamed defendant appearing by K. Ratnasingham, his proctor, states as follows :—

No. 3  
 Answer of the  
 Defendant  
 3.10.52—

No. 3  
Answer of the  
Defendant  
3.10.52—  
Continued

1. The defendant denies all and singular such averments in the plaint as are inconsistent with this answer.

2. Answering to paragraph 1 of the plaint the defendant admits the averments as to residence but denies that any cause of action has accrued to the plaintiff against the defendant.

3. The defendant admits the averments in paragraph 2 of the plaint.

4. Answering to paragraph 3 the defendant denies that in or about 1929 or at any other time the said Sinnathamby Veeragathipillai gifted 1/3 share or any other share of the said business and its assets and goodwill to the plaintiff. Defendant states, however, that by an indenture No. 22276 dated 14.10.33 the said Veeragathipillai, the plaintiff and defendant declared themselves partners in equal shares of the business registered under the Vilasam of "S. V. & S. Veeragathipillai and Sons".

5. Further answering the defendant states that the said Veeragathipillai died on 3.12.1933 and that on his death there was a dissolution of the partnership, created by the said indenture No. 22276.

6. Answering to paragraph 4 the defendant admits the execution of the Last Will referred to therein. The defendant denies, however, that the said Veeragathipillai did in fact leave 1/3 or any share of the said business to the plaintiff. The defendant further states that the said Veeragathipillai was not in law entitled to leave any share of the said business to the plaintiff or any one else. The defendant therefore states that no share of the said business passed to the plaintiff by virtue of the said Last Will.

7. Answering to paragraph 5 the defendant admits the making of the application referred to therein but denies that it was fraudulent or with a view to defraud the plaintiff of any rights. The defendant states that he was the sole proprietor of the said business and that the plaintiff had no right or interest in the said business.

8. Answering to paragraph 7 the defendant admits that he rendered no account to the plaintiff. The defendant states that he is under no legal obligation to render accounts to the plaintiff for the reason that the plaintiff had no right or interest in the said business. The defendant also admits that he has been in sole and exclusive possession of the business carried on at Jaffna and states that the plaintiff is not entitled to claim any share of the said business.

9. Answering to paragraph 8 the defendant denies that he holds the business carried on at Jaffna in trust for the plaintiff in respect of 2/3 share or any other share, or that he is liable to render any account at all to the plaintiff.

10. As a matter of law the defendant states that in any event the plaintiff cannot maintain this action in the absence of a writing.



creating a partnership since the initial capital of the business was over Rs. 1,000/-.

No. 3  
Answer of the  
Defendant  
3.10.52—  
*Continued*

11. In the alternative the defendant states that the business of Veeragathipillai & Sons was carried on at two places, viz : Jaffna and Point Pedro and that in or about 1947 it was agreed between the plaintiff and the defendant that the business in Jaffna should be taken over by the defendant and that the plaintiff should manage the business in Point Pedro and the plaintiff transferred to the defendant his interests if any, in the business at Jaffna. Defendant states  
10 that in consequence of the said agreement, the defendant became the sole owner of the business in Jaffna.

12. Further answering the defendant states that in the event of the plaintiff being declared entitled to an accounting the defendant claims a sum of Rs. 1,000/- per month as reasonable remuneration for his services of managing the said business in Jaffna, for the whole of the accounting period.

Wherefore the defendant prays :—

- (1) That plaintiff's action be dismissed.
- (2) In the event of the plaintiff being declared entitled to an  
20 accounting.
- (a) That an accounting be taken in respect of the business at Point Pedro as well as Jaffna.
- (b) That the defendant be given credit in a sum of Rs. 1,000/- per month as remuneration for the management of the business at Jaffna during the accounting period.
- (c) That the defendant be declared entitled to such sum as may be found due to him on such accounting.
- (3) For costs,  
30 And for such other and further relief as to this Court shall seem meet.

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant.*

**No. 4**  
**Amended Answer of the Defendant**

No. 4  
Amended  
Answer of the  
Defendant  
20.10.52

IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Thondamannar.....  
..... *Plaintiff*

No. 4323

*vs.*

Veeragathipillai Rajasegaram of Thondamannar  
..... *Defendant.*

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This 20th day of October, 1952.

The amended answer of the defendant abovenamed appearing by Mr. K. Ratnasingham, his proctor, states as follows :—

No. 4  
Amended  
Answer of the  
Defendant  
20.10.52—  
Continued

1. The defendant denies all and singular such averments in the plaint as are inconsistent with this answer.

2. Answering to paragraph 1 of the plaint, the defendant admits the averment as to residence but denies that any cause of action has accrued to the plaintiff to institute this action.

3. Answering to paragraph 2 of the plaint, the defendant admits the averments contained therein.

4. Answering to paragraph 3 of the plaint, the defendant denies that in or about 1929, or at any other time the said Sinnathamby Veeragathipillai gifted one-third share or any share of the said business, 10 its assets and goodwill thereof to the plaintiff. The defendant states that prior to the death of the said Sinnathamby Veeragathipillai in 1933 the said business of "S. Veeragathipillai & Sons" was carried on in partnership between the plaintiff, defendant and the said Veeragathipillai. The said Veeragathipillai died on the 3rd day of December, 1933, and that on his death there was a dissolution of the partnership and thereafter there was in law no partnership at all.

5. Answering to paragraph 4 of the plaint, the defendant admits the execution of the said Last Will. The Defendant denies, however, that the said Sinnathamby Veeragathipillai did in fact leave one-third 20 or any share of the said business to the plaintiff. The defendant further states that the said Sinnathamby Veeragathipillai was not in law entitled to leave any share of the said business to the plaintiff or any one else. The defendant therefore states that no share of the said business devolved on the plaintiff by virtue of the said Last Will.

6. Answering to paragraph 5 of the plaint, the defendant admits the making of the application referred to therein but denies that it was fraudulent or with a view to defraud the plaintiff of any rights. The defendant states that he was the sole proprietor of the said business, that he was entitled in law to make the said application 30 and that the plaintiff had no right or interest in the said business.

7. Answering to paragraph 6 of the plaint, the defendant while admitting the statements of account marked "X" referred to therein were prepared, denies that it is an account on the basis on which the plaintiff alleges, the said business was carried on. The defendant accordingly puts the plaintiff to the proof of the said accounts and of the basis on which it is alleged to have been prepared.

8. Answering to paragraph 7 of the plaint, the defendant states that he rendered no accounts to the plaintiff since the defendant was under no legal obligation to do so, for the reason that the plaintiff 40 had no right or interest in the said business. The defendant also

admits that he has been in sole and exclusive possession of the business carried on at Jaffna and states that the plaintiff is not entitled to claim any share of the said business.

No. 4  
Amended  
Answer of the  
Defendant  
20.10.52—  
*Continued*

9. Answering to paragraph 8 of the plaint the defendant denies all and singular the several averments therein contained and states that no trust existed in law as pleaded therein in favour of the plaintiff in respect of the plaintiff's alleged two-third share or any other share. The plea of trust referred to in the said paragraph is only an attempt to circumvent the provisions of section 18 of the Prevention of Frauds  
10 Ordinance, Chapter 57 of Volume 2 of the Legislative Enactments and the Provisions of law relating to partnership.

10. Further answering the defendant states that the plaint discloses no cause of action and the claim, if any, is prescribed in law.

11. Answering to paragraph 9 of the plaint, the defendant denies the averments contained therein and states that the plaintiff is not entitled to any such declaration or accounting as averred to therein.

12. Answering to paragraph 10 of the plaint, the defendant denies that the plaintiff is entitled to any share.

13. As a matter of law, the defendant states that in any event  
20 the plaintiff cannot maintain this action in the absence of a writing creating a partnership.

14. In the alternative, the defendant states that the business of "S. Veeragathipillai & Sons" was carried on at two places, viz. : Jaffna and Point Pedro and that in or about 1947 it was agreed between the plaintiff and the defendant that the business in Jaffna should be taken over by the defendant and that the plaintiff should take over the business in Point Pedro and that in consequence of the said agreement the defendant became the sole owner of the business in Jaffna.

15. Further answering the defendant states that in the event  
30 of the Court holding that the plaintiff was entitled to an accounting then the defendant claims :—

- (a) A sum of Rs. 1,000/- per month as reasonable remuneration for his services for managing the said business at Jaffna for the whole of the accounting period.
- (b) That the defendant is entitled to have the accounting between the parties taken as from 3rd December, 1933, in regard to the business of "S. Veeragathipillai & Sons" both at Jaffna and at Point Pedro.
- (c) That the profits be shared equally between the parties.

No. 4  
Amended  
Answer of the  
Defendant  
20.10.52—  
*Continued*

(d) that the defendant be allowed a sum of Rs. 10,000/- on account of the maintenance of Valliammai, the mother of the parties hereto.

Wherefore the defendant prays :—

- (a) That the plaintiff's action be dismissed.
- (b) That if the Court holds that the plaintiff is entitled to an accounting, then an account be taken between the parties in terms of paragraph 15 above.
- (c) For costs and for such other and further relief as to this Court shall seem meet.

10

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant.*

Perused and settled by :  
A. V. KULASINGHAM,  
*Advocate.*

No. 5  
Replication of  
the Plaintiff  
30.10.52

**No. 5.**  
**Replication of the Plaintiff**

IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Thondamanar  
.....*Plaintiff* 20

No. 4323.

*vs.*

Veeragathipillai Rajasegaram of Thondamanar  
.....*Defendant.*

This 30th day of October, 1952.

The replication of the plaintiff abovenamed appearing by Mr. S. Nagalingamudaly, his proctor, states as follows :—

1. The plaintiff joins issue with the defendant on the denials contained in the answer and reiterates the several averments contained in the plaint.

2. Replying to paragraphs 4 and 5 of the answer the plaintiff states that in or about the year 1929 Sinnathamby Veeragathipillai who was the sole proprietor of the business referred to therein gifted a one-third share each of the said business to the plaintiff and the defendant as stated in paragraph 3 of the plaint, that by deed No. 22276 referred to in paragraphs 4 and 5 of the answer the said Veeragathipillai, the plaintiff and the defendant gave effect to the said gift and declared themselves owners in equal shares of the said business and that as stated in paragraph 4 of the plaint the said Veeragathipillai by Last Will No. 22277 bequeathed his one-third share of the said business to the plaintiff.

40

3. Further replying the plaintiff states that the said business has thereafter been carried on on the footing that the plaintiff owned a two-thirds share of the business and the defendant a one-third share and that the defendant is precluded by the orders made in the said Case No.58T., D.C., Jaffna, from denying that the business was so owned.

No. 5  
Replication of  
the Plaintiff  
30.10.52—  
*Continued*

4. Replying to paragraph 6 of the answer the plaintiff states that the said Veeragathipillai lawfully bequeathed his one-third share to the plaintiff by the last will referred to therein and that the defendant who has all along acquiesced in the position that the plaintiff is entitled to a two-thirds share of the business and has jointly with the plaintiff kept accounts on that footing is now estopped from denying that the plaintiff is entitled to a two-thirds share of the said business assets and goodwill thereof.

5. Replying to paragraph 7 of the answer the plaintiff states that the defendant is not the sole proprietor of the business as alleged therein, that the defendant has in his applications to the Registrar of Business Names falsely and with a view to defraud the plaintiff represented that the plaintiff ceased to have any interest or right to the said business on the 6th day of June, 1952, and that if any rights accrued to the defendant by reason of the registration effected on the footing of such representation the defendant holds the said rights in respect of a two-thirds share thereof in trust for the plaintiff.

6. Replying to paragraphs 8, 9 and 10 of the answer the plaintiff states that the defendant is liable to render accounts to the plaintiff on the footing that the plaintiff is entitled to two-thirds share of the business and also even on the footing of the facts alleged in the answer.

7. Replying to paragraph 11 of the answer the plaintiff admits that the business was all along carried on at Jaffna and at Point Pedro and denies all and singular the other averments contained therein. The plaintiff denies that he transferred to the defendant, his interests in the business at Jaffna and states that the defendant who has himself had accounts of the said business at Jaffna and at Point Pedro up to 31st December, 1950, kept and duly audited on the footing that the plaintiff owned a two-thirds share of the business and the defendant a one-third share is estopped from denying that the plaintiff is still entitled to a two-thirds share of the said business.

8. Replying to paragraph 12 of the answer the plaintiff denies the averments contained therein.

Wherefore the plaintiff prays :—

- 40 (i) for judgment as prayed for in the plaint ;  
(ii) that the claim in re-convention be dismissed ;  
(iii) for costs ; and for such other and further relief as to this Court shall seem meet.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for Plaintiff.*

No. 6  
 Proceedings  
 before the  
 District Court  
 20.11.52.

**No. 6.**  
**Proceedings before the District Court**

D.C. Point Pedro, No. 4323.

Trial (Money).

20.11.52.

Mr. Advocate Soorasangaram instructed by Mr. S. Nagalingamudaly, proctor for the plaintiff.

Mr. Advocate A. Kulasingham instructed by Mr. K. Ratnasingham, proctor for the defendant.

Mr. Kulasingham heard in support of the amendments sought to be made to the answer dated 3.10.52 filed of record as per amendments now indicated on motion filed by proctor for the defendant undated and minuted under journal entry dated 14.11.52 marked (8).

Mr. Soorasangaram heard contra.

In view of paragraphs 3 and 4 of the said motion to amend being vague, and since paragraphs 15(d) and 11 on page 3 of the said motion need correction, Mr. Kulasingham, counsel for the defendant, now moves to file a fresh motion indicating the amendments sought to be made to the answer under reference, viz. answer dated 3.10.52.

Mr. Kulasingham's application to file a new motion to amend answer allowed.

Mr. Soorasangaram, counsel for the plaintiff, moves for costs of the day since his appearance was necessitated by this matter for amendments to be made to the answer being fixed for consideration today, of which notice had been given both to the defendant-party and the plaintiff-party.

Mr. Kulasingham says that the plaintiff is not entitled for costs of today since it is a matter of amendments to pleadings that has been taken up for consideration.

On the question of costs, I hold that counsel for the plaintiff is entitled for costs since the matter was fixed for consideration as between the plaintiff-party and the defendant-party and the amendments sought to be made to the answer are in itself supported by counsel retained by the defendant.

I, therefore, fix costs of the day at Rs. 31.50 being payable by the defendant-party to the plaintiff-party.

New motion to amend answer on 5.12.52.

Call case on 5.12.52.

(Sgd.) A. W. NADARAJAH,

*D.J.* 40  
 20.11.50.

**No. 7**  
**Proceedings before the District Court and Order**

D. C. POINT PEDRO No. 4323

No. 7  
 Proceedings  
 before the  
 District Court  
 and Order  
 23.1.53.

**Consideration (Money)**

23.1.53.

Mr. Advocate Soorasangaram instructed by Mr. S. Nagalingamudaly, proctor for the plaintiff.

Mr. K. Ratnasingham, proctor for the defendant.

Plaintiff and defendant absent.

10 The matter taken up for consideration is the amendment now sought to be made to the answer filed of record dated 3.10.52 as per motion dated 4.12.52.

Mr. Ratnasingham in support of the amendment now sought to be made to the answer specially to para 15(d) states that that amendment will not cause any prejudice to the plaintiff in this suit at this stage and that the amendment is sought to be made *bona fide* and in support cites the case reported in 18 "Ceylon Law Weekly", page 18. He further states that it is always open to the plaintiff to serve interrogatories on the defendant for further elucidation of any material  
 20 that is found wanting in the para of the amendment now sought to be made.

Mr. Soorasangaram in reply states that he has no objection to the amendment sought to be made except the averment under para 15(d) because the averment made by the defendant "that the maintenance of Walliammai, widow of Veeragathipillai, mother of the parties was the responsibility of the plaintiff" is vague and does not show in what manner the defendant seeks to settle the sole responsibility for the maintenance of the said widow on the plaintiff. Mr. Soorasangaram submits that to meet that averment, the plaintiff  
 30 should have the opportunity of knowing whether the responsibility is based on law or on fact as the averment in para 15 (d) as it now stands is not clear. For that reason he objects only to the averment regarding the specific para and states that the defendant should be called upon to amplify that para in the light of his submissions.

**ORDER**

The amendment now sought to be made by motion dated 4.12.52 by proctor for the defendant excepting para 15(d) is allowed.

There is substance in the submissions made by counsel for the plaintiff that para 15(d) as it now stands does not show in what manner,  
 40 how and when the responsibility for the maintenance of the said widow Walliammai, mother of the two parties arose and whether such responsibility is based on any contractual relationship between the parties to this suit or by any law or custom.

No. 7  
Proceedings  
before the  
District Court  
and Order  
23.1.53—  
Continued

Mr. Ratnasingham in his submissions stated that for further clarification, he would give the dates of the responsibility as from 1933, the date on which the said Walliammai's husband Veeragathipillai died and the termination of the period of the responsibility as 1946, on which date the said Walliammai died. On this submissions made by Mr. Ratnasingham, it is clearly apparent that these circumstances should also be incorporated into para 15(d), so that the plaintiff will have the opportunity of meeting the case presented against him by the defendant. I therefore give an opportunity to the defendant to amend para 15(d) in the light of the order now made and for its inclusion in the amended answer. 10

Call on 29.1.53 for amended para of para 15(d) of amended answer.

Order pronounced and delivered in open Court.

(Sgd.) A. W. NADARAJAH,  
D.J.  
23.1.53.

**No. 8**

**Amended Answer of the Defendant**

No. 8  
Amended  
Answer of the  
Defendant  
19.2.53.

IN THE DISTRICT COURT OF POINT PEDRO 20

Veeragathipillai Rajaratnam of Thondamannar.....  
..... Plaintiff

No. 4323

vs.

Veeragathipillai Rajasegaream of Thondamannar....  
..... Defendant.

On this 19th day of February, 1953.

The amended answer of the abovenamed defendant appearing by K. Ratnasingham, his proctor, states as follows :—

1. The defendant denies all and singular such averments in the plaint as are inconsistent with this answer. 30

2. Answering to paragraph 1 of the plaint, the defendant admits the averments as to residence but denies that any cause of action has accrued to the plaintiff to institute this action.

3. Answering to paragraph 2 of the plaint, the defendant admits the averments contained therein.

4. Answering to paragraph 3 of the plaint, the defendant denies that in or about 1929 or at any other time the said Sinnathamby Veeragathipillai gifted one-third share or any share of the said business, its assets or goodwill thereof to the plaintiff. The defendant states that prior to the death of the said Sinnathamby Veeragathipillai in 40



1933, the said business " S. Veeragathipillai & Sons " was carried on in partnership between the plaintiff, defendant and the said Veeragathipillai. The said Veeragathipillai died on the 3rd December, 1933, and that on his death there was a dissolution of the said partnership and thereafter there was in law no partnership at all.

No. 8  
Amended  
Answer of the  
Defendant  
19.2.53—  
*Continued*

5. Answering to paragraph 4 of the plaint, the defendant admits the execution of the said Last Will. The defendant denies, however, that the said Sinnathamby Veeragathipillai did in fact leave one-third or any share of the said business to plaintiff. The defendant further  
10 states that the said Sinnathamby Veeragathipillai was not in law entitled to leave any share of the said business to the plaintiff or any one else. The defendant therefore states that no share of the said business devolved on the plaintiff by virtue of the said Last Will.

6. Answering to paragraph 5 of the plaint the defendant admits the making of the application referred to therein but denies that it was fraudulent or with a view to defraud the plaintiff of any rights. The defendant states that he was the sole proprietor of the said business, that he was entitled to make the said application and that the plaintiff had no right or interest in the said business.

20 7. Answering to paragraph 6 of the plaint the defendant while admitting the statements of accounts marked X referred to therein were prepared, denies that it was an account on the basis of which the plaintiff alleges the said business was carried on. The defendant accordingly puts the plaintiff to the proof of the said accounts and of the basis on which it is alleged to have been prepared.

8. Answering to paragraph 7 of the plaint the defendant states that he rendered no accounts to the plaintiff since the defendant was under no legal obligation to do so for the reason that the plaintiff had no right or interest in the said business. The defendant also admits  
30 that he has been in sole and exclusive possession of the said business carried on at Jaffna and states that the plaintiff is not entitled to claim any share of the said business.

9. Answering to paragraph 8 of the plaint the defendant denies all and singular the several averments therein contained and states that no trust existed in law as pleaded therein in favour of the plaintiff in respect of the plaintiff's alleged two-third share or any other share. The plea of trust referred to in the said paragraph is only an attempt to circumvent the provision of section 18 of the Prevention of Frauds Ordinance, Chapter 57 of Volume II of the Legislative Enactments  
40 and the provisions of law relating to partnership.

10. Further answering the defendant states that the plaint discloses no cause of action and the claim, if any, is prescribed in law.

No. 8  
Amended  
Answer of the  
Defendant  
19.2.53—  
Continued

11. Answering to paragraph 9 of the plaint the defendant denies the averments contained therein and states that the plaintiff is not entitled to any such declaration or accounting as averred therein.

12. Answering to paragraph 10 of the plaint the defendant denies that the plaintiff is entitled to any share.

13. As the matter of law the defendant states that in any event the plaintiff cannot maintain this action in the absence of a writing creating a partnership.

14. In the alternative the defendant states that the business "S. Veeragathipillai & Sons" was carried on at two places, viz. : 10  
Jaffna and Point Pedro, and that in or about 1947 it was agreed between the plaintiff and the defendant that the business in Jaffna should be taken over by the defendant and the plaintiff should take over the business in Point Pedro and that in consequence of the said agreements the defendant became the sole owner of the business in Jaffna.

15. Further answering the defendant states that in the event of the Court holding that the plaintiff is entitled to an accounting then the defendant claims :—

- (a) A sum of Rs. 1,000/- a month as reasonable remuneration for his services for managing the said business at Jaffna 20 for the whole of the accounting period.
- (b) That the defendant is entitled to have the accounting between the parties taken as from 3rd December, 1933, in regard to the business "S. Veeragathipillai & Sons" both at Jaffna and at Point Pedro.
- (c) That the profits be shared equally between the parties, and
- (d) That at all relevant times after the death of the said Veeragathipillai in 1933, his widow Walliammai, mother of the parties lived with the defendant and was maintained by the defendant from 1933, till her death in 1946, when such 30 maintenance was the responsibility of the plaintiff in as much as the plaintiff was enjoined by his late father Veeragathipillai to look after and maintain the said Walliammai. The defendant therefore claims a sum of Rs. 10,000/- for such maintenance.

Wherefore the defendant prays :—

- (i) That the plaintiff's action be dismissed.
- (ii) That in the event of the Court holding that the plaintiff is entitled to an accounting, then the account be taken between the parties in terms of paragraph 15 above. 40
- (iii) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant.*

**No. 9.****Amended Replication of the Plaintiff**

IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Thondamanar  
..... *Plaintiff.*

No. 4323.

*vs.*Veeragathipillai Rajasekeram of Thondamanar  
..... *Defendant.*No. 9  
Amended  
Replication of  
the Plaintiff  
5.3.53

On this 5th day of March, 1953.

10 The amended replication of the plaintiff above-named appearing by S. Nagalingamudaly, his proctor, states as follows:—

1. The plaintiff joins issue with the defendant on the denials contained in the amended answer and reiterates the several averments contained in the plaint.

2. Replying to paragraph 4 of the amended answer the plaintiff states that in or about the year 1929, Sinnathamby Veeragathipillai who was the sole proprietor of the business referred to therein gifted a one-third share each of the said business to the plaintiff and the defendant as stated in paragraph 3 of the plaint, and that as stated  
20 in paragraph 4 of the plaint the said Veeragathipillai by Last Will No. 22277 bequeathed his one-third share of the said business to the plaintiff and denies the other averments contained therein.

3. Further replying the plaintiff states that the said business has thereafter been carried on on the footing that the plaintiff owned a two-thirds share of the business and the defendant a one-third share and further states that the defendant is precluded by the orders made in the Case No. 58 T.—D.C. Jaffna from denying that the said business was so owned.

4. Replying to paragraph 5 of the amended answer the plaintiff  
30 states that the said Veeragathipillai lawfully bequeathed his one-third share to the plaintiff by the Last Will referred to therein and that the defendant, who has all along acquiesced in the position that the plaintiff is entitled to a two-thirds share of the business and has jointly with the plaintiff kept accounts on that footing is now estopped from denying that the plaintiff is entitled to a two-thirds share of the said business assets and goodwill thereof.

5. Replying to paragraph 6 of the amended answer the plaintiff states that the defendant is not the sole proprietor of the business as alleged therein, that the defendant has in his application to the  
40 Registrar of Business names falsely and with a view to defraud the

No. 9  
Amended  
Replication of  
the Plaintiff  
5.3.53—  
*Continued*

plaintiff represented that the plaintiff ceased to have any interest or right to the said business on the 6th day of June, 1952, and further states that if any right accrued to the defendant by reason of the registration effected on the footing of such representation the defendant holds the said rights in respect of a 2/3rds share thereof in trust for the plaintiff.

6. Replying to paragraph 7 of the amended answer the plaintiff states that the said accounts referred to in paragraph 6 of the plaint as well as similar accounts for several years immediately preceding were prepared by the auditors duly appointed by the plaintiff and the defendant and duly authorised by them to prepare the said accounts and further states that it is not open to the defendant to dispute the correctness of the said accounts and the ownership of the said business by the plaintiff and the defendant in the proportions referred to therein.

7. Replying to paragraphs 8, 9, 11, 12 and 13 of the amended answer the plaintiff states that the defendant is liable to render accounts to the plaintiff on the footing that the plaintiff is entitled to a two-thirds share of the business and denies the other averments contained therein.

8. Replying to paragraph 10 of the amended answer the plaintiff denies the averments contained therein.

9. Replying to paragraph 14 of the amended answer the plaintiff admits that the business was all along carried on at Jaffna and at Point Pedro and denies all and singular the other averments contained therein. The plaintiff denies that he transferred to the defendant his interests in the business at Jaffna and states that the defendant who has himself had accounts of the said business at Jaffna and at Point Pedro up to 31st December, 1950, kept and duly audited on the footing that the plaintiff owned a two-thirds share of the business and the defendant a one-third share is estopped from denying that the plaintiff is still entitled to a two-thirds share of the said business.

10. Replying to paragraph 15 of the amended answer the plaintiff denies all and singular the averments contained therein. The plaintiff further states that no cause of action is disclosed entitling the defendant to make the claims put forward therein and that the said claims are prescribed in law.

Wherefore the plaintiff prays :—

- (a) for judgment as prayed for in the plaint ;
- (b) that the claim in reconvention be dismissed ;
- (c) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) NAGALINGAMUDALY,  
*Proctor for Plaintiff.*

## No. 10.

## Plaintiff's List of Witnesses and Documents

IN THE DISTRICT COURT OF POINT PEDRO

No. 4323.

No. 10  
Plaintiff's list  
of Witnesses  
and Documents  
12.6.53

## PLAINTIFF'S LIST OF WITNESSES AND DOCUMENTS

1. S. Cumaraswamy, Chartered Accountant, N. M. Sambamurti & Co., Imperial Bank Buildings, Colombo, to give evidence and to produce the following :—

10 (a) Financial statements of Veeragathipillai & Sons for the years from 1932 to 1950 including the personal accounts of V. Rajaratnam and V. Rajasegaram of Thondamanar.

(b) Letters written by V. Rajaratnam and V. Rajasegaram.

(c) And other documents relating to the business of Veeragathipillai & Sons.

2. N. M. Sambamurti, Chartered Accountant, Kilpark, Madras.

3. The Registrar of Business Names, Northern Province, Jaffna, to produce or cause to be produced all applications for registration of the business names "S.V." and "S. Veeragathipillai & Sons", Certificates of Registration of the said business names, statements  
20 of changes notified to the Registrar and all correspondence between the Registrar and V. Rajasegaram and between the Registrar and V. Rajaratnam. Copies obtained.

4. N. Alagasundaram, Kanakappillai, "S. Veeragathipillai & Sons", Jaffna.

5. The Controller of Imports and Exports, Colombo, to produce or cause to be produced the "Section B" application made by "S. Veeragathipillai & Sons" on 28th April, 1949. Copy obtained.

6. K. Narayanasamy Naidu, Kanakappillai, Thondamanar.

7. The Manager, Chartered Bank of India, Australia and China,  
30 Colombo, to produce or cause to be produced all correspondence and documents relating to BR 5485 of 1952 for Rs. 8844.54 of Veeragathipillai & Sons, Jaffna and Thondamanar.

8. The National Bank of India Ltd., Colombo, to produce or cause to be produced the following :—

(a) Certified copy of the accounts in the Ledger of S. Veeragathipillai & Sons, Jaffna.

(b) All cheque leaves issued by V. Rajaratnam and V. Rajasegaram on behalf of S. Veeragathipillai & Sons, Jaffna.

(c) And all correspondence between the Bank and V. Rajasegaram.

40 (d) Cheque No. 302339 signed by V. Rajasegaram.

9. The Bank of Ceylon, Jaffna, to produce or cause to be produced the following :—

No. 10  
Plaintiff's List  
of Witnesses  
and Documents  
12.6.53—  
*Continued*

- (a) Certified copy of the accounts in the Ledger of S. Veeragathipillai & Sons, Jaffna, from 1945 to 1953.
- (b) All cheque leaves issued by V. Rajaratnam and V. Rajasegaram on behalf of S. Veeragathipillai & Sons, Jaffna.
- (c) And all correspondence between the Bank and V. Rajasegaram.
10. The Government Agent, Northern Province, Jaffna, to produce or cause to be produced all applications for Pawn Brokers' Licence made on behalf of "S. Veeragathipillai & Sons" between the years 1947 to 1953 and all correspondence relating thereto.
11. The Manager, Standard Tile & Clay Works Ltd., Ferooke, 10 S. India, to produce or cause to be produced all correspondence with "S. Veeragathipillai & Sons" and with V. Rajaratnam and V. Rajasegaram, together with the letter of 28th March, 1952, written by V. Rajasegaram of "S. Veeragathipillai & Sons".
12. Dr. V. Duraiswamy, Jaffna.
13. V. Suppiah, Pensioner, Tondamanar.
14. M. Esurapadham, Crown Proctor, Point Pedro.
15. S. Kanapathippillai, Head Teacher, Namasivaya Vidyalaya, Koddady, Jaffna.
16. K. Velmuruku, Licensed Surveyor, Point Pedro. 20
17. S. Ponniah, Aiyanangai Estate, Eluthumadduwal.
18. The defendant to produce :—
- (a) All account books maintained by "S. Veeragathipillai & Sons".
- (b) The Power of Attorney granted by the plaintiff to him.
- (c) All letters written by the Registrar of Business Names, Jaffna, during the years 1951, 1952 and 1953.
- (d) Financial statements relating to "S. Veeragathipillai & Sons" together with the statement relating to the personal account of V. Rajasegaram issued by N. M. Sambamurti 30 & Co. during the years 1947 to 1952.
- (e) All letters written to the defendant by the Chartered Bank of India, Australia and China, Ltd., Colombo, National Bank of India Ltd., The Bank of Ceylon, Jaffna, and the Standard Tile and Clay Works.
19. The plaintiff to give evidence and to produce :—
- (a) Account books.
- (b) Deed No. 22276 of 14.10.33 attested by S. Subramaniam, N.P.
- (c) Deed No. 22277 of 14.10.33 attested by S. Subramaniam, N.P.
- (d) Deed No. 13754 of 4.2.1935 attested by V. Sabaratnam, N.P. 40
- (e) Writing granted by Walliammai dated 26.4.1934.
- (f) Affidavit, Inventory, Proceedings, Order and Supreme Court Order in 58 D.C. Jaffna.

- (g) Trial Balance Sheet issued by the Kanakkappillai of S. Veeragathipillai & Sons, Jaffna.
- (h) Audited statements of accounts of S. Veeragathipillai & Sons.
- (i) Copies of Income Tax Returns of the plaintiff and defendant.
- (j) Power of Attorney granted by plaintiff to defendant No. 647 of 22.7.45 attested by K. Ratnasingham, N.P.
- (k) Application for registration, Registration Certificates, statements of changes and letters of "S.V." and "S. Veeragathipillai & Sons" and affidavits of the plaintiff and defendant relating thereto.
- 10 (l) Application for Import Control Licence made by "Veeragathipillai & Sons" on 28.4.49.
- (m) Letters to and from the Chartered Bank of India, Australia and China.
- (n) Letters to and from the Bank of Ceylon, Jaffna.
- (o) Letters to and from the Standard Tile and Clay Works, Ltd., Feroke, S. India.
- (p) Counterfoil of Cheque No. FO 805301 of 27.4.1952 issued by Veeragathipillai & Sons on the National Bank of India Ltd.
- 20 (q) Cheque No. 202652 dated 27.3.1952 issued by Veeragathipillai & Sons on the Bank of Ceylon.
- (r) Letters written by the Government Agent, N.P. and Registrar of Business Names, N.P., Jaffna to the plaintiff.
- (s) Letters written by the Chartered Bank of India including letter of 5th June, 1952.
- (t) Letters written by Standard Tile & Clay Works.
- (u) Letters written by the Bank of Ceylon, Jaffna.
- (v) Letters written by the National Bank of India Ltd., including letter of 8th July, 1952.
- 30 (w) Plan No. 2883 prepared by K. Velmuruku, Licensed Surveyor.
- (x) Certified copy of plaint, answer in partition Case No. 4278 D.C. Point Pedro.

I move to cite the above witnesses.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for plaintiff.*

The 12th day of June, 1953.  
 Copy posted to proctor for defendant.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for plaintiff.*

40

**No. 11**

**Defendant's List of Witnesses and Documents**

IN THE DISTRICT COURT OF POINT PEDRO

No. 4323

DEFENDANT'S LIST OF WITNESSES AND DOCUMENTS

1. N. M. Sambamoorthy, Chartered Accountant, Kilpork, Madras.

2. S. Cumarasamy, Chartered Accountant of N. M. Sambamoorthy & Co., Imperial Bank Buildings, Colombo, to give evidence and to produce the following :— 10

- (1) The Accounts of Messrs. S. Veeragathipillai & Sons.
- (2) Letters written by V. Rajaratnam, V. Rajasegaram and R. Sundaramoorthy.

3. The Registrar of Business Names, N.P., Jaffna, to produce or cause to be produced :—

- (1) Certificate of Business Registration No. 668 of 12th March, 1929.
- (2) Certificate of Business registration dated 12th August, 1936.
- (3) Certificate of Business registration dated June, 1952.
- (4) Affidavit of V. Rajaratnam dated 20.9.52 sent by the plaintiff 20  
in connection with the registration and other correspondence *re* registration.

4. The Government Agent, N.P., Jaffna, to produce or cause to be produced :—

All Licences of for Pawn Brokers Licences issued to Messrs. S. Veeragathipillai & Sons, Jaffna, and all correspondence relating thereto from 1932 to 1953 and the letters sent by V. Rajaratnam and R. Sundaramoorthy.

5. The Manager, Standard Tile and Clay Works, Ltd., Feroke, South India, to produce or cause to be produced :— 30

- (1) All correspondence with Messrs. S. Veeragathipillai & Sons and with V. Rajaratnam and R. Sundaramoorthy for and on behalf of Messrs. S. Veeragathipillai & Sons in the year 1952 ; and
- (2) the copy of Invoice of tiles shipped in the year 1952 to Messrs. S. Veeragathipillai & Sons and V. Rajaratnam of Thondamanar.

6. The Postmaster-General, Colombo, to produce or cause to be produced all correspondence to him and the Postmasters of Thondamannar and Velvettiturai regarding the delivery of letters and tele- 40  
grams addressed to Messrs S. Veeragathipillai & Sons.



7. The Divisional Superintendent of Post Office, Jaffna, to produce or cause to be produced all correspondence to him, the Postmaster-General, Colombo, and the Postmasters of Velvettiturai and Thondamannar *re* the delivery of letters and telegrams addressed to Messrs. S. Veeragathipillai & Sons.

No. 11  
Defendant's  
List of  
Witnesses and  
Documents  
17.6.53—  
*Continued*

8. The Secretary, District Court, Jaffna, to produce or cause to be produced the evidence of V. Rajaratnam, the proceedings, Inventory, Final Account and documents produced by V. Rajaratnam at the inquiry in Case No. 58 T., D. C. Jaffna.

- 10 9. R. Sundaramoorthy to give evidence and to produce :—
- (1) All letters written to Standard Tile and Clay Works, Feroke, S. India.
  - (2) Copies of letters sent to Superintendent of Police, Jaffna.
  - (3) Copies of letters sent to the Government Agent, N.P., Jaffna, *re* Pawn Brokers Licence.
  - (4) Copies of letters sent to—the Prime Minister of Ceylon *re* Pawn Brokers Licence.
  - (5) Copies of letters sent to N. M. Sambamoorthy & Co., Accountants, Colombo.
- 20 10. The Permanent Secretary to the Prime Minister of Ceylon, to produce or cause to be produced the petition sent by R. Sundaramoorthy.
11. The Superintendent of Police, Jaffna, to produce or cause to be produced the petition sent by R. Sundaramoorthy *re* Pawn Brokers Licence for 1952-1953 to V. Rajasegaram.
- 11A. The Imperial Bank of India, Ltd., Colombo, to produce or cause to be produced all personal accounts in the Ledger relating to V. Rajaratnam of Thondamannar for the years 1951 and 1952.
- 30 12. The Bank of Ceylon, Jaffna, to produce or cause to be produced :—
- (a) Speciman signature cards issued by Messrs. Veeragathipillai and Sons, Jaffna.
  - (b) All cheque leaves issued by Messrs. S. Veeragathipillai & Sons ;
  - (c) All correspondence of Messrs. S. Veeragathipillai and Sons from 1945-1952.
13. The National Bank of India, Ltd., Colombo, to produce or cause to be produced :—
- (a) All cheque leaves issued by Messrs. S. Veeragathipillai & Sons.

No. 11  
 Defendant's  
 List of  
 Witnesses and  
 Documents  
 17.6.53.—  
*Continued*

14. The Manager, Chartered Bank of India, Australia and China, Colombo, to produce or cause to be produced :—
- (a) All correspondence and documents relating to the import of tiles by Messrs. S. Veeragathipillai & Sons, Jaffna and V. Rajaratnam of Tondamannar.
- (b) All copies of Bills and Invoices sent by the Standard Tile and Clay Works, Feroke.
15. N. Alagasundaram, Kanakkapillai of S. Veeragathipillai & Sons, Jaffna.
16. K. Narayanan Naidu, Kanakappillai of Thondamanar. 10
17. Doctor V. Duraiswamy, Jaffna.
18. V. Suppiah of Tondamanar.
19. M. Esurapadham, Crown Proctor, Point Pedro.
20. K. K. Balasubramaniam, Proctor & Notary, Valvettiturai.
21. K. Valemurugu, Licensed Surveyor, Puloly West.
22. S. Kanapathipillai, Head Teacher, Namasivaya Vidyasalai, Jaffna.
23. R. Sivakumaran of Thondaimanar.
24. T. Muthuthamby, Pensioner, Tondaimanar.
25. The plaintiff to produce the following :— 20
- (a) All correspondence between him and the Standard Tile and Clay Works, Feroke, the aforesaid Company and Messrs. Veeragathipillai and Sons, Thondaimanar.
- (b) All correspondence between him and Chartered Bank of India, Australia and China, Colombo, and the aforesaid Bank and Messrs. Veeragathipillai and Sons, Tondaimanar in the year 1952.
- (c) All correspondence between him and the Government Agent, N.P., Jaffna, and the said Government Agent and Messrs. S. Veeragathipillai and Sons, Tondaimanar. 30
- (d) All correspondence between him and the Registrar of Business Names, Jaffna, and the said Registrar of Business names and Messrs. S. Veeragathipillai and Sons, Jaffna.
- (e) All correspondence between him and the Bank of Ceylon, Jaffna, and the said Bank and Messrs. S. Veeragathipillai and Sons in the year, 1952.
- (f) All correspondence between him and the National Bank, Ltd., Colombo, and the said Bank and Messrs. S. Veeragathipillai and Sons.

- (g) All counterfoils of cheques issued by the plaintiff to—
- (i) Bank of Ceylon, Jaffna.
  - (ii) The National Bank, Ltd., Colombo.
  - (iii) The Chartered Bank of India, Australia and China, Ltd., Colombo.
- (h) All returned cheques issued by the plaintiff and returned to him in the year 1952, for the following Banks :—
- (i) The Bank of Ceylon, Jaffna.
  - (ii) The National Bank, Ltd., Colombo.
- 10 (i) The account books relating to his personal accounts maintained in the Imperial Bank, Ltd., Colombo, for the years 1951 and 1952.
- (j) All account books of S. Veeragathipillai and Sons, Point Pedro and Jaffna for 1933 to 1952.
- (k) Certified copies of Inventory, Final Account, and documents produced and proceedings in case No. 58 T., D. C. Jaffna.
26. The defendant to produce the following :—
- (a) The correspondence between S. Veeragathipillai and Sons and the Standard Tile and Clay Works Co., Ltd., Feroke.
  - 20 (b) The correspondence between S. Veeragathipillai and Sons, and the Chartered Bank of India, Australia and China, Colombo.
  - (c) The correspondence between S. Veeragathipillai and Sons and the Government Agent, N.P., Jaffna.
  - (d) The correspondence between S. Veeragathipillai and the Registrar of Business Names.
  - (e) The account books.
  - (f) Copies of letters written by the defendant, plaintiff and Sundaramoorthy, to the Postmaster-General, Divisional Superintendent of Post Office, Jaffna, and the Postmasters of Thondaimanar and Valvettiturai.
  - 30 (g) Copies of letters sent by the plaintiff and R. Sundaramoorthy to the Government Agent.
  - (h) Copy of letter sent by R. Sundaramoorthy to the Prime Minister.
  - (i) Cheque leaves issued in the following Banks by Messrs. S. Veeragathipillai and Sons :
    - (a) Bank of Ceylon.
    - (b) National Bank of India, Ltd., Colombo.

No. 11  
Defendant's  
List of  
Witnesses and  
Documents  
17.6.53—  
*Continued*

- (j) Letter written by Chartered Bank of India, Ltd., to Messrs. S. Veeragathipillai and Sons, Jaffna.
- (k) Deed No. 22276 of 14.10.33 attested by S. Subramaniam, N. P.
- (l) The Inventory, Final Accounts, Documents produced and the proceedings in Case No. 58 T., D. C., Jaffna.

(Sgd.) K. RATNASINGHAM,  
*Proctor for defendant.*

The 17th day of June, 1953.

Posted copy to  
Proctor for plaintiff.

10

(Sgd.) K. RATNASINGHAM,  
*Proctor for defendant.*

No. 12  
Proceedings  
before the  
District Court  
Issues framed  
and Order  
25.6.53

**No. 12**  
**Proceedings before the District Court**  
**Issues framed and Order**

D. C. POINT PEDRO No. 4323 (MONEY)

Trial :25.6.53.

Mr. Advocate Thiagalingam with Messrs. Advocate S. Soorasangam and Advocate R. Shivapathasunderam instructed by Mr. S. Nagalingamudaly, proctor for the plaintiff.

Mr. Advocate E. B. Wickremanayake with Messrs Advocate A. V. Kulasingham, Advocate S. R. Kanaganayagam and Advocate C. Thanabalasingham, instructed by Mr. K. Ratnasingham, proctor, for the defendant.

Plaintiff and defendant present.

*Issues suggested by Mr. Thiagalingam :—*

1. Was Sinnathamby Veeragathipillai the sole owner of the business carried on at Jaffna and at Point Pedro under the name of "S. V." in rice, paddy, tiles, etc., and as pawn-broker and money-lender prior to 1929 ?

2. Did the said Veeragathipillai in or about the year 1929 gift—

(a) a 1/3rd share of the said business to the plaintiff ?

(b) a 1/3rd share of the said business to the defendant ?

(c) reserve unto himself the balance 1/3rd share ?

3. Did the said Veeragathipillai, plaintiff and the defendant thereupon become each entitled to a 1/3rd share of the said business ?

4. Did the said Veeragathipillai die on 3.12.33 leaving behind a Last Will No. 2277 dated 14.10.33 attested by S. Subramaniam, Notary Public ?

5. Was the Last Will admitted to probate in Case No. 58 of the District Court of Jaffna ?

6. Was it one of the devises under the Last Will that the 1/3rd share of Veeragathipillai in the business be bequeathed to the plaintiff ?

7. Did the plaintiff and the defendant thereupon become entitled to the business and to the assets and goodwill thereof in the proportion 10 of 2/3rd share and 1/3rd share respectively ?

8. Did the plaintiff and the defendant carry on the said business at Jaffna and at Point Pedro on the footing that plaintiff was the owner in respect of a 2/3rd share and the defendant to a 1/3rd share ?

9. Did the defendant on 7.6.52 fraudulently represent to the Registrar of Business Names that the plaintiff had ceased to have any interests in the business as from 6.6.52 ?

10. Did the defendant on 7.6.52 fraudulently apply to the Registrar of Business Names to have himself registered as the sole proprietor of the business ?

20 11. Did the defendant fraudulently procure the registration of the business name of the business carried on by the parties to this action as his sole concern ?

12. Were the balance sheets prepared up to 31.12.50 in respect of the business of the parties to this action carried on at Jaffna by the duly appointed Auditors on the basis that the plaintiff was a 2/3rd share owner and the defendant a 1/3rd share owner ?

13. Is the account marked " X " and annexed to the balance sheet for the year ended 31.12.50 one such account ?

14. Have accounts been taken after 31.12.50 ?

30 15. Has the defendant rendered any account after 31.12.50 ?

16. Has the defendant since 7.6.52 taken possession of the business at Jaffna, the assets thereof and the goodwill relating thereto ?

17. Has the defendant excluded the plaintiff therefrom ?

18. Is the defendant denying the right of the plaintiff in respect of the business ?

19. Is the defendant refusing to render an account of the business ?

20. Is the defendant making use of the business and the assets as property belonging to him ?

No. 12  
Proceedings  
before the  
District Court  
Issues framed  
and Order  
25.6.53—  
*Continued*

No. 12  
 Proceedings  
 before the  
 District Court  
 Issues framed  
 and Order  
 25.6.53.—  
*Continued*

21. Is the defendant holding the business carried on at Jaffna and the assets and goodwill thereof of the 2/3rd share in trust for the plaintiff ?

22. If all or any one of the above issues are/is answered in favour of the plaintiff, is defendant liable to render an account to the plaintiff on the footing of the balance sheet marked "X" for all the assets taken charge of by him as at that date and all other assets and profits coming to his possession from time to time in the course of carrying on the said business ?

23. Is the plaintiff entitled to a declaration that he is the owner of a 2/3rd share of the business carried on at Jaffna and at Point Pedro and the assets and goodwill thereof ?

24. Is the plaintiff entitled to an accounting of all the assets taken charge of by the defendant and the profits accruing therefrom ?

Mr. Wickremanayake objects to Issue 12 and to Issue 22 for the inclusion of the words " on the footing of the balance sheet marked ' X ' " and suggests the following issues :—

25. Prior to the death of Sinnathamby Veeragathipillai in 1933, was the business " S. Veeragathipillai and Sons " carried on in partnership by the plaintiff, defendant and Veeragathipillai ?

26. On the death of the said Veeragathipillai in December, 1933, was there a dissolution of the said partnership ?

27. Was the said Veeragathipillai entitled in law to bequeath any share of the business to the plaintiff ?

28. If not, did any share of the business devolve upon the plaintiff by virtue of the said Last Will ?

29. Is the defendant the sole proprietor of the business in question ?

30. If so, was the defendant entitled to apply to the Registrar of Business Names to have himself registered as the sole proprietor of the said business ?

31. Was the statement of account marked " X " prepared on the basis as stated by the plaintiff ?

32. Is the plaintiff entitled to maintain this action in the absence of a writing creating a partnership ?

33. Has the plaintiff a cause of action against the defendant ?

34. Is the plaintiff's claim, if any, prescribed in law ?

35. Was it agreed in or about 1947 between the plaintiff and the defendant that the defendant should take over the business in Jaffna and the plaintiff take over the business at Point Pedro ?

36. Did the defendant take over the business in Jaffna in consequence of the said agreement ?

37. If so, is the defendant the sole owner of the business in Jaffna ?

38. In the event of the Court holding that the plaintiff is entitled to an accounting, is the defendant entitled—

- 10 (a) to a remuneration of Rs. 1,000/- or any other sum a month for his services in managing the said business at Jaffna ?
- (b) for an accounting between the parties as on 31.12.33, of the business both at Jaffna and at Point Pedro ?
- (c) for an order that the said profits be shared equally between the plaintiff and the defendant ?

39. Was the plaintiff enjoined by his father to look after and maintain, Walliammai, the mother of the parties ?

40. Was the said Walliammai maintained by the defendant from 1933 to 1946 ?

- 20 41. If so, is the defendant entitled to Rs. 10,000/- or any other sum for such maintenance ?

Mr. Thiagalingam objects to issues 27, 29 and 33 and also to issues 39, 40 and 41 on the ground that issue No. 39 is not clear enough and suggests the following further issues :—

42. Is the defendant precluded by the orders made in Case No. 58 D.C. (Testy.) Jaffna that the business of Veeragathipillai and sons was owned in the shares of 2/3rd and 1/3rd by the plaintiff and the defendant respectively ?

- 30 43. Has the defendant accepted and acquiesced in the devises contained in the Last Will No. 2277 of 14.10.33 ?

44. Is the defendant estopped from denying that plaintiff is entitled to a 2/3rd share of the business and the assets and the goodwill thereof in terms of the Last Will ?

45. Is it open to the defendant to dispute the correctness of the account marked " X " and earlier accounts as pleaded in para 3 of the replication ?

46. Is the defendant estopped thereby from disputing the ownership of the said business by the plaintiff and the defendant in the proportion of 2/3rd and 1/3rd respectively ?

No. 12  
 Proceedings  
 before the  
 District Court  
 Issues framed  
 and Order  
 25.6.53—  
 Continued

47. Did the defendant himself keep accounts of the businesses at Jaffna and Point Pedro up to 31.12.50 ?

48. Were such accounts kept on the footing that plaintiff owned a 2/3rd share and the defendant a 1/3rd share of both business ?

49. Is the defendant now estopped from—

(a) denying that the plaintiff is still entitled to a 2/3rd share of the business ?

(b) asserting an alleged division in 1947 ?

Mr. Wickremanayake objects to issue No. 44 for the inclusion of the words “ in terms of the Last Will ” and to issue No. 49 on the 10 ground that it is not pleaded.

Mr. Thiagalingam states that in issue 44 he has included the words “ in terms of the Last Will ” in order to restrict his ground of claim and that issue No. 49 has been pleaded in para 9 of the replication.

#### ORDER

Regarding Mr. Wickremanayake's objection to issue 12, I think it cannot be maintained in view of the fact that this issue seeks to clarify the basis on which the balance sheets were prepared up to 31.12.50. The pleadings in the plaint have been drawn up on the footing that plaintiff claims a 2/3rd share and the defendant 1/3rd share 20 of the business. In fact the issue suggested by Mr. Wickremanayake under No. 31 suggests that accounts were prepared and balance sheets drawn up on a particular basis. I allow that issue.

Regarding issue No. 22, Mr. Thiagalingam admits that the issue is too vague and he has asked for time to amend that issue when the Court resumes for work after lunch interval. I uphold the objection of the learned counsel for the defendant regarding issue No. 22, but I give an opportunity for learned counsel for the plaintiff to amend the issue in a form acceptable to Court.

As regards the objection to issue 44 suggested by Mr. Thiagalin- 30 gam, I might say that the ground urged by the learned counsel for the defendant by way of objections cannot be sustained.

As regards issue 49 which has been objected to, Mr. Thiagalingam draws the attention of Court to para 9 of the amended replication. I allow the issue since it is pleaded.

Mr. Thiagalingam has objected to issues No. 39, 40 and 41 raised for the defendant. I see no reason to rule out issue No. 39. Mr. Thiagalingam has stated that the issue does not clarify the facts as to how the defendant was enjoined by his late father to look after his mother.

The plaintiff could have, if he wanted, called upon the defendant 40 by way of interrogatories to answer such questions. I allow the issue.



I also adopt issues 40 and 41.

Since the objection raised against issue No. 27 by Mr. Thiagalingam cannot be sustained, I allow the issue.

Regarding the objection to issue No. 29, Mr. Thiagalingam pointed out that issue No. 29 is covered by issue No. 37 and that issue No. 29 does not follow logically any issue suggested earlier.

As I have to decide in this case whether the defendant is the sole owner of the business or the business is owned by the plaintiff and the defendant, I allow the issue.

10 Regarding the objection to issue No. 33 by Mr. Thiagalingam, since it can only refer to a cause of action disclosed in the plaint, I allow the issue.

I adopt all the issues except issue No. 22.

Mr. Thiagalingam now proposes to amend issue No. 22, and suggests in lieu of issue No. 22 the following issue—50. If issues 2 and/or 3 or issues 4, 5, 6 and 7 or 8 or 9, 10 and 11 or 12 or 13 or 16, 17, 18, 19 and 20 or 21 is/are answered in favour of the plaintiff, is the defendant liable to render account to the plaintiff on the footing of the balance sheet marked “X” for assets taken charge of by him as  
20 at that date and all other assets and profits coming to his possession from time to time in the course of carrying the said business ?

I adopt issue No. 50 in place of issue 22.

(Intld.) T. M.,  
A.D.J.  
25.6.53.

Court adjourns for lunch interval.

Court will re-assemble after lunch interval at 2 p.m.

(Intld.) T. M.,  
A.D.J.  
25.6.53.

30

2 p.m.

Court re-assembles after lunch interval.

Appearances as before.

Same parties present as before.

At this stage, Mr. Thiagalingam brings to my notice that this case is a long one and cannot be completed today and that there is no chance of his appearing in this case before September, if a date is to be given for the adjourned hearing.

Mr. Wickremanayake agrees that the case is a long one. Regard-  
40 ing the dates of trial, it will not be possible for him also to appear before September.

No. 12  
Proceedings  
before the  
District Court  
Issues framed  
and Order  
25.6.53—  
*Continued*

It is also pointed out that some witnesses are from India and the Ministry of Justice requires 6 weeks notice before summons is sent to India to enable witnesses from that country to attend Court here.

I shall be acting only till the 15th July, 1953, and I think no purpose will be served by my proceeding to hear evidence in part today. I, therefore, postpone the trial in this case for the 29th and 30th October, 1953.

(Sgd.) T. MUTTUSAMY PILLAI,  
*A.D.J.*,  
25.6.53. 10

No. 13  
Plaintiff's  
evidence

**No. 13.**  
**Plaintiff's Evidence**

D.C. POINT PEDRO No. 4323 (MONEY)

Trial : 4.11.53.

Appearances as before.

Plaintiff and defendant present.

*Further Hearing*

Mr. Thiagalingam calls :—

E. J. Palurajah  
Examination

ERNEST JOHN PALURAJAH. Sworn. Age 30. Clerk,  
Kachcheri, Jaffna. 20

On 6.3.29 the business name of "S. V." was registered trading in paddy, tiles, teak and other articles at Jaffna, the partners being Sinnathamby Veeragathipillai, Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram. I produce a certified copy of the application for registration of a business name of a firm marked P1. On 19.11.1934 I was furnished a statement of change of business name under section 7, the statement being signed by Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram. I produce a certified copy of the statement marked P2. The change to be effected according to P2 was as follows :—in regard to the business name "S.V." it was to be 30 altered to "Veeragathipillai & Sons" the name of the first partner S. Veeragathipillai who died on 3.12.33 was to be deleted and the other two partners were to be Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram. Then on 27.5.1952 Rajaratnam the plaintiff wrote to me for a certified copy of the registration of the business of Veeragathipillai & Sons. I produce a certified copy of it marked P3. (P3 admitted subject to proof P3 was received in office on 28.5.52.) A certificate was not issued at once. On 7.6.52 Rajasegaram the defendant submitted an alleged statement of change of business name under section 7. I produce a certified copy of it 40 marked P4. (P4 read.) According to P4, Rajasegaram the defendant

was to be the proprietor of the business and it was stated that Rajaratnam the plaintiff had ceased to be a partner. The document P4 was signed by Rajasegaram the defendant. (Mr. Thiagalingam marks the original of P4 as P4A). At the bottom of P4A is an affidavit sworn to by the defendant Rajasegaram on a rupee stamp. In pursuance of the statement of change P4, I removed the name of Rajaratnam from the certificate and a fresh certificate was issued marked P5. On 11.6.52 Rajasegaram the defendant was said to be the sole proprietor of the business and the place of business was at Jaffna. Rajasegaram the defendant then sent another statement of change under section 7 dated 31.10.52 marked P6 whereunder he stated that cage 3 should be amended to read "with branches at Thondamannar and Point Pedro". Thus the certificate of business name has Rajasegaram as the sole proprietor, the places of business being at Jaffna with branches at Thondamannar and Point Pedro. A fresh certificate was issued in pursuance of P6 marked P7 dated 10.4.53. On 26.6.52 a letter was written by the Registrar of Business Names to the plaintiff Rajaratnam which is marked P8. P8 refers to the application P3, and connected correspondence. (P8 read.) The plaintiff Rajaratnam wrote on 1.7.52 to the Registrar of Business Names which is marked P9 in reference to the letter of the Registrar of Business Names dated 26.6.52. (P9 read.) P9 is supported by an affidavit marked P9A. Ultimately the Registrar of Business Names wrote on 17.7.52 letter marked P10 wherein he referred the plaintiff to legal remedy.

*Cross-examined* by Mr. Wickremanayake for the defendant. Nil.

*To Court :*

When the defendant wrote to you P4 on 7.6.52 did you not call for a consent paper from the other partner Rajaratnam before you made the change ?

30 A. I did not call for a consent paper.

(Intld). T. M.,  
A.D.J.,  
4.11.53.

SINNAKUDDY NAGALINGAM. Affirmed. Age 39. Clerk,  
Controller of Imports Office, Colombo.

S. Nagalingam  
Examination

Trade was unrestricted for sometime. Then there was control. Later on newcomers were issued import and export licences and to be qualified for that the newcomers had to make application. On 28.4.49 to the Controller of Imports was sent an application from S. Veeragathipillai and Sons of Grand Bazaar, Jaffna, to be entered in the register of newcomers for the issue of Import Licence. I have the original document. I produce a certified copy of it marked P11 and the original document marked P11A. The original document bears the signature V. Rajasegaram and was received in my office

No. 13  
Plaintiff's  
Evidence—  
*Continued*

E. J. Palurajah  
Examination—  
*Continued*

No. 13  
 Plaintiff's  
 Evidence—  
 Continued  
 S. Nagalingam  
 Examination—  
 Continued

on 30.4.49. The original application is in the form issued by the Government and runs into 6 pages and the first page contains the instructions as to how the form has got to be filled up. In the copy before me, the first page is not there as it is retained by the sender. In the course of the particulars given in the document P11 at page 5 against cage 10(3). "What is the capital contribution of each partner at present" is given as "Rs. 600,000/- and Rs.300,000/-" and on page 4 under cage 10(1) in answer to the query in regard to the names of the partners, the names are given as V. Rajaratnam first and V. Rajasegaram second and in cage 10(6) the Banks are given as 10 National Bank of India, the Exchange Bank of India and the Bank of Ceylon and in cage 10(7) both partners of the firm are authorised to operate the account. That application was sent to me with a covering letter dated 28.4.49 and the original is marked P12 and it is signed by Rajasegaram the defendant. P12 was really annexed to P11A and as a further annexure to P12 was annexed the account of the financial affairs of Veeragathipillai and Sons, Jaffna, for the year ended 31.12.46. The defendant followed his application by a letter to the Hon'ble the Minister of Commerce and Trade dated 23.9.49 marked P13. I produce the accounts for the year ended 31.12.46 20 marked P11B. S.V. and Sons have been registered as newcomers to the trade.

*Cross-examined* by Mr. Wickremanayake for the defendant. Nil.

(Intld.) T. M.,  
 A.D.J.,  
 4.11.53.

S. Kumara-  
 swamy  
 Examination

SARAVANAMUTHU KUMARASWAMY. Affirmed. Age 47.  
 Accountant, Colombo.

I am a Chartered Accountant and an Incorporated Accountant. I was in Government Service working in the Post Office as Accountant 30 for 8 or 10 years, and then in the Food Control Department and then in the Treasury. I was one of the fortunate people to retire under the Soulbury Constitution. I was Principal Assistant to the Auditor-General and I retired in February, 1950. Then I started private business and I bought the business of Sambamoorthy and Company. Sambamoorthy and Company are Chartered Accountants. The old firm of Sambamoorthy and Company was merely informal auditors when I started the business. I carry on the business under the same name.

I know only the partnership firm of "S.V. & Sons". The 40 old firm "S.V." and "S.V. & Sons" were the clients of Sambamoorthy and Company according to the records. At the time I took over in February, 1950, I continued their accounting and audited the accounts of "S.V. and Sons" for the purpose of Income Tax. I myself prepared

the accounts of "S.V. & Sons" for the taxing authority for the year ended 31.12.48, for the year ended 31.12.49 and for the year ended 31.12.50. I have with me all the audited accounts of this firm from the year ended 31.3.32.

No. 13  
Plaintiff's  
Evidence—  
Continued

Q. In the accounts for the year ended 31.3.32, how do the accounts read ?

S. Kumara-  
swamy  
Examination—  
Continued

A. The accounts relate to the firm of "S. V. & Sons". I have before me the accounts of "S. V. & Sons" for the period 1.4.33 to 2.12.33. (Counsel for plaintiff moves to produce the account for that 10 period but counsel for the defendant objects to the document. Counsel for the plaintiff under these circumstances withdraws the document for the present.)

I prepared the accounts for the years ended 31.12.48, 31.12.49 and 31.12.50.

Q. In regard to the preparation of accounts, you send a clerk to Jaffna and if necessary to Point Pedro to examine the books of the firm and copy the ledger balances ?

A. Yes. I get the ledger balances of the Jaffna House and the Point Pedro branch and then I prepare the accounts. No formal 20 approval is obtained from the partners. Then there is the Income Tax return form to be filled up. We fill up one for the firm and one form for each of the partners. That is in all 3 forms. It is filled up in manuscript. To that will be annexed the accounts I prepare. The Income Tax return forms are sent to the partners for their approval and signature and they sign it and send them on to me. It is not my practice to get the Income Tax return forms signed in blank. The return relating to the firm can be signed by one partner of the firm. Then I in turn send the 3 forms together with the accounts to the Income Tax Department on which the Income Tax authorities call 30 for taxes.

Apart from the accounts of the firm which I prepared, I also prepared the individual accounts of the plaintiff and the defendant. The financial statement for the year ended 31.12.48 is marked P14, for the year ended 31.12.49, marked P15 and for the year ended 31.12.50 marked P16. When I prepared the balance sheet for the year ended 1948, it was necessary for me to look into the previous year's balance sheet for the year ended December, 1947. I produce the balance sheet for the year ended 31.12.47 marked P17. (Shown P17.) The first account is the account of the business house at Jaffna. (P17 40 read.) The balance sheet of the Jaffna House in P17 shows a liability of Rs. 1,018,630·64 as due and owing from the Jaffna House to the Point Pedro Branch. In the Jaffna Branch Rajasegaram the defendant had withdrawn Rs. 98,622·23. Then I have appended to the account of the Jaffna House certain notes and explanations.

No. 13  
 Plaintiff's  
 Evidence—  
 Continued  
  
 S. Kumara-  
 swamy  
 Examination—  
 Continued

Then on the 7th leaf of P17 is the account of Veeragathipillai & Sons at Point Pedro. It starts with the Trading Account and then the Profit and Loss Account and goes to the balance sheet. In the balance sheet among the assets is the sum of Rs. 1,018,630·64 shown as due from the Jaffna House and which was shown on the liability side of the Jaffna House balance sheet. The entire capital of the business was on that date split into Rs. 900,000/- capital and Rs. 1,160,424·24 as balance capital in the current account. This Rs. 900,000/- has been apportioned as Rs. 600,000/- to Rajaratnam the plaintiff and Rs. 300,000/- to Rajasegaram the defendant. While 10 from the capital in the current account, Rs. 65,291·55 was transferred to Rajaratnam the plaintiff and Rs. 95,132·69 to Rajasegaram the defendant. In the ultimate result on 31.12.47 there was to the credit of Rajaratnam the plaintiff a sum of about Rs. 185,854/- apart from the capital Rs. 600,000/- and to the defendant Rajasegaram there was a credit of Rs. 92,927/- apart from the capital contribution of Rs. 300,000/- and the defendant Rajasegaram was in debit on account of drawings from the Jaffna House in a sum of Rs. 98,622·23. Thus on the current account the defendant has overdrawn about Rs. 3,000/-.

P14 bears the date 28.4.1950. The original document was 20 actually signed by me. I had also furnished copies to the two partners. That account P14 starts with the Trading Account, then the Profit and Loss Account of the Jaffna House and then the Balance Sheet of the Jaffna House. The balance sheet shows that on 31.12.48 the Jaffna House owed the Point Pedro Branch Rs. 816,723·79 and Rajasegaram the defendant had again drawn from the Jaffna House a sum of Rs. 36,159·63. That is a debit balance on the drawings account.

The Point Pedro account starts on the 6th leaf. In the balance sheet on the assets side it is shown that Rs. 816,723·79 was due from 30 the Jaffna House to the Point Pedro Branch. The capital account of V. Rajaratnam the plaintiff is shown as Rs. 600,000/- and the capital account of Rajasegaram the defendnt is shown as Rs. 300,000/-. On the current account at that date, Rajaratnam the plaintiff was given a credit in a sum of Rs. 13,022·43. There was nothing due to the defendant Rajasegaram. On the other hand, the defendant Rajasegaram had overdrawn Rs. 36,159·63.

In the balance sheet of the Jaffna House—P15—the liability due from the Jaffna House to the Point Pedro House is shown as Rs. 800,051·05 and Rajasegaram the defendant had on 31.12.49 drawn 40 Rs. 39,037·52 showing an increase of about Rs. 3,000/- from the previous year's debit balance.

On the 6th leaf of P15 there is the Point Pedro Branch account. In the balance sheet on the assets side it is shown that the Jaffna House owed Rs. 800,051·05 to the Point Pedro Branch and the

liability include to V. Rajaratnam the plaintiff Rs. 600,000/- and to V. Rajasegaram the defendant Rs. 300,000/-. In the Profit and Loss Account of the accounts contained in P14, P15 and P16, both in respect of the Jaffna House and the Point Pedro Branch, I have apportioned the profits to the two partners in the proportion of 2 shares to the plaintiff and one share to the defendant.

No. 13  
Plaintiff's  
Evidence—  
*Continued*  
.  
S. Kumara-  
swamy  
Examination—  
*Continued*

I have not been instructed to prepare accounts for the years 1951 and 1952. As far as the account goes, they have been kept on the basis of a partnership. As far as I am aware in regard to the  
10 accounts of Veeragathipillai & Sons are concerned, there was at no time a division of the business so as to make either partner the owner of the Jaffna House or the Point Pedro House.

The defendant Rajasegaram has also a separate business house at Jaffna by the name of "Segaram & Sons". I am aware that the defendant Rajasegaram is the proprietor of the business called "Segaram & Sons". That forms part of the business "V. Rajasegaram Esquire". The accounts relating to "Segaram & Sons" form his individual business. The private business of the defendant was in existence in 1950.

20 Q. Are the drawings of the defendant shown in the Jaffna Accounts P14, P15 and P16 shown as liabilities to the Jaffna House from the private business of the defendant ?

(Counsel for the defendant objects to the question on the ground that the witness cannot answer the question without producing the accounts relating to the defendant personally. He also objects on the ground that the document has not been listed and also that it is irrelevant in the present case.

Mr. Thiagalingam submits that it is relevant in that the accounts P14, P15 and P16 are not merely correct but accepted by the defendant.  
30 He also states that it is relevant in regard to the claim based on the document X referred to in the Plaint.

Mr. Thiagalingam states that the witness can give an answer by refreshing his mind from contemporaneous documents made by him without being required to produce this document, so that the production of this document will not arise. Also the documents asked for are in the hands of the witness at the moment, he moves for permission of Court to mark them although they have not been listed and he submits that when one files a list of documents, one does not foresee every possible objection that would be put forward and that  
40 therefore this document be allowed to be put in.

I uphold the objection, because the account relating to the defendant personally cannot be the subject-matter of any question before this Court. The statement of accounts submitted by a person

No. 13  
Plaintiff's  
Evidence—  
Continued

S. Kumara-  
swamy  
Examination—  
Continued

to the Income Tax authorities is a privileged document. I do not like to pry into the defendant's personal accounts in this case. Learned counsel for the plaintiff submitted that the accounts of the defendant will show that the accounts, as entered in P14, P15 and P16, are corroborated and accepted by the defendant. So far as P14, P15 and P16 are concerned, I am unable to see how the defendant can reject the documents as untrue. It is for the defendant to show that he has not accepted them. I believe that the account particulars in those documents, for the present, as things stand before me, are accepted or have been accepted by the defendant. I cannot give 10 permission to the plaintiff to make the witness in the witness box produce a document which has not been listed. The plaintiff should have listed the document if he thought it was of any importance for his case. I disallow the production of the document).

S. Kumara-  
swamy  
Cross-  
examination

*Cross-examined by Mr. Wickremanayake for the defendant.*

I am not aware that each of the partners is the owner of a separate business. I have not functioned as Auditors for the firm after I prepared the accounts for the year ended 31.12.50. I am not in a position to say what the state of affairs of the firm is now. I have prepared many statements of many partnership firms and also indivi- 20 duals. Each of these statements are prepared to show the net profit for the purpose of taxation. I allocated the profits of the partners on the basis of 2 shares to the plaintiff and one share to the defendant. I am aware of that. This statement was prepared on the allocation of partnership. P14, P15 and P16 show the net profits of the business of Veeragathipillai and Sons.

From the balance sheet I can say that the business operated accounts in the banks. The balance sheet of the Jaffna House shows that money was in the banks and the balance sheet of the Point Pedro branch shows that the cash was in hand. 30

Q. Each partner drew money from the banks ?

A. I am not aware of that.

Q. Your account shows certain drawings by the partners from the income of the business ?

A. I cannot say whether the drawings were from the capital or from the income. My account only shows drawings.

S. Kumara-  
swamy  
Re-examina-  
tion

*Re-examined*

Q. Have you prepared accounts of co-owners of Tea Estates ?

A. I have prepared accounts of co-owners.

(Mr. Wickremanayake objects to the question on the ground 40 that it does not arise in re-examination but the question has been put and the answer recorded already.)



Q. Would there be any difference between the preparation of accounts for partners and for co-owners ?

A. There is no difference between accounts of partners and that of co-owners in so far as the accounts are prepared for the purpose of taxation.

(Mr. Wickremanayake moves for permission to cross-examine the witness on the question of co-ownership.

Permission granted.)

Q. So far co-owners are concerned, there is no question of com-  
10 munity of profit and loss.

(Question objected to.

I allow it.)

A. I cannot follow the question.

Q. Each co-owner is responsible for his own losses ?

A. I cannot understand the question.

*Re-examined.* Nil.

(Intld.) T. M.,  
A.D.J.  
4.11.53.

20 NADESAR ALAGASUNDERAM. Affirmed. Age 46. 'Kanakapillai, Jaffna.

I have the ledger for the year 1951. The other documents on the table are ledgers for other years. (Witness takes another ledger from the table.) This is the continuation of the 1951 ledger. The "Thinasari puthagam" (Day Book) for the year 1951 is not here. I have the 1951 ledger in two volumes where the account relating to one person in the first volume is continued in the second volume, when necessary. (The ledger for the year 1951 is marked P19 and the continuation ledger is marked as P19A.)

30 I am the Kanakapulle under the employ of the firm "Veeragathipillai and Sons". The business is in charge of Rajasegaram the defendant and he pays me. I have come on summons today to Court from his shop. The 1952 ledger is not here because it has not been written out yet. A day book for the year 1952 was maintained. We did not maintain a Rough Day Book.

Q. Did you tell Court that your daily transactions as and when they occur are posted to the Day Book ?

A. Yes.

40 We do pawnbroking and also deal in tiles. The 1952 Day Book is not in Court. That has not been brought to Court. Rajasegaram the defendant brought the books to Court. He brought them on his

No. 13  
Plaintiff's  
Evidence—  
*Continued*

S. Kumara-  
swamy  
Re-examin-  
ation—  
*Continued*

N. Alaga-  
sunderam  
Examination

No. 13  
Plaintiff's  
Evidence—  
Continued

own. I sent to the plaintiff the "Inththokai" (ledger balance) for November, 1951. I sent the ledger balances to the two partners for November, 1951, marked P18.

N. Alaga-  
sunderam  
Examination—  
Continued

Q. Did you send the ledger balance for November, 1951, to the two partners?

A. Yes, the plaintiff comes to the firm and looks into the accounts and I am asked to send a copy. I send one. I might have sent the ledger balance to the plaintiff for November, 1951.

If the plaintiff wanted, I would have sent the ledger balance up to November, 1951. After that I have not sent any ledger balance 10 because the accounts have not been posted up. P18 is the ledger balance for November, 1951, and it is in my handwriting and I sent it to the plaintiff. The ledger balance in P18 are obtained from the ledgers P19 and P19A in Court. According to P18, Rajasegaram the defendant appears to have a debit balance of Rs. 213,007·13½ and that appears on folio 105 of P19A. That account is carried forward from page 59 of the same book and which is carried forward from page 471 of P19. The previous pages of P19 where the accounts contained are 424, 372, 330, 305, 293, 282, 260, 253, 243, 212, 166 and 125 and the account at page 125 has been brought forward from the previous 20 ledger and the account P18 shows that Rajaratnam the plaintiff has drawn on his account Rs. 29,595·98 as appearing in folio 144 of P19A. That is carried forward from page 109 of the same book and which is brought forward from page 31 of the same book and which is carried forward from page 399 of P19. The previous pages of P19 are 340, 306, 261, 222 and the account at page 222 of P19 has been brought forward from the previous ledger page 361 now marked P20.

Court adjourns for lunch interval.

(Intld.) T. M.,  
A.D.J., 30  
4.11.53.

Court re-assembles after lunch interval.

Appearances as before.

Same parties present as before.

NADESAR ALAGASUNDERAM. Affirmed. Recalled.

N. Alaga-  
sunderam  
Examination—  
Continued

(Shown P18.) The Point Pedro House has a credit balance of Rs. 780,629·83 as appearing in ledger folio 149 of P19A. The ledger folio of the Point Pedro shop in the Jaffna book P19A is at page 149 and that is carried forward from page 140 of the same book which in turn is carried forward from page 120 and which in turn is carried 40 forward from page 71 and which is carried forward from page 65 and which is carried forward from page 51 and which is carried forward from page 29 and the account at page 29 is taken over from P19 page

452. The previous pages in P19 are 426, 421, 386, 376, 359, 341, 332, 321, 311, 298, 286, 268, 250, 237, 217, 201, 183, 155, 136, 118, 103, 73, 54, 42 and 5 which is the page on which the Point Pedro account commences in ledger P19. The account at page 5 of P19 has been brought from the earlier book. The accounts for the Point Pedro branch had always been maintained in the Jaffna Branch.

No. 13  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Examination—  
Continued

*Cross-examined by Mr. Kulasingham for the defendant.*

I have been working as a Kanakapulle from the time of the late Veeragathipillai.

N. Alaga-  
sunderam  
Cross-exami-  
nation

10 Q. Do you know how the accounts have been checked ?

A. Yes.

The business has been carried on as partners and profits have been ascertained from time to time and divided between the partners.

Q. The loss is debited against the capital account ?

A. Yes.

(Shown page 3 of P17—the balance sheet for the year ended 1947.)  
In the Jaffna business all debts and payments on account of charity were deducted and the net profit was ascertained at Rs. 18,947·16. At page 6 of P17 the division of profits is made between the plaintiff  
20 and the defendant. The plaintiff was given Rs. 14,958·68 as profit and the defendant was given Rs. 7,479·35 as profit. At page 7 of P17 there is a reference to the partner's rent account (V. Rajaratnam). I can speak with reference to the ledger and not with reference to the balance sheet. At page 9 under the heading, rents, rates and lighting of P17, it is stated—Rajasegaram the defendant Rs. 1,100/- and Rajaratnam the plaintiff Rs. 600/- and the total is Rs. 1,700/-.

Q. Can you explain what it is ?

A. There is a godown at Bankshall Street used by the firm and for Rajasegaram the defendant a sum of Rs. 1,100/- was given on  
30 that account and for Rajaratnam the plaintiff Rs. 600/- was given on account of the building in the Grand Bazaar.

The godown in Bankshall Street belongs only to the defendant Rajasegaram but the Grand Bazaar building belongs to the defendant in part and therefore a big sum of Rs. 1,100/- has been put down as rent for both the building for the defendant.

Rajaratnam the plaintiff being the co-owner of the building at Grand Bazaar is shown only as having received a rent of Rs. 600/-.

Q. In all these accounts so far as you can remember, the balance sheet and the accounts have been prepared on the footing of a partner-  
40 ship ?

A. Yes.

No. 13  
Plaintiff's  
Evidence—  
Continued

Q. You said in your evidence that the 1952 accounts have not been posted in the ledger ?

A. Yes.

N. Alaga-  
sunderam  
Cross-exami-  
nation—  
Continued

Q. Why not ?

A. Because the 1951 accounts have not been posted, the 1952 accounts have not been posted.

Q. Were you in the habit of going to Point Pedro and Tondamannar and copying out the entries in the Point Pedro books ?

A. Yes.

Q. What was the object of your coming to Point Pedro ?

10

A. I come to check the accounts of the Jaffna and Point Pedro business.

Q. Were you in the habit of coming to the Point Pedro Branch and copying the accounts and posting in the Jaffna books of accounts ?

A. Yes.

Q. Did you do it in June, 1948 ?

A. I think so, but I must look into the accounts.

(The witness refers to the accounts book and says, yes.) This is the "thinasari puthagam" (Day Book) for June, 1948, marked D1. Under the date 19.6.48 is the entry debited Point Pedro shop— 20 No. 82 boat 47,000 flat tiles and 1000 "mukadu" tiles amounting to Rs. 9,381.99 and commission is stated to be Rs. 17.64, in all Rs. 9,399.62. Since the things were received in June, 1948, it was only after that that the accounts were entered. The accounts that are entered here were got from the Point Pedro shop.

Q. Why have the accounts relating to December, 1947, been posted in June, 1948 ?

A. We check the accounts relating to December in about June only when we go to the Point Pedro shop and so the accounts were posted in June, 1948.

30

Q. Did the defendant look into these accounts and accept the correctness of the accounts ?

A. Yes.

(Mr. Thiagalingam objects to this question unless the defendant is called in to give evidence.)

Objection upheld as Mr. Kulasingham states that he is unable to state whether he would call the defendant or not.)

Q. Did the defendant find fault with you for copying all these entries ?

(Mr. Thiagalingam objects to the question.

Objection upheld.)

Q. After the entries were made, what did the defendant do in regard to the accounts ?

A. The defednant looked into the accounts.

In the Point Pedro accounts, capital was apportioned in the proportion of 2 shares to the plaintiff and one share to the defendant.

10 Q. After that what has happened to the accounts ?

A. No answer.

Q. Were you allowed to make entries after that ?

(Mr. Thiagalingam objects to the question.

Objection upheld.)

Q. After the defendant found out these entries copied in the book, can you tell the Court, what were the relationship between the plaintiff and the defendant ?

A. They were not in good terms.

Q. Do you remember in 1951, the plaintiff asking you that 20 profit should be entered in the books ?

A. After differences had arisen, the plaintiff told me that accounts should not be entered or posted without the consent of both. After that the accounts were not posted.

Q. Veeragathipillai and Sons had accounts in the banks ?

A. Yes, they had accounts in the National Bank and the Bank of Ceylon.

Q. I put it to you that either the plaintiff or the defendant could operate the accounts ?

A. The plaintiff by himself or the defendant could either operate 30 on the bank account.

Q. You have seen cheques drawn either by the defednant or the plaintiff ?

A. Yes.

Q. Under the signature, what was the word used ?

A. "Veeragathipillai and Sons—partners."

(Shown P19, P19A and P20.)

Q. In all these ledgers the net profit is entered ?

A. The net profit of Rajasegaram the defendant is entered. The plaintiff's net profit is shown in the accounts of the Point Pedro 40 Shop.

No. 13  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Cross-exami-  
nation—  
Continued

No. 13  
 Plaintiff's  
 Evidence—  
 Continued  
 N. Alaga-  
 sunderam  
 Re-examina-  
 tion

*Re-examined.*

Q. How were the profits of the Jaffna Branch Divided ?

A. The profits of the Jaffna House is carried to the books of the Point Pedro Branch accounts and added with the profits of the Point Pedro Branch and divided into 3 shares, 2 shares to the plaintiff and one share to the defendant and books are entered accordingly.

*To Court:*

Q. In fact, all of you looked upon the Point Pedro Shop as the parent shop ?

A. Yes.

10

Q. In the Point Pedro books, you entered the profit or loss of the Jaffna Branch ?

A. Yes.

I am employed in this shop from the time of the late Veeragathipillai.

Q. Which year did you start working in this firm ?

A. In 1928 or 1929.

Q. In 1928 Veeragathipillai was the sole proprietor ?

A. Yes.

Q. After 1951 have you gone to Tondamannar and Point Pedro 20 to look into the accounts ?

A. After 1951 I have not gone. Till November, 1951, I had been going to the Point Pedro shop or the Tondamannar shop with the consent of both the defendant and the plaintiff. I did not go there after November, 1951.

(Shown D1.) This is the Day Book. This is the Clean Day Book.

Q. This book is kept in the Jaffna Branch ?

A. Yes.

I copy the entries in D1 neatly in to the ledger. From D1 I 30 write the accounts in ink in a good book and from there I enter into the ledger. This is the "Thinasari Puthagam" (Rough Day Book). What is written in ink is called "Periya Kurippu" (Clean Day Book) and from the Clean Day Book I post into the ledger.

Q. Where is the "Periya Kurippu" (Clean Day Book) ?

A. That is in the shop. I did not bring it.

In the book D1 I refer to certain entries made on 19.6.48. Some of those entries relate to the Point Pedro Branch.

Q. Was it the practice at the end of every financial year to adjust the accounts before the closing of the books ?

A. Yes. Generally the adjustment takes place in May or June of the next year.

In such a way every year about June of the next year, adjustments have been made in the Jaffna books.

(Intld.) T. M.,  
A.D.J.  
4.11.53.

No. 13  
Plaintiff's  
Evidence—  
Continued

N. Abga-  
sunderam  
Re-exami-  
nation—  
Continued

10 VEERAGATHIPILLAI RAJARATNAM. Affirmed. Age 62.  
Trader, Tondamannar.

V. Rajaratnam  
Examination

My father was Sinnathamby Veeragathipillai. We belong to a trading family. My mother was Walliammai. My father died on 3.12.1933. My mother died in November, 1946. The eldest among the children is one Suppiah who is a "Malayan pensioner". The second is Dr. Duraisamy. The 3rd is a girl Sellamuthu. The 4th is myself; the 5th is Navaratnam who is a Catholic priest. The next child is Rajasegaram the defendant. Another daughter was Muttachipillai who is elder to me but she is dead. Her only son is Guna-  
20 ratnam.

At the beginning there was the "S. V." business. As far as I know the "S. V." business was functioning in 1929. The "S. V." business was founded by my father. Prior to the registration of the business, my father was carrying the business as "S. V."

Q. When you were born, was the business "S. V." in existence ?

A. Yes.

He was dealing in paddy, timber, tiles, tobacco and pawnbroking. He was a big merchant in his day. I was educated at Atchuvely till my 17th year. Then I was doing business with my father. At  
30 the time I joined my father in the business, my brother Rajasegaram the defendant was not born. The difference between my age and his age is 18 years. When I was carrying on business with my father, he grew up and began to attend school. When I was doing business with my father, I was living with my father. It was I who helped him throughout the business. Rajasegaram the defendant continued to study till the 20th year. I cannot remember the year when he left the school. After he left school, he did business with my father. When I started assisting my father, I had no money of my own. I did not put in any capital. Similarly the defendant put in no money  
40 to the business. My father did not pay me any money for assisting him in the business. For the defendant too, he did not pay any money for assisting him. When both of us were assisting my father in the "S. V." business we were living in the ancestral home. I was

No. 13  
Plaintiff's  
Evidence—  
Continued

married in 1916, and the defendant got married in 1933, when my father died. Although I got married in 1916, I was staying with my father. My wife and children lived with my father.

V. Rajaratnam  
Examination—  
Continued

In the year 1929 I was 38 years old. I was born in 1891. In 1929 the defendant was about 20 years old. Till 1929 the defendant and I have not been paid anything for assisting my father. We were both living with him and we were fed by him. In 1929 I did not contribute any capital to my father's business. The defendant too did not contribute any money to the business of my father in 1929. In 1929 Navaratnam had become a Catholic priest and Suppiah was 10 doing very well in Malaya. Duraisamy was a medical man and the two persons who took to business were myself and the defendant.

Q. What did your father do with the business in 1929 ?

A. He donated to me 1/3rd and to the defendant 1/3rd of the business and kept the balance 1/3rd to himself. Thereafter the business was carried on by all three of us. When I wanted money I was able to draw from the business.

Q. Were you able to draw money without consulting your father or with his approval ?

A. We would not unnecessarily draw money and my father 20 was aware of it and he never objected to it.

Q. After he gifted 1/3rd to me and 1/3rd to the defendant, did he for the first time register the business in the name of " S. V. " ?

A. Yes. That was on 6.3.1929.

My father died on 3.12. 33. He died leaving a Last Will No. 22277 of 14.10.33 marked P21 which was admitted to probate in Case No. 58 D. C. Jaffna. I produce the probate marked P22, the Journal entries in Case No. 58 marked P23. No. 58 (Testy.) is the Case of the District Court of Jaffna. My father died in Kandy and proceedings were initiated there in Case No. 5241 D. C. Kandy. At the time of the 30 Kandy Case No. 5241, my brother Duraisamy was working at Kandy. In the Kandy Case the defendant Rajasegaram filed a minute of consent which I produce marked P24 dated 19.5.1934 whereby he agreed that I be granted probate of the Last Will. I produce my petition in that Case marked P25, the inventory P26, the final accounts marked P27 and the minute of consent of the defendant dated 23.8.40 whereby he agreed to the final account being passed marked P28.

My father died possessed of 1/3rd share of the business and he left the 1/3rd share to me by the Last Will. So that I became the owner of a 2/3rd share and the defendant a 1/3rd share of the business. 40 (The relevant portion of P21 read.) After my father died, I performed the duties stated in the Last Will.



Q. Did the defendant accept the provisions of the Last Will at all times ?

(Mr. Wickremanayake objects to the question as it is not clear. Mr. Thiagalingam frames the question as follows :)

Q. Did the defendant Rajasegaram know the provisions of the Last Will?

A. Yes.

Q. Is it correct that he had been donated properties during your father's lifetime ?

10 A. Yes.

Q. You were specially required under the Last Will to provide Rs. 5,000/- to your mother ?

A. Yes. I have paid that money to my mother and obtained a notarial discharge which I produce marked P29. The witnesses to it are the defendant and Dr. Duraisamy. P29 is dated 4.2.35 and bears the No. 13754 attested by V. Sabartnam, Notary Public.

Q. Did you pay any money to your mother for obtaining her life interest ?

20 A. Yes. I paid consideration to my mother and bought over her life interest.

I produce the receipt of discharge marked P30. The witnesses to P30 are the defendant and one Karthigesu. P30 is dated 26.2.34. The consideration in P30 is given as Rs. 1,000/-.

Q. After your father died, on what footing was the business of Veeragathipillai and Sons carried on ?

A. It was carried in partnership in the proportion of 2 shares to me and 1 share to the defendant.

I have used the word "Pangkali".

Q. What is meant by "Pangkali" ?

30 A. It means co-owners.

Q. What is the Tamil word for the co-owners of a land ?

(Mr. Thiagalingam withdraws the question).

Q. After 1933 when you carried on the business, did you continue to keep accounts ?

A. Yes.

40 My father died in December, 1933. For the period 1.4.32 to 3.12.33 accounts were maintained and closed. Those accounts were on the footing of 1/3rd to my father, 1/3rd to me and 1/3rd to my brother the defendant. After my father died on 3.12.33, the accounts were maintained on the footing that I was the owner of two shares and the defendant as the owner of one share.

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Examination—  
Continued

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Examination—  
Continued

Q. Over your father's estate, was there a dispute by the Estate Duty Department in regard to the assessment of the business ?

A. Yes. I said that he died possessed of a 1/3rd share only.

In the District Court case Jaffna I gave evidence. The defendant was also present in Court at that time. I gave evidence in that case in regard to the donation. That case went up in appeal. I produce the Supreme Court Order marked P31 (39 N. L. R. page 481). My contention was that my father died possessed of a 1/3rd share and that was accepted by the Supreme Court. The Estate Duty was paid only on 1/6th of the business on the footing that the other 1/6th 10 belonged to my mother.

Q. After 1933, when you drew moneys from the business, were two accounts kept ?

A. There was one account and the drawing was debited to the business of "S. V."

Q. How was it to be found that you drew the money or the defendant drew the money ?

A. Both of us drew money.

It is not on one page the drawings of one person appear and that the drawings of the other person appear on another page. The 20 drawings were debited on the same folio. No name is entered as to the person who draws the money. Those drawings are in the Jaffna House Books.

Q. From 1933 did you send income tax returns regularly ?

A. Yes.

Q. Both from the private business and the firm's business ?

A. Yes. So also the defendant.

Q. For both of you, who prepared the accounts ?

A. Sambamoorthy & Sons prepared the accounts.

Q. Who fills up the income tax return forms ?

A. The accounts were prepared by Sambamoorthy & Co., and we sign it. I sign for my share and the defendant signs for his share and for the firm, either one of us signs. 30

In 1944, 1945 and 1946 I was in India owing to illness. In 1946, I had a grown-up child. I have 8 boys and one girl. One of my sons is a Chartered Accountant. 2 or 3 of my sons are doing business with me. In 1945 when I fell ill they were too young. One of my sons in 1945 was 25 years old. In 1945 the defendant and I were on cordial terms. When I went to India on account of my illness, I gave a Power of Attorney No. 647 of 22.7.45 to the defendant and 40 attested by Mr. Ratnasingham, Notary Public, marked P32. Then the relationship between me and the defendant was cordial. I returned from India in November, 1946.

Q. When you were in India, were you happy over the defendant's way of handling of the business ?

A. After my going to India, the defendant had not been quite fair in the management of the business.

In December, 1947, for the first time the capital was split up.

Q. Till 1947 was the capital split up ?

A. No. About Rs. 1,200,000/- was in one account.

Q. Why was it split up in 1947 ?

A. In 1947 my brother the defendant was not fair and had  
10 taken lot of money and had spent lot of money. After writing on the expenses account, he had taken lot of money.

There was Rs. 1,200,000/- left in 1947. I cannot say how much he had taken.

Q. Why did you divide the capital ?

A. There were 12 lakhs and the capital has to be divided so that it may be saved and that each of us may draw from the profits separately.

In 1947 there was roughly 12 lakhs, 6 lakhs for me and 3 lakhs for the defendant on capital account and the balance 3 lakhs was  
20 divided in the proportion of 2 shares to me and the defendant one share.

Q. Did you instruct the auditors accordingly ?

A. Yes.

Q. Did the defendant agree to that ?

A. Yes.

From the accounts P14, P15 and P16 it is shown that 6 lakhs as my capital and the defendant's capital as 3 lakhs. The accounts marked "X" filed with the plaint is the same as P16.

Q. Did the defendant accept the correctness of the account  
30 filed with the plaint ?

A. Yes.

Q. Has the defendant got any other private business in Jaffna ?

A. Yes. He has got a business called "Segaram & Sons" which he started in 1947 or 1948. I cannot remember the date exactly.

The defendant lives at Tondamanar. I also live at Tondamanar.

The defendant is living in the ancestral house. My father had gifted it to him.

No. 13

Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Examination—  
Continued

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Examination—  
Continued

I am the manager of the English School at Tondamanar. There was a trouble between me and the defendant regarding the playground of that school. There was trouble regarding the land adjoining the school. I wanted to donate that land to the school and over that there was some trouble. I have 2 shares in that land and the defendant has one share. I am a "sorial pangkali" (co-owner of undivided share) of the land. The trouble over the school was in the latter part of 1951. My son Sivadas and the defendant are co-owners of a property in Pallai. I have gifted my share to Sivadas. In regard to dividing the property amicably between my son and the defendant, 10 there was unpleasantness and I have got a Plan made dated 16.12.51, for amicable partition of the land. Because of the trouble over the school, that amicable partition could not be carried out. Then I had to file an action for partition of the land in D. C. Point Pedro No. 4278. I mark the plaint in that case as P33 and the journal entries as P34.

(Intld.) T. M.,  
A.D.J.,  
4.11.53.

Further hearing on 6.11.53.

(Intld.) T. M.,  
A.D.J.,  
4.11.53.

20

Plaintiff's  
Evidence—  
Continued

D. C. POINT PEDRO No. 4323 (MONEY)

*Trial*—6.11.53.

Appearances as before.

Plaintiff and defendant present.

*Further Hearing :*

*Mr. Thiagalingam calls :—*

V. Rajaratnam  
Examination—  
Continued

VEERAGATHIPILLAI RAJARATNAM. Affirmed. Recalled. 30

*Examination-in-Chief (continued).*

At the end of 1951 trouble arose between me and my brother.

Q. In the early part of 1952, did your brother threaten to do anything to the business ?

A. Yes. He said that if I do not give the land which is by the side of the school, he would close down the business.

Q. Till November, 1951, had accounts been regularly rendered to you ?

A. Yes. The last ledger balance sent to me was for November, 1951 (P18). Thereafter no accounts were sent to me. 40

Q. In 1952 did you go to the premises of Veeragathipillai & Sons?

A. Yes.

*Q.* Why did you go there ?

*A.* That is partly my business and therefore I went there.

*To Court :*

I was one of the proprietors of the business.

*Q.* Did you try to examine the accounts there ?

*A.* Yes, I went and asked for the books from the Kanakapullai and he told me that the defendant had removed the books of accounts to Segaram and Sons. The Kanakapullai is Alagasunderam.

I asked the Kanakapullai to get the books from the defendant  
10 but the defendant refused to give the books.

*Q.* Then what did you do ?

*A.* Then I asked the defendant to give the books but the defendant refused to give the books.

Then I consulted my lawyers and asked the Registrar of Business Names to send me a copy of the Registration Certificate. (Shown P3.) This was sent by me.

*Q.* Did you get a certified copy of the Registration Certificate at once ?

*A.* No. Later on I got a letter (P8) dated 26.6.52 wherein  
20 I was informed that the original certificate of Veeragathipillai & Sons, which showed me and the defendant as proprietors, had been amended into to read as though the defendant was the sole proprietor.

Then I asked that copies of both certificates be sent to me. I wrote by letter P9 of 1.7.52 and annexed to P9 was the affidavit marked P9A. The change had been effected without any reference to me and I received P10 which referred me to legal remedy.

*Q.* Was it true that you had ceased to be a partner of Veeragathipillai and Sons ?

*A.* No. It was a fraudulent thing to state that I had ceased  
30 to have interest in the business.

After 7.6.52 the defendant was in sole charge of the business at Jaffna. He kept me out of the Jaffna House business ; but I continued to look after the Point Pedro business.

*Q.* Have you excluded the defendant from the Point Pedro business at any time ?

*A.* No.

*Q.* Is the defendant now denying you any right in the Jaffna business ?

*A.* Yes.

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Examination—  
Continued

No. 13

Plaintiff's  
Evidence—  
ContinuedV. Rajaratnam  
Examination—  
Continued*To Court :*

The defendant got himself registered as the sole proprietor as shown by the certified copy of the registration P5 and later he effected a further change by P7 and P7 is the certificate as amended last. P7 shows that the business has branches at Point Pedro and Thondamannar.

The general balance sheet for the years 1951, 1952 and for the year 1953 up to date has not been struck. In fact no income tax returns have been sent for the years 1951, 1952. The Auditors said that income tax returns for the years 1951 and 1952 cannot be sent. 10

I ask for a declaration that I am entitled to a 2/3rd of the business at Jaffna, Point Pedro and Thondamannar. I also ask for an accounting from the defendant and that I be decreed the 2/3rd owner of the entire business, and that the defendant be adjudged and decreed to pay the amount due to me.

*Q.* Till 1952 when the defendant got the business registered in his own name, did the defendant refuse to give you your share of the profits in the business ?

*A.* No.

*Q.* Was this business carried on by you and the defendant and 20 your father during his lifetime as a result of an agreement ?

*A.* My father had given to us by way of donation. After my father's death we carried on the business on the same basis.

*Q.* How did you get the additional 1/3rd share after your father died ?

*A.* According to the devices under the Last Will, I got a 1/3rd share more, and thereafter the business was carried on in the proportion of 2 shares for me and the defendant one share.

V. Rajaratnam  
Cross-  
examination*Cross-examined by Mr. Wickremanayake for the defendant.*

*Q.* Your father started this business ?

30

*A.* Yes.

*Q.* When he was carrying on this business, it was not registered ?

*A.* It was registered in 1929. Up to 1929 it was not registered.

*Q.* You joined your father in the business in 1907 ?

*A.* Yes.

*Q.* Your brother the defendant joined your father in the business in 1925 or 1926 ?

*A.* He joined the business in his 20th year.

Q. In 1929 your father took you and your brother in to the business ?

A. Yes. He gave us a donation which was not put in writing and the business was registered on the basis that I was the owner of a 1/3rd share, my father as the owner of a 1/3rd share and my brother the defendant as the owner of a 1/3rd share.

Q. Was the business registered as a partnership ?

A. I am unable to state whether the business was registered as a partnership or not.

10 Q. Do you know what is meant by partnership ?

A. I cannot understand the significance of the term partnership.

Q. What is the difference between partnership and co-ownership ?

A. I do not know the difference.

Q. Then why do you call it a partnership ?

A. I only know that my father, my brother and myself were the owner of a 1/3rd share each.

In 1929, the business was registered. It was not registered under any agreement.

20 Q. After the business was registered, you imported paddy and tiles from abroad ?

A. Yes. We also got timber from Burma.

Q. The orders were placed by one of you ?

A. The orders were placed by me.

(To Court :

Q. Till what year were you placing orders ?

A. I was placing orders till the defendant registered the business in his own name.)

Q. When your father was alive, he placed the orders ?

30 A. Yes. When my father was alive, he only placed the orders. We did not place any orders.

Q. Your father was ill for a long time before his death ?

A. He was ill for 2 months before his death.

Q. During those two months, who placed the orders ?

A. No orders were placed during that time. Most of the orders are placed in January. There were no orders placed from abroad during this period but business was carried on. We were selling the things we had received earlier. I was running the business during these two months.

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

No. 13  
Plaintiff's  
Evidence—  
Continued

Q. When your father placed the orders, the firm paid the money ?

A. The " kaddai " (shop) paid the money.

I remember giving evidence in the Testamentary case. There I described the firm as " S. V. Vilasam ".

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. Whatever goods your father purchased the " Vilasam " paid the money ?

A. No.

Q. Are you sure that there was no agreement among your father, your brother and yourself ?

A. We had only agreed that my father was the owner of a 1/3rd share, my brother to a 1/3rd share and myself to a 1/3rd share. 10

Q. Was there an agreement for donation ?

A. Both of us (myself and the defendant) were given a donation of 1/3rd each.

(The evidence of the witness in the Testamentary case read.)

(Mr. Wickremanayake marks the evidence of the witness in 58 Testamentary as D2 given on 21.5.37.)

Q. Did you say that before the business was registered, there was a verbal agreement among your father, brother and yourself ?

A. Yes. 20

Q. Did you say " as my father said that since we had already joined in the business, we would be given equal shares with him " ?

A. Yes. In 1907 when I joined my father in the business, he said that he would give me a half share of the business but later he gave me a 1/3rd share.

I stated in my evidence in that case that there was a verbal agreement.

Q. Did you say in that case " from that day the business was carried on in partnership " ?

A. Yes. 30

Q. So that in 1929, when the business was registered, it was carried on in partnership by your father, yourself and your brother ?

A. We all three of us agreed and carried on the business jointly.

Q. I put it to you that in 1929 there was a partnership created by your father, yourself and your brother by agreement.

A. I deny that there was a partnership created by agreement. I deny having said so in the Testamentary case.



Q. As a matter of fact in 1933, your father, yourself and your brother signed a declaration ?

A. The defendant asked my father to show in a deed the 1/3rd share donated to him. It was for that purpose the declaration deed was signed.

(Of consent :—The entirety of the evidence given by the plaintiff in 58 Testamentary D. C. Jaffna is admitted.) I signed the declaration deed. My father and my brother also signed it. (Mr. Wickremanayake marks the declaration deed No. 22276 of 14.10.33 as D3.)

10 (Mr. Wickremanayake reads D3 as follows:—Whereas we are carrying on business in partnership under the name, firm and style of “Veeragathipillai and Sons” in paddy, rice, tiles, teak wood (timber) and tobacco and various other goods and also pawn broking and whereas we have registered the said business on the 8th day of March, 1929, under No. in the Vilasam of “S. V.” and whereas we the three persons are entitled to equal shares in the said business and whereas it appears that it is necessary that we should make a declaration of the same.

Mr. Thiagalingam, counsel for the plaintiff, states that the words  
20 read by learned counsel for the defendant are from a translation of D3 which deed is in Tamil. He, therefore, moves to mark as D3A the translation (translated by Arumugam, Sworn translator, District Court, Jaffna) in his possession, which according to him is the more correct translation of D3.)

#### ORDER

At this stage, there will be no need for D3A. I shall have the deed D3 read in Tamil and questions put in Tamil to avoid confusion and I shall later admit after hearing counsel and witnesses, if necessary, what the Court accepts as correct translation.

30

(Intld.) T. M.,  
A.D.J.,  
6.11.53.

(Mr. Kanaganayagam reads D3 which is in Tamil.)

D3 shows that the three of us, viz. my father, myself and my brother, were making a declaration that we the said three persons have been carrying on business together trading in different articles mentioned therein (Kooduyaparam). In D3 Veeragathipillai & Sons have been mentioned. The vilasam “S. V.” is mentioned.

The said business was registered in 1929. The registration re-  
40ferred to is the certified copy P1. In D3 it is stated that the said business belongs to us the said 3 persons in equal shares and that it was necessary for a declaration to be made. In D3 we have declared

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

that we three persons were entitled in equal shares to the said business (koodupanguyaparam). I produced this deed in the Testamentary case No. 58 D. C. Jaffna with the English translation.

Q. This deed D3 was executed by you in order to get the business registered anew ?

A. It had already been registered earlier.

The deed was written 2 months before my father died. That was in October, 1933. There was no fresh registration made. After 1929 I was entitled to a 1/3rd share of the business. That is, I was entitled to a 1/3rd share of the profits and if there was a loss I had to bear 1/3rd of the losses, and that was the footing on which the business was carried on.

Q. When your father died in 1933, you and your brother agreed to carry on the business ?

A. There was no agreement. We were carrying the business as before.

Q. You did not discuss this matter with your brother ?

A. There was no discussion between me and the defendant He was only 25 years old.

Q. You carried the business in the same fashion ?

20

A. We carried on the business as it was carried on by my father.

It was I who placed the orders. The defendant did not place any orders. We bought things and sold them for profit, and we shared the profits and losses.

Q. Your father left a Last Will ?

A. Yes.

Q. That Last Will did not give you 1/3rd of the business but 1/3rd of the stock-in-trade and profits ?

A. I was given 1/3rd of all he had and the business. (The relevant portion of D3 read.)

30

Q. What you got from your father, you put it into the business ?

A. Yes.

Q. You registered the business in 1934 ?

A. Yes. (P2.)

Q. You changed the business name to Veeragathipillai and Sons ?

A. Yes.

Q. You registered the business as partners ?

A. We registered the business as shares belonging to both of us. (Mr. Wickremanayake marks the form as D4.) I signed the form.

Q. This business was at Jaffna and Point Pedro ?

A. Yes.

The Point Pedro shop was treated as the parent shop although more business was carried at the Jaffna House.

Q. All the tiles and paddy come to Point Pedro ?

A. They come both to Point Pedro and Jaffna.

Jaffna had more business, Money was sent from Point Pedro to Jaffna. Account books were kept at Point Pedro. The Jaffna account books were kept at the Jaffna House. At the end of every 10 financial year the accounts were entered in the Point Pedro books.

The firm had bank account. The defendant or I or both of us were entitled to operate the Bank account.

Q. You were in charge of the Point Pedro shop ?

A. I managed the Point Pedro business.

Q. Your brother was managing the Jaffna House ?

A. I managed the Jaffna House also. Every other day I used to go to Jaffna. The defendant used to go about.

Q. You were mainly looking after the Point Pedro shop ?

A. Yes.

20 Q. Your brother was mainly looking after the Jaffna House ?

A. I also looked after the Jaffna business. He did not pay much attention to the Jaffna House. He very seldom stayed in the Jaffna shop. He goes about for pleasure.

I was living at Thondamannar at that time and went to Jaffna every other day.

Q. Who was there at the Jaffna House ?

A. One of my sons was there and the Kanakapullai Alagasunderam, Mylvaganam and Karthigesu were also there.

I placed the orders for the goods. The defendant never placed 30 any orders. In 1952 I placed the orders.

Q. Has the defendant ever placed any orders up-to-date ?

A. After the business had been altered in the defendant's name in 1952, he placed the orders.

All letters were signed by me. At the Customs I signed and my Kanakapillai has also signed. Sometimes the defendant has also signed.

Q. Who pays the bills ?

A. I pay the bills from the money in the shop. The defendant also issues cheques on my instructions on the business account.

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. The defendant has also a right in the business ?

A. He has a share in the business.

Q. Then why should he get your instructions for issuing cheques ?

A. When I ask him to do certain things, he does so. He does not need my instructions. He could have paid money without my instructions.

When my father died I and the defendant were in good terms. We fell out after November, 1951.

Q. I put it to you that you had ill-feeling with the defendant before 1951. 10

A. No.

In 1945 I was ill and went to India for treatment.

Q. While you were in India, the defendant managed the business ?

A. Yes. I gave a Power of Attorney to the defendant and he carried on the business.

I gave the Power of Attorney to carry on my business. The defendant had his 1/3rd share of the business at that time. He could have carried on the business without my Power of Attorney but he did not do so. 20

Q. Even before you went to India in 1945, you were ill earlier ?

A. I was only ill before I went to India in 1945.

Up to the time I left for India, I was carrying on the business.

Q. For two years before you went to India, the business was carried on by the defendant ?

A. I deny that.

Q. In 1943 you went to India ?

A. I went to India in 1945. That was to Madanapalli.

Q. In 1943, you went to Madras to see Dr. Cherian ?

A. I did not go to India in 1943. In 1944 I was in India for 30 2 weeks.

Dr. Kathiragamathamby treated me in 1939. Off and on I was on treatment.

Q. I put it to you that the defendant managed the business at Jaffna and Point Pedro when you were ill.

A. I deny that.

When I came from India I found that the defendant had mis-managed the business.

Q. How were you dissatisfied with his management ?

A. He traded on his own with monies belonging to the shop and he had taken monies from the shop.

Q. How much money had the defendant taken ?

A. He had taken lot of money and frittered it away.

I was doing business in rice till 1942. In 1942 there was the control of rice and the firm could no longer import rice. Then the firm stopped the business in rice importation. When I stopped the rice import, there was a large profit. All that money was in the bank.  
 10 That money was invested in the current account. I cannot correct English. I got others to write letters and I signed them. In the Testamentary case I have stated that I have studied up to the 7th Standard in English and I can write English. The defendant invested his money in mortgage bonds and promissory notes. I do not know whether those were good investments. I do not know whether he invested 1½ lakhs. I do not know what amount he has invested.

When I came from India I was dissatisfied with the management of the business by the defendant. It might be that the defendant has invested 1½ lakhs in mortgage bonds being the profits got on the  
 20 rice account. In some cases the defendant has bought lands in his own name. Those monies are shown in the account. I cannot say whether the defendant had Rs. 268,000/- in fixed deposit. The defendant had drawn money from the bank.

Court adjourns for lunch interval.

(Intld.) T. M.,  
 A.D.J.,  
 6.11.53.

Court re-assembles after lunch interval.

Appearances as before.

30 Plaintiff and defendant present.

VEERAGATHIPILLAI RAJARATNAM. Affirmed. Recalled.

*Cross-examined by Mr. Wickremanayake for the defendant (continued).*

V. Rajaratnam  
 Cross-  
 examination—  
 Continued

Q. In the books of the business, the defendant had also his own private accounts ?

A. He has a separate place for his business now.

Q. From the time he started, he had a separate page or his business ?

A. Not from the time the business started.

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. Then since when ?

A. From 1939 when he purchased a land. That had been entered in a separate page.

The defendant's private accounts have not been entered in a separate page. Only money that had been spent for the purchase of lands are entered on a separate page.

The drawings of the defendant will be shown in the general accounts and only the purchase is entered in a separate page. There would not be any page to show whether I or the defendant withdrew money.

10

Q. How do you know how much the defedant has drawn from the business ?

A. That is from the books.

Q. Are there entries in the books to show the money drawn by the defendant ?

A. The drawings for expenses are not shown as drawn on his personal account.

Q. You also draw money when required ?

A. I have drawn money for the purchase of a land and that is shown in a separate page of the books.

20

Money drawn for expenses is taken from the firm "S. V. & Sons". Monies taken for home expenses either by me or the defendant are entered in the books of "S. V. & Sons". I cannot say by looking at the books now how much monies had been drawn by the defenant or by me.

That is monies drawn for the last 20 years.

When I returned from India I was not satisfied with the way the defendant was handling the business. He had taken money for his own expenses.

Q. How do you know that ?

30

A. Those entries were shown in the books of "S. V. & Sons". I was in India and I only know what amount was sent to me.

(To Court :

All monies drawn on "S. V. & Sons" account as expenses were drawn by the defendant. All monies other than that shown against me, as drawings from "S. V. & Sons" on expenses account, I think, were drawn by the defendant. The expenses of "S. V. & Sons" account are shown as expenses of the firm for income tax purposes.)

There are expenses for the shop like wages to the Kanakapillai, etc.

Q. Where are they entered ?

40

A. They are entered in the shop account.

Except for the time I was in India, I cannot say now whether the drawings were made by the defendant or by myself. (Shown M ledger for the year 1944, folio 368, marked D5.)

No. 13  
Plaintiff's  
Evidence—  
Continued

Q. It shows that the defendant had drawn for that year from the firm Rs. 29,463·97 ?

A. I do not know that.  
(Shown page 470 of D5.)

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. In October, 1946, the defendant had drawn Rs. 30,828·37 ?

A. Money taken for expenses are not entered in this account.  
10 This money was given by the defendant to Thangavelautham. This shows the money taken by him from the firm " S. V. & Sons ".

Q. Between December, 1944, and October, 1946, the defendant had drawn only about Rs. 1,000/-.

A. No. He had drawn much more.

Q. Page 277 shows that the defendant had bought Saving Certificates for Rs. 4,250/- and Rs. 3,400/- totalling Rs. 7,650/- ?

A. I must add all the figures on the page.

Q. I put it to you that between December, 1944, and October, 1946, when you were in India, all that the defendant took from the  
20 firm was Rs. 1,000/- odd ?

A. I deny that.

Q. Then how much did he take ?

A. It is a big amount. I must look into the accounts. I cannot say how much it is. It must be tens of thousands. When I was in India, the defendant ran the business. He bought goods in the shop account and appropriated them to his own use.

Q. At present the defendant is running the business very well ?

A. I do not know that. At present I do not now go to the Jaffna House. After the defendant got the business registered in his own  
30 name in 1952, he does not allow me to enter the shop. My sons were doing work in the shop without pay and they too have been removed.

Q. Your sons were learning business in the shop ?

A. They know business. They need not learn business there.

Q. In October, 1946, the defendant bought some coconut land in your name ?

A. I bought the land and not the defendant. In 1944 I bought the entire land and a deed was executed for half of the land and since the other half was bought from a minor, the deed was executed in

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

1946. I bought the whole land in 1944, and I executed the deed for the other half in 1946, and for the other half I asked permission of Court for the execution of a deed and that in 1946 the deed for that half was executed.

*Q.* In 1944 you paid for the whole land ?

*A.* I paid for a half in 1944, and the value of the other half was deposited in Court. The value of the other half was paid by the defendant and debited to my account. The purchase was on transfer deed No. 12 of 12.10.46, marked D6.

Monies taken for personal expenses are not deducted from the 10 profits.

My son studied in England. I sent him money from my private account. I did not draw money from the shop's account. Even if I had drawn money from the shop, it would be debited to my account.

*Q.* I put it to you that the money sent to your son was taken from the shop and that that money was debited to the firm's account.

*A.* I deny that, and even if I had sent money from the shop, it would be debited to my account.

*Q.* When you were in India, monies were sent to you for your expenses ? 20

*A.* Those expenses are written as expenses of the firm. The defendant objected to meet the expenses of my stay in India.

*Q.* When your sons got married, the firm's money was spent for it ?

*A.* No. I spent my private money. If I had taken money from the firm, it would have been debited to my account.

*Q.* The money that you spent for your son's marriage is shown in the books of the firm?

(Mr. Thiagalingam states that the questions which are being addressed to the witness are irrelevant to the issues in the case. 30

Mr. Wickremanayake submits that the purpose of the question is to establish a partnership.

I allow the question.)

*A.* The money I spent for my son's marriage is not shown in the books of the firm.

*Q.* There are no separate pages for me or for the defendant except for the purchase of land?

*A.* Yes.

*Q.* So that the money you spent for your son's marriage is not shown in the firm's books? 40



(Mr. Thiagalingam objects to the question because the witness has not admitted that he had drawn from the firm for his son's wedding.)

I draw Mr. Wickremanayake's attention to the fact that the witness has stated that he has not drawn money from the firm for his son's wedding.)

Q. Did you draw money from the shop for your daughter's wedding?

A. I spent my own money. My father had mortgage bonds  
10 and I spent the money got from those bonds.

My son got married in October, 1945. (Shown page 416 of M ledger for the year 1945 marked D7.)

It is entered there "paid on account of cloth and gold Rs. 850.55" and "on cloth account paid to Point Pedro person Rs. 1,052/-." Although these are entered there, I spent my own money. The entry relating to Rs. 850.55 may relate to my son's wedding. The other entry is not connected with my son's wedding. That relates to the defendant.

(Shown page 109 of D7.)

20 Q. This shows the money sent to you for medical expenses while you were in India?

A. I had money in the Madras Bank and I used that money. I had got that amount written in the books.

The total amount is shown to be about Rs. 8,200/-.

Q. In 1947 you and the defendant fell out?

A. No.

Q. When did you fall out with the defendant?

A. When the dispute arose over the school land. That was in November, 1951.

30 Q. In 1947 you split up the money?

A. Yes.

Q. That was without reference to the defendant?

A. I divided the amount with the consent of the defendant.

Q. How did you get Rs. 600,000/- and the defendant Rs. 300,000/-?

A. There were about 3 lakhs left over. Nine lakhs was necessary for the business. The defendant agreed to that.

I was running the business and the defendant was enjoying himself. The defendant at times came to the shop. The money that  
40 was divided is shown in the Point Pedro shop also.

No. 13  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

No. 13  
Plaintiff's  
evidence—  
Continued

V. Rajaratnem  
Cross-  
examination—  
Continued

Q. When the money was divided into 6 lakhs for you and 3 lakhs for the defendant, the defendant protested?

A. No.

The money was divided in the latter part of 1948. We were in good terms in 1948.

Q. In 1948 the defendant managed the Jaffna House ?

A. Both of us managed the business. He did not manage the business. He comes now and then.

Q. Did the defendant show much interest in the business?

A. The defendant comes and goes away. It was I and the 10 Kanakapillai who carried on the business. It was I who managed his part of the business also.

I have a son called Sivakumar.

Q. In 1944 you wanted to have your son as a shareholder of the business?

A. That was not in 1947 or 1948.

Q. Did you at any time want to take your son Sivakumar into the business?

A. I allowed him to manage the business on my behalf.

Q. Did you want to give him a share of the business? 20

A. No.

Q. Did you want to make him a partner of the business?

A. No. He helped us.

Q. Did you ask the defendant to give Sivakumar a share of the business?

A. No.

My father died in 1933. We had trouble with the Estate Duty Department. The Commissioner of Estate Duty claimed duty on the entirety of the business. I filed an appeal to the Board of Review. I appealed against the Commissioner's ruling. (Shown D8— 30 petition of appeal.) I was executor of my father's Last Will. In para 2 of D8 it is stated that the business was carried on in partnership. In my petition of appeal, reasons have been set out. I have already referred to the order of the Supreme Court. In my petition of appeal, reasons have been set out to show why my father was possessed only of a 1/3rd share. The petition of appeal shows that a partnership did in fact exist between Veeragathipillai and his sons. It is also stated that the two sons were not paid servants, but have signed as partners and that the security obtained in the course of business transactions was obtained in the name of the said two sons 40 or one of them.

I can sign my name in English. (Shown D9--application sent by the plaintiff to the Exchange Control.) I have signed it as partner. This is an application for making payments for roofing tiles.

No. 13  
Plaintiff's  
evidence—  
Continued

My firm has filed actions against persons who owe money to the firm. All the actions have been instituted in the name of the firm "S.V. & Sons". (Shown plaint in D.C. Jaffna No. 14595 dated 7.12.39, marked D10.) The plaint was filed by me and the defendant against some Chetty. I and the defendant filed this action as plaintiffs carrying on the business under the name, style and vilasam "Veeragathipillai & Sons". I also filed an action in C.R. Jaffna No. 12916 dated 17.6.38, marked D11. The defendant and I filed this action as plaintiffs carrying on business under the name, style and vilasam "Veeragathipillai & Sons". There are many such actions filed in that form. I produce a certified copy of C.R. case No. 12916/A marked D12.

V. Rajaratnam  
Cross-  
examination—  
Continued

We had no trouble with the Chartered Bank in 1952. In 1952 we received a consignment of tiles. (Shown receipt dated 14.5.52 marked D13.) I have signed it as "V. Rajaratnam, senior partner". I placed the orders for the consignment of tiles. The bills used to be sent to Thondamannar but the defendant wrote to the Chartered Bank that bills made to Veeragathipillai & Sons should be sent to Jaffna and not to Thondamannar. The Bank wrote to me and asked me to hand over the document now marked D14 to the defendant. (Subject to proof D14 admitted.) I did not give the document to the defendant. Then I wrote to the Bank on 23.5.52 which is marked D15. In D15 I say that the defendant is the junior partner. A cheque of "S. V. & Sons" was sent by the defendant to the bank. The bank then sent me a letter which is marked D16. (Subject to proof D16 admitted.) D16 was sent to the defendant and a copy sent to me.

I also run a pawn-broker's shop. That was run by S. V. & Sons.

*Q.* Licences were issued sometimes in the name of the firm and sometimes in the name of the defendant?

*A.* Licences were issued in the name of both Rajaratnam and Rajasegaram.

(Mr. Wickremanayake marks the pawn-broker's licence dated 12th July, 1939, as D17, pawn-broker's licence for the year 1950 marked D18, pawn-broker's licence issued to Veeragathipillai & Sons, Jaffna, marked D19, for the year 1949, and pawn-broker's licence dated 26.7.51 issued to Veeragathipillai & Sons, marked D20.) My son and one Mylvaganam were running the pawn-broking shop. The defendant does not enter the pawn-broking shop. I deny that the defendant was managing the pawn-broking shop. Now the defendant is managing the pawn-broking shop.

No. 13  
Plaintiff's  
evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. In 1939 the pawn-broker's licence was issued in the name of the defendant?

A. I deny that. That was issued in the name of both of us. I have sometimes signed the pawn-broker's receipt. Usually my son and Mylvaganam sign the pawn-broker's receipt. They have no share in the business. The defendant has a share in the business "S. V. & Sons" and therefore he has a share in the pawn-broking business.

Q. Can you tell me therefore why he should not attend to the business of pawn-broking? 10

A. I am not saying that he cannot carry on that business. According to the Last Will I had to pay some money. I had to pay Rs. 5,000/- to my mother. I paid that to my mother out of my own money. The other legacies were paid from the money of the shop. I paid my mother in 1935. The receipt was executed by notary Sabaratnam.

Q. Why did you go to notary Sabaratnam?

A. To get the notarial receipt. When I pay money I obtain a notarial receipt or ordinary receipt. For some of the legacies I have obtained notarial receipts and for some others ordinary receipts. 20 I have not obtained a notarial receipt for any other payments. The money paid to my mother was not paid in the presence of the notary. That payment must have been shown in the Final Accounts. That is not shown in the shop account because it was not paid out of the shop money. I bought the life interest of my mother.

Q. Why did you not execute a notarial receipt for that?

A. Because it was Rs. 1,000/- I did not execute a notarial receipt.

Q. When you bought the life interest of your mother, did you know or not that to buy the life interest, a notarial receipt has to be 30 executed?

A. I learnt that a receipt would be enough. I did not know that a notarial receipt has to be obtained. My mother did not know how to read or write.

(Shown cheque drawn on the Bank of Ceylon dated 21.2.1951 No. 172860 marked D21.) This was signed by me on behalf of Veeragathipillai & Sons. It is signed as partner. I can write English. My son wrote the amount on the cheque. (Shown 3 more cheques marked D22, D23 and D24.) These are signed by me. One is in favour of R. Sundaramoorthy. He is my son. (Shown letter 40 written to the Postmaster, Thondamannar dated 7.5.52 marked D25.) This is my signature. The defendant wanted the letters addressed to Veeragathipillai & Sons sent to him and I wrote to the postmaster

to send the letters to me as I was the senior partner and the managing partner. The defendant wanted the letters not to be sent to me. (Shown D26—application to the Bank of Ceylon to open an account.) This is my signature. The defendant has also signed it. I know the defendant's signature. (D26 read.) I sent the affidavit to the Government Agent, dated 28.1.52, marked D27.

No. 13  
Plaintiff's  
evidence—  
*Continued*

V. Rajaratnam  
Cross-  
examination—  
*Continued*

(Intld.) T. M.,  
A.D.J.  
6.11.53.

10 Further hearing on 11th and 12th January, 1954.

(Intld.) T. M.,  
A.D.J.  
6.11.53.

D.C. Point Pedro No. 4323 (Money).

Trial—11.1.54.

Mr. Advocate S. Thiagalingam, Q.C., with Mr. Advocate S. Soorasangaram and with Mr. Advocate R. Shivapathasunderam instructed by Mr. S. Nagalingamudaly, proctor for the plaintiff.

Plaintiff's  
evidence

20 Mr. Advocate A. V. Kulasingham with Mr. Advocate S. Nadesan, Mr. Advocate S. R. Kanaganayagam and Mr. Advocate C. Thanabalingham instructed by Mr. K. Ratnasingham, proctor for the defendant.

Plaintiff and defendant present.

Further hearing.

Mr. Thiagalingam calls :—

VEERAGATHIPILLAI RAJARATNAM. Affirmed. Recalled.

*Cross-examined* by Mr. Nadesan.

V. Rajaratnam  
Cross-  
examination—  
*Continued*

Q. To your knowledge, your father carried on the business "S.V." alone from the year 1907?

30 A. My father started the business as "S.V." when he started it.

Q. When did you come to know your father's business?

A. When I was very young my father was carrying on the business.

Q. Your father carried on the business alone till 1929?

A. My father carried on the business till 1929 and I was helping him even before 1929.

Q. Up to 1929, who was the proprietor of the business ?

A. My father.

No. 13  
Plaintiff's  
evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. On 6.3.1929 your father gave you a 1/3rd share of the business, your brother a 1/3rd share of the business and retained the balance 1/3rd share for himself?

(The question is over-ruled, as this has already been put to and answered.)

Q. After 6.3.29, you, your brother and your father jointly carried on the business of "S.V."?

A. I was helping my father from 1907.

Q. Was there no difference in the capacity of the business carried on prior to 6.3.1929 and the capacity of the business carried on after 6.3.1929?

A. There was no difference.

Q. Before 6.3.1929, you occupied the position as you occupied after 6.3.1929?

A. Yes.

Q. Were you entitled to any share in this business before 6.3.29?

A. Only in 1929 my father gave me a donation of a 1/3rd share. Before that I was helping him.

Q. Before 6.3.29, were you entitled to any share in this business? 20

A. We were carrying on the business even before as though we were entitled to a share.

Q. Did your brother have any share in the business before 1929?

A. It was after March, 1929, that we came to know that we have a share.

Q. Before that, you or your brother had no share in the business?

A. Yes.

Q. Subsequent to 6.3.29, you, your brother and your father carried on the business jointly? 30

A. We carried on the business in the same way but in 1929 we received a donation.

Q. After your father gave a 1/3rd share of the business to you, and to your brother a 1/3rd share, your father was entitled to the remaining 1/3rd share.

A. Yes.

At that time the firm was carrying on business in pawn-broking and in the importing of tile, rice, paddy, timber and teak.

Q. At the time you were given shares in this business, what was the capital of the business? 40

A. I cannot say that. I did not look into the accounts.

Q. Did your father ever borrow monies for the purpose of carrying on the business?

A. He might have borrowed at some time, but to my knowledge, he did not borrow.

Q. Were you closely associated with your father in the business from 1907?

A. Yes.

Q. During that period from 1907 onwards, did your father borrow monies for the purpose of carrying on the business?

10

(Intld.) T. M.,  
A.D.J.,  
11.1.54.

(I call upon Mr. Nadesan to tell me how this question is relevant for this case.

Mr. Nadesan refers to issue 32.

I hold that this is irrelevant. I over-rule the question.)

(Intld.) T. M.,  
A.D.J.,  
11.1.54.

20 Mr. Nadesan moves to raise the following further issues :—

51(a) After the death of Veeragathipillai, did the plaintiff and the defendat carry on the business in *de facto* partnership under the name and style of “ Veeragathipillai & Sons ” ?

51(b) Did the capital of the said business exceed Rs. 1,000/-?

51(c) If issues, 51(a) and 51(b) are answered in the affirmative, is the plaintiff entitled to maintain this action?

Mr. Thiagalingam heard. Mr. Thiagalingam objects to issue 51(a) as (1) he does not understand the implication of the issue and (2) it is not pleaded. He objects to issue 51(b) as it gives a new  
30 complexion to the defence.

Mr. Nadesan heard. He says the plaintiff has come to Court on the footing that the business was a co-ownership and not a partnership. The defendant's case is that it is a partnership. He refers to para 13 of the answer and cites—

23 N.L.R. page 242.

24 N.L.R. page 97.

Mr. Thiagalingam invites attention to para 4 of the answer where it is stated that S. Veeragathipillai died on 3.12.33 and that on the death of Veeragathipillai, there was a dissolution of the said  
40 partnership and that thereafter, there was no partnership at all.

No. 13  
Plaintiff's  
evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

No. 13

Plaintiff's  
evidence—  
ContinuedV. Rajaratnam  
Cross-  
examination—  
Continued

## ORDER

Mr. Nadesan admits that issues 51(a) and 51(b) do not arise on the pleadings in the case. With regard to the matter raised in issue 51(c) issue 32 has already been raised. He argues that at any stage it is open to the defendant to suggest any issue which will be relevant for the purpose of this case. He now finds it necessary that these issues should be raised and answered.

Mr. Thiagalingam refers to para 4 of the answer. When one reads the said para 4, it will be clear that from or about 1929 the business of Veeragathipillai & Sons was carried on in partnership 10 between the plaintiff and the defendant and the said Veeragathipillai, and that after the death of the said Veeragathipillai, in December, 1933, there was a dissolution of the partnership and thereafter, there was no partnership at all.

Mr. Nadesan argued that there was a *de facto* partnership and all that the said para set out was, that there was, in law, no partnership. For myself, I am unable to see how these issues are relevant for this case. If I hold on issue 32 that the business registered as a partnership in 1929 is one which the Court cannot take cognisance of on the ground that the said business was not constituted properly, if 20 it was a partnership, the plaintiff's action will fail. I rule out the issues.

(Intld.) T. M.,  
A.D.J.  
11.1.54.

Mr. Nadesan wishes the Court to note that the matter raised in issue 32 is not confined to the state of affairs in 1929 but also covers the state of affairs in 1933 when Veeragathipillai died.

Mr. Nadesan moves to amend the answer to enable him to plead these issues, as these issues are very material for his case. 30

Mr. Thiagalingam objects to any chance being given to the defendant, as this is an attempt to keep away the plaintiff from the business. The Commissioner of Income Tax has assessed the tax at about 2 lakhs.

## No. 14

## Order of the District Court

## ORDER

I do not think that I can deny the defendant the chance of amending his pleadings, if he so desires. Learned Counsel for the defendant submitted that, although there might have been a partner- 40 ship till 1933, such partnership became dissolved in 1933 when Veeragathipillai died and thereafter, in law, there was no partnership. So that, it is necessary for the defendant's case to raise issue 51(a) to show that the partnership which existed was only a *de facto* partner-

No. 14

Order of the  
District Court  
11.1.54.



ship and not a partnership in law. Issues 51(a), 51(b) and 51(c), therefore, are necessary for the adjudication of this case. I appreciate the argument of learned counsel for the defence.

No. 14  
Order of the  
District Court  
11.1.54—  
Continued

This case has been fixed for today and tomorrow. The defendant is not a poor person. In fairness to the plaintiff, I make order that the defendant do pay to the plaintiff the incurred costs of today and tomorrow.

Learned counsel for the plaintiff requests that the issues may be allowed and the case fixed for trial without it being made necessary for the defendant to amend the answer and the plaintiff filing replication, in order to facilitate the disposal of this case without much delay. He also denies that there was any new partnership, *de facto* or *de jure*, created on the death of Veeragathipillai in 1933.

His submissions are noted.

(Intld.) T. M.

I feel disposed to accede to the request of learned counsel for the plaintiff. Once issues 51(a), 51(b) and 51(c) are allowed, it may not be necessary to file amended pleadings in the case. The filing of amended pleadings will cause delay in the matter of disposal of this case. I, therefore, now with the consent of learned counsel for the plaintiff allow issues 51(a), 51(b) and 51(c); but as I have stated earlier, the defendant will pay costs incurred by the plaintiff for today and tomorrow to the plaintiff.

I refix further hearing for 15.3.54 and 16.3.54.

(Sgd.) T. MUTTUSAMIPILLAI,  
A.D.J.  
11.1.54.

**No. 15**

**Petition of Appeal of the Defendant to the Supreme Court**

No. 15  
Petition of  
Appeal of the  
Defendant to  
the Supreme  
Court  
25.1.54

30 IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Tondamannar.....  
..... *Plaintiff*

No. 4323.

*vs.*

Veeragathipillai Rajasegaram of Tondamanar...  
..... *Defendant.*

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

D.C. (Inty) 220. Veeragathipillai Rajasegaram of Tondamanar....  
1954 ..... *Defendant-Appellant*

40

Veeragathipillai Rajaratnam of Tondamannar....  
..... *Plaintiff-Respondent.*

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

No. 15  
 Petition of  
 Appeal of the  
 Defendant to  
 the Supreme  
 Court  
 25.1.54—  
*Continued*

This 25th day of January, 1954.

The petition of appeal of the defendant-appellant appearing by K. Ratnasingham, his proctor, states as follows:—

1. That the trial of this case was taken up on the 25th June, 1953 and 50 issues were accepted by Court and the hearing was postponed for the 29th and 30th October, 1953. On application of the plaintiff-respondent's counsel, the hearing was of consent postponed for the 4th and 6th November, 1953, on which dates evidence was led on behalf of the plaintiff-respondent. The hearing was adjourned for the 11th and 12th January, 1954, while the 10 plaintiff-respondent was under cross-examination.

2 That on the 11th January, 1954, during cross-examination of the plaintiff-respondent, it became necessary for the defendant-appellant to suggest in addition to issue No 32 (viz : Is the plaintiff entitled to maintain this action in the absence of a writing creating a partnership) and in order to clarify the same the following issues:—

“ 51(a) After the death of Veeragathipillai, did the plaintiff and the defendant carry on business in *de facto* partnership under the name and style of ‘Veeragathipillai & Sons’ ?

51(b) Did the capital of the said business exceed Rs. 1,000/-? 20

51(c) If issues 51(a) and 51(b) are answered in the affirmative, is the plaintiff entitled to maintain this action? ”

were raised.

3. The said issues were finally accepted by Court but in the course of his order, the learned Judge condemned the defendant-appellant to pay “ incurred costs of today and tomorrow ” and put off the hearing for the 15th and 16th March, 1954.

4. Being aggrieved with that part of the order affecting costs, the defendant-appellant begs to appeal to your Lordships' Court on the following amongst other grounds that may be urged at the 30 hearing of the appeal.

(a) That the order dated 11th January, 1954, allowing the plaintiff-respondent incurred costs for the 11th and 12th January, 1954, is contrary to law and the weight of evidence adduced at the trial and argument.

(b) That the learned Judge has erred in ordering the defendant-appellant to pay prospective costs for the 12th January, 1954.

(c) That the learned Judge could, in law, have imposed on the defendant-appellant taxed costs of the day only viz: taxed costs of hearing on the 11th January, 1954. 40

(d) That the learned Judge was wrong in ordering incurred costs for the 11th and 12th January, 1954, on the assumption that the defendant-appellant “ is not a poor person ”.

(e) The learned Judge has erred in ordering incurred costs for the 11th and 12th January, 1954, on the ground that the trial of the case was fixed for hearing for the 12th January, 1954.

(f) The defendant-appellant respectfully submits that the fact that counsel are briefed to appear on two successive dates is not a justifiable ground for the Court to order incurred costs for all such dates.

(g) The learned Judge was right in allowing issues 51(a), 51(b) and 51(c) but has erred in holding that the said issues did not become  
 10 necessary in order to clarify issue No. 32 already framed by Court on an earlier date. It is submitted that even though it was implicit in issue No. 32 that the initial capital of the business was in excess of Rs. 1,000/-, the learned Judge was wrong in disallowing cross-examination on this point. It therefore became necessary to suggest the aforesaid issues 51(a), 51(b) and 51(c) an answer to which would decide the whole case. It is therefore submitted that the order for costs by the learned Judge is bad in law. The defendant-appellant respectfully submits that the learned Judge should have taken into  
 20 consideration this fact in ordering costs as a penalty for admitting of the said issues; and therefore should, in the circumstances, have ordered taxed costs of the day only, namely for the 11th January, 1954.

(h) The defendant-appellant respectfully submits that the order allowing incurred costs for the 11th and 12th January, 1954, is untenable in law and contrary to the provisions of section 208 and 214 of the Civil Procedure Code.

(i) The defendant appellant submits that the words "incurred costs of today and tomorrow" are vague and unascertainable and therefore unenforceable in law. It is further submitted that the  
 30 defendant-appellant will be placed at the mercy of the plaintiff-respondent who will be tempted to inflate his bill of costs unconscionably.

(j) The learned Judge has erred in failing to indicate in his order that "incurred costs" should be taxed in accordance with section 214 of the Civil Procedure Code and according to the rates specified in the second schedule of the Civil Procedure Code.

(k) The learned Judge first made order ruling out issues 51(a), 51(b) and 51(c) and thereafter on a request by the learned counsel for the plaintiff-respondent allowed the said issues without amend-  
 40 ments, without it being made necessary for the defendant-appellant to amend the answer and the plaintiff-respondent to file a replication. In view of these circumstances the learned Judge could have proceeded to hear the case on the 11th and 12th January, 1954, without causing the defendant-appellant to pay this onerous costs.

No. 15  
Petition of  
Appeal of the  
Defendant to  
the Supreme  
Court  
25.1.54—  
Continued

Wherefore the Defendant-Appellant prays—

- (i) that the order dated 11th January, 1954, condemning the defendant-appellant to pay incurred costs be set aside ;
- (ii) for costs of this appeal and of the Court below as your Lordships' Court shall seem meet.

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant-Appellant.*

No. 16  
Amended  
Answer of  
the Defendant  
2.3.54

**No. 16**  
**Amended Answer of the Defendant**

IN THE DISTRICT COURT OF POINT PEDRO 10

Veeragathipillai Rajaratnam of Tondamanar.....  
.....*Plaintiff*

No. 4323.

*vs.*

Veeragathipillai Rajasegaram of Tondamanar.....  
.....*Defendant.*

On this 2nd day of March, 1954.

The Amended Answer of the abovenamed defendant appearing by K. Ratnasingham, his proctor, states as follows:—

- 1. The defendant denies, all and singular such averments in the plaint as are inconsistent with this answer. 20
- 2. Answering to paragraph 1 of the plaint, the defendant admits the averments as to residence but denies that any cause of action has accrued to the plaintiff to institute this action.
- 3. Answering to paragraph 2 of the plaint the defendant admits the averments contained therein.
- 4. Answering to paragraph 3 of the plaint, the defendant denies that in or about 1929 or at any other time the said Sinnathamby Veeragathipillai gifted one-third share or any share of the said business, its assets or goodwill thereof to the plaintiff. The defendant further states : 30

(a) that prior to the death of the said Sinnathamby Veeragathipillai in 1933 the said business of " S. Veeragathipillai & Sons " was carried on in partnership between the plaintiff, defendant and the said Veeragathipillai from 1929 to the 3rd December, 1933, when the said Veeragathipillai died and there was a dissolution of the said partnership;

(b) the capital of the said partnership business was over Rs. 1,000/- but no agreement in writing creating a partnership was entered into between the said partners as required by section 18 of the Prevention of Frauds Ordinance.

(c) thereafter the plaintiff and the defendant carried on business in partnership from 3rd December, 1933, up to the 5th June, 1952, under the Name, Firm and Style of "S. Veeragathipillai & Sons"; and

10 (d) the capital of the said partnership was over Rs. 1,000/- but no agreement in writing creating a partnership was entered into between the said partners as required by section 18 of the Prevention of Frauds Ordinance. It was agreed between the parties that they should share equally the profits and assets of the said business.

5. Answering to paragraph 4 of the Plaintiff the defendant admits the execution of the said Last Will. The defendant denies however that the said Sinnathamby Veeragathipillai did in fact leave a one-third share or any share of the said business to the plaintiff. The defendant further states that the said Sinnathamby Veeragathipillai  
20 was not in law entitled to leave any share of the said business to the plaintiff or any one else. The defendant therefore states that no share of the said business devolved on the plaintiff by virtue of the said Last Will.

6. Answering to paragraph 5 of the plaintiff the defendant admits the making of the application referred to therein but denies that it was fraudulent or with a view to defraud the plaintiff of any rights. The defendant further states that the said business of "S. Veeragathipillai & Sons" was carried on in two places namely Jaffna and Point Pedro and in or about December, 1947, it was agreed between the  
30 plaintiff and the defendant that the plaintiff should take over the Point Pedro business and the defendant the Jaffna business after accounts were looked into and the assets of the two businesses separated and divided. Thereafter there was considerable delay in looking into accounts and carrying out the agreement, besides continuous obstruction by the plaintiff's children which injuriously affected the business. Accordingly the defendant was compelled to terminate the partnership which he did by giving notice to the plaintiff on or about the 25th May, 1952, and thereafter the defendant became the sole proprietor of the business "S. Veeragathipillai &  
40 Sons" carried on at Jaffna as from 6th June, 1952.

7. Answering to paragraph 6 of the plaintiff the defendant while admitting the statement of accounts marked X referred to therein were prepared, denies that it was an account on the basis of which

No. 16  
Amended  
Answer of  
the Defendant  
2.3.54—  
Continued

No. 16  
Amended  
Answer of the  
Defendant  
2.3.54—  
Continued

the plaintiff alleged the said business was carried on. The defendant accordingly puts the plaintiff to the proof of the said accounts and of the basis on which it is alleged to have been prepared.

8. Answering to paragraph 7 of the plaint, the defendant states that he rendered no accounts to the plaintiff since the defendant was under no legal obligation to do so for the reason that the plaintiff had no right or interest in the said business. The defendant also admits that he has been in sole and exclusive possession of the said business carried on at Jaffna and states that the plaintiff is not entitled to claim any share of the said business. 10

9. Answering to paragraph 8 of the plaint the defendant denies all and singular the several averments therein contained and states that no trust existed in law as pleaded therein in favour of the plaintiff in respect of the plaintiff's alleged two-third share or any other share. The plea of trust referred to in the said paragraph is only an attempt to circumvent the provisions of section 18 of the Prevention of Frauds Ordinance Chapter 57 of Volume 11 of the Legislative Enactments and the provisions of law relating to partnership.

10. Further answering the defendant states that the plaint discloses no cause of action and the claim, if any, is prescribed in law. 20

11. Answering to paragraph 9 of the plaint the defendant denies the averments contained therein and states that the plaintiff is not entitled to any such declaration or accounting as averred therein. The defendant further states that the plaintiff cannot maintain this action on the basis that the plaintiff is the owner of the 2/3rd share of the business of "S. Veeragathipillai & Sons" as the plaintiff and the defendant were carrying on business in partnership under the name, firm and style of "S. Veeragathipillai & Sons" and were not co-owners of the said business.

12. Answering to paragraph 10 of the plaint the defendant 30 denies that the plaintiff is entitled to any share.

13. Without prejudice to the averments hereinbefore contained the defendant pleads as a matter of law.

(a) that by reason of the averments in paragraphs 4(a) and 4(b) of the answer the partnership referred to in the said paragraphs 4(a) and 4(b) is of no force or avail and is unenforceable and the plaintiff cannot therefore have and maintain this action.

(b) by reason of the averments in paragraphs 4(c) and 4(d) above, the partnership referred to therein is of no force or avail 40 and is unenforceable in law and the plaintiff cannot therefore have and maintain this action.

14. Further answering the defendant states that in the event of the Court holding that the plaintiff is entitled to an accounting, then the defendant claims :—

No. 16  
Amended  
Answer of the  
Defendant  
2.3.54—  
*Continued*

(a) a sum of Rs. 1,000/- a month as reasonable remuneration for his services for managing the said business at Jaffna for the whole of the accounting period.

10 (b) that the defendant is entitled to have the accounting between the parties taken as from 3rd December, 1933, in regard to the business "S. Veeragathipillai & Sons" both at Jaffna and at Point Pedro.

(c) that the profits be shared equally between the parties.

20 (d) that at all relevant times after the death of the said Veeragathipillai in 1933, his widow Walliammai, mother of the parties lived with the defendant and was maintained by the defendant from 1933 till her death in 1946 when such maintenance was the responsibility of the plaintiff in as much as the plaintiff was enjoined by his late father Veeragathipillai to look after and maintain the said Walliammai. The defendant therefore claims a sum of Rs. 10,000/- for such maintenance.

Wherefore the defendant prays :—

- (i) that the plaintiff's action be dismissed.
- (ii) that in the event of the Court holding that the plaintiff is entitled to an accounting, then the account be taken between the parties in terms of paragraph 14 above.
- (iii) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant.*

30

**No. 17**  
**Proceedings Before the District Court**

No. 17  
Proceedings  
before the  
District Court  
4.3.54

D.C. Point Pedro No. 4323 (Money). 4.3.54.

Mr. Advocate S. Soorasangaram with Mr Advocate R. Shiva-pathasunderam instructed by Mr. S. Nagalingamudaly, proctor for the plaintiff.

Mr. K. Ratnasingham, proctor for the defendant.

Plaintiff present.

Defendant absent.

Case called.

40 Mr. K. Ratnasingham, proctor for the defendant, states that the defendant will not be able to be ready for the trial on the 15th and

No. 17  
 Proceedings  
 before the  
 District Court  
 4.3.54—  
*Continued*

16th March, 1954, regarding which notice has now been served. He submits that journal entry of 21.1.54 mentions the fact that the case would be called on 5.2.54 for refixing further trial dates, and states that the defendant will not be ready for trial on 15th and 16th March, since his counsel Messrs. A. V. Kulasingham, S. Nadesan and S. R. Kanaganayagam have now accepted other work for the 15th and 16th March.

Mr. Soorasangaram states that the plaintiff is ready for trial on the 15th and 16th March and that the plaintiff's senior counsel, Mr. C. Thiagalingam, Q.C., has informed Mr. Nagalingamudaly, that 10 he is available on the 15th and 16th March, 1954, having kept those dates free.

#### ORDER

As requested by the Trial Judge, Mr. Muttusamypillai who is hearing this case, I now make order that case be called on 16.3.54, for further hearing dates to be fixed in this matter by him.

Action will be taken to have him gazetted as Additional District Judge, Point Pedro on 16.3.54.

Regarding the matter of application now made by proctor for the defendant, as per his motion dated 2.3.54 to amend the answer 20 already filed in the suit, Mr. Nagalingamudaly takes notice of same and this matter will be called on 16.3.54 before the Trial Judge for disposal by him.

The order regarding the journal entry No. 1 where notice of appeal has been served on the plaintiff-respondent the record will be forwarded to Supreme Court after 16.3.54.

Mr. Ratnasingham, proctor for the defendant, moves that this case be called before me the Permanent Judge, as the defendant will be making an application that this case be not heard by the Trial Judge who has so far heard the case viz. Mr. T. Muttusamypillai, 30 Crown Advocate, Jaffna.

Mr. Nagalingamudaly, proctor for the plaintiff, is present and takes notice of this application.

This case need not be called before me. Let defendant make his application on 16.3.54 before the Trial Judge.

Office is directed to take steps to have Mr. T. Muttusamypillai appointed and gazetted as additional District Judge, Point Pedro, for further proceedings in this suit as on 16.3.54.

Call case on 16.3.54 before Mr. T. Muttusamypillai.

(Sgd.) A. W. NADARAJAH, 40  
*District Judge.*  
 4.3.54.



No. 18

**Affidavit of the Defendant to Have the Case Heard  
by Another Judge**

No. 18  
Affidavit of the  
Defendant to  
have the case  
heard by  
another Judge  
16.3.54

IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Tondamannar.....  
.....*Plaintiff*

No. 4323.

*vs*

Veeragathipillai Rajasegaram of Tondamannar.....  
.....*Defendant.*

10 I, Veeragathipillai Rajasegaram of Tondamannar, do hereby  
solemnly, sincerely and truly declare and affirm as follows :—

1. I am the defendant abovenamed.

2. I respectfully submit that a fair and impartial trial of my  
case cannot be had before Mr. T. Muttusamypillai as I have genuine  
fears that he is biassed against me ; and as he has been before and  
during the trial of this case so intimately connected with me and my  
brother (the plaintiff in the above case) and my friends and relations,  
that I have begun to entertain doubts as to whether justice would be  
done in this case ; even though I do not question the personal integrity  
20 of Mr. Muttusamypillai. However impartial Mr. T. Muttusamypillai  
might try to be, I am unable to erase the impression in my mind,  
which has now amounted to a conviction, that in the interests of  
justice, Mr. T. Muttusamypillai should not hear this case any further.

3. It is not possible to detail all the facts and circumstances  
which have led me to make this application and I shall however set  
forth some of the facts herein below.

4. The above case originally came up for trial before Mr. T.  
Muttusamypillai who was acting as District Judge, Point Pedro, on  
25.6.53. Though Mr. T. Muttusamypillai had appeared as counsel  
30 in several cases for the plaintiff and the defendant earlier yet no  
objection was taken by either party to the said Judge hearing this  
case.

5. When the counsel for the plaintiff opened his case and  
referred to me as a shrewd man the acting Judge, Mr. T. Muttusamy-  
pillai, stated that he knew the plaintiff also who was a shrewder man.  
Later, when counsel for plaintiff referred to the fact that the plaintiff  
was the manager for a Hindu school the said Judge remarked that  
he himself had something to do as manager of the said school belonging  
to the plaintiff.

No. 18  
Affidavit of the  
Defendant to  
have the case  
heard by  
another Judge  
16.3.54—  
*Continued*

6. Thereafter issues were framed and the case was put off for further hearing. It was then expected that the case would be heard by the Permanent District Judge. Not knowing that Mr. T. Muttusamypillai would be gazetted to hear the case, I retained him as my counsel in case No. 10268 D.C. Jaffna. Thereafter I found that Mr. T. Muttusamypillai was gazetted to hear this case. In between he appeared as my counsel in the said case No. 10268 D.C. Jaffna in which I was the plaintiff.

7. During this period Mr. S. Nagalingamudaly, proctor for plaintiff in this case, retained Mr. T. Muttusamypillai in a criminal 10 case in the Magistrate's Court, Point Pedro under No. 17343 for the accused where my evidence on behalf of the accused was led in Court on 21.9.53 by Mr. T. Muttusamypillai.

8. Thereafter Mr. T. Muttusamypillai went to Malaya on a collection tour to collect funds for the Jaffna Ladies Hindu College and there he discussed this case with a number of relations of the parties to this case, in consequence of which I received letters from Malaya from Mr. R. Mutturamalingam, Advocate and Solicitor of Kuala-Pilah.

9. On his return from Malay Mr. T. Muttusamypillai has been 20 stating that Mr. Advocate Mutturamalingam had been of great help to him in Malaya and that he had told Mr. Mutturamalingam that he has settled the case except for one small point. This information was received by me about the 11th January, 1954.

10. In the course of the trial of this case Mr. T. Muttusamypillai repeatedly expressed his desire that this case between two brothers should be settled. In spite of this request I found myself unable to settle the said case.

11. On 11.1.54 when the case was taken up for trial before Mr. T. Muttusamypillai and the plaintiff was being cross-examined, 30 Mr. T. Muttusamypillai appeared to be greatly annoyed. I respectfully submit that a good deal of the annoyance was due to the fact that I had made up my mind not to settle the case as requested by the Judge.

12. On this date incurred costs for the 11th and 12th January, 1954, were ordered by the Judge for admission of certain issues and he further postponed the hearing of the case for the 15th and 16th March, 1954. I have preferred an appeal to the Supreme Court on the question of incurred costs.

13. In view of all these circumstances Mr. S. R. Kanaganayagam, 40 Advocate later suggested to Mr. T. Muttusamypillai that it would be

desirable if he did not hear the case any further. Mr. T. Muttusamypillai agreed to this suggestion and informed the permanent District Judge of Point Pedro who on 21.1.54 noticed the parties and their proctors for 5.2.54 for the case to be called re-fixing of further trial dates as Mr. T. Muttusamypillai would not be able to hear this case on the 15th and 16th March, 1954.

No. 18  
Affidavit of the  
Defendant to  
have the case  
heard by  
another Judge  
16.3.54—  
*Continued*

14. On 3.2.54 the permanent District Judge fixed the security for costs of appeal and ordered the case need not be called on 5.2.54 to fix the trial in view of the appeal to the Supreme Court.

10 15. I also learned that the plaintiff's proctor and counsel interviewed the Secretary of the Judicial Service Commission urging that Mr. T. Muttusamypillai should hear this case.

16. After Mr. T. Muttusamypillai decided not to hear this case he has discussed this case with lawyers at the Jaffna Bar.

17. Later I learned that he changed his mind and informed the Judicial Service Commission that he was prepared to continue the further hearing.

18. Then I sent letters dated 25.2.54 and 5.3.54 protesting against his hearing this case and have been informed by letter dated 20 8.3.54 that they have no power to grant my request.

19. I am further alarmed and perturbed in mind at the hearing of this case by Mr. T. Muttusamypillai as I have already made representations against him to the Judicial Service Commission.

20. I am further disturbed by the fact that the senior counsel, Mr. C. Thiagalingam, Q.C., for the plaintiff, who has discussed my case with me and drafted the answer in parts appears for the other side before a Judge who is biassed against me.

21. It is therefore necessary that this case should be heard by another judge.

30

(Sgd.) V. RAJASEGARAM.

Signed and affirmed to at Point Pedro }  
this 16th day of March, 1954. }

Before me.

(Sgd.) Illegibly.  
*J.P., U.M.*

Drawn by :

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant.*

No. 19.  
Application in  
Revision of the  
Defendant  
29.3.54

**No. 19**

**Application in Revision of the Defendant**

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

In the matter of an application IN REVISION

*and*

In the matter of an application that case No. 4323 of the District Court of Point Pedro be heard by a Judge other than Mr. T. Muttusamypillai, Crown Advocate.

Veeragathipillai Rajasegaram of Thondamannar.....  
.....*Defendant-Petitioner* 10

*vs.*

Veeragathipillai Rajaratnam of Thondamannar.....  
.....*Plaintiff-Respondent.*

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

On this 29th day of March, 1954.

The petition of the defendant-petitioner abovenamed appearing by K. Ratnasingham, his Proctor, states as follows :—

1. The plaintiff-respondent instituted this action against the defendant-petitioner to obtain a declaration that the plaintiff-respondent is the owner of a 2/3rd share of the business called "S. Veeragathipillai & Sons" Jaffna, the defendant-petitioner being alleged to be the owner of the remaining 1/3rd share and claiming an accounting of the assets and profits of the said business, the plaintiff-respondent also alleged that the defendant-petitioner was a trustee of a 2/3rd share of the said business for the plaintiff-respondent.

2. The defendant-petitioner filed answer denying that this was a partnership or trust as alleged and claiming the entire business for himself.

3. The case came up for trial on 25.6.52 before Mr. T. Muttusamypillai, Crown Advocate of Jaffna who was then acting as District Judge, Point Pedro for a period of two months.

4. On 25.6.53 issues were framed and the trial was refixed for the 30th and 31st October, 1953, and on application made by the proctor for plaintiff-respondent the trial was refixed for the 4th and 6th November, 1953, by Mr. T. Muttusamypillai. A Permanent District Judge was expected to function at Point Pedro by the middle of August, 1953, and to try the action in due course.

5. Thereafter without notice to the parties the permanent District Judge caused Mr. T. Muttusamypillai to be specially gazetted to hear this case on the said dates viz. the 4th and 6th November, 1953.

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6. In the meantime Mr. T. Muttusamypillai had reverted to the Bar and appeared as counsel (a) for the defendant-petitioner in case No. 10268 D.C. Jaffna wherein the defendant-petitioner was the plaintiff. A certified copy of the journal entry is herewith annexed marked XI, and (b) for the accused in case No. 17343 M.C. Point Pedro where he led evidence of the defendant-petitioner for the  
10 defence.

7. On the 4th and 6th November the case came up for trial before Mr. T. Muttusamypillai and the evidence of some of the witnesses for the plaintiff-respondent were recorded and the plaintiff-respondent himself examined and partly cross-examined. In the course of the said trial a settlement was suggested by the Judge in Court and seriously pursued by him but as the defendant-petitioner did not agree to the terms suggested, the case was put off after part cross-examination of the plaintiff-respondent for further hearing on the 11th and 12th January, 1954.

20 8. During the Christmas vacation Mr. T. Muttusamypillai who was functioning at the Bar went to Malaya to collect funds for the Jaffna Hindu Ladies' College and met several persons who are known and related to the defendant-petitioner and the plaintiff-respondent. At Kuala Pilah, in Malaya, the defendant-petitioner is credibly informed and verily believes that Mr. T. Muttusamypillai (a) discussed this case with a number of relatives and friends of the parties and as well as with Mr. R. Mutturamalingam, Advocate and Solicitor, Kuala Pilah—a cousin of the defendant-petitioner and the plaintiff-respondent and (b) with certain persons including the members of the  
30 Bar in Jaffna after his return.

9. In these conversations Mr. T. Muttusamypillai has stated that he has settled the case between the parties except one small point. The defendant-petitioner annexes hereto a letter received by him from Mr. R. Mutturamalingam marked X2.

10. On 11.1.54 the case was taken up for trial before Mr. T. Muttusamypillai and when the plaintiff-respondent was being further cross-examined, the Judge appeared to be greatly annoyed at certain questions put on behalf of the defendant-petitioner. Those questions clearly indicated again that the defendant-petitioner was unwilling  
40 to settle the case and was determined to take up certain legal position. Certain issues were also raised by the defendant-petitioner but were disallowed. An application was made to amend the answer. Then the issues were allowed with the consent of the counsel for the plaintiff-respondent and the defendant-petitioner was ordered to pay the

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incurred costs of the 11th and 12th January, 1954, to the plaintiff-respondent and further trial was refixed for the 15th and 16th March, 1954, and the defendant-petitioner has appealed from the said order.

11. In view of the facts and circumstances set out in paragraphs 6 to 10 of this petition, Mr. S. R. Kanaganayagam, junior counsel for the defendant-petitioner suggested to Mr. T. Muttusamypillai that it would be desirable if he did not hear the case any further. Mr. T. Muttusamypillai agreed to this suggestion and informed the permanent District Judge that he does not want to hear this case any further.

12. The permanent District Judge Mr. A. W. Nadaraja issued 10 notices to the parties and their proctors for 5.2.54 for the case to be called re-fixing of further trial as Mr. T. Muttusamypillai would not be able to hear this case on the 15th and 16th March, 1954, and that fresh trial dates will be refixed.

13. On 3.2.54 however in the presence of the proctors for the parties the permanent District Judge Mr. A. W. Nadaraja made order that the case need not be called on 5.2.54 in view of the appeal filed by the defendant petitioner in regard to the order made on 11.1.54.

14. After Mr. T. Muttusamypillai informed the permanent District Judge that he did not wish to try, the matters in issue 20 between the parties were discussed by Mr. T. Muttusamypillai with the members of the Jaffna Bar.

15. The defendant-petitioner has learnt that after the decision of Mr. T. Muttusamypillai not to hear this case, the plaintiff-respondent's proctor and counsel interviewed the Secretary of the Judicial Service Commission. The defendant-petitioner further learnt that thereafter Mr. T. Muttusamypillai changed his mind and informed the Judicial Service Commission that he was prepared to continue hearing the case further.

16. On or about the 19th February, 1954, the permanent 30 District Judge Mr. A. W. Nadaraja issued another notice returnable 4.3.54 on the parties and their proctors to the effect that the case would be heard by Mr. Muttusamypillai as originally fixed on the 15th and 16th March, 1954.

17. The defendant-petitioner have then sent two letters dated 22.2.54 and 5.3.54 to the Judicial Service Commission requesting that a permanent Judicial Officer should be appointed to hear this case but the Judicial Service Commission by its letter dated 8.3.54 informed that the Judicial Service Commission has no power to interfere in the matter. 40

18. When the case was called on 4.3.54 on the said notice, the proctor for the defendant-petitioner moved that this case be called before the permanent District Judge for the purpose of making an

application before him that this case should not be heard by Mr. T. Muttusamypillai. Mr. Muttusamypillai was present at the Bar Table at the time and the proctor for the plaintiff-respondent took notice of the application but the permanent District Judge after consulting Mr. Muttusamypillai directed that the application should be made before Mr. Muttusamypillai himself on 16.3.54 on which date the permanent District Judge directed the case to be called.

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19. On 16.3.54, when the case was called before Mr. Muttusamypillai, counsel for the defendant-petitioner moved that Mr. Muttusamypillai should not hear the case further in view of the abortive settlement and because the defendant-petitioner felt that he had good ground to think that Mr. Muttusamypillai was biassed. The Judge refused the application and the defendant-petitioner's affidavit was then filed and the Judge again after reading the affidavit and recording certain comments thereon refixed the trial before himself on the 26th and 27th July, 1954.

20. In the course of the order refusing the application the learned Acting District Judge has stated that the defendant-petitioner was a good man which presumably he stated as a result of his personal dealings with him, he has without any shred of evidence stated that the defendant-petitioner has not made the application on his own but had been made to do this by some other person or persons. This clearly shows that the learned Acting District Judge is acting on wrong information gathered elsewhere and not on the evidence placed before him.

21. An affidavit of the facts herein set out is annexed to this petition.

Wherefore the defendant-petitioner prays that Your Lordships' Court be pleased to call for and examine the record of the said case and order :

- (a) that further proceedings before Mr. T. Muttusamypillai be stayed ;
- (b) that the said case be tried or further tried by some Judge other than Mr. T. Muttusamypillai ;
- (c) grant the defendant-petitioner the costs and such other and further relief in the premises as to Your Lordships' Court shall seem meet.

(Sgd.) K. RATNASINGHAM.  
*Proctor for Defendant-Petitioner.*

40 *Memorandum of Documents Annexed to the Petition*

- X1. Certified copy of Journal Entry in case No. 10268 D.C. Jaffna.
- X2. Letter received by the defendant-petitioner from Mr. R. Mutturamalingam, Advocate and Solicitor, Malaya.

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant-Petitioner.*

No. 20.  
Order of the  
Supreme Court  
28.5.54

**No. 20**  
**Order of the Supreme Court**

Application in Revision in D.C. Point Pedro No. 4323 (161).

*Present* : Rose, C.J. and Sansoni, J.

*Argued and Decided On* : 28th May, 1954.

S. Nadesan with C. Renganathan and H. Wanigatunge for the Defendant-Petitioner.

C. Thiagalingam, Q.C., with T. Arulanathan and R. Sivapathasuntheram for the Plaintiff-Respondent.

ROSE, C.J. :

10

An unfortunate situation seems to have arisen in this matter. We do not feel that there is sufficient material before us to enable us to come to a decision. We consider that in the first instance the wisest course is to direct that the papers be remitted to Mr. T. Muttusamypillai to enable him to read the defendant-petitioner's affidavits dated the 24th of March, 1954, and the 16th of March, 1954, and the affidavit filed by the respondent dated the 7th of May, 1954, and make any comments upon them. Upon the receipt of Mr. Muttusamypillai's comments, if any, on this matter, the matter may be relisted for adjudication, if necessary.

(Sgd.) ALAN ROSE,  
*Chief Justice.*

20

SANSONI, J. :

I agree.

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

No. 21.  
Judgment of the  
Supreme Court  
8.9.54

**No. 21**  
**Judgment of the Supreme Court**

Application for Revision in D.C. Pt. Pedro 4323 (161)

*Present* : Weerasooriya, J. and de Silva, J.

30

*Counsel* : S. Nadesan, Q.C., with H. Wanigatunge for Defendant-Petitioner.

C. Thiagalingam, Q.C., with T. Arulanathan for Plaintiff-Respondent.

*Argued and Decided on* : 8th September, 1954.

WEERASOORIYA, J. :

We think in the circumstances of this case it is desirable that the trial should take place before a Judge other than Mr. Muttusamypillai, and we make order accordingly. The question whether the trial



should be continued from the point to which it has already proceeded or started *de novo* would be governed by the provisions of Section 88 of the Courts Ordinance.

No. 21.  
Judgment of the  
Supreme Court  
8.9.54—  
*Continued*

Nothing in this order should be regarded as reflecting in any way on the integrity of Mr. Muttusamypillai or on his fair mindedness as a Judge. The petitioner will be entitled to the costs of this application.

(Sgd.) H. W. R. WEERASOORIYA,  
*Puisne Justice.*

De SILVA, J. :

10

I agree.

(Sgd.) K. D. De SILVA,  
*Puisne Justice.*

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**No. 22.**

**Decree of the Supreme Court**

No. 22.  
Decree of the  
Supreme Court  
8.9.54—

S.C. Application No. 161

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

20

Veeragathipillai Rajasegaram of Tondamanar  
..... *Defendant-Petitioner*

against

Veeragathipillai Rajaratnam of Tondamannar  
..... *Plaintiff-Respondent.*

Action No. 4323.

District Court of Pt. Pedro

In the matter of an application for revision of proceedings had in the above case.

30

This cause coming on for hearing and determination on the 8th day of September, 1954 before the Hon. Mr. H. W. R. Weerasooriya, Puisne Justice, and the Hon. Mr. K. D. de Silva, Puisne Justice of this Court, in the presence of Counsel for the petitioner and respondent.

It is ordered that the trial in this case do take place before a Judge other than Mr. Muttusamypillai. The question whether the trial should be continued from the point to which it has already proceeded or started *de novo* would be governed by the provisions of Section 88 of the Courts Ordinance. The petitioner will be entitled to the costs of this application.

(*Vide* copy of order annexed.)

No. 22.  
Decree of the  
Supreme Court  
8.9.54—  
*Continued*

Witness the Hon. Mr. H. W. R. Weerasooriya, Puisne Justice,  
at Colombo, the 17th day of September, in the year One  
thousand Nine hundred and Fifty-four and of Our Reign the  
Third.

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

No. 23.  
Proceedings  
before the  
District Court  
29.9.54

**No. 23.**  
**Proceedings Before the District Court**

D.C., Point Pedro, No. 4325.

29.9.54.

Mr. Advocate Shivapathasunderam, instructed, for plaintiff. 10

Mr. Ratnasingham for defendant.

It is brought to my notice that an order for costs made in connection with this matter at an earlier date is the subject matter of an appeal to the Supreme Court and in these circumstances Mr. Ratnasingham invites my attention to the order of the acting Judge Mr. Muttusamy pillai to the effect that the entire record be forwarded for the purpose of appeal for costs. I have perused that order and I find that the Court expressed the view that "although only relevant portions of the record have to be forwarded to the Supreme Court for the consideration of the appeal" for some other reasons he had made order to forward the entire record. I do not think that for the purpose of considering an order for costs in appeal the entire record containing the pleadings and proceedings need be forwarded. I agree with the observation of the acting Judge that relevant portions of the record would be sufficient for that purpose. 20

Mr. Ratnasingham further submits that for an effectual decision of the matter by the Supreme Court the entire record would be necessary.

I know that this is a very old case which had been filed as far back as 28th July, 1952 and I do not think that it would be in the best interests of parties to have the entire record forwarded and the trial withheld purely for the purpose of the appeal on an order for costs. In these circumstances I direct the office to forward the relevant portion of the record necessary for the purpose of considering the appeal referred to. In the event of the office requiring further assistance in the matter of finding out what and what material would be necessary, the office may have the assistance of the proctors on both sides, if need be. Retain record and forward the relevant portions. I now fix this case for trial specially. Parties inform me that this is a long trial and would take about 6 days. In view of the fact that this 40

case is likely to take some time and as parties state that it may take over a week in the first instance I fix this case specially for 4 days viz. 26, 27, 28 and 29 January, 1955.

(Intld.) S. T.,  
District Judge,  
29.9.54.

No. 23.  
Proceedings  
before the  
District Court  
29.9.54—  
Continued

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**No. 24.**

**Proceedings Before the District Court  
Further Issues Framed**

No. 24.  
Proceedings  
before the  
District Court  
Further Issues  
framed  
26.1.55

10 D.C. Point Pedro, No. 4323/M. Trial : 26.1.55.

Mr. Advocate S. Soorasangaram with Mr. Advocate R. Shiva-pathasunderam instructed by Mr. S. Nagalingamudaly for the plaintiff.

Mr. Advocate S. Nadesan, Q.C., with Mr. Advocate A. V. Kulasingham and with Mr. Advocate S. R. Kanaganayagam instructed by Mr. K. Ratnasingham for the defendant.

Plaintiff and defendant present.

It is common ground that prior to 1929 Veeragathipillai was the sole proprietor of this business.

*Issues Suggested by Mr. Soorasangaram*

- 20 1. Was Sinnathamby Veeragathipillai the sole owner of the business carried on at Jaffna and at Point Pedro under the name "S.V." in rice, paddy tiles, etc. and as pawnbroker and money-lender prior to the year 1929 ?
2. Did the said Veeragathipillai in or about the year 1929 gift —
- (a) a 1/3rd share of the said business to the plaintiff ?
- (b) a 1/3rd share of the said business to the defendant ?
- (c) and reserve unto himself the balance 1/3rd share ?
- 30 3. Did the said Veeragathipillai, the plaintiff and the defendant thereupon become each entitled to a 1/3rd share of the business ?
4. Did the said Veeragathipillai die on 3.12.33 leaving behind a last will No. 22277 of 14.10.33 ?
5. Was the said last Will admitted to probate in case No. 58 (Testamentary) of the District Court, Jaffna ?
6. Was it one of the devises under the said last Will that the 1/3rd share of the said Veeragathipillai in the said business should devolve on the plaintiff ?

No. 24.  
 Proceedings  
 before the  
 District Court  
 Further Issues  
 framed  
 26.1.55—  
*Continued*

7. Did the plaintiff and the defendant thereupon become entitled to the business and to the assets and goodwill thereof in the proportion of 2/3rd share and 1/3rd share respectively ?

8. Did the plaintiff and the defendant carry on the said business at Jaffna and at Point Pedro on the footing that the plaintiff was the owner in respect of a 2/3rd share and the defendant to a 1/3rd share ?

9. Did the defendant on 7.6.52 fraudulently represent to the Registrar of Business Names that the plaintiff had ceased to have any interest in the said business as from 6.6.52 ?

10. Did the defendant on 7.6.52 fraudulently apply to the Registrar of Business Names to have himself registered as the sole proprietor of the said business ?

11. Did the defendant fraudulently procure the registration of the Business Name of the said business as his sole concern ?

12. Were the balance sheets prepared up to 31.12.50 in respect of the said business carried on at Jaffna by the duly appointed Auditors on the basis that the plaintiff was a 2/3rd share owner and the defendant a 1/3rd share owner ?

13. Is the account for the year ended 31.12.50 and annexed to the plaint marked " X " one such account ? 20

14. Has the defendant rendered any account after 31.12.50 ?

15. Has the defendant since 7.6.52 taken possession of the business at Jaffna, the assets thereof and the goodwill relating thereto ?

16. Has the defendant excluded the plaintiff therefrom ?

17. Did the defendant deny the right of the plaintiff in respect of the business at Jaffna ?

18. Is the defendant refusing to render an account of the business at Jaffna ?

19. Is the defendant making use of the business at Jaffna and the assets thereof as property belonging to him ? 30

20. Is the defendant holding a 2/3rd share of the business carried on at Jaffna and the assets and goodwill thereof in trust for the plaintiff ?

21. Is the defendant liable to render an account to the plaintiff for all assets taken charge of by him and for all profits coming into his possession from time to time in the course of carrying on the said business as from 1.1.51 ?

22. Is the plaintiff entitled to a declaration that he is the owner of a 2/3rd share of the business carried on at Jaffna and at Point Pedro and the assets and goodwill thereof ? 40

23. Is the defendant precluded by the orders made in case No. 58 Testamentary D. C., Jaffna from denying that the business of Veeragathipillai & Sons was owned in the proportion of 2/3rd share to the plaintiff and 1/3rd share to the defendant ?

No. 24.  
Proceedings  
before the  
District Court  
Further Issues  
framed  
26.1.55—  
*Continued*

24. Has the defendant accepted and acquiesced in the devices contained in the said Last Will No. 22277 ?

25. If issue No. 24 is answered in the affirmative, is the defendant estopped from denying that the plaintiff is entitled to a 2/3rd share of the business and the assets and goodwill thereof in terms of the said  
10 Last Will ?

26. Is it open to the defendant to dispute the correctness of the accounts marked " X " and earlier accounts as pleaded in para 3 of the replication ?

27. If not, is the defendant estopped from disputing the ownership of the said business of the plaintiff and the defendant in the proportion of 2/3rd share and 1/3rd share respectively ?

28. Did the defendant himself keep the accounts of the said business at Jaffna up to 31.12.50 ?

29. Were such accounts kept on the footing that the plaintiff  
20 owned a 2/3rd share and the defendant a 1/3rd share of the business, the assets and goodwill ?

30. If issues 28 and/or 29 are answered in the affirmative, is the defendant now estopped from—

- (a) denying that the plaintiff is still entitled to a 2/3rd share of the business ?
- (b) asserting an alleged division in 1947 ?
- (c) asserting that he has become the sole proprietor of the business at Jaffna on 6.6.52 ?

Mr. Nadesan objects to issue 20 in this form and states that it  
30 may be clarified or recast in relation to issues of facts raised earlier by the plaintiff, the answers to which would justify holding with the plaintiff that there was a trust as suggested in issue No. 20. He says it must be related to some other issues.

He also takes similar objection to issue No. 21. Mr. Soorasangaram recasts issue No. 23 in the present forms :—

- 23 (a) Was it held in case No. 58 (Testamentary) D.C., Jaffna that Sinnathamby Veeragathipillai has gifted a 1/3rd share of the said business to the plaintiff and a 1/3rd share to the defendant ?

No. 24  
 Proceedings  
 before the  
 District Court  
 Further Issues  
 framed  
 26.1.55—  
*Continued*

23 (b) If so, is the defendant precluded from denying that the said business of Veeragathipillai and Sons was owned in the proportion of 2/3rd share to the plaintiff and 1/3rd share to the defendant ?

Mr. Nadesan suggests the following issues :—

31 (a) Did the plaintiff, defendant and the deceased Veeragathipillai carry on the business in partnership from 1929 to 3.12.1933 ?

(b) Was the initial capital of the said partnership business over Rs. 1,000/-? 10

(c) Was an agreement in writing creating the said partnership entered into among the said partners ?

32. Was the said Partnership dissolved on the death of the said Veeragathipillai on 3.12.33 ?

33 (a) Did the plaintiff and the defendant carry on business in partnership from 3.12.33 up to 5.6.52 under the names, style and firm of " S. Veeragathipillai and Sons " ?

(b) Was the initial capital of the said partnership business over Rs. 1,000/-?

(c) Was an agreement in writing creating the said partnership entered into between the plaintiff and the defendant ? 20

34. If issues 31(a) and 31(b) are answered in the affirmative and 31(c) in the negative, can the plaintiff have and maintain this action in view of the provision of Ordinance No. 7 of 1840 ?

35. If issues 33(a) and 33(b) are answered in the affirmative and 33(c) in the negative, can the plaintiff have maintained this action in view of the provision of Ordinance No. 7 of 1840 ?

36. In respect of the partnership business carried on by the plaintiff and the defendant under the name, style and firm of " S. Veeragathipillai & Sons ", was it agreed between the parties that they should share equally the profits and losses of the said business after the death of the father on 3.12.33 ? 30

37 (a) Did the plaintiff and the defendant carry on the said business of S. Veeragathipillai & Sons at Jaffna and at Point Pedro ?

(b) Was it agreed between the plaintiff and the defendant in December, 1947, that the plaintiff should take over the Point Pedro business and the defendant the Jaffna business after accounts were looked into and the assets of the business divided and separated ? 40

38 (a) Did the defendant terminate the said partnership by notice to the plaintiff on or about 25.5.52 ?

(b) Thereafter did the defendant become the sole proprietor of the business of S. Veeragathipillai & Sons carried on at Jaffna as from 6.6.52 ?

No. 24.  
Proceedings  
before the  
District Court  
Further Issues  
framed  
26.1.55—  
*Continued*

39. Is the defendant under legal liability to render any account to the plaintiff in respect of the business carried on at Jaffna as the plaintiff maintains ?

10 40 (a) Was the business of S. Veeragathipillai & Sons carried on by the plaintiff and the defendant as partners (as the defendant maintains) or as co-owners (as the plaintiff maintains).

(b) If the business was carried on as a partnership, can the plaintiff maintain this action

41. In the event of the Court ordering accounting, should the accounting proceed on the basis —

(a) that the profits of the business should be shared equally between the partners

(b) that the account be taken between partners as from 31.12.33 ?

20 Mr. Nadesan states that though other claims have been put forward by the defendant in his answers, he is not raising issues on such other claims in this case and restricts the case of the defendant to the issues raised before me.

Court adjourns for lunch interval.

(Intld.) S. T.,  
D.J.  
26.1.55.

Court re-assembles after lunch interval.

30 In view of the objection to issue 20 taken by Mr. Nadesan, Mr. Soorasangaram recasts issue 20 for the purpose of clarifying it in the present form : —

20 (a) Is the defendant the owner of the entirety of the capital, assets and goodwill of the business carried on at Jaffna ?

(b) Has the defendant the whole beneficial interest in the capital, assets and goodwill of the business carried on at Jaffna ?

20 (c) Did the defendant take charge of the capital, assets and goodwill of the said business carried on at Jaffna as co-owner and/or as agent and/or as a partner ?

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 Proceedings  
 before the  
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 framed  
 26.1.55—  
 Continued

(d) If either of the issues 20(a) or 20(b) is answered in the negative and/or issue 20(c) is answered in the affirmative, is the defendant holding a 2/3rd share of the business carried on at Jaffna and the assets and goodwill thereof in trust for the plaintiff ?

Mr. Soorasangaram further suggests :—

42. If any of the issues 3, 7 or 20(d) is answered in favour of the plaintiff, is the plaintiff entitled to judgment even if issues 31 to 33 and 36 to 41 are answered in favour of the defendant ?

43. Were the agreements alleged in issues 36 and 37 entered into in writing as required by section 18 of Chapter 57 ?

44. If not, is the defendant entitled to relief in respect of the claims put forward in issues 38 and 41 ?

45. Even if the said business was a partnership business, as alleged by the defendant, was the defendant entitled to terminate the same as alleged in issue 38 ?

46. Even if issue No. 45 is answered in the affirmative—

(a) Did the defendant become the sole proprietor of the business carried on at Jaffna ?

(b) Is the defendant liable to account for the assets, profits and goodwill of the said business carried on at Jaffna ?

Both parties state that in view of the fact that number of issues had been framed the evidence may be led tomorrow and that they would consider the issues in the proper light before the evidence is led. They further state in that event, they may be able to cut-short evidence.

It is agreed that the evidence already given of the representative of the Controller of Imports, Exports and Exchange be adopted at this trial.

Further hearing on 27.1.55.

(Intld.) S. T., 30  
 D.J.  
 26.1.55.

No. 25.  
 Plaintiff's  
 Evidence

**No. 25**  
**Plaintiff's Evidence**

D.C. Point Pedro No. 4323/M.

Trial—27.1.55.

Appearance as before.

Plaintiff and defendant present.

Further hearing.

Mr. Soorasangaram and Mr. Nadesan agree that the evidence of Mr. Ernest John Palavarajah given on 4.11.53 in this case be adopted in this trial along with the documents produced in this case.



Mr. Soorasangaram wishes to put a few more questions to the same witness.

No. 25.  
Plaintiff's  
Evidence—  
Continued

ERNEST JOHN PALAVARAJAH. Sworn. Clerk, Kachcheri, Jaffna.

E.J.Palavarajah  
Examination

Under the registration of Business Names Ordinance and the Regulations made thereunder, certain forms are prescribed. Form R.D. No. 1 is the form that is used for application for registration of the business of an individual. Form R.D. No. 2 is the form that is prescribed for making an application for registration of a firm owned  
10 by more than one person.

*Cross-examined* for the defendant.

P1 is an application for registration of Business Name of a firm. In 1934 there was a change of Registration of Business Name. That was made on 19.9.34.

E. J. Palava-  
rajah  
Cross-  
examination

*Re-examined.* Nil.

(Intld.) S. T.,  
D.J.  
27.1.55.

It is agreed between the parties that for the purpose of con-  
20 venience, the adoption of the evidence of the witnesses Ernest John Palvarajah given on 4.11.53 and that of Sinnakuddy Nagalingam given on the same date be marked as X1 and X2.

SARAVANAMUTTU CUMARASAMY. Affirmed. Age 48. Chartered Accountant, Colombo.

S. Cumara-  
samy  
Examination

(At this stage, it is agreed that the evidence given by Mr. Cumara-  
swamy on 4.11.53 be adopted *in toto* at this trial along with what-  
ever documents produced by him with liberty to elicit further material  
by either side. This is marked as X3.) (Shown P14.) At page 9 of  
P14 under the heading Balance Sheet as at 31.12.48, the capital to  
30 the credit of the plaintiff is mentioned as six lakhs and the capital  
to the credit of the defendant is mentioned as three lakhs. According  
to this account, there was to the credit of the plaintiff in the Current  
Account Rs. 13,022.43. At page 3 of P14 under the heading Balance  
Sheet as at 31.12.48 of Veeragathipillai & Sons, Jaffna, it is stated  
that the defendant had drawn Rs. 36,159.63 from the Jaffna shop.  
The balance mentioned as drawing Rs. 36,159.63 represents really the  
total balance at that date, but that does not indicate that the  
defendant had drawn that amount. It may or may not be that he  
had drawn the entire amount. He might have drawn more than that.  
40 P17 is the Financial Statement of S. Veeragathipillai & Sons for the  
year ended 31.12.47. At page 3 of P17 a sum of Rs. 98,622.23 is  
debited against the defendant. That is a debit balance. Under the  
heading Balance Sheet ending 31.12.47, the capital to the credit of

No. 25.  
Plaintiff's  
Evidence—  
Continued

S. Cumara-  
samy  
Examination—  
Continued

the plaintiff is mentioned as six lakhs and three lakhs to the credit of the defendant. The Jaffna Branch is debited with a sum of Rs. 1,018,630·64, which means that the Jaffna Branch owes to the Point Pedro Branch Rs. 1,018,630·64. That sum is shown at page 4 of P17 to the credit of the Point Pedro Branch under the heading Balance Sheet as at 31.12.47 of Veeragathipillai & Sons, Jaffna. At page 4 of P17, there is a debit balance of Rs. 98,622·23 shown under the heading Balance Sheet as at 31.12.47 of the Jaffna shop against the defendant as drawings. (Shown P15 the Financial Statement of Veeragathipillai & Sons for the year ended 31.12.49.) At page 3 of P15 a sum of Rs. 39,037·52 is debited against the defendant. That is a debit balance. (Shown P16.) At page 4 of P16, there is a debit balance of Rs. 1,142,390·30½ against the defendant and shown as drawings. I have been cited to produce the letters written by the defendant to my firm Sambamoorthy & Company. I have some letters with me. I produce letter dated 17.3.50 marked P35. This letter was addressed to Sambamoorthy and not to the firm of Sambamoorthy & Company. This letter is in my custody.

(Mr. Nadesan objects to P35 on the ground that it should be produced by Sambamoorthy and not through Mr. Cumaraswamy). 20

I am a partner of the firm of Sambamoorthy & Company. N. M. Sambamoorthy Iyer was the proprietor of the firm before I took over. P35 is written in Tamil. Sambamoorthy Iyer actually forwarded this letter to my Chief Clerk. This letter had been in Veeragathipillai & Sons' file ever since. I took over this firm in February 1950. Sambamoorthy Iyer is now in Madras. I am not acquainted with the Tamil handwriting of the defendant. I do not know whether the handwriting in P35 is that of the defendant.

(Mr. Soorasangaram replies to the objection raised by Mr. Nadesan.)

#### ORDER

30

The question of proper custody arises in this matter. Having regard to the fact that Mr. Cumaraswamy, this witness, had taken over the business of Sambamoorthy & Company, it appears to me highly probable that this letter was addressed to the firm. But in as much there is nothing on the face of this document to show that it had been addressed to this firm Sambamoorthy & Company, which was taken over by Mr. Cumaraswamy, I am unable to hold with the plaintiff that the present witness is the proper custodian of this document. The question of genuineness does not arise at this stage, for the objection is taken only on the question of proper custody. In 40 view of the fact that I am unable to accept the contention that it comes from proper custody, I rule out the document now.

(Intld.) S. T.,  
D.J.  
27.1.55.

*Cross-examined* for the defendant.

The plaintiff's son is a Chartered Accountant. He is a partner with me now. I took him as a partner from 1.4.54. That is after I gave evidence in this case on the last occasion.

Q. Have you in the course of your experience as accountant submitted any accounts to the Income Tax Department in respect of any co-ownership business?

A. I might have.

Q. Can you recall one case where you have submitted accounts  
10 to the Income Tax Department in respect of any co-ownership business?

A. Yes, I have one or two estates. I have not submitted any accounts in regard to any business. I took over the entire business of Sambamoorthy & Company in February, 1950. When I prepared the Balance Sheet for the first year, I took certain figures from the previous Balance Sheet. I have got the accounts of S. Veeragathipillai & Sons of the Jaffna Branch for the period 1.4.33 to 2.12.33. I have got the accounts of both the Jaffna Branch and the Point Pedro Branch. (Mr. Nadesan marks this as D28.) This account has been  
20 prepared up to the date of the death of Veeragathipillai. D28 shows the profits and the capital of the business at the time of the death of Veeragathipillai.

(Mr. Soorasangaram objects to the document D28 as it has not been signed.

D28 withdrawn on account of the objection.)

The office copy is not here nor can I remember whether it is in my office. Since it is not here, I cannot say whether it is there. This copy was made in my office. (Shown D28.) I have seen this document.

30 (Mr. Soorasangaram objects to D28 on the ground that it is not a copy of the original.)

It represents a true copy of a copy maintained in my office. Balance Sheets are prepared for the purpose of the Income Tax.

Q. Once the original is sent to the Income Tax Department, there is no way of getting it back?

A. Yes.

We keep a carbon copy of the Balance Sheet sent to the Income Tax Department. It is from that carbon copy, we issue other copies. I have put down in this as true copy. It is a true copy of the carbon  
40 copy of the original. The carbon copy at the office is regarded as the original.

No. 25.

Plaintiff's  
Evidence—  
Continued

S. Cumara-  
samy  
Cross-  
examination

No. 25.  
Plaintiff's  
Evidence—  
Continued

*Q.* For your accounting purposes, what is the original document you are concerned?

*A.* We treat the carbon as the original.

S. Cumara-  
samy  
Cross-  
examination—  
Continued

*Q.* For what purpose is this carbon copy in your office?

*A.* We will have several inquiries from the Income Tax Department and from our clients.

I am aware that for accounting purposes, bills books are kept in foil and counterfoil.

*Q.* Counterfoils of bill books are utilised as original for the purpose of accounting? 10

*A.* Counterfoils are used as counterfoils.

We regard the counterfoils as counterfoils of entries having been made. It is only the copy of the true copy I have in my office.

#### ORDER

The objection is taken on the ground that this document sought to be produced is not the true copy of the original. For all purposes, it appears to me that the fact and figures sought to be put in evidence probably represent the correct state of affairs as indicated in this document. But I cannot think the true copy, which is sought to be put in, which is a copy of a carbon copy, can be allowed as it is not the copy of an original, which is insisted on by law. In these circumstances, I do not think I can accept this document. I rule out this document. 20

(Intld.) S. T.,  
D.J.  
27.1.55

In 1947 the capital was put down as 9 lakhs.

*Q.* Do you know the circumstances under which 9 lakhs was put down as capital?

*A.* I was not here and I do not know the circumstances under which it was put down. 30

From my experience, it appears to me that this business would require nine lakhs as capital. According to the Balance Sheet as at 31.12.47 (P17), the amount given out as loan is Rs. 45,000/-, cash at Ceylon Savings Bank Rs. 9,165/-, Foreign Banks Rs. 174,929/- and cash at Banks Rs. 118,745.81. The capital is made of all these assets, which are not invested in business.

*Q.* How much money had been given on pawns?

*A.* Rs. 307,000/- odd.

On loan Rs. 209,099/- was given out. Nearly 5 lakhs had been given on loans and pawns. A capital of 5 lakhs was necessary to 40

carry on the business in 1947. The total liabilities at that time for the Jaffna Branch was Rs. 3,288/- and for the Point Pedro Branch Rs. 8,187/-. For the year 1948-49, the amount invested on pawns was Rs. 349,882/- on loans Rs. 186,551/- and outstanding liabilities of the Jaffna Branch was Rs. 5,179/-. For the Point Pedro Branch there is no money given on pawns but on loans Rs. 72,451/- was given and outstanding liabilities is given as Rs. 4,262/-. For the year 1949-50 (P16) the amount given on pawns in respect of the Jaffna Branch was Rs. 323,367/-, on loans Rs. 153,539/- and the  
 10 outstanding liabilities is Rs. 4,696/- and for the Point Pedro Branch the amount given on loan is Rs. 10,360/-, but no money was given on pawn and the outstanding liability is given as Rs. 4,715/-. Apart from the investment on pawnbroking and on loans, Veeragathipillai & Sons were doing importing on a very large scale. At one stage, they were importing paddy and timber. The other business would also require considerable capital.

No. 25.  
 Plaintiff's  
 Evidence—  
 Continued

S. Cumara-  
 samy  
 Cross-  
 examination—  
 Continued

*Q.* So far as the accounts prior to December, 1947, are concerned, all drawings, whether by the defendant or the plaintiff, were on common account?

20 *A.* Yes.

There was no allocation of the capital between the plaintiff and the defendant before 1947.

*Q.* Will it be correct to say that this business of Veeragathipillai & Sons carried on by the plaintiff and the defendant, is one of the largest institutions in Jaffna?

*A.* I cannot say.

On account of the amount of the capital invested, it is a large business. According to Ceylon standards, it is a large business.

*Re-examined.*—I have not produced any documents in this case  
 30 relating to the accounts of Veeragathipillai & Sons before 1947. I became the proprietor of Sambamoorthy & Co. somewhere in February, 1950.

S. Cumara-  
 samy  
 Re-examination

*Q.* Can you say whether there was any allocation of profits before 1947?

*A.* As far as I can see, there was no allocation of profits.

*Q.* Have you been asked to audit any accounts of Veeragathipillai & Sons for any period after 31.12.50?

*A.* No. I have not been asked.

I have been auditing the accounts of the Point Pedro Branch  
 40 for the year 1951. I have not been asked to audit the accounts of the Jaffna Branch for 1951 or 1952. When I gave evidence on the last occasion, I cannot say, whether the plaintiff's son was in England.

No. 25.  
Plaintiff's  
Evidence—  
Continued  
  
S. Cumara-  
samy  
Cross-  
examination—  
Continued

I did not know him. I prepare the personal accounts of the defendant. The defendant is also the proprietor of the firm "Segaram & Sons". I also prepare the accounts of his firm.

(Intld.) S. T.,  
D.J.  
27.1.55.

The letter dated 17.3.50, which had been ruled out earlier, be left behind in Court in the custody of the Secretary to enable the plaintiff to produce it at a later stage.

(Intld.) S. T., 10  
D.J.  
27.1.55.

N. Alaga-  
sunderam  
Examination

NADESAR ALAGASUNDERAM: Affirmed. Age 47. Kanakapillai, Veeragathipillai & Sons, Jaffna.

I am the Kanakapillai of the firm of Veeragathipillai & Sons of the Jaffna Branch for the last 27 years. That is from the year 1929. I am now being paid my salary by the defendant. I have come to Court on summons today from the Jaffna shop. I am keeping the accounts of Veeragathipillai & Sons of the Jaffna Branch under the supervision of the defendant. The defendant has been cited to 20 produce the account books relating to the Jaffna Branch. The ledgers from the year 1952 up-to-date have not been posted yet. I produce the ledger for the year 1951 marked P19.

(Counsel for the defendant goes through the document P35 letter dated 17.3.50—and states that it can be admitted and that he has no objection to it being produced. The document is now admitted marked P35.) P19 starts from 25.2.46 and ends on 19.5.50 and is continued in the ledger P19A. (Shown P18.) I prepared P18 which is the ledger balance for November, 1951, and I sent this to the plaintiff. I prepared P18 from P19 and P19A and other books also. 30 P18 was prepared on the instructions of the defendant. The plaintiff used to come to the Jaffna Branch and he used to look into the accounts. The plaintiff and the defendant were in the habit of supervising the shop. I remember the plaintiff falling ill. That was during the year 1945 or 1946 and he went to India. Before the plaintiff went to India, he was in the habit of coming to the Jaffna shop. After he returned from India, he was also in the habit of coming to the Jaffna Branch. P18 is in my handwriting. According to P18, the debit balance of the defendant was Rs. 213,007·30½. This amount appears at page 105 of P19A and this amount is carried 40 forward from page 59 of the same book, which is carried forward from page 471 of P19. The previous pages in which the accounts of the defendant appear in P19 are 125, 166, 212, 243, 253, 260, 282, 293, 305, 330, 372 and 424. The accounts at page 125 of P19 has been brought forward from the previous ledger "M" at page 470. Accord-

ing to P18 the plaintiff has drawn Rs. 29,595.98 and that appears at page 144 of P19A. This is carried forward from page 109 of the same book, which is carried forward from page 31 of the same book. Page 31 of P19A is carried forward from page 399 of P19 and in P19 the pages that the accounts of the plaintiff appear are 222, 261, 306 and 340 and the accounts in P19A have been carried forward from the previous ledger page 361. I produce that ledger marked P20.

Court adjourns for lunch interval.

No. 25.  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Examination—  
Continued

10

(Intld.) S. T.,  
D.J.  
27.1.55.

Court re-assembles after lunch interval.

NADESAR ALAGASUNDERAM: Affirmed. Recalled.

According to P18, the Jaffna Branch had a credit balance of Rs. 780,629.83. On page 149 of P19A, that amount is shown to the credit of the Jaffna Branch. At page 149 of P19A there is a credit balance of Rs. 780,629.83 against the Point Pedro shop. That is carried forward from page 140, which in turn is carried forward from page 120 and that is carried forward from another previous page.

N. Alaga-  
sunderam  
Examination—  
Continued

20 (At this stage, both counsel agree that the evidence of this witness given during the last proceedings and all the documents marked by him, be adopted in these proceedings also, with liberty to ask further questions either in examination-in-chief or in cross-examination. It is marked as X4.)

P19A refers to the balance that is to the credit of the Point Pedro shop. Separate books are kept at the Jaffna shop and separate books are also kept for the Point Pedro shop at Point Pedro. We write the accounts of the Jaffna shop in the books of the Point Pedro shop and the accounts of the Point Pedro shop in the books of the  
30 Jaffna Branch. Copies of these accounts are sent to the Point Pedro shop or we ourselves go to the Point Pedro and enter the accounts. At the end of the year, both these accounts are compared and the accounts closed. The Jaffna Branch accounts are sent to the Point Pedro shop and the Point Pedro shop accounts are sent to the Jaffna shop. That is only as a check-up.

Q. How are the profits ascertained at the end of the year?

A. The purchases are entered separately and the sales are entered separately and the net profit is drawn.

The net profit of the Jaffna Branch is posted up in the Books of  
40 the Point Pedro shop, and the amount of profits to the credit of the defendant are entered in the books of the Jaffna Branch.

Q. How has the profits been apportioned?

A. The profits were divided into 3 parts, and 2 parts were given to the plaintiff and one part to the defendant.

No. 25.  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Examination—  
Continued

This has been the practice till the end of December, 1950. After that, the Day Books have been entered, but not posted in the ledger.

Q. Why have accounts not been posted from 1951 onwards?

A. The accounts for the year 1951 were not closed. The accounts for the years 1952, 1953 and 1954 have also not been closed.

As the accounts for 1951 were not closed, the other accounts could not be closed. There was a difference of opinion between the partners, and, therefore, the accounts for the year 1951 could not be closed. The Day Books for the years 1951, 1952, 1953 and 1954 have been written up, but they have not been posted up. I did not ask the defendant for the posting up of the accounts. The plaintiff and the defendant instructed me not to post the ledgers until the matter is decided. Before the dispute, both joined and considered whether a loan has to be given or not. Some loans were given by the defendant on his own. Usually when a big loan is given, they both considered the matter. It was on rare occasions that the defendant gave loans on his own without the consultation of the plaintiff.

I know the time when the plaintiff was in India owing to illness. He was in India for about 1½ years. That was from 1945 to 1946. During that time loans were given on the recommendation of the defendant. He was in sole charge of the business.

Q. Before the defendant decided to give loans at that time, do you know whether the defendant wrote to the plaintiff?

A. I know there was correspondence but I do not know on what subject he wrote.

Q. Do you know whether the defendant has been drawing money from the Jaffna shop to invest it on mortgage bonds in his name?

A. Yes.

The property or properties which the defendant got on mortgage had been sold and he purchased some of the properties.

The defendant is carrying on a separate business called "Segaram & Sons". That firm is about 200 yards from the premises of Veeragathipillai & Sons. The defendant is dealing in tiles and groceries. Veeragathipillai & Sons also deal in tiles.

Q. Has the defendant drawn money from the firm of Veeragathipillai & Sons for the purpose of carrying on the business called Segaram & Sons?

A. Yes.

30

40



There are 4 employees at the Jaffna Branch. During the time the plaintiff was ill, his sons also assisted in the business. They did not create any trouble at that time.

No. 56.  
Plaintiff's  
Evidence—  
Continued

*Cross-examination* for the defendant.

The division of the profits into 2/3rd for the plaintiff and 1/3rd for the defendant was from 1947 onwards. Prior to December, 1947, there was no allocation of profits. From 2.12.33 to 31.3.34, there was an allocation of profits shown in the books in the proportion of 2/3rd to the plaintiff and 1/3rd to the defendant. (Shown D28 ledger commencing from 1.3.32 at page 250). That page sets out the profit from 2.12.33 to March, 1934. That page shows that profits had been divided in the proportion of 2/3rd to the plaintiff and 1/3rd to the defendant.

N. Alaga-  
sunderam  
Cross-  
examination

Q. From 1.4.34 till December, 1947, was there apportionment of profits?

A. The entirety of the profits had been transferred to the account of "S.V. & Sons" without any division for the period 1.4.34 to 31.3.35.

(Mr. Nadesan marks the next ledger as D29). At page 93, which is only up to the year 1939, the profits have been transferred to the "S.V. & Sons" account and there is no apportionment of profits. From April, 1938, to December, 1946, there has been no apportionment of profits. The apportionment of profits only took place after December, 1947.

Even in 1929 it was a large business and large amount as capital had been invested in the business. Veeragathipillai was one of the conservative type of man, who did business with his own money, and not with borrowed capital. Apart from importing, he also lent monies on pawns.

Q. From March, 1929, onwards Veeragathipillai, the plaintiff and the defendant were carrying on business together in partnership?

A. Yes (Witness says it is a partnership).

The Income Tax came into operation in 1932. We had to make the first return for the Income Tax for the period 1.4.32 to 31.3.33. For the purpose of Income Tax, profits had to be apportioned. At page 98 of D28, I find the apportionment of the profits of Veeragathipillai & Sons for the period 1.4.32 to 31.3.33. The entire profit entered in that page is divided among the 3 partners. Thereafter accounts have also been made for the period 1.4.33 to 2.12.33, the day prior to the death of Veeragathipillai. The profit for this period is shown at page 191 of ledger D28 and there Veeragathipillai has been allocated 1/3rd share, the defendant 1/3rd share and the plaintiff 1/3rd share. Veeragathipillai died on 3.12.33. (Shown D30 Pawn

No. 25.  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Cross-  
examination—  
Continued

Ledger). At page 132 I find that on 2.12.33, the total amount invested on pawnbroking was Rs. 125,795/- (Witness is asked to turn to page 185 of D28).

It shows the stock of teak in the hands on the date of the death of the deceased. The stock is given as Rs. 5,551.50. The tiles in stock on the day was Rs. 3,590.50. Page 199 shows the paddy in stock. The value of paddy in stock was Rs. 786.25. (Shown D31 page 476). On 2.12.33 there was lying to the credit of the business in the Chartered Bank Rs. 55,065.14. Page 272 shows that Rs. 15,000/- was in the Mercantile Bank. It was in Fixed Deposit. 10 I cannot remember whether Veeragathipillai died on a Sunday.

Q. Thereafter the plaintiff and the defendant re-opened business as from 7.12.33?

A. Yes.

Having re-opened the business, the plaintiff and the defendant carried on the business. In D30 at page 132, it shows that the amount invested on pawns on 7.12.33 was Rs. 125,795/-. That was on the morning of 7.12.33. At no time was this pawnbroking business wound up by the plaintiff and the defendant.

Q. Similarly, will it be correct to say that all the assets, which 20 you referred to as in the business on 2.12.33, were utilised by the defendant and the plaintiff for the purpose of carrying on the business under the name, style and firm of S. Veeragathipillai & Sons?

A. Yes.

Q. The plaintiff and the defendant registered that Veeragathipillai ceased to be a partner and that they were carrying on the business as partners?

A. Yes.

In P2 they have stated that the business changed hands on 3.12.33.

Q. Actually the transactions took place on 7.12.33?

30

A. Yes.

Q. In March, 1929, also when the plaintiff and the defendant registered along with Veeragathipillai as carrying on the business of "S.V.", even at that time the firm of "S.V." was carrying on business in pawnbroking?

A. Yes.

In that business the firm had invested considerable sum of money.

Q. Where are those books in respect of the pawnbroking business from 1929 until the death of Veeragathipillai?

40

A. They are in the shop. That is at the Jaffna Branch shop. I cannot remember the books of the pawnbroking business.

We had a book called "Signature Book" at that time. That signature book contains particulars of loans given out.

Q. But that will not include the monies invested on pawnbroking?

A. Yes.

(Shown D32 the signature book which sets out the loan transactions other than pawnbroking business.) This contains entries from the year 1921. In it there are various ledger folios in which the amount which had been lent out to various persons are entered. On 10 2.3.29 at page 113 of D32, there is an amount of Rs. 350/- as outstanding from one S. Pavili. On page 117 of this book on 2.3.29, I find that Rs. 5,000/- had been outstanding from one Mailvaganam. Page 119 shows that on that date Rs. 515.79 was outstanding from one A. S. Stanislaus. At page 120 of that book of that date, there was outstanding Rs. 1,000/- from one P. Thamban and at page 121 of that book on that date, there was outstanding Rs. 2,000/- from one C. S. K. Kandiahpillai. On 2.3.29, apart from the money invested on pawnbroking and the money invested on import business, there was invested on loans the sums now mentioned. (Shown the Day Book 20 for 2.3.29 marked D33.) At page 371 of D33 I find that the cash balance in hand on 2.3.29 was Rs. 2,559.66.

Q. These are the balances prior to 2.3.29, on which Veeragathipillai carried on his business on his own?

A. Yes.

Q. The earlier amounts, which you have referred to in the signature book, were outstanding on 2.3.29?

A. Yes.

The cash balance on 1.3.29 was Rs. 3,560.01. The opening cash balance on 2.3.29 was Rs. 2,559.66.

30 To Court :

Q. Apart from the figures now mentioned by you, is there any other amount due to the 3 partners?

A. I cannot remember.

Q. The sums which you showed as having been invested as loans along with the opening cash balance on 2.3.29 and the sums of money which had been invested on pawnbroking business and the stocks which were available in respect of the import business, were all utilised as capital for the business which commenced from 2.2.29?

(Mr. Soorasangaram objects to this question.)

40 To Court :

Q. How were these amounts utilised after 2.3.29?

A. That was used in the business.

No. 25.  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Cross-  
examination—  
Continued

No. 25.  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Cross-  
examination—  
Continued

I know that for a business, there must be capital. When I invest money as capital, I get a profit. I know the difference between capital invested and the profit that a person gets from it.

Q. From 2.3.29, is it your position that these sums of money, which were outstanding according to the signature book along with the moneys invested in pawnbroking business and the cash balance in hand and the stocks were utilised in this business as capital?

A. Yes.

Veeragathipillai never borrowed any money for the purpose of his business. Subsequent to 2.3.29, the 3 partners continued to carry 10 on the business without borrowing money from anyone. Subsequent to Veeragathipillai's death, the plaintiff and the defendant were carrying on the business without borrowing any money. Veeragathipillai was paying his creditors promptly. Similarly when Veeragathipillai and his sons were carrying on the business, they were paying the creditors promptly. (Mr. Nadesan marks as D34 the inventory filed in Testamentary 58.)

Q. In this inventory filed, you find the value of the share of Veeragathipillai as Rs. 99,680.32?

A. Yes.

20

Q. There are no items shown in D35 except the funeral expenses as liability?

A. I cannot speak very well about this inventory.

Q. Up to the date of this apportionment of the capital by the plaintiff and the defendant, the plaintiff has been drawing sums of money from the common account?

A. I must look into the accounts.

The plaintiff was away in India, as he was ill.

Q. While he was in India, money was sent from the Jaffna business?

30

A. It was sent to the Indian Bank.

Q. Money was taken from the Jaffna Branch and sent through the Indian Bank and this has been debited to the account of "S.V. & Sons"?

A. I must look into the accounts.

The plaintiff has a son called Sundaramoorthy.

Q. Do you know that tiles were imported by the plaintiff in the name of Sundaramoorthy?

A. Yes.

Q. The money for the purpose of importing tiles in the name of 40 Sundaramoorthy was taken from the business of "S.V. & Sons"?

A. Yes. An advance was sent.

Q. The importing of tiles at the Jaffna Branch was done by the defendant?

No. 25.  
Plaintiff's  
Evidence—  
Continued

A. It was done both by the plaintiff and the defendant.  
They were utilising the capital of the business.

Q. There was some difficulty in importing a certain kind of tiles at the time Sundaramoorthy was a student and they got tiles in the name of Sundaramoorthy?

N. Alaga-  
sunderam  
Cross-  
examination—  
Continued

A. Yes.

For that, the money that was spent was debited to his account.  
10 But the money was paid out from the business. The actual sales took place in the premises of Veeragathipillai & Sons. The plaintiff and the defendant were selling those tiles.

Q. That happened at the time Sundaramoorthy was a student?

A. I cannot say that was done when Sundaramoorthy was a student.

Q. Did any profits of that tiles business come into the books?

A. No.

Q. There was considerable displeasure between Sundaramoorthy and the defendant over that?

20 A. Not much of difference.

I do not know of any trouble between the defendant and Sundaramoorthy. After this case was instituted, they do not talk to each other. Before this case was filed, there was no displeasure between them.

*Re-examination.* I do not know when the business of "S.V." commenced.

N. Alaga-  
sunderam  
Re-Examin-  
ation

Q. Veeragathipillai used to borrow money from Chettiars?

A. I do not know.

In regard to the pawns, money comes in and money goes out.  
30 The interest and profits earned are invested.

Q. On 2.3.29 or on 2.12.33, you cannot say which portion is capital?

A. Yes. I was learning work then.

Veeragathipillai & Sons imported tiles, timber and other articles in large quantities. In those days goods were sent in trust and the monies were sent as the goods were being sold. The monies were drawn by the owners on the "S.V." account. Veeragathipillai also managed coconut estates, schooners and properties belonging to others. The rent received from the properties and the income from

No. 25.  
Plaintiff's  
Evidence—  
Continued

N. Alaga-  
sunderam  
Re-examin-  
ation—  
Continued

the estates were brought to the business. Those monies were debited to the "S.V." account.

*Q.* So that one cannot say, what amount is capital on a particular day?

*A.* Yes.

Between 1933 and 1947, the plaintiff and the defendant used to draw monies from "S.V. & Sons". Those monies are debited in the account of "S.V. & Sons" and not debited against either party. Large sums of money, which they wanted to give on mortgages in their own name, they took from the common account but small sums, 10 which they took, were debited against each.

(Intld.) S. T.,  
*D.J.*  
27.1.55.

V. Rajaratnam  
Examination

VEERAGATHIPILLAI RAJARATNAM: Affirmed. Age 63.  
Trader, Thondamanar.

I am the plaintiff in this case. The defendant is my younger brother. My father Sinnathamby Veeragathipillai had 6 children. The eldest was Suppiah, who is a Malayan pensioner; the 2nd is Dr. Duraisamy; the 3rd is a daughter Chellammah; I am the 4th; 20 the 5th is Navaratnam, who is directly younger to me and he is a Catholic Priest; I had another sister Muthachchipillai and she died leaving behind Gunaratnam; the defendant is the youngest. My father carried on the business of "S.V." I started assisting my father in his business in 1907.

*Q.* Did your father borrow money for the purpose of his business?

*A.* Yes, he had been borrowing from Chettiars. There were Chetty firms at that time. The defendant started assisting my father in his 20th year. That was somewhere in 1928. The difference 30 in age between me and the defendant is 17 years. Till his 20th year the defendant was studying.

In 1928 my father donated 1/3rd of the business to me and 1/3 of the business to the defendant. I or the defendant put no capital to the business. Thereafter my father made an application for registration, a certified copy of which I produce marked P1. My father died on 3.12.33 leaving behind a Last Will. I produce the Last Will No. 22277 of 14.10.33 marked P21. In para 4 of P21, my father devised to me his 1/3rd share in the business called "S.V. & Sons". I also produce declaration No. 22276 of 14.10.33 marked P36. By 40 P36 I, my father and the defendant declared that I and the two others were carrying on joint business in the name of "S.V. & Sons". The Last Will P21 was admitted to probate. I was appointed as the Execu-

tor in the Last Will P21 and I applied for probate in case No. 58 (Testamentary). I produce the probate marked P22. I also produce a certified copy of the journal entries in case No. 58 (Testamentary) marked P23 and P24 minute of consent granted by the defendant dated 19.5.34. I also produce the petition for probate marked P25. I produce the inventory filed in that case marked P26 (same as D24). I also produce the final account in that case marked P27. I also produce the minute of consent given by the defendant consenting to the final account being passed dated 23.8.40 marked P28. The  
 10 defendant was the 1st respondent in that case and Gunaratnam son of my deceased sister Muthacchichipillai was the 2nd respondent. Under the Last Will P21 Gunaratnam was given a legacy. He is now dead. Out of the intestate heirs of my deceased father, Suppiah did not get anything. My parents had educated Suppiah and he was employed in Malaya. In 58 (Testamentary) there was a dispute in regard to the estate duty payable. I, as executor, had to contest the assessment of estate duty by the Estate Duty Commissioner and I preferred an appeal to the District Court and from the order of the District Court, I appealed to the Supreme Court. I produce the  
 20 Supreme Court order marked P31. This order P31 is reported in 39 N.L.R. page 481. In P31 it was held that Veeragathipillai gifted 1/3rd of the business to me and 1/3rd to the defendant in 1929. P21 is a joint will by my father and my mother. My mother died in 1946. I produce receipt No. 13754 of 4.2.35 marked P29. By this receipt my mother acknowledged receipt of a sum of Rs. 5,000/- in full satisfaction of the amount payable by me to my mother in terms of the Last Will P21. The first witness to P29 is Dr. Duraisamy and the second witness is the defendant. I say I have paid Rs. 5,000/- before the receipt P29 was executed. I also produce receipt P30 granted  
 30 by my mother to me acknowledging receipt of a sum of Rs. 1,000/- for the life interest of my mother, which my mother was entitled to under the Last Will P21. My mother affixed her thumb impression in my presence. The first witness to it is the defendant. My father died on 3.12.33.

Q. Then did you and your brother start a new business?

A. We continued the same business.

Q. According to the books, how were the profits allocated?

A. 2/3rd to me and 1/3rd to the defendant.

Q. How did you account your income to the Income Tax  
 40 Department?

A. 2/3rd income was shown to me and 1/3rd to the defendant.

That was the correct thing. The business of Veeragathipillai & Sons was run at two places, at Jaffna and at Point Pedro.

No. 25.

Plaintiff's  
 Evidence—  
 Continued

V. Rajaratnam  
 Examination—  
 Continued

No. 25.  
Plaintiff's  
Evidence—  
*Continued*  
  
V. Rajaratnam  
Examination—  
*Continued*

*To Court :*

Q. Between March, 1934, and December, 1947, were these profits shown as being apportioned in the proportion of 2/3rd to you and 1/3rd to the defendant in the books?

A. It was accounted under the account of "S.V. & Sons".

On the account of "S.V. & Sons", I have been drawing and the defendant has also been drawing. What I drew was entered in the "S.V. & Sons" account and what the defendant drew was also entered in it. The expenses for the maintenance of the family were also entered in the "S.V. & Sons" account.

(Intld.) S. T.,  
D.J.  
27.1.55. 10

Further hearing tomorrow.

(Intld.) S. T.,  
D.J.  
27.1.55.

No. 25.  
Plaintiff's  
Evidence—  
*Continued*

D.C. Point Pedro No. 4323/M.

28.1.55.

Trial (*Continued*).

Same appearances as before.

20

Mr. Nadesan moves to amend issue No. 31(a) as follows:—

31(a) Did the plaintiff, defendant, and the deceased Veeragathipillai carry on the business in partnership from 1929 to 3.12.1933 under the name, firm and style of S.V. ?

Mr. Advocate Soorasangaran has no objection to this amendment.

Allowed.

(Intld.) S. T.,  
D.J.  
28.1.55.

V. Rajaratnam  
Recalled  
Examination

V. RAJARATNAM: Recalled. Affirmed.

30

During my father's lifetime orders for goods were made by my father. After my father's death I was ordering. After my father's death the defendant and I have been drawing moneys from the business, for expenses. That was for my household expenses as well as his household expenses. At the end of the year the profits were written out separately. Both of us paid income tax. Sambamoorthy & Co. were our auditors. The auditors prepared the profit and loss account of the business Veeragathipillai & Sons, my personal account as well as the defendant's personal account. The accounts were to be submitted by the auditors on the basis that I was entitled to 2/3 and the defendant to 1/3.

*To Court :*

Both of us gave instructions to Sambamoorthy & Co.



*Exam-in-Chief (continued).*

Apart from carrying on business in tiles, timber and pawn-broking, this business also managed properties and ships. There was an estate at Palai. I owned half share and the defendant half share. The business called Veeragathipillai & Sons managed the entire estate.

*To Court :*

That property was bought in 1929. That was before the allocation of shares to us.

10 *Exam-in-Chief (continued).*

The income of the estate was accounted in the books of Veeragathipillai & Sons. The premises of the business Veeragathipillai & Sons, Jaffna, belonged to me, Duraisamy and Suppiah. Later the other co-owners and I partitioned the property. I became the owner of that portion where the business Veeragathipillai & Sons is carried on. Rents due to me on that account were brought to my credit in the books of Veeragathipillai & Sons, Jaffna. There were 4 big ships and 5 cargo boats. 2 ships belonged to me entirely and 2 to the defendant, and the cargo boats belonged to me exclusively. They were donated  
20 to me by my father. The income from the sailing vessels were brought into the business "Veeragathipillai & Sons. They were brought into S.V. accounts. Before the Last Will P21 was executed the defendant received properties from my father. One of those was a half share of the Palai estate. I draw the attention of Court to clause 9 of the Last Will P21, where my father and mother state that the defendant and other sons and daughters have been given other properties earlier. I fell ill somewhere in 1945. I had to go to India for treatment. I produce the Power of Attorney No. 647 of 22.7.45 by which I appointed the defendant as my attorney. (P32).

30 Q. Why was this Power of Attorney executed?

A. To manage this business, shops, and lands which were in my name. I remained in India for 13 months. Thereafter I returned to Ceylon. Thereafter I was unable to supervise the business as I did before 1945. I was sickly. When I went to India I left my share of the business in charge of the defendant. After I returned from India mostly the defendant carried on the business and I used to go to the Jaffna shop once in a way. I had occasion to look into the books of the Jaffna branch. I looked into the accounts. When I looked into the accounts after my return from India I found that the  
40 defendant had taken a good amount of money and spent. In 1947 we prepared the profit and capital accounts. In 1947 12 lakhs were in the business. 6 lakhs was apportioned to me, 3 lakhs to the defendant and of the remaining 2/3rd for me and 1/3rd for the defendant and was so accounted for in the books. I have taken 2 lakhs and the defendant has taken 1 lakh and 9 lakhs was left in the business.

No. 25.

Plaintiff's  
Evidence—  
*Continued*

V. Rajaratnam  
Recalled  
examination—  
*Continued*

No. 25.  
Plaintiff's  
Evidence—  
Continued

*To Court :*

Q. I suppose the accounting was done at the end of 1947?

A. Yes.

V. Rajaratnam  
Recalled  
Examination—  
Continued

Q. At the instance of both of you?

A. Yes.

Q. Did you put your signature to the outstandings?

A. We agreed.

Q. Did it appear in the books?

A. Yes.

*Exam-in-Chief (continued).*

10

Thereafter the defendant and I signed the statement submitted by the auditors. Thereafter returns were sent by me and the defendant, on the basis that I was entitled to  $\frac{2}{3}$  and the defendant to  $\frac{1}{3}$ . Ill-feelings arose between me and the defendant about the month of November or December in 1951. I was the Manager of a school at Thondamannar and the land adjoining the school belonged to the defendant and I. There was a shortage of land in the adjoining land and the defendant asked me to make up the shortage from the school property to which I refused. My father was the founder of that school. The land on the north of the school belonged to me and the defendant in the proportion of  $\frac{2}{3}$  and  $\frac{1}{3}$ . It was found that for the purpose of the school playground some land was necessary. I wanted to allot my  $\frac{2}{3}$  share along with the school property so that it might be used as a playground. I suggested this to the defendant, and that the land may be amicably partitioned. Surveyor Velmurugu was brought to the land. When the land was surveyed there was a shortage of 4 or 5 lachchams from the extent mentioned in the deed. The defendant suggested that the shortage could be made up from the school land and partitioned on the footing of  $\frac{2}{3}$  to me and  $\frac{1}{3}$  to defendant. If this was not done he threatened to close down the Jaffna business and the Palai estate. He did not allow me or my son Sivadasan to whom I have donated my share of the Palai estate to take my share from the Palai estate. I suggested an amicable partition of the estate. A survey was made but he did not allow us there. Thereafter my son filed an action for partition. I produce a certified copy of the plaint in case No. 4278 of this Court dated 29th May, 1952 (P33). I also produce the Journal entries in that case (P34). P34 shows that even after final partition decree was entered in case No 4278 there was considerable difficulty in having writ of possession executed. We were obstructed. My son filed case No. 4316 of this Court for the recovery of Rs. 5,840.03 being his share of the income from the Palai estate during the year 1951. I produce a certified copy of the plaint (P37), amended answer (P38)

30

40

and order in the case (P39). The defendant threatened to close down the business in Jaffna. Thereafter I was not allowed to look into the books. I asked the defendant to give me the books for inspection, but he did not like me to look into the books. The books were kept in the Jaffna shop. They were not there. They had been removed to Segaram & Sons which shop belongs to the defendant. It was usual for me and the defendant to be served with an account at the end of each year by the Kanakapullai. I received P18 the Ledger Balance up to November, 1951. Thereafter I did not receive any

10 Ledger Balance. When I found that I was not allowed to look into the accounts I consulted my lawyers and filed this case. (Shown P3.) I wrote this letter to the Registrar of Business Names. By P3 I asked for a copy of the Certificate of Registration of Veeragathipillai & Sons. They asked me to remit money. There was delay in their sending the copy. Later I got P8 dated 26.6.52 by which I was informed that Certificate No. 668 issued to Veeragathipillai & Sons was amended after the receipt of my application P3. P8 shows that the amendment was done as a result of a change notified by the defendant. Thereafter I asked for a certified copy of the amended

20 certificate. I applied for an amended certificate by P9 of 1.7.52. I also submitted to the Registrar of Business Names Affidavit dated 28.6.52, and requested that the amended certificate should be amended in accordance with the facts stated by me in P9A. I received letter dated 17.7.52 which I produce (P10) from the Registrar of Business Names by which I was referred to my legal remedy. Thereafter I filed this action. It is not true to say that I ceased to have interest in this business from 6.6.52. I had interest in the business and still have interest in the business. I have 2/3 share of the business. (Shown P4A.) The defendant has stated that I ceased to be a partner

30 on 6.6.52 but it is not so. If he had affirmed to that in P4A I deny it. I had share in the business. After 7.6.52 the defendant is in sole charge of the business *i.e.* the Jaffna shop. He has excluded me from the business. After November, 1951, the defendant has not rendered accounts to me. (Shown P6.) This is a certified copy of a statement of change notified to the Registrar of Business names by the defendant. He says that the change notified was that his business had branches at Thondamannar and Point Pedro. The accounts of the Point Pedro shop are written out at Thondamannar. There is no such business at Thondamannar. I am in charge of the Point

40 Pedro branch. The defendant also has a share. I am running it. Apart from that shop at Point Pedro, which is in my charge, the firm Veeragathipillai & Sons have no other branch. It is not correct if it is stated that the defendant was managing the business known as Veeragathipillai & Sons at Thondamannar and Point Pedro. I produce the Ledger B4 kept at the Point Pedro shop (P40). In B4 the account "V." appears at pages 61, 69, 227 and 376. At page 61 the income from the Palai Estate and the sailing vessels are referred

No. 25.

Plaintiff's  
Evidence—  
ContinuedV. Rajaratnam  
Recalled  
Examination—  
Continued

No. 25.  
Plaintiff's  
Evidence—  
*Continued*

to. At page 69 the profit and loss account is entered. So also income from the sailing vessels. At page 227 similarly the income from the business and the income from the lands and sailing vessels are entered. I also produce B5 the ledger kept at the Point Pedro branch (P41). P41 starts from January, 1943.

V. Rajaratnam  
Recalled  
Examination—  
*Continued*

The account of S.V. appears at page 103, from where it is carried over to 145, 207, and 247. At page 247 I am credited with a sum of 6 lakhs and the defendant with a sum of 3 lakhs and out of the balance I am credited with Rs. 185,854/- and the defendant Rs. 92,927/- under date 31.12.47. 10

V. Rajaratnam  
Cross-  
examination

*Cross-examined* by Mr. Advocate Nadesan.

I studied up to the 7th Standard in English.

Q. You carry on your correspondence with firms abroad in English?

A. I write as well as the clerks write.

I sign what the clerks write. Before I sign I read what the clerks write. I know the word "partner". It is spelt P A R T N E R. I can write that word "partner". I know the English word "Co-owner". I know the spelling of that word. I have known the word "Co-owner" for a long time. I came to know of the word "Co-owner" later than the word "partner". I came to know the word "Co-owner" while I was studying. 20

Q. Are you a partner in the business which you carried on under the name of "S. Veeragathipillai & Sons"?

Mr. Advocate Soorasangaram objects to this question on the ground that it is a question of law.

*To Court :*

Q. Do you know the difference between "partner" and "Co-owner"?

A. I do not know. 30

*Cross-examined (continued).*

Q. Are you a partner in the business of S. Veeragathipillai & Sons?

Mr. Advocate Soorasangaram objects to this question on the ground that it is a matter covered by issues and the answers to which would depend on various other circumstances and facts proved in the case.

Q. Have you been a partner in the business of S. Veeragathipillai & Sons carried on by yourself and the defendant? — Use the English word "Partner" and do not use Tamil. 40

I do not think that I can allow this question to be put in view of the fact that this witness has already stated that he does not know the difference between co-owner and partner.

(Intld.) S. T.,  
D.J.  
28.1.55.

No. 25.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. Have you described yourself as a partner in respect of the business S. Veeragathipillai & Sons?

A. No. I would have written in cheques.

10 I do not remember signing any document as partner. If documents are shown I would be able to refresh my memory. Formerly I used to sign as "Rajaratnam" above the seal of S. Veeragathipillai & Sons. The Bank of Ceylon objected to it and requested me to sign as partner. Thereafter I have signed as partner. The word "partner" was never used before that. The word "partner" was used for the first time after my father's death at the request of the Manager of the Bank of Ceylon.

Q. Have you before this case commenced ever used your name in respect of your business "S. Veeragathipillai & Sons" describing  
20 yourself as a co-owner of this business?

A. I have signed "for Veeragathipillai & Sons." I have never used the word co-owner. I am entitled to 2/3 share. I gave instructions for the drafting of the plaint. I know that a plaint has been filed in this case. I have read that plaint. In the present proceedings I have stated that I am a co-owner of this business.

Q. Did you discover by yourself that you were a co-owner or did somebody else tell you that you were a co-owner?

A. I gave various descriptions of the business to the lawyers. I did not use the word co-owner or partner to the lawyers.

30 Q. In the course of the instructions to your lawyers did you tell them that you have earlier described yourself as a partner?

A. I told them all that had happened.

I did not tell them that I had earlier described myself as a partner of this business.

*To Court :*

Q. As far as you can recall did you inform your lawyers that you had used the word "partner"?

A. I cannot remember.

*Cross-examined (continued).*

40 Myself, my father and the defendant carried on the business under the name, firm and style of S.V. That was up to the date of death

No. 25.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

of my father in 1933. The name S.V. continued after that also. It was known as Veeragathipillai & Sons earlier also. S. Veeragathipillai & Sons refer to the same establishment.

Q. Did you ever describe the business which was carried on by yourself, defendant, along with your father as a partnership?

A. I have described as owners. I have not used the word "partner". We have signed the form describing it as partnership.

Q. Apart from whatever description may be in the Certificate of business names, at no other time have you described the business carried on by the three of you as a partnership? 10

A. I have not used the English word "partner". I have used the word "Pangalar".

Q. Will you use the word "partner" in respect of your position in the firm Veeragathipillai & Sons now?

A. I say that I am a "Pangalie". I cannot use the word "partner". I can only use the word "Pangalie".

Q. Will you use the English word "partner" in respect of your position?

A. I do not know what "partner" means.

I admit that both the defendant and I are carrying on business 20 of Veeragathipillai & Sons at Point Pedro.

Q. In respect of the Point Pedro business, if you have to write a letter, will you put down the English word "partner" after your name?

A. I will only sign V. Rajaratnam for Veeragathipillai & Sons. I will not put down the word "partner".

Q. Before this action was filed if you wrote such a letter would you have put down the word "partner" under your name?

A. I would have placed my signature and mentioned "partner" if the Bank of Ceylon Manager wanted. 30

Q. Before this case commenced you would have used the word "partner" after putting down your name, but now you do not do it?

A. It is only for the Bank I would have signed as partner and not otherwise.

Q. Even before this action was filed, in respect of correspondence except the Bank you would not have used the word "partner" to describe your position?

A. I would have signed "for Veeragathipillai & Sons" and I would not have used the word "partner".

(Shown P3.) This is a letter addressed by me to the Government Agent, Northern Province, on 27th May, 1952. In this letter I have put down "V. Rajaratnam, Partner." This letter P3 refers to the Certificate in which the word "partner" appears. If I do not write as "partner" the Certificate would not be issued. That was why I used the word "partner". It is for the purpose of the Certificate that I used the word "partner". (Shown D25.) This is a letter written by me to the Post Office at Tondamannar. I have described myself as a "partner" in this letter. The defendant asked the  
 10 Postmaster not to deliver the letters to me and as my name was appearing as partner in the Certificate, I wrote so. I have described myself as senior partner and managing partner of S. Veeragathipillai & Sons. This letter is written in English and signed by me. I read it before I signed it.

No. 25.  
 Plaintiff's  
 Evidence—  
 Continued

V. Rajaratnam  
 Cross-  
 examination—  
 Continued

Q. Is the statement describing yourself as senior partner and managing partner correct?

A. It was written by my son Sundaramoorthy. He is about 35 years old.

Q. Does that correctly represent your position?

20 A. I am the owner. I am the senior partner and managing partner of S. Veeragathipillai & Sons. It is right.

*To Court :*

Q. Why have you described yourself as managing partner?

A. Because I was the man entitled to the larger share and I was managing the business. The only difference is in the word "partner".

*Cross-examined (continued).*

Q. You thought if you described yourself as managing partner, it would be possible for the Postmaster to redirect the letters?

A. Yes.

30 I personally do not know when my father commenced his business. This business was started by my father.

Q. Was your father a fairly wealthy man at the time you came to know things?

A. Not like now. He was reputed to be fairly well to do.

Q. He was in a position to educate one of his children to become a doctor?

A. He was fairly wealthy. He was not a very wealthy man.

I would call only those who own lakhs as a wealthy man. A person worth between Rs. 10,000/- and Rs. 20,000/- is a fairly wealthy  
 40 man.

No. 25.  
 Plaintiff's  
 Evidence—  
 Continued  
 V. Rajaratnam  
 Cross-  
 examination—  
 Continued

*To Court :*

I cannot say how much my father was reasonably worth at about the time I came to know things. There was not so much of wealth. He borrowed money from the Chetty's shop.

*Cross-examined (continued).*

I gave evidence before Mr. Muttusamypillai on 11.1.54. On that occasion I was questioned whether my father ever borrowed money for the purpose of carrying on the business. I replied that he might have borrowed money at some time but to my knowledge he did not borrow.

10

*To Court :*

My father might have borrowed. That is correct. When I gave that answer it referred to the period after 1929. Before 1929 he borrowed.

*Q.* If you had stated that as far as you are aware no monies were borrowed by your father would that be correct?

*A.* He borrowed.

*Cross-examined (continued).*

*Q.* The answer you gave on the earlier occasion " He might have borrowed at some time but to my knowledge he did not borrow " 20 related really to the period subsequent to the two of you joining your father in business?

*A.* Yes.

It is correct to say that subsequent to the two of us joining our father in business in 1929 no moneys were borrowed for the purpose of this business. The defendant and I borrowed money for the purpose of this business after 1929. We ran an overdraft in the Bank. I do not remember whether the overdraft was taken for the first time after 1947.

*To Court :*

30

*Q.* You will not contradict it if it is so stated?

*A.* We got the overdraft but I do not know whether it was in that year.

*Cross-examined (continued).*

The date is given in the books. The books of accounts were maintained throughout the period my father was carrying on business, but not in detail as now. After the introduction of Income Tax the books were maintained in detail.



Q. Have you got anything in writing to show that your father borrowed from Chettiars?

A. We had books but the defendant has taken all of them. If any books are available I would be able to produce them tomorrow. At the time my brother and I joined in 1929, there was no outstanding due by my father to anyone. In 1929 my father gifted to me 1/3 share of the business, to the defendant 1/3 share of the business and retained to himself 1/3 share. Each one of us became entitled to an undivided 1/3 of the assets of the business as at that time. Thereafter  
 10 my father was carrying on the business and we were helping for the common benefit of all of us. During that period if the business became a loss I would have shared in the loss. If the business worked at a profit I would be entitled to 1/3 share of the profits.

*To Court :*

It was on this basis that the business was carried on throughout. After my father's death the basis was that I was entitled to 2/3 and the defendant to 1/3. The business was run for the common benefit of all and if there was any loss, the loss should be borne *pro-rata*.

*Cross-examined (continued).*

20 On 3rd December, 1933, my father died leaving a Last Will. My father was subject to the law of Thesawalamai. By that Last Will my father left a 1/3 share of the money and goods belonging to the business of S. Veeragathipillai & Sons. My mother survived my father. My mother became entitled to her "thediathetam" share in respect of this business.

Q. As a result under this Will only 1/6 share of the assets of this business came to you and your mother was entitled to the balance 1/6 share?

A. It was stated in the Last Will.

30 Q. Under the Will you got from your father only an undivided 1/6 share of the assets of this business?

A. I got 1/3. We paid estate duty for 1/6 as my mother was living.

*To Court :*

My father was entitled to half the business and my mother was entitled to half the business.

*Cross-examined (continued).*

I got 1/6 share through my father and 1/6 share through my mother. That is 1/3. I inventorised in respect of the 1/6 share

No. 25.  
 Plaintiff's  
 Evidence—  
*Continued*

V. Rajaratnam  
 Cross-  
 examination—  
*Continued*

No. 25.  
Plaintiff's  
Evidence—  
Continued

which devolved on me from my father. Security was given for one-sixth. In the inventory I put down the value of the 1/6 share which was left by my father. There was no liability at that time.

V. Rajaratnam  
Cross-  
examination—  
Continued

(Intld.) S. T.,  
District Judge.  
28.1.55.

Adjourned for lunch.

(Intld.) S. T.,  
District Judge.  
28.1.55. 10

D.C. Point Pedro No. 4323/M.

Trial 28.1.55.

Appearances as before.

Plaintiff and defendant present.

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

VEERAGATHIPILLAI RAJARATNAM. Affirmed. Recalled.

I was the executor under the Last Will and I applied for probate.

*Q.* You gave necessary instructions to your lawyers in the Testamentary case in respect of the business that had been carried on anterior to your father's death?

*A.* Yes.

*Q.* In that inventory P26, this business is referred to in item 14 20 as share of the deceased as partner in the firm of S. Veeragathipillai & Sons and the value is Rs. 99,682·33.

*A.* Yes, that is the 1/6th share.

*Q.* So that the entire share would be 2 times that of Rs. 99,682·33?

*A.* Yes.

*Q.* So that the entire assets of this business of Veeragathipillai & Sons inclusive of your share and that of the defendant would be really 6 times that of Rs. 99,682·33?

*A.* Yes.

30

*Q.* Thereafter you utilised the entirety of these assets and carried on the business along with the defendant?

*A.* Yes.

I was entitled to 2/3rd of the business that was carried on subsequent to the death of my father and the defendant to a 1/3rd share.

*Q.* Was there any agreement between you and the defendant as to in what proportion the profits were to be apportioned?

*A.* There was no agreement, but it went on as it was carried on previously.

Q. Was there any understanding between you and the defendant as to how the profits were to be apportioned?

A. There was no understanding, but we both knew that I should get 2/3rd share and the defendant 1/3rd share.

Q. So far as this business was concerned, which you subsequently carried on, was it well known between you and the defendant, that in respect of the business you were entitled to a 2/3rd share and the defendant to a 1/3rd share?

A. Yes.

10 Q. So that the profits were to be divided accordingly?

A. The profits were written out in the account of "S.V. & Sons".

Q. When you sent the return to the Income Tax Department, you showed a 2/3rd share to you and 1/3rd to the defendant?

A. Yes.

Q. Did you both agree to that?

A. Yes.

Q. Did you agree to show to the Income Tax Department that 2/3rd profits were to you and 1/3rd to the defendant?

20 A. Yes.

Q. Was there any agreement that the profits were to be shared 2/3rd and 1/3rd before you sent the return to the Income Tax Department?

A. There was no agreement. I signed for a 2/3rd share and he signed for a 1/3rd share.

Q. How were the losses to be shared?

A. On the same basis.

30 Q. In respect of the business carried on between you and the defendant, you were apportioning profits and losses in the proportion of 2/3rd to you and 1/3rd to the defendant?

A. Yes.

In respect of my father's Testamentary case, there was a dispute between me and the Commissioner of Estate Duty. The Estate Duty Commissioner claimed that my father was the proprietor of the entire business and that when he died, half of the business went to my mother and that the other half devolved on the heirs. I claimed that only a 1/6th share devolved on my mother.

No. 25.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

No. 25.  
Plaintiff's  
Evidence—  
Continued  
  
V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

Q. In connection with that, you gave full instructions to your lawyers?

A. Yes. I gave them the details in respect of the business that had been carried both by me and the defendant along with my father.

Q. Have you given in this case any additional information, in respect of the business you three of you carried on prior to your father's death, to what you gave in the Estate Duty case?

A. I gave the same information here that was given in that case. The only difference is in regard to the shares. The other things are the same. 10

Q. You gave instructions to your lawyers in the Estate Duty case that you, the defendant and your father were carrying on the business in partnership?

A. I told my lawyers we were carrying on the business as "Pangkali" and "kooduyaparam". Even now I say, we were carrying on the business as "Pangkali".

The information given to the lawyers in the Estate Duty case is the same as that given in this case. In the Estate Duty case I gave evidence. (Mr. Nadesan marks D2 a certified copy of the evidence given by the witness in 58 Testamentary.) 20

Q. Before you, the defendant and your father registered this business of S. Veeragathipillai & Sons, was there an agreement among the three of you, that you should carry on this business together?

A. There was no agreement.

Q. Before the registration, was there an agreement that the business should be carried on as "Pangkali"?

A. There was no such agreement as "Pangkali".

Q. Did you say in the course of your evidence in that case, in 1926 there was an agreement that this business should be carried on in partnership? 30

A. I would not have said so. (Mr. Nadesan marks this as D2A.) There was no such agreement.

Q. You gave evidence in this case before Mr. Muttusamypillai when you were cross-examined by Mr. Wickremanayake?

A. Yes.

Q. Did you say then that before the business was registered, there was a verbal agreement among you, the defendant and your father Veeragathipillai?

A. I did not say so; my father promised to give me a share and I would have meant that as the agreement. 40

Q. Did you say in case No. 58 (Testamentary) that this was registered as a partnership business and that before that, there was a verbal agreement among you, your father and the defendant in regard to this business?

No. 25.  
Plaintiff's  
Evidence—  
*Continued*

A. My father agreed to give me a share and I would have meant that.

V. Rajaratnam  
Recalled  
Cross-  
examination—  
*Continued*

I cannot remember whether I told in the Testamentary case that this was a partnership business. I would have said as "Pangkali" and not partnership. I would have used the expression "Pangkali,"  
10 "Sonthakkaran" and "Kooruyaparam".

Q. Did you say in 58 Testamentary, that before this business was registered, there was a verbal agreement among you, your father and the defendant?

A. I did not say so.

I said in 58 Testamentary that my father said that since we have joined in the business we would be given equal shares with him.

Q. Did you say "in 1929 there was an agreement that this business should be carried on in partnership"?

A. I gave evidence in Tamil as "Pangkali". I do not know  
20 how it was interpreted.

My lawyers knew the English language. Mr. C. Cumaraswamy was the District Judge and Mr. N. Nadarajah was the counsel who appeared for me in the Testamentary case.

Q. At that time you were writing in the cheques to the banks as partners?

A. Yes.

Q. At that time the Estate Duty case was going on, you were writing as partners?

A. No.

30 By "Pangkali" I did not mean a partner. I do not know whether that word means partner.

Q. Did you say that from that day the business was carried on in partnership by you, your father and your brother?

A. I gave evidence that we were carrying on the business as "Pangkali".

Q. In the Testamentary case, you gave details with regard how the business was carried on by you, the defendant and your father?

A. Yes.

That evidence is true.

No. 25.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

Q. In October, 1933, the defendant wanted in writing a declaration in regard to the shares in this business?

A. Before my father died, the defendant asked my father that the shares were not specified in the Certificate of registration and he wanted a declaration and therefore the declaration was made.

Accordingly my father executed the declaration D3.

Q. In that document in Tamil the word used is "Kooduyaparam"?

A. Yes.

Q. Is it correct to say that you, your father and the defendant 10 were carrying on "kooduyaparam"?

A. Yes.

Q. After your father's death, you and the defendant were carrying on "kooduyaparam"?

A. Yes.

(Mr. Soorasangaram objects to the production of D3 on the ground that it is not a correct translation of the relevant word "kooduyaparam".

I admit the translation now subject to this objection. But I indicate to Mr. Soorasangaram that at the appropriate stage, if I 20 require the assistance of another translator in regard to this document, it will be made available to both the parties, after such translation is obtained through a translator appointed by Court).

Q. In the estate duty case, you produced D3 and relied on that document?

A. Yes.

Q. In that case, you also produced a translation of D3?

A. Yes.

(Mr. Nadesan marks the translation filed in the Estate Duty case 30 as D3A.

Mr. Soorasangaram objects to the translation D3A on the ground that that translation also is not correct.

I admit D3A subject to the objection. Certified copy of the translation is admitted subject to this objection.)

Q. After you commenced carrying on the business with the defendant, you registered the business in the name of "S.V. & Sons"?

A. Yes.

Both of us took part in managing the business. I did not draw any salary from the business and neither did the defendant draw any salary from the business. I used to sign orders on behalf of the 40

business and I used to sign on behalf of the firm of Veeragathipillai & Sons. For the purpose of enabling me to sign as such, I was not given any power of attorney by the defendant. I acted as the agent of the firm.

No. 25.  
Plaintiff's  
Evidence—  
*Continued*

Q. Your signature would also bind the firm?

(Mr. Soorasangaram objects to this question as it is a question of law.)

V. Rajaratnam  
Recalled  
Cross-  
examination—  
*Continued*

A. I used to sign on behalf of the firm of Veeragathipillai & Sons.

10 Q. Have you any authority to sign on behalf of the firm?

A. I have a share in the business and therefore I signed.

When goods are received, both of us are entitled to the goods received. The two of us opened an account in the name of the firm.

Q. After you carried on the business together with the defendant, you commenced a bank account?

A. Somewhere in 1938 or 1939 we opened up an account in the name of Veeragathipillai & Sons.

Q. In respect of that bank account, you used to sign cheques and the defendant also used to sign cheques?

20 A. Yes.

Q. You used to sign for Veeragathipillai & Sons as partner?

A. First I did not sign as partner, but at the request of the Bank, I had to sign and put down as partner.

Q. In regard to the signing of the cheques as partner, you had no trouble?

A. I say I am a "Pangkali".

Q. On 19.11.34, after your father's death, you made an application to the Registrar of Business Names for registering the change that had occurred as a result of your father's death?

30 A. Yes. (D4.)

D4 was signed by me and the defendant. (D4 read.) The form provides only for partners and therefore we had to use the word partner.

Q. Apart from the difficulty from the Commissioner of Estate Duty, you also had difficulty with the Income Tax Department?

A. The Income Tax Department assessed the entire profits as belonging to my father and I appealed to the Board of Review in respect of that. That appeal was signed and sent to the Board of Review. (Shown D8) This is a certified copy of the petition sent  
40 to the Board of Review.

No. 25.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

Q. In that you said that the said Veeragathipillai & Sons were carrying on the business in partnership?

A. I am not used to writing a petition like this, but I signed this.

I succeeded in my petition to the Board of Review and it was held that my father was only entitled to a 1/3rd share.

Q. You had to make an application under the Defence Financial Regulations to the Deputy Controller of Exchange for the purpose of obtaining foreign currency?

A. Yes. 10

(Shown D9) I made this application to the Controller of Exchange. This application was made on 19.3.52.

Q. In this application, you have put down the name of the indenting agent as Veeragathipillai & Sons and in that you have signed for Veeragathipillai & Sons as V. Rajaratnam, partner.

A. Yes.

Q. You as well the defendant instituted several actions in respect of the business of Veeragathipillai & Sons?

A. Yes.

Q. In those complaints, you have described as partner carrying on 20 the business?

A. The proctors have written as such.

(Mr. Nadesan marks the complaint in case No. 6418 D.C. Jaffna dated 7.3.50 marked D10, a certified copy of complaint in C.R. Jaffna No. 12916 dated 17.6.38 marked D11 and as D12 a certified copy of complaint in case No. 12133 D.C. Jaffna and the affidavit filed in that case marked D12A.)

(Shown D13.)

Q. This is a memo acknowledging receipt of the documents which you sent to the Chartered Bank which you signed on 14.5.52 30 on behalf of Veeragathipillai & Sons as partner and this is in your handwriting?

A. All that is in my handwriting.

I remember that in 1952 I received a consignment of tiles. It is in respect of that consignment that I sent the receipt D13. I placed an order for the consignment of tiles.

(Shown D14.)

Q. The bank wrote to you and asked you to hand over the document to the defendant?

A. I signed but I refused to give the document. 40



(Shown D15) I wrote this to the bank later. I have signed for Veeragathipillai as V. Rajaratnam, senior partner. (Shown D16.) In reply to that, the Chartered Bank wrote the letter D16. The letter is addressed to M/s. Veeragathipillai & Sons, Jaffna, and a copy had been sent to Veeragathipillai & Sons, Thondamannar.

No. 25.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
Examination—  
Continued

Q. Right from the commencement, there was pawnbroking business carried at Jaffna?

A. Yes, under the name of Veeragathipillai & Sons. I first joined my father in 1907.

10 Q. Even then there was a pawnbroking business by your father?

A. It was not there at that time. The pawnbroking business started somewhere in 1920 or 1923.

Q. What was the capital of that business when he started?

A. There was no separate capital; but money was drawn from the business of Veeragathipillai & Sons.

Q. At the outset, how much did he put in that?

A. The monies that were rolling in the business of Veeragathipillai & Sons were utilised for the pawnbroking business.

20 Q. As a matter of fact, by about 1929 that business had prospered and pawnbroking business had become a large establishment?

A. Yes.

Q. After the death of your father, the pawnbroker's licence was obtained in favour of the defendant on behalf of Veeragathipillai & Sons?

A. Yes, on behalf of the firm.

(Mr. Nadesan marks as D17 a certified copy of the licence for the year 1939).

30 Q. Thereafter for the years 1950, 1951 and 1952 the licences were issued in favour of Veeragathipillai & Sons?

A. That was till the defendant registered himself as the sole proprietor.

The defendant registered himself as the sole proprietor of the business of Veeragathipillai & Sons.

Q. After that change was effected, you swore an affidavit and submitted to the Registrar of Business Names?

A. Yes.

(Mr. Nadesan marks a certified copy of the affidavit dated 28.6.50 marked as D27 (same as P9A).

No. 25.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
Examination—  
Continued

In respect of the account for the first time in December, 1947, there was an allocation by me of the profits and the capital. That resulted in 6 lakhs and 3 lakhs. The total amount available for appropriation at the end of 1947 was 12 lakhs.

Q. Out of the 12 lakhs, you decided to appropriate 3 lakhs towards the profits and retained 9 lakhs as capital?

A. Yes.

Q. Why did you want such a large sum as 9 lakhs as capital?

A. This amount was necessary for the business. There is much assets in the business that I required 9 lakhs as capital. 10

Q. Thereafter both of you used the 9 lakhs as capital?

A. My father started the business with a capital of Rs. 400/- and this accumulated to 9 lakhs.

Q. What was the amount that you set apart as capital after 1947?

A. I capitalised 9 lakhs with the profits. The 9 lakhs represented the stock-in-trade. It did not represent hard cash. That included stationery, fittings, cash in bank, etc.

At the end of 1947, the entire assets of the business was 12 lakhs.

Q. Then you proceeded to separate the 12 lakhs into two items— 20  
one profits, which both of you were entitled to draw in proportion to the shares in the business and the other capital 9 lakhs?

A. The account was entered on that basis.

We put down 6 lakhs for me and 3 lakhs for the defendant as capital on that day.

Q. Did you draw your share out of the 3 lakhs profits?

A. That was entered to my credit.

Q. You contributed the 6 lakhs and the defendant the 3 lakhs as capital?

A. No. 30

Out of the 12 lakhs I was entitled to  $\frac{2}{3}$ rd. That is 8 lakhs, and the defendant was entitled to 4 lakhs. Out of the 8 lakhs, I did not draw 2 lakhs as profits. The money that was in excess as profits, I took. The balance I allowed to be used in the business.

Q. Similarly the defendant out of the 4 lakhs, he took one lakh and allowed the other 3 lakhs to be used in the business?

A. That remained in the business.

Q. What is the present capital of the business of Veeragathipillai & Sons?

A. I am not in possession of the books.

Q. What was the capital in the year 1950?

A. Rs. 400/- was the capital and all the others are profits.

My father started his business with Rs. 400/-. I do not know what business he started. My father told me that he started his business with a capital of Rs. 400/-.

Q. It is as a result of what your father told you, that you say 10 that your father started his business with Rs. 400/ ?

A. Yes.

I do not know what business he started. From the time I knew, he was trading in paddy.

(Intld.) S. T.,  
D.J.  
28.1.55.

Further hearing on 3rd, 4th and 5th March, 1955.

(Intld.) S. T.,  
D.J.  
28.1.55.

20

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**No. 26**

**Defendant's Additional List of Witnesses**

IN THE DISTRICT COURT OF POINT PEDRO

No. 4323.

*Defendant's Additional List of Witnesses and Documents*

1. K. Narayaansamy Naidu Kanakkapillai, Thondaimannar to produce the account books from the year 1933-1952 of the Point Pedro branch of S. Veeragathipillai & Sons.

I move to cite the above witness.

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant.*

30

23.2.55.

Copy posted to Proctor for Plaintiff.

No. 25  
Plaintiff's  
Evidence—  
*Continued*

V. Rajaratnam  
Re-called  
Cross-  
examination—  
*Continued*

No. 26.  
Defendant's  
Additional  
List of  
Witnesses  
23.2.55—

No. 27.  
Plaintiff's  
Evidence

**No. 27**  
**Plaintiff's Evidence**

D.C. Point Pedro No. 4323/M.

Trial—3.3.55.

Appearances as before.

Plaintiff and defendant present.

Further hearing.

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

VEERAGATHIPILLAI RAJARATMAM. Affirmed. Recalled.

*Cross-examined* for the defendant (*continued*).

I joined my father in his business in the year 1907. At that time I was about 17 years old. 10

*Q.* At that time what was the nature of the business your father was doing in the year 1907?

*A.* The main business was in paddy, tobacco and other millets.

He was not doing business in timber at that time. He used to import paddy from India. He was the owner of a 1/4th share of the schooner in 1907. Then the business gradually expanded. In 1920 he started importing teak from Burma. At that time he had 5 schooners. He owned 5 schooners. He was the exclusive owner of 3 schooners and in 2 schooners, he had a half share in each.

*Q.* In 1920 what would have been the worth of the 5 schooners? 20

*A.* I cannot say. We were concerned about the profits and not about the value of the schooners.

In 1920 I was about 30 years old. I was assisting my father for 13 years at that time. One schooner was made by my father and he bought the others.

*Q.* How much money did he spend on the schooner he made?

*A.* About Rs. 25,000/-.

He bought 4 schooners at various times. He bought a schooner for Rs. 5,000/- to Rs. 6,000/-. This is approximate.

*Q.* At the time when you joined your father in the business in 1907, you used to talk to him as to how he started his business? 30

*A.* Yes.

He told me in the course of his conversation in 1907 that he started his business with Rs. 400/- and that his first business was in paddy.

*Q.* Did he tell you how long before he started this business on paddy with Rs. 400/-?

*A.* It may be 10 years before I was born.

Q. You are a "Pangkali" in the business of S.V. & Sons ?

A. Yes.

The other "Pangkali" is the defendant.

Q. The two of you who are the "Pangkalis" carried on the business together?

A. Yes, on the basis that I have 2 shares and the defendant one share.

Q. You "pangkalis" carried on "kooduyaparam"?

A. It is all the same "Pangkali" and "Kooduyaparam" are  
10 the same.

(The question is repeated.)

A. Yes.

Most of the orders in respect of the business were placed by me. Very few of the orders were placed by the defendant.

Q. Do you or do you not admit that the defendant placed orders?

A. I do not think he placed any order, but he might have placed 1 or 2 orders.

*To Court :*

20 Q. There was nothing to prevent the defendant from placing orders?

A. He does not normally do it, but if he does it, he will consult me.

He might have ordered without consulting me.

Q. You did not require a Power of Attorney to place an order or to manage the business

A. Yes.

30 The defendant also used to sign cheques in respect of the Bank account of this business. He also used to enter into correspondence with the Bank. For the purpose of signing cheques or for entering into correspondence, he did not require a Power of Attorney. In the course of my evidence I produced the Power of Attorney marked P32.

Q. Why did you give to your brother this Power of Attorney P32?

A. There was a deposit account in the bank ; my schooners were there. It was by using the Power of Attorney that he was able to withdraw the Rs. 50,000/- which was in the Fixed deposit in the Bank in my name. To look after my land, a Power of Attorney was also necessary. To look after my schooners also a Power of Attorney  
40 was necessary.

No. 27.

Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

No. 27  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

Q. He did not require a Power of Attorney to manage this business?

A. To manage my business, he wanted a Power of Attorney. (Mr. Nadesan reads P32 and says that there is no clause in P32 that the Power of Attorney was given to the defendant for the purpose of managing the business).

*To Court :*

Q. This Power of Attorney was given to enable your brother to deal with your separate property?

A. Yes.

10

Q. You have not mentioned the business of S.V. & Sons in P32?

A. Yes.

During the period of my absence in India, the defendant managed the entire business and he placed all the orders.

He was in full charge of the business. I say I am entitled to a 2/3rd share of the profits and also in the business and the defendant to a 1/3rd share.

Q. When will you find out to what you are entitled to out of this business before the dispute arose?

20

A. At the close of every year we prepared accounts for the Income Tax and at that time we ascertain what profits I am entitled to and the profits the defendant is entitled to.

It is only then we find out whether there is a profit or a loss in the business. It is as a result of the accounts being looked into at the end of the year that we were able to know the position of our business.

Q. Were regular accounts looked into at the end of every year from the date both of you carried on the business together?

A. It is after the Income Tax was introduced that we looked into the accounts every year.

Q. When you were carrying on the business with your father, how often did you look into the accounts?

A. We did not look into the accounts. We did not look into the profits.

We withdrew all the money we wanted and allowed the rest of the money in the business. (Shown D21—cheque No. 172860 of 21.2.51 issued by the plaintiff on behalf of S.V. & Sons) I have signed this as partner. (Shown D22 a cheque) I have signed this as partner. (Shown D23—a cheque dated 23.5.51) I have signed this as partner. (Shown D24 cheque dated 17.7.51) I have signed this as partner.

40

I had to make an application to the Bank of Ceylon to open an account. (Shown D26) This is an application dated 2.2.45 and this has been signed by me and the defendant to open an account. It is not signed as partner. In the form we have got the word "partner".

Q. You do not know the English equivalent of the word "Pangkali"?

A. I do not know.

Q. It may be partner or co-owner?

A. It may be, but I do not know.

10 On the last date I said that for the year 1939-40 the pawnbroker's licence was issued to the defendant on behalf of S.V. & Sons. For the year 1950-51 the licence D18 was issued in favour of S.V. & Sons. D19 is the licence for the period 1950 which is in favour of S.V. & Sons. D20 is the licence for the year ending July, 1952, in favour of S.V. & Sons. My father died on 2.12.1933. No business was transacted as a mark of respect of his death till 7.12.33. From 7.12.33 we commenced carrying on the business.

Q. After you commenced carrying on this business, did you have any discussion with the defendant as to how the business should  
20 be managed and as to how the profits should be shared?

A. There was no new business started, but the business of S.V. & Sons was continued. There was no discussion. Both of us continued the old business.

Q. The old business you carried on with your father, but in the new business your father was not there?

A. There was no new business.

Q. After 7.12.33 your father was not there to carry on the business?

A. He was already dead at that time.

30 (Shown page 250 of ledger D28) That page sets out the profits for the period 2.12.33 to 31.3.34. On that page the allocation of profits are shown.

Q. How was the profit looked into at that time?

A. The profits have been apportioned in the proportion of 2 to 1. This was prepared for the purpose of Income Tax.

Q. Subsequent to 31.3.34 until the year 1947 there has been no allocation of the profits in the books in the proportion of 2 to 1?

A. It was entered in the account books of S.V. & Sons. During the intervening period—31.3.34 to 1947—the entire profits were entered  
40 in one book of S.V. & Sons without any allocation in the books.

No. 27.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

No. 27.  
Plaintiff's  
Evidence—  
Continued  
  
V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

Q. Why was it that subsequent to that date, there was no allocation in the books of the profits as shown in D28?

A. The total profits were shown in the account books and for the purpose of the Income Tax it was shown dividedly. There was no account for each of us.

Q. I put it to you that after the entries were made in D28 the defendant protested that you must have a half share of the profits and the assets and that thereafter you put everything in the S.V. & Sons account?

A. He never asked me and I never consented. 10

Q. Did you tell the defendant that he could enjoy a half share of the profits?

A. I never stated so. He never asked me. There was no such talk. We knew that I have 2 shares and he has 1 share. There was no talk about the profits.

(Shown D29.)

Q. In this book from 1939 separate accounts were maintained for you as well as for the defendant?

A. In 1939 separate accounts were opened and that was only for the purchase of lands. 20

There is no other entries made in this book after 1939.

Q. Rents have been entered there?

A. The payment of the rents of those lands are entered there.

Q. Government shares have been entered in this book?

A. If it was bought in his name, it would have been entered in his folio.

Q. At the time you prepared the various income tax returns showing 2/3rd profits to you and 1/3rd for the defendant, was there any discussion?

A. The Auditor was instructed that I should get 2/3rd of the profits and the defendant 1/3rd and accordingly it was done so. Both of us told the auditor in that manner. 30

Q. In the books of accounts at the Point Pedro shop, you have made an entry appropriating 9 lakhs to the capital account and 3 lakhs to the profits account?

A. We never introduced any new capital. 9 lakhs was retained in the business and 3 lakhs for drawings.

Q. Why did you divide into 2 categories—9 lakhs as capital and 3 lakhs for drawings?

A. We retained 9 lakhs in the business and accounted 3 lakhs for drawings. 40



Q. Why was it divided into two parts?

A. 9 lakhs was required for the business and the other 3 lakhs was not required for the business.

No. 27.

Plaintiff's  
Evidence—  
Continued

Q. An entry was made apportioning the assets as at 31.12.47 in the Point Pedro shop book?

A. 9 lakhs was put in the business and 3 lakhs for drawings. They were merely accounted in the books. We did not receive any money.

V. Rajaratnam  
Recalled  
Cross-  
examination—  
Continued

Q. That entry was made in the Point Pedro shop books in 10 June, 1948?

A. Imports are very great in the months of January and February and accounts are prepared in May or June.

These entries were made somewhere in June, 1948.

Q. In December, 1947, the defendant requested you to look into the accounts on the basis of his being entitled to a 50%?

A. No.

Q. Did you then tell him that you would look into the accounts and thereafter give him the Jaffna branch and that you run the Point Pedro shop?

20 A. I deny that.

Q. After June, 1948, the defendant would have come to know that you have looked into the assets of the business in the proportion of 2 to 1?

A. He knew that we were going to apportion the profits in June, 1948.

Before making the entries in June, 1948, I had no discussion with the defendant. After I made the entries in the books in June, 1948, there was no displeasure between me and the defendant.

Q. Did not the defendant tell you that you should give him 30 50% of the profits and also give him the Jaffna business?

A. No.

In respect of a certain Pallai estate, the defendant was entitled to a half share of the profits. I was entitled to a half of the profits. He was entitled to a half share of the land and I am entitled to a half share of the land. Before 1947 the entirety of the income was entered in the books.

Q. At the division, I got 2/3rd of the income from that estate and the defendant got 1/3rd of the income from that estate?

40 A. I had 2 schooners which were exclusively mine and out of those, he was getting profits for himself. I had 2 schooners "Athi-

No. 27.  
Plaintiff's  
Evidence  
*Continued*

V. Rajaratnam  
Recalled  
Cross-  
examination—  
*Continued*

poorani" and "Theivanayaki". Only these two schooners which belonged to me exclusively brought income. There were two schooners in which we had shares and they were sunk in 1941 and 1945. Thereafter there were the two schooners which belonged to me exclusively, which brought in real profits.

My son Sundaramoorthy commenced assisting in the business by about 1940 or 1941. I imported "Queen" brand tiles in the name of my son Sundaramoorthy. My son had a godown of his own. If the money was paid out of the business of S.V. & Sons, it would have been debited to Sundaramoorthy's account. The defendant did not 10 say that the profits coming from the tile business imported in the name of Sundaramoorthy should go to the business of S.V. & Sons. There was no displeasure over that.

"Pound" mark tiles were imported in the name of S.V. & Sons. Even though I may place an order, the documents must be in the name of S.V. & Sons. After the defendant registered the Jaffna business in his name, I imported "pound" mark tiles in my name.

Q. Is it likely that before the actual change of registration took place, you knew that the defendant was going to change the registration of the business name of the Jaffna branch? 20

A. I did not know.

(Shown D35)

Q. This document shows that on 7.5.52 the Standard Tile and Clay Works, Limited, had drawn on you for Rs. 13,851.06 in respect of tiles they sent?

A. I got it down in my name because the defendant refused to give the two invoices which were sent in the name of S.V. & Sons.

*To Court :*

Q. This document D35 shows that that firm had drawn on you for Rs. 13,851.06? 30

A. Yes. That was on 7.5.52.

The Registration of the Jaffna business was on 7.6.52. I admit that the change of the Registration of the Business Name by the defendant was on 7.6.52, but prior to that on 7.5.52 I paid for the bill from Standard Tile & Clay Works, Limited, because the defendant refused to give two invoices that had come in the name of S.V. & Sons. The defendant and I were carrying on the business in Jaffna.

Q. If the bill had come in the name of S.V. & Sons, what was wrong with the defendant taking the bill?

A. The goods referred to in D35 were consigned to the Point 40 Pedro shop.

The defendant has also a share in the Point Pedro shop. The bill came in the name of S.V. & Sons.

Q. What did it matter whether the defendant paid for the bills at the Jaffna branch or whether the payment was made at the Point Pedro shop?

A. Before 1952 bills were received at Thondamannar from Chartered Bank. After the dispute over the school, the defendant wrote to the Chartered Bank to send the bills of the Jaffna branch to Jaffna.

The question is repeated.

A. The boats came with the tiles to the Point Pedro jetty.

10 Q. The defendant was trying to clear the goods but you were trying to clear the goods by yourself?

A. Why should the defendant clear the goods?

I did not object to the defendant clearing goods at the Jaffna jetty. The defendant refused to give my bills of the Point Pedro shop. I never demand for the bills of the Point Pedro shop. Every year tiles are brought to Jaffna and also to Point Pedro. In the first season the goods are brought to Jaffna and in the second season they are brought to Point Pedro. After the school dispute, the defendant asked the Chartered Bank to send the bills to Jaffna.

20 *To Court :*

Q. Is it true that although separate registration had started on 6.6.52, there was displeasure between you and the defendant sometime before?

A. Yes, after the school dispute.

Q. In respect of the particular consignment of tiles on D35, you have appropriated the entire profits?

A. That is my own money.

The tiles I imported were the "pound" mark tiles of which S.V. & Sons were the sole agents.

30 Q. Did you consider yourself liable to account to the defendant in respect of the profits you made on the consignment on D35?

A. No. It is my own money.

Q. Subsequently (after 6.6.52) have you at Point Pedro carried on any business on behalf of S.V. & Sons?

A. No.

I have done absolutely no business with the money of S.V. & Sons except lending monies in the name of S.V. & Sons.

Q. Did you lend money in the name of S.V. & Sons?

A. No. I gave it in my name or in the defendant's name and 40 accounted it in the S.V. & Sons account.

No. 27.  
Plaintiff's  
Evidence—  
*Continued*

V. Rajaratnam  
Recalled  
Cross-  
examination—  
*Continued*

No. 27.  
Plaintiff's  
Evidence—  
*Continued*

V. Rajaratnam  
Re-called  
Cross-  
examination—  
*Continued*

The pawnbroker's licence is in the name of S.V. & Sons. The pawnbroker's licences are in the name of S.V. & Sons. At the Point Pedro shop I have not been doing pawnbroking business in the name of S.V. & Sons. I have made a mistake when I referred to pawns. What I meant was mortgage of lands. There was no licence to pawn in the name of S.V. & Sons at the Point Pedro shop.

*Q.* After 7.5.52 did the defendant tell you that you could carry on the business at Point Pedro and that he would carry on the business at the Jaffna branch and that accounts would be looked into there-after? 10

*A.* There was displeasure and there was no talk.

*Q.* As a result of the displeasure, did he say so?

*A.* No.

*Q.* Did he say that he was going to transfer the Jaffna business in his name on 27.5.52?

*A.* He did it fraudulently.

(Shown P3.) On 27.5.52 I wrote the letter P3 to the Government Agent, Jaffna, asking him to issue a certified copy of the Business Registration name. I did that because the defendant refused to show me the accounts of the Jaffna branch. He did not tell me at that time that he had changed the business in his name. 20

*Q.* If he refused to show the accounts, why did you want to get a certified copy of the Business Registration name?

*A.* I wanted such document for consultation. My instructions will be incomplete without this document.

Court adjourns for lunch interval.

(Intld.) S. T.,  
*D.J.*  
3.3.55.

Court-re-assembles after lunch interval. 30

V. RAJARATNAM. Affirmed. Recalled.

*Cross-examined* for the defendant (*continued*).

In connection with the bill referred to in D35 I wrote to the Chartered Bank by letter D5 of 10.5.52. The Chartered Bank notifies as soon as a bill is received. That was sent to the Jaffna branch and the defendant did not give me that. Then I wrote to the Chartered Bank inquiring whether a bill was received in this connection. I was sent a duplicate of the bill and I paid the money accordingly.

*Q.* On 10.5.52 the defendant wanted the documents to be sent to Jaffna and you wanted it to be sent to Thondamannar? 40

*A.* I ordered the goods and wanted the goods to be sent to me. The defendant had concealed that from me.

V. Rajaratnam  
Cross-  
examination—  
*Continued*

(Shown D6 letter dated 8.5.52) This was written by me to the Chartered Bank. This was written in connection with the tiles loaded in boat No. 19. This bill is in favour of S.V. & Sons. This is also in respect of "pound" mark tiles. D5 also refers to "pound" mark tiles.

No. 27.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. In respect of the invoice referred to in D6, payment was made by the Jaffna branch?

A. Money was paid by the Jaffna branch, but I am also entitled to a share.

10 I did not write to the Standard Tile & Clay Works, Limited, to divert the shipments coming to Jaffna to Point Pedro. Thereafter I wrote the letter D7 of 11.5.52 to the Chartered Bank. In this letter I have asked the Chartered Bank to send the documents relating to the bills to Thondamannar and not to Jaffna because the defendant would not give the invoices to me.

Q. If the invoices are not given to you, what would be the loss?

A. The goods will be at the Customs and there will be loss. If there is loss, the major part of the loss will come to me.

On that bill the defendant paid for the goods. The defendant 20 would pay the money and allow the goods to be at the Customs.

Q. I put it to you that at that stage, you were trying, as far as possible, to take the major portion of the business to the Point Pedro shop?

A. I deny that; the major part of the business was at Jaffna.

(Shown D6) I have signed as S. Rajaratnam, senior partner.

Q. Now you think that the writing "senior partner" is wrong?

A. It meant "Pangkali".

In connection with the business of S.V. & Sons, I did not have any transaction with Muttuthamby. I did not lend him money. 30 It may be that he owed money to the business and if he had owed money, he would have paid it. Muttuthamby is the father-in-law of Sundaramoorthy, my son.

Q. Did you give a cheque for Rs. 9,000/- on 28.3.52 to Muttuthamby?

A. Yes; the defendant had instructed the bank not to pay it. I issued a cheque in favour of Muttuthamby for Rs. 9,000/- from S.V. & Sons account.

Q. Why did you give that cheque?

A. I had taken money from him and sent it to the Jaffna branch.

40 Q. S.V. & Sons had borrowed Rs. 9,000/- from Muttuthamby?

No. 27.  
 Plaintiff's  
 Evidence—  
 Continued  
 V. Rajaratnam  
 Cross-  
 examination —  
 Continued

A. I borrowed from him.

Q. Did you enter that into the account books of S.V. & Sons ?

A. I got the money and gave a cheque to him. I have not entered that in any of the books.

I think it has been entered in the Jaffna books. (Shown D36.) (The witness is asked to point any entries in this book regarding that.) There is an entry on 26.3.52 that from the Point Pedro shop the Jaffna branch has received Rs. 5,000/-. I sent the Rs. 5,000/- to the Jaffna branch and had the Rs. 4,000/- with me. I have given back the Rs. 4,000/- as the cheque was dishonoured. To send the 10 Rs. 5,000/- to the Jaffna Branch, I borrowed Rs. 9,000/- from Muttuthamby.

Q. Therefore the Point Pedro books must show that Rs. 9,000/- had been borrowed from Muttuthamby?

A. It is not there.

The Point Pedro book only shows that Rs. 5,000/- had been remitted to the Jaffna Branch. I took the Rs. 4,000/- for my personal use.

Q. How is it that you issued a cheque for Rs. 9,000/- in favour of Muttuthamby from the business of S.V. & Sons? 20

A. I would have accounted the Rs. 9,000/- as going from the Point Pedro shop.

Q. I put it to you that at that stage, you were endeavouring to transfer monies to the Point Pedro shop?

A. I deny that.

I drew this cheque for Rs. 9,000/- on the Bank of Ceylon. We usually get the cheque books from the Bank. I also had cheque books and the defendant had also cheque books.

Q. How long did you have the cheque book issued to you?

A. I do not know. 30

I cannot remember whether there was any other leaves in the cheque book besides the leaf on which the amount of Rs. 9,000/- was written.

Q. The Bank of Ceylon returned the cheque on the ground that it was written on an old cheque book?

A. No. The cheque was returned with the endorsement " drawer's signature differs from the specimen signature ".

(Mr. Nadesan marks this cheque as D37.) (He states that in fairness to this witness and the endorsement in the cheque that the signature differs from the specimen signature, he is putting this 40

document marked D37.) D37 is in the handwriting of my son Sundaramoorthy. Usually I get the cheques written by others.

No. 27.  
Plaintiff's  
Evidence—  
Continued

Q. When you have money in the firm of S.V. & Sons, why did you borrow money from Muttuthamby?

A. There was no money at the Point Pedro shop.

During the war years, we did extensive business in the importation of goods. During the war years the business expanded a lot.

V. Rajaratnam  
Cross-  
examination—  
Continued

Q. As a matter of fact you were right throughout a consumptive patient?

10 A. I fell sick in 1945.

Q. The defendant being the active and younger than you took active interest in the business?

A. He was the person responsible for the Jaffna business.

*Re-examined.* (Shown D37) I issued this cheque. I got money from Muttuthamby on the previous day I issued this cheque. (Shown P32.) In para 3 of P32 I say I am desirous of appointing some fit and proper person to look after my affairs in the Island. At page 5 also I refer to my business. I also say in the same paragraph that the business shall be under the full management and control of the said attorney. At the time I granted the power of attorney, I had decided to go to India.

V. Rajaratnam  
Re-  
examination

Q. Were there monies in the bank belonging to S.V. & Sons at that time?

A. Yes.

Q. Are you aware that the defendant used the power of attorney for transferring money to his name in the bank?

A. Yes.

I produce letter dated 22.1.46 marked P42 sent to the defendant by the Chartered Bank. (P42 read.)

30 I was asked about the account book D28. I was the executor of the estate under the Last Will of my father. I as executor have shown the accounts to the Income Tax Department.

Q. Why were the profits divided according to D28?

A. To show it to the Income Tax Department.

We sent two separate returns—one for me and one for the defendant. After 1.4.34 the profits were not shown in the books as in D28.

No. 27.  
Plaintiff's  
Evidence—  
Continued

V. Rajaratnam  
Re-  
examination—  
Continued

*Q.* Why not?

*A.* Our main idea was to increase the business and not to appropriate the profits. That is why the profits were not shown in the books. The profits were credited to the common account which is called S.V. & Sons. The drawings, either by me or by the defendant, were debited to the S.V. & Sons account from 1933 till 1947. That was the practice. So that one would not know how much during that period I drew or the defendant drew. In 1946 after giving the power of attorney to the defendant, I went to India. After I returned from India, I found that the defendant had drawn lot of money from 10 the firm. I told the defendant that the accounts should be looked into and the money divided.

I did not use the word "co-owner" when I instructed my lawyers. I draw the attention of Court to the plaint in which the word co-owner is not used. I have used only the word "Pangkali".

*To Court :*

*Q.* Even though the profits from 31.3.34 to 1947 have not been shown, you have shown the division of profits to the Income Tax Department?

*A.* Yes.

20

I was asked whether the defendant was angry with me after June, 1948, as the accounts were not entered according to the defendant's way. Even after June, 1948, the accounts books at the Jaffna branch were in charge of the defendant. After June, 1948, the defendant's personal income tax returns were sent by the defendant.

*Q.* How did you get P18?

*A.* It was given by the Kanakapillai at the Jaffna branch. He has given evidence in this case.

I was asked about the "Queen" brand tiles. The defendant is 30 importing now "Queen" brand tiles in the name of Segaram & Sons. That is his private business. He started that business after I went to India.

I was asked about the tiles imported in my name. The tiles meant for the Point Pedro shop are sent to the Point Pedro jetty. There was difficulty in getting two invoices and as a result I had to get down the tiles in my name.

The defendant never told me that he was going to change the business name. I draw the attention of Court to the original answer filed by the defendant dated 3.10.52 and the first two amended answers 40 dated 20.10.52 and 19.2.53. In those answers there is no allegation that the defendant gave me any notice that he was going to terminate the partnership. By the amended answer dated 2.3.54 the defendant



alleges for the first time in para 6 that he was compelled to terminate the partnership which he did by giving notice to the plaintiff on 25.5.52. In the first answers, he stated that he had become the owner of the Jaffna shop in 1947. The amended answer dated 2.3.54 was filed by the defendant after proceedings were had in this case. The last answer dated 2.3.54 was filed after I gave evidence in this case. I gave evidence in this case in 1953. I produce P3 dated 27.5.52.

No. 27.  
Plaintiff's  
Evidence—  
*Continued*

V. Rajaratnam  
Re-  
examination—  
*Continued*

10

(Intld.) S. T.,  
*D.J.*  
3.3.55.

Plaintiff's case closed putting in P1 to P42 and X1 to X4.

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**No. 28**

**Defendant's Evidence**

3.3.55.

**DEFENDANT'S CASE**

V. VYRAMUTHU. Affirmed. Age 32. Clerk, D.C. Jaffna.

I have with me record in 58 Testamentary D.C. Jaffna. In that case the plaintiff gave evidence. I produce marked D2 a certified copy of the evidence which he gave in that case. In that case the plaintiff in this case through his lawyers produced a document, copy of which has been marked in this case as D3 with a translation. A deed of declaration has been produced by Rajaratnam in that case marked A4. He also produced a translation of that in that case. I produce certified copy of the translation marked D3A.

No. 28.  
Defendant's  
Evidence

V. Vyramuthu  
Examination

(Mr. Soorasangaram objects. D3A is admitted subject to objection.) (Shown D34) This is a certified copy of the inventory filed in the Testamentary case No. 58.

*Cross-examined* for the plaintiff.

30 Q. Can you say who submitted the translation D3A?

A. The signature is not clear. I do not know who is the translator.

*Re-examined.* Nil.

V. Vyramuthu  
Cross-  
examination—

(Intld.) S. T.,  
*D.J.*  
3.3.55.

P. SEGARAYASINGHAM Affirmed. Age 27. Clerk, Bank of Ceylon, Jaffna.

S. Veeragathipillai & Sons had an account with the Bank of Ceylon. (Shown D26) This is an application to the Bank of Ceylon

P. Segaraya-  
singham  
Examination

No. 28.  
Defendant's  
Evidence—  
Continued

to open an account. D21, D22, D23 and D24 are cheques drawn by the firm of S.V. & Sons. The cheques are signed by V. Rajaratnam as partner. (Shown D37) This cheque was drawn by V. Rajaratnam as partner of S.V. & Sons on the Bank of Ceylon.

P. Segaraya-  
singham  
Cross-  
examination

*Cross-examined* for the plaintiff. I am the ledger clerk in the Bank of Ceylon, Jaffna. I am working here for the last 7 months. Before that I was not here.

*Re-examined.* Nil.

(Intld.) S. T.,  
D.J. 10  
3.3.55.

V. Rajasegaram  
Examination

V. RAJASEGARAM. Affirmed. Age 46. Trader, Thondamannar.

My father carried on the business under the name of "S.V." for a considerable length of time. The plaintiff and I joined my father in respect of that business. I joined the business in 1924 and the plaintiff joined earlier. I assisted my father. At the time I joined my father, he was the sole proprietor of the business.

Thereafter my father gave 1/3rd share to each of us in 1928.

*Q.* After your father gave 1/3rd share to each, what did you do thereafter? 20

*A.* We carried on the business as before. We continued the business.

The share that was gifted to me by my father was also used by my father.

*Q.* In what capacity did you carry on the business thereafter?

*A.* As partners.

The business was carried on by the three of us in partnership. This partnership was actually registered by my father in 1929. (Shown P1) This is the certificate of registration of the business and it shows that the business commenced on 2.3.29 and it gives the names 30 of the partners as my father, the plaintiff and myself.

*Q.* When you commenced to carry on the business in partnership with you father, your brother and yourself, in 1929, what was the capital of the business?

*A.* About 3 lakhs. It will be more than 3 lakhs. My father died on 2.12.33. Sometime before his death, on 14.10.33 my father made a declaration in respect of the business that we were carrying on.

(Shown D3.)

*Q.* How is it that he came to make this declaration? 40

*A.* He was sick. He made this declaration so that the others may not have a share in this business.

In that declaration my father stated that the plaintiff, myself and he were carrying the business as "kooduyaparam".

No. 28.  
Defendant's  
Evidence—  
Continued

Q. What did you understand by that?

A. It meant partnership.

The plaintiff did not express any doubt that the business was a partnership.

V. Rajasegaram  
Examination—  
Continued

Q. After your father died, did you wound up the business and divide the assets among the two of you?

A. No.

10 Q. What did you do with the assets left by your father and assets belonging to you and the plaintiff?

A. We carried on the business with those assets. After my father's death, the business was closed for 5 days. Thereafter we reopened the business on 7.12.33. On 2.12.33 before my father died, there was considerable amount of assets in the business.

Q. Did you on 7.12.33 utilise all those assets in the business you were carrying in the business thereafter?

A. Yes.

20 The plaintiff and I were carrying on the business on the basis of a partnership. I notified the Registrar of Business Names that my father had ceased to be a partner and that the two of us were carrying on the business in partnership. (Shown P2) This is a true copy of the statement of change which I gave to the Registrar of Business Names signed by the plaintiff as well as by myself. I said that there has been a change in that the first partner's name should be deleted because he died on 3.12.33; the other partners are V. Rajaratnam and V. Rajasegaram. Thereafter I and the plaintiff were carrying on the business in partnership.

30 My father's estate was administered in case No. 58 Testamentary, D.C. Jaffna. In that case the plaintiff has valued a 1/6th share of the entire assets of S.V. & Sons at Rs. 99,682.32. It is a proper and fair valuation of the 1/6th share. All the assets on the date of my father's death would have been 6 times that Rs. 99,682.32.

Q. Did you utilise the entirety of those assets in the business which you carried with the plaintiff in partnership?

A. Yes.

After my father's death, we carried on the business at Jaffna and at Point Pedro. The books of accounts were available for inspection at both the places.

40 Q. What were the articles you and the plaintiff were dealing in the partnership business?

A. Tiles, teak, paddy, gingelly and coffee.

No. 28.  
Defendant's  
Evidence—  
Continued

V. Rajasegaram  
Examination—  
Continued

We were importing articles from India and Burma. This importation entailed a large amount of capital. In respect of the shipments abroad, we have to deposit the money and then only the goods will be sent. We remit the entire amount first. As soon as a shipment is ready, we receive a wire and we send the money. That was the system before the war. After the war we have to make payments to the bank and obtain the documents from the bank. That was after the introduction of the Exchange Control.

*Q.* Whatever system may be, after both of you commenced the business in partnership, is it correct to say that before you could get 10 the goods, for sale, payment has to be made?

*A.* Yes.

All that entailed a large amount of capital.

We were also doing business in pawnbroking. In respect of the pawnbroking business, a larger sum of money was required as capital.

*Q.* Who was mainly responsible for attending to the correspondence with India?

*A.* Both of us. During my father's time he used to draft the letters and sign it and after him both of us used to do it.

The plaintiff was not in the best of health after my father's death. 20 Even before that, he was having illness. He used to have fever, cough and throat trouble. The loading into and unloading from the schooners entailed a large amount of work and the plaintiff was not in a position to do that. It was myself who did it. During the war years, there were threats of strikes and it was I who solve those problems. After the death of my father, it was I who did the major part of the management of the business. It was after the death of my father that I came to know of the Last Will he left behind. I came to know of it about 3 or 4 months after the death of my father. Under the Last Will, which is a joint Will, 1/6th share of the business 30 which belonged to my father devolved on the plaintiff. The other 1/6th share belonged to my mother. The very first accounting of the income for the period 2.12.33 to 31.3.34 as shown at page 250 of ledger D28 shows that it has been appropriated in the proportion of 2 to 1. At that time when this was done, I was not satisfied because the plaintiff gave me 1/3rd of the profits. I was entitled to half of the profits. As I was doing the major part of the work, I wanted it to be divided into two equal halves. At that time I did not know the Last Will.

*Q.* Was it your position that though he has a 2/3rd share, you 40 wanted half of the profits because you did the major part of the management of the business?

*A.* Yes.

I told him that I wanted half of the profits and he said that he will decide it later and that he would give half of the profits and half of the assets. After coming to know about the Last Will, I realised that my father had not done the correct thing. Thereafter the Estate Duty Commissioner claimed that my father died possessed of the entire business. The plaintiff objected to that assessment and contended that he, myself and my father were carrying on the business in partnership under the name of S.V. & Sons and that only a 1/6th share was left by my father. The Income Tax authorities  
 10 assessed my father's estate in respect of the whole business. The plaintiff filed a petition of appeal to the Board of Review caliming that the three of us were carrying the business in partnership and that therefore my father was liable only for a 1/6th share and his contention was upheld by the Board of Review. Even thereafter I carried on the work diligently as before. Both of us exercised equal rights over the management of the business.

No. 28.  
 Defendant's  
 Evidence—  
*Continued*

V. Rajasegaram  
 Examination—  
*Continued*

There was a bank account for this business. I could sign the cheques and the plaintiff also could sign the cheques. The plaintiff could order goods and I also could order goods. I could make  
 20 recoveries and so the plaintiff could.

I remember the time the plaintiff went to India because his health was very bad. When he went to India, he gave a power of attorney to me.

*Q.* Has the power of attorney anything to do with the business?

*A.* No.

*Q.* Why was this given to you?

*A.* To transact business in connection with his lands and also to conduct some cases.

After the plaintiff went to India, I conducted the management  
 30 of the business of S.V. & Sons as before.

*Q.* In regard to the correspondence, have you any occasion to send the power of attorney abroad?

*A.* No, the power of attorney had nothing to do with the business of S.V. & Sons.

I was operating on the account of S.V. & Sons. For that purpose the power of attorney was not required. The plaintiff came from India in November, 1946. From the time of my father's death, the entire profits of the business were put into the common account in the books. Whatever money was required by the plaintiff or by me  
 40 was drawn by both.

*Q.* The plaintiff says that when he came back from India in November, 1946, he discovered that you had withdrawn large sums

No. 28.  
Defendant's  
Evidence—  
Continued

V. Rajasegaram  
Examination—  
Continued

of money from this business during his absence; is it a correct statement?

A. No.

At the time plaintiff left for India, a sum of Rs. 22,077.24 was outstanding from me, which I had drawn from the business of S.V. & Sons. (Mr. Nadesan marks page 368 of M. Ledger for the year 1945 as D38.) At the end of June, 1945, I had drawn a sum of Rs. 22,077.24. That is my total liabilities to the firm at that stage. The plaintiff returned from India in November, 1946. Page 470 of D38 shows that my liability at the end of November, 1946, was 10 Rs. 30,828.37. Of this sum I had incurred a liability of Rs. 7,500/- on 2.10.46. That was incurred in connection with a mortgage. That money was given on a mortgage. During this period of 1½ years the increase in my drawings is only Rs. 8,000/-. It is correct to say that during one of the previous years my average drawing was in the neighbourhood of Rs. 8,000/- to Rs. 10,000/-. It is incorrect to say that I drew large sums of money than previously. 2 or 3 months before the plaintiff went to India, I had drawn about Rs. 30,000/-.

Q. Is it correct to say that the plaintiff found fault with you for drawing large sums of money during his absence? 20

A. No.

In November, 1947, my mother died. After my mother's death, I asked him to adjust the accounts and divide the profits into two. He said that he will do so and postponed it. At that time I told him that I would take the Jaffna branch and he to take the Point Pedro shop subject to accounting. The plaintiff said that he would do it. I had lot of respect for the plaintiff being my elder brother. I did not want to do anything to offend him at that time.

Q. After December, 1947, what was the first thing that aroused your suspicion in respect of the plaintiff? 30

A. In June, 1948, he entered the capital account without my knowledge in the Point Pedro books on 31.12.47.

He had taken 2/3rd to himself of the profits and 1/3rd to me. The total assets was 12 lakhs and he appropriated 6 lakhs as his capital and 3 lakhs as my capital and out of the balance 3 lakhs he took 2 lakhs for himself and 1 lakh for me. I came to know of it only on 20.6.48. That distribution of the assets was not done with my consent. Until 20.6.48 I did not know that the plaintiff had done that.

Q. Right throughout after your father's death, the profits to 40 the Income Tax Department were shown as 2/3rd to the plaintiff and 1/3rd to you?

A. Yes.

Q. How is it that you permitted such a thing ?

A. At the start I objected to it ; but he said that he will look into the accounts and after that till 1947 the profits have not been divided in the books and as long as the profits were not divided in the books, I was satisfied.

Q. Even after the Testamentary case, why did you allow him to show 2/3rd of the profits to himself and 1/3rd to you to the Income Tax Department ?

A. I believed the plaintiff. I did not by that mean I was honouring my father's Last Will.

When I found that this entry was made, I asked him why he had made this and he said that he was harassed by his son and therefore he had to do it. His son is Sundaramoorthy. Thereafter the relationship was not cordial. S.V. and Sons were the sole agents for the " Pound " mark tiles. Therefore it was not possible for this firm to import other brand tiles. There was another brand tiles known as " Queen " brand. I was anxious to import the " Queen " brand tiles into Ceylon. I found that it was not possible to import that brand of tiles in the name of the firm. It was I who arranged to have  
20 it imported in the name of Sundaramoorthy. There was no one else who could be substituted. That was in 1939. At that time Sundaramoorthy was a student at the Jaffna Central College. His name was utilised for the purpose of importing the " Queen " brand tiles. The money was advanced by the company. The money was drawn from the firm. The sales of these tiles took place at the Jaffna branch. The entries were made in Sundaramoorthy's account. He did not take any interest. He was merely a nominee. As a result of the business on " Queen " brand tiles, there was considerable profits. I wanted half of the profits given to me and the other half to the  
30 plaintiff. I told the plaintiff that I wanted half of the profits in that transaction in the latter part of 1946. The plaintiff said that it is in the name of Sundaramoorthy and that he cannot give it. I asked him to give a half share of the profits and he said that he will see to it after the auditors come. Even after the auditors came, that was not settled. In 1950 I imported that particular brand of tiles in the name of Segaram and Sons. When I imported that " Queen " brand tiles in the name of Segaram & Sons there was displeasure between me and the plaintiff, particularly the plaintiff's son Sundaramoorthy. In the latter part of 1937 the plaintiff had accounted the wedding  
40 expenses in the company's account. When I built a house, he debited the expense to my account ; but when the plaintiff built a house, he debited the expenses to the common account. In 1944, I bought a land at Nallur and the plaintiff wanted a half share to be given to his son, but I refused. On one occasion I bought a land and the plaintiff wanted it to be given to his sons and I gave that land to his

No. 28.  
Defendant's  
Evidence—  
Continued

V. Rajasegaram  
Examination—  
Continued

No. 28.  
Defendant's  
Evidence—  
Continued

sons. The plaintiff put up a house at Thondamannar but he has not entered it in any account. Some of the expenses has been entered into the S.V. & Sons accounts.

V. Rajasegaram  
Examination—  
Continued

On 4.12.51, the plaintiff was very ill and had gone to Moolai hospital and his son Sundaramoorthy went to the Jaffna branch and removed the account books and cash. I was not aware of it for one month. In respect of the tiles imported from India, orders were placed from the Jaffna branch as well as from the Point Pedro shop. If an order is placed from the Jaffna branch, sometimes the document is sent to Jaffna and sometimes to Thondamannar. In the same 10 manner if an order is placed from Thondamannar, the document sometimes goes to Jaffna and sometimes to Thondamannar. In the early part of 1952 certain "Pound" mark tiles were ordered from India. When the documents came about January, 1952, I asked the plaintiff's son to bring the money for the document. The document came in respect of the tiles that had come to the Point Pedro shop. The plaintiff's son said that he had no money. The plaintiff was sick at that time and the plaintiff's son was looking after his affairs.

Before 1946 most of the money from the Point Pedro shop was 20 sent to the Jaffna branch. After 1946, Point Pedro shop did not send any money to the Jaffna branch. They took the money only from the Jaffna branch. When the plaintiff's son refused to pay the money, I paid the money and kept the document. The plaintiff sent word to send the document. I said if the amount is paid, I would give the document. For 3 or 4 days, he did not send the money. Later he sent Rs. 5,000/-. Then I gave the document after getting Rs. 5,000/-. On another occasion when a shipment came, I sent money from the Jaffna Branch, but I did not receive the document. When I wrote to the Bank, they replied that the document had been 30 sent to Thondamannar. I asked the plaintiff to send the document and there was correspondence over that. The plaintiff wrote to the Standard Tile and Clay Works Limited not to send tiles to the firm of S. V. & Sons. Then I asked the plaintiff to come to the Jaffna branch and that he should manage the Point Pedro shop. I told him that on 25.5.52. Thereafter I consulted my lawyers and made the application for registration of the business in my name on 7.6.52. I was always willing to look into the profits on the basis of 50% for me. I wanted the accounts to be taken from the time of the death of my father. In respect of the business of S.V. & 40 Sons, whenever I signed letters on behalf of the firm, I subscribed my name as partner. In respect of cheques also I signed as partner. I am aware of people carrying on business in partnership. There is no difference between the business carried on by us in partnership and the other business carried on in partnership. In regard to the



business of S.V. & Sons, it necessitated myself going to India every year or twice a year. I was doing that part of the work.

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Defendant's  
Evidence—  
*Continued*

(Intld.) S. T.,  
*D.J.*,  
3.3.55.

V. Rajasegaram  
Examination—  
*Continued*

Further hearing tomorrow.

(Intld.) S. T.,  
*D.J.*  
3.3.55.

10 D.C., Point Pedro, No. 4323/M.

4.3.55.

Defendant's  
Evidence  
*Continued*

*Trial : (continued).*

Mr. Adv. Soorasangaram with Mr. Adv. Shivapathasunderam instructed by Mr. Nagalingamudaly for plaintiff.

Mr. Adv. S. Nadesan, Q.C., with Mr. Adv. A. V. Kulasingham instructed by Mr. Ratnasingham for defendant.

V. RAJASEKERAM. Recalled. Affirmed.

V. Rajasegaram  
Examination—  
*Continued*

In respect of the business Veeragathipillai & Sons carried on by me and my brother the plaintiff, after my father's death we have been entering into contracts with persons abroad. Documents in  
20 respect of those contracts were signed by me as well as the plaintiff. I have also signed independently of the plaintiff. Similarly apart from me he has signed. I have been signing alone as partner and agent of the firm. In respect of goods dispatched from abroad to Ceylon Banks in Ceylon have been sending me Bills of Exchange. I have myself on behalf of the firm accepted those Bills of Exchange. After my father's death at a certain stage the plaintiff suggested to me that somebody else also may be taken along with the two of us in  
30 partnership. He asked me to include his son Sivakumaran as one of the partners. I was not agreeable to that. I wanted the business to be carried on by the two of us in partnership. I was entitled to a half share of the Palai estate. The Plaintiff was entitled to the other half.

*To Court :*

The land itself was possessed in the proportion of half to half.

*Exam-in-chief (continued).*

The entire profit in respect of the Palai estate was entered in the S. V. & Sons account. We were the owners of schooners viz. Subramaniapiravi and Paron. We had half share each. At the time of my father's death these two schooners were in service.  
40 They were in service till 1944 or so. During that period the income from these schooners were entered in S. Veeragathipillai & Sons

No. 28.  
Defendant's  
Evidence  
Continued

V. Rajasegaram  
Examination—  
Continued

account. The capacity of Subramaniapiravi was 8,000 bags of 160 lbs., and the other schooner was 3,400 bags of 160 lbs. After the Last Will the plaintiff had two schooners of his own. They were Athipootani and Theivanayagi. The capacity of Athipoorani was 2,000 bags and Theivanayagi was 1,000 bags. The income from these also went into S.V. Accounts. Before 1939, I was entitled to about Rs. 4,000/-. This was accounted in S. Veeragathipillai & Sons account.

*To Court :*

I myself was entitled to Rs. 4,000/-.

10

V. Rajasegaram  
Cross-  
examination

*Cross-examined* by Mr. Adv. Soorasangaram.

On 2nd March, 1929, my father gave the plaintiff and me 1/3rd share each of the business. He did not gift that share. In lieu of the part played by us he gave that share. He told us so in March, 1929. At that time the business called Veeragathipillai & Sons owned only the Palai estate and schooners. We carried out the orders of our father. In March, 1929, the assets of the business was about three or four lakhs. I know that from the amount of business carried on. This is my inference. In March, 1929, there were no liabilities. I have the books with me. The capital of the 20 business in March, 1929, would be this amount. That is my estimate.

*To Court :*

I am estimating from the pawnbroking business and from the loans granted.

*Cross-examined (continued).*

On the date of death of my father the assets of the business was about 6 lakhs. I say that according to books. The liabilities would have been a few thousand rupees.

*To Court :*

Those liabilities were incurred on the funeral expenses of my 30 father.

*Cross-examined (continued).*

I say that from the books.

Q. The entire assets of the business form the capital of the business ?

A. Yes.

The assets of this business between 1929 and 1933 included income from lands and schooners. Between 1929 and 1933 my father, the plaintiff, and I have been drawing moneys from the business. The moneys drawn were entered in the common S.V. accounts. The am- 40 ounts drawn by the three of us were not debited to the person who drew

the amount. There was no individual account. The entire income was credited to S.V. accounts and all the moneys which were drawn were debited to the S.V. accounts. There was such an amount of trust between the father and the children. The plaintiff was given a house of his own. That was in 1927 or 1928. I stayed where my father was staying. Between 1929 and 1933 the expenses of the household of the plaintiff, mine and that of my father were met from the S.V. accounts.

No. 28.

Defendant's  
Evidence—  
ContinuedV. Rajasekaram  
Cross-  
examination—  
Continued

Q. That practice continued even after 1933 ?

10 A. From 1929 to 1933 I was in Jaffna.

At no period of time could either the plaintiff or I say how much was to the credit of either of us by way of profits.

I was under the impression that I was entitled to half share of the profits at the end of each year.

Q. After your father's death the plaintiff as your elder brother was really supervising the business ?

A. I was supervising the business in Jaffna, Point Pedro, Kayts and Kankasanturai.

I deny that the plaintiff was in the habit of going to India to  
20 meet the traders till 1925. I always used to go to India. The plaintiff did not go to India in 1933. In 1933 he went to India to meet Dr. Chivian. In 1939 the plaintiff did not go to India. He went to Mathanapalli, Madras and Palaikadu for treatment. I do not know when he went to Palaikadu. He went to Madras in 1943 or 1944. He went to Palaikadu in 1939 or 1940. I am not quite sure. He went to Mathanapalli in 1945. I was actually in charge of the business in Jaffna and Point Pedro even after 1933. He was at Point Pedro. He used to go once a week or once in 2 weeks. If he goes once he will be sick for 10 days. Till 1950, I was in charge of the Point Pedro  
30 business. The books were kept at the plaintiff's house. The accounts were looked into by the plaintiff at Thondamannar. The books were not in the office at Point Pedro. The clerks used to go to the house of the plaintiff and copy the accounts. (Shown Account Book B2—P43) This is a Ledger kept at Thondaimannar in the plaintiff's house. P43 starts from May, 1934. I have seen this book before. At page 72 under date 31.3.35 accounts relating to S.V. is entered. The accounts from April, 1935 to December *i.e.* up to my father's death are entered here. At page 135 the accounts from 8th December, 1935 to 31st March, 1934, are entered.

40 The accounts of S. Veeragathipillai & Sons for the period 8.12.33 till 31.3.34 were actually entered in the books on 31.3.35. I came to know about the Last Will of my father after these entries were made *i.e.* after 31.3.35.

No. 28.  
Defendant's  
Evidence—  
Continued

*To Court :*

My mother was living with me throughout. My mother does not know anything. She only knows to put her thumb impression.

V. Rajasegaram  
Cross-  
examination—  
Continued

*Cross-examined (continued).*

Neither the plaintiff nor my mother told me about the Last Will before that. My brother applied for probate of the Last Will of my father in D.C. Kandy case No. 5241 Testamentary. I gave my consent to probate being granted to my brothers. (Shown P24) This consent paper was given by me on 19.5.34. At the time I gave this consent paper I was aware of the Last Will. 10

*Q.* How did you become aware of the Last Will ?

*A.* I objected to his allotting 2/3rd share of the profits to himself and 1/3rd share to me. That was in March, 1934.

*To Court :*

The allocation in the proportion of 2/3rd share to the plaintiff and 1/3rd share to me was actually in 1934 after my father's death, for the Income Tax year ending March, 1934. That was the first time allocation of 2/3rd share to the plaintiff and 1/3rd share to me was made. I did not at that time come to know of the existence of the Will. 20

*Cross-examined (continued).*

In May, 1934, I gave the consent. I did not state earlier that the accounts for the period from the death of my father till March, 1934, were entered on 31.3.35. I said that they were entered on 31.3.34. Those accounts were actually entered on 31.3.34. I stated earlier that the accounts at page 135 in P43 were entered on 31.3.35. That is correct. The accounts were looked into in 1934. It was in 1934, that I objected to his allotting 2/3rd share of the profits to himself and 1/3rd share to me. He agreed to give me half share of the profits. According to P43 the accounts relating to the period 8.12.33 to 31.3.34 30 were entered in P43 on 31.3.35.

*To Court :*

The accounts were entered up long after it was divided.

*Cross-examined (continued).*

When the accounts were looked into we had the discussion. I first came to know about the existence of the Last Will about 2 or 3 months after looking into the accounts. We looked into the accounts in March or April, 1934. I am clear about that. He told me at that time about it. The Point Pedro books were written on 31.3.35 and

not in 1934. On the day of the looking into the accounts he told me about the Last Will by my father and that the profits must be entered up accordingly. Then only I had the discussion. Till then I did not know. My brother promised to give me half share of the profits and to take for himself half share of the profits. He promised then to give half share of all profits and assets of the business.

*To Court :*

From the time I became aware of the existence of the Will I insisted upon my brother the plaintiff that the Will should not be  
10 acted upon.

*Cross-examined (continued).*

(Shown P36) This is a deed of declaration signed by me, the plaintiff, and my father on 14.10.33. It was attested by the late Mr. S. Subramaniam, Proctor and Justice of the Peace and Unofficial Magistrate. He came to the house where my father was residing to have this deed attested. I was residing in Jaffna at that time. I used to stay in Jaffna from 1924 up to 1933. Now and then I used to come here.

Q. You were informed by your father that he was executing  
20 a deed ?

A. He only asked me to come.

I do not know at what time we signed the deed P36. The Notary was there. M. Karthigesoe and V. Kanapathipillai were present. I know them very well. (Shown Last Will P21) This Last Will was attested by Mr. S. Subramaniam, the same Notary and the same witnesses have signed. According to P21 it was executed at Thondamannar on 14.10.33. The number of P36 is 22276 and the number of the Last Will is 22277. They were not executed at the same time.

*To Court :*

30 Q. Do you wish the Court to draw the inference or to understand that this Will was executed in such a way as to keep you in the dark ?

A. I was not aware of this at that time.

*Cross-examined (continued).*

The Notary used to come there regularly. They might have purposely sent me out. My father was not well at that time. He was affectionate towards me. My father says in the Last Will that his children Dr. Duraisamy, and Suppiah had been educated and given other properties. He also refers to his daughters who had been given dowries. There was displeasure over this Last Will between my  
40 elder brother and the plaintiff also. I had displeasure with the plaintiff and I have settled it. He promised to give me half.

No. 28.  
Defendant's  
Evidence—  
Continued

V. Rajasegaram  
Cross-  
examination—  
Continued

No. 28.  
Defendant's  
Evidence—  
Continued

V. Rajasegaram  
Cross-  
examination—  
Continued

I have read this Last Will. (Clause 9 read.) It is correct. At that time my father was sick. The plaintiff as executor is also directed to pay Rs. 5,000/- to my mother. I knew all about this Last Will when looking into the accounts. That would be about April, 1934. (Shown P39) This is a receipt granted by my mother to the plaintiff acknowledging receipt of a sum of Rs. 5,000/- referred to in the Last Will P21. The first attesting witness is Dr. Duraisamy my brother and the 2nd attesting witness is myself. No money was paid on this. This was given to be filed of record in a case. In P39 the Last Will P21 is referred to. Dr. Duraisamy is the 2nd elder brother. Suppiah is the eldest 10 brother. I signed because I was asked to sign.

(Shown P30.) This is a receipt granted by my mother to the plaintiff dated 26.2.34. It is the correct date. On that date my mother fixed her thumb impression on the stamp of the document. I am the first attesting witness. The 2nd attesting witness is M. Kirthigesoe, a Kanakapullai at the Point Pedro branch. He was not the Head Master of the School at Thondamannar.

(Shown P21.) The first attesting witness to P21 is M. Karthigesoe. He is from Atchuvely. I signed P30 as it had to be filed in the Testamentary case and as the plaintiff wanted it to be filed there. 20 The Plaintiff told me that he wanted to file it in my father's testamentary case which was going on at that time. P30 refers to the Last Will P21.

Q. You knew at least on 26.2.34 that this Last Will P21 had been executed by your father and mother?

A. I did not look into it at that time. He said he wanted a receipt from my mother to file in the Testamentary case.

I knew what the Testamentary case was about. I knew that the plaintiff had sought to prove a Last Will left by my father. He told me that he wanted a receipt. He obtained the thumb mark. I wrote 30 that it was her signature. On 26.2.34 I knew that a Testamentary case was going on. I also knew that my father had left behind a Last Will.

I did not look into the contents of the Last Will. In that Testamentary case the Last Will of my father was being proved. I did not know about the Last Will. When we looked into the accounts only I came to know about the Last Will. I merely signed P30. I knew that he got the thumb marks of my mother. When I witnessed P30 I did not know that there was a Last Will. I did not look into the document. He obtained the thumb marks and asked me to write 40 that it was her signature and below that I signed. Even on that day when I signed P30 I did not know that my father left behind a Last Will. I did not look into the receipt. My brother filed application for probate (P25) on 19th April, 1934 in the District Court, Kandy. I

was the 1st respondent in that case. My father died in Kandy. I granted the minute of consent P24 consenting to probate being granted to my brother the plaintiff.

No. 28.  
Defendant's  
Evidence—  
Continued

Q. At that stage when you granted P24 you had no objection to the Last Will being given effect?

V. Rajasegaram  
Cross-  
examination—  
Continued

A. Yes, as he had already orally promised to give me half share. Later on the plaintiff filed final account in that case. I granted a minute of consent agreeing to the final account being passed. (Shown P28). It is dated 23.8.40. My signature is identified by Mr. K.  
10 Ratnasingham, Proctor.

Final account was passed in that case on the footing that the plaintiff was entitled to 1/6 share. He had already promised to give me half share. So I did not file any objection to it.

Q. Even after the final account was passed he went on promising to give you a half share of the business?

A. He had already promised earlier.

Thereafter I asked for a half share of the business in the latter part of 1946 after the death of my mother. In the latter part of 1946, I told him that we would divide the business and to give me half and  
20 I wanted to take the Jaffna business. He replied that he would look into the accounts and settle the matter. In 1947 after my asking, he entered in the books of the Point Pedro 31st December, 1947, which was known to me only on 20th June, 1948. I protested. I protest even now. I deny that I was satisfied with the division in 1948. I wanted half share. I wanted the entire business to be divided in the proportion of half to half. There was no liability in respect of this business at any stage. Once there was a loss on account of the sailing vessels, but I do not think that there was any loss in respect of the business. It did not affect the business much. Taking the business  
30 as a whole, there was no loss at all for any particular period.

*To Court:*

Q. Did you not consider it unsafe that you should give consent papers consenting to final account?

A. We were doing the business in trust. I had implicit trust in my brother.

Q. Your brother says that all this talk is absolutely untrue?

A. Only after entering the capital account he is angry with me. That is why he has taken a change in his attitude.

*Cross-examination (continued).*

40 I was not a party to the 9 lakhs being capitalised in 1948. I would have gladly agreed to divide the business on the basis of 50 : 50. That is to divide the entire assets into 2 parts, one part to belong to

No. 28.  
Defendant's  
Evidence—  
Continued

V. Rajasegaram  
Cross-  
examination—  
Continued

me and the other to the plaintiff. We could have continued the business after that in that proportion. I asked him to do so and he said that he would call the auditors and that we could decide the matter. Then the auditors were called. The auditors came in 1949. They came two or 3 times. They did not come for the audit of the accounts. They came specially for this on 2 or 3 occasions. I had to go and fetch them. On the second occasion I had to write to them and get them down. Sambamoorthy & Sons are the auditors. Kumarasamy is the present proprietor of the firm Sambamoorthy & Sons. He does not know anything about this business. 10 (Shown P11A.) I signed this form and sent this document to the Controller of Imports. It is dated 28th April, 1949. This was entered by the plaintiff's son. I know English. I signed the document in English after reading through the document. I answered the information contained under cage 10(3) in P11A, based on the accounts which were entered in June, 1948. Those figures are in my handwriting. We have to put that to fall in line with the Income Tax return. My statement tallies with the Point Pedro account books. When I signed P11A I acted on the footing of the account books of the Point Pedro branch kept in December, 1947, mentioning 6 lakhs 20 as the capital of the plaintiff and 3 lakhs as my capital, but I did not accept that position. I had to put that because of the Income Tax return for the year ending 1946, and for no other reason. Enclosed to P11A is the Income Tax return for 1946 (P11B). That is for the year ending 31st December, 1946. We stated the capital as per the income tax return. This is an income tax return for 1946. We sent this in 1949. This was written by the plaintiff's son in his own handwriting.

Q. Why was it stated in cage 10(3) of P11A that the capital belonging to the plaintiff was 6 lakhs and the capital belonging to 30 you as 3 lakhs ?

A. In 1949 according to the Income Tax return the capital was 6 lakhs belonging to the plaintiff and 3 lakhs belonging to me. 1946 must have been a mistake. It was entered by the plaintiff's son.

The amounts 6 lakhs and 3 lakhs are in my handwriting. Above that is the income tax return for the year 1946. They were written by the plaintiff's son. At that time we did not capitalise the accounts. I did not capitalise the assets. Instead of 1947 he must have put 1946 by some mistake. I also stated in cage 5 of P11A that this business was being carried on for the last 50 years, as it was done by 40 my father earlier and it was continued. That is a correct statement.

Q. In cage 9 (5) in P11A you say in answer to the question "What is the amount of capital invested at present in your business" you say 1,018,251.32 ?

A. I must look into the original.



(Shown the original.) This has been written by the plaintiff's son. All these particulars were had from the Income Tax return.

Q. That figure tallies with the entries made in the Point Pedro Books in June, 1948?

A. I have not seen that.

(Shown P35.) I wrote this letter. (P35) read. In this I say that 1/3rd share of a sum of Rs. 1,000/- which the plaintiff has spent in connection with some case against one Nagalingam should be credited to my account. This amount has not been accounted in the  
10 books. He had spent more than Rs. 50,000/- in a school. He has appropriated the entire profits from Queen brand tiles. He has bought lands. All these have not been included in the accounts. I agree to have 1/3rd share if all these are taken into account. The auditors came about 2 or 3 times but they could not do anything. In P35 I referred to 2 amounts, viz. the amount spent by the plaintiff in a case against Nagalingam and the fees paid to the auditors. The first amount I say was that a sum of Rs. 1,000/- at least must have been spent by the plaintiff in connection with the case and that that  
20 auditors to credit in the books 1/3rd share of Rs. 1,000/- on the footing that a sum of Rs. 1,000/- had been spent by my brother the plaintiff in the case he had with Nagalingam, out of the S.V. accounts.

Q. By that you admit that your brother is entitled to 2/3rd ?

A. Yes.

In regard to the 2nd amount which I referred to therein, viz. the fees paid to Sambamoorthy & Sons the books of accounts will show the amount paid by me to the auditors. I wanted the auditors to debit the plaintiff with 2/3rd of that amount.

*To Court :*

30 I am agreeable to a division of the business on the basis that the plaintiff is entitled to 2/3rd and I to 1/3rd from the time of the death of my father provided all the moneys that he has not included in the account books are brought in. There are no accounts for that.

*Cross-examination (continued):*

The plaintiff has drawn from the business of S. Veeragathipillai & Sons without entering in the books nearly 2 lakhs from 1933 to 1947. It is more than 2 lakhs. The plaintiff has been in the habit of drawing moneys without having those moneys entered to his debit in the books. I have never drawn. Till 1947 my brother was in  
40 charge of the accounts, and money. That is only in regard to the Point Pedro branch. The plaintiff as well as I were in charge of the Jaffna branch. The plaintiff whenever he came there he looked

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Defendant's  
Evidence  
*Continued--*

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*Continued*

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Continued

into the accouts. Even during my father's lifetime the plaintiff was ill. The amount spent on the school is Rs. 60,000/- or so. That amount represents the amount spent from 1933. That school was built in 1918. That is the English school. After my father's death the vernacular school and the teachers' quarters were built. There are 2 schools for the Veeragathipillai family with residential quarters for teachers. I did not tell the auditors Sambamoorthy & Sons that I was agreeable to have the accounts looked into on the footing that the plaintiff was entitled to 2/3rd and I to 1/3rd provided I was given in addition a sum of Rs. 30,000/- . The plaintiff wanted 10 to give me Rs. 30,000/- but I refused.

Q. " Koodduviyaparam " means business owned by more than one person?

A. Yes.

Alagasunderam is the Kanakapullai of the Jaffna shop. He gave evidence for the plaintiff. He is being paid his salary by me even now.

He has been the Kanakapullai from 1927 or 1928. Up to date he is the Kanakapullai. He is quite familiar with the business. I have the books of the Jaffna shop. The plaintiff told me that he 20 wanted to look into the books after he wrote to the Bank and to the Tile Company. I refused to give the books. I told him that I was going to register the business in my name. Before that I asked for the Point Pedro books which he refused to give. I asked him to show the Point Pedro books in 1951, when he was sick at Moolai. I sent for the books and his son refused to give the books. On the following day I got the books through the Kanakapullai. He had debited Rs. 25,000/- to his account on the day previous to his entering the hospital. I asked for the other books of the firm at Point Pedro and his son refused to give the other books. I retained the books. 30 When the plaintiff recovered from his illness and came to Thondamannar he called for the books and I told him that I would give this book only after perusal of the other books. Thereafter he brought Kanapathipillai and Mr. Esurapadham, Proctor, to get the books. I insisted that I would not give the book before I perused the Point Pedro books. I insisted that the books should be kept at Point Pedro or in Jaffna and not at Thondamannar as both of us were partners. This was in the latter part of December, 1951. Definite ill-feelings arose between us in 1947. In December, 1951, I asked for the Point Pedro books and the books were not given. I have not 40 looked into the Point Pedro books after 1951. I asked for it several times. He refused to give it. In June, 1952, I wanted to register the business in my name. The plaintiff asked for an inspection of the Jaffna books on the 26th or 27th June, 1952. Before that his sons were entering the books. I told my lawyers that the plaintiff refused to give me the Point Pedro books. I did not produce the

Point Pedro books in any case. I did not produce them in 1952. Before that I had produced the books. The displeasure started in 1947. The feelings were not cordial in 1951. Before that I used to go to his house in the mornings. The ill-feelings started as a result of my request to divide the business, the plaintiff to own half and I the other half. The plaintiff postponed. In June, 1949, entry was made in the books of the Point Pedro branch that 6 lakhs was capital belonging to the plaintiff and 3 lakhs as the capital belonging to me as at the end of December, 1947.

No. 28.  
Defendant's  
Evidence—  
*Continued*

V. Rajasegaram  
Cross-  
examination—  
*Continued*

10 Q. What about the Jaffna books ?

A. On 19th June, 1948, in the Jaffna books.

That was not done by me. The Kanakapullai goes to Point Pedro and checks up the entries and he makes the entries at Point Pedro. He goes to the house of the plaintiff. I saw the Jaffna books on 20th June, and asked the plaintiff. He said that his sons were worrying him and that he would adjust. I did not believe his statement. He promised to call the auditors but failed to do so. On my representations the auditors came. For the year 1947 accounts were sent to the Income Tax Department. The plaintiff and I in-  
20 structed the auditors to prepare the accounts. Accounts were prepared for the year 1947 on the footing that I was entitled to 1/3rd share of the business and the plaintiff to 2/3rd share of the business. I objected to the statements but the auditors and the plaintiff asked me to allow the statements to go and that they would look into it later.

The income tax on my personal account was on the footing that I was entitled to 1/3rd. The accounts were correct according to the auditors but not according to me. I was the man running the business. The statements for the years 1948, 1949, and 1950 were on the same basis. In 1951, the returns were not accounted. I objected to the  
30 1951 accounts and they are still not entered up. When the statements P 14, P15 and P16 were prepared by the auditors I told him. I agreed with the auditors that the statements should be sent on the same basis up to 1950. For 1951 and 1952, I objected.

Q. You told Mr. Kumarasamy who prepared these statements P14, P15 and P16 that you object to the accounts being prepared in that manner ?

A. I objected to the statement sent in 1952, saying that would give me shares in Point Pedro branch.

Q. In respect of the statement submitted by the auditors for  
40 1952 you objected to it because you were given a share from the Point Pedro branch ?

A. I was not agreeable unless the shares were divided on the basis of 50 : 50. Until the matter was adjusted I insisted on carrying on the Jaffna branch and the defendant to carry on the Point Pedro

No. 28.  
Defendant's  
Evidence—  
Continued

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examination—  
Continued

branch. Clerks of Mr. Kumarasamy used to come here. I have written to Mr. Kumarasamy accordingly in 1951 or 1952. It must have been in 1953. I objected to the inclusion of the Point Pedro accounts into the entire income tax return as I did not want the statement to go until these matters were settled.

Q. At that time you acted on the footing that you were the sole owner of the Jaffna shop?

A. I told him then and there that I should be left with the Jaffna business.

I told him in 1947 itself. I became the proprietor of the Jaffna 10 shop on 7th June, 1952. I became the sole proprietor. I told him so and I registered the business.

*To Court :*

Q. Did he consent?

A. He did not say anything.

*Cross-examination (continued).*

It was my business to inform him. He had written to the Tiles Company not to send tiles to S.V. & Sons. He had written to the Post Office not to deliver letters. He chased away my children from going to the Jaffna shop for tuition. I was offended with the conduct 20 of the plaintiff. Before 25th May, all these letters had come to me. I thought of registering the Jaffna shop in my name on 25th May, 1952, as the sole proprietor. I decided so as he had prevented the Companies which were exporting goods to S. V. & Sons from sending them direct there. He started importing them in his name. Those were the reasons which prompted me to decide to register the business in my name. On 24th May, he chased my children from coming to the Jaffna premises for tuition.

*To Court :*

Q. Very unusual?

30

A. It is very unusual.

*Cross-examination (continued).*

Even now my children talk to the plaintiff and they visit him. There was no other reason for my decision. I consulted my lawyers for the purpose of the registration to know what procedure I had to adopt. After consultation with my lawyers I submitted an application. (Shown P4A.) This is the original application I made. I signed this application. Annexed to P4A as part of it is an affidavit affirmed to by me. The statements contained in P4A are correct. P4A is dated 7th June, 1952. By P4A I notified a change that the 40 plaintiff had ceased to be a partner. The plaintiff ceased to be a

partner on 6th June, 1952, of the business called Veeragathipillai & Sons. I told him that he is no more a partner. I told him that he had no right in the Jaffna business and that I am going to conduct it alone and that the partnership had ceased. That was on 25th May, 1952. I told him orally.

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Defendant's  
Evidence—  
Continued

Q. According to you the plaintiff ceased to be a partner on 25th May, 1952, itself ?

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Continued

A. I wanted to consult my lawyers in regard to this matter and that is why I waited till 6th.

10 I told him that he would cease to be a partner after one week. On 25th May, 1952, I told the plaintiff that he would cease to be a partner of the firm Veeragathipillai & Sons after a week's time. There was no condition. He kept quiet. On the day I made this application, *i.e.* on 7th June, 1952, the business called Veeragathipillai & Sons was doing business at Point Pedro and at Jaffna. P4A was a notification of a change. Instead of there being 2 partners in the business there was going to be one sole proprietor. When P4A was registered I became the proprietor of the entire business of Veeragathipillai & Sons carried on in Jaffna. In the registration it was  
20 mentioned as Jaffna and I mentioned it as such. Thereafter by P6 I notified another change. I wanted an amendment in cage 3 with the addition of the words "with branches at Tondamannar and Point Pedro". When I submitted P6 there was a branch at Point Pedro. It is only after the Post Office intimated that unless Tondaimannar was inserted no letters addressed to the firm would be delivered, I mentioned it.

Q. Had you a branch at Point Pedro and one at Thondaimannar for this business ?

A. There was no branch at Thondaimannar, but I started a  
30 branch at my house.

I used to write accounts there and transact business from there. At Point Pedro I had a branch at my godown. That is different from the shop which the plaintiff is carrying. It is in my own building.

Q. From 31st October, 1952, there are 2 businesses in Point Pedro carried on under the name of S. Veeragathipillai & Sons ?

A. The plaintiff is carrying on the business in his name. From the time I registered the plaintiff ceased to carry on the business called "Veeragathipillai & Sons" at Point Pedro. On the date I  
40 submitted P6 we did not carry on 2 business by the same name. Before I registered he was carrying on as V. Rajaratnam. He ceased to carry on the business on 6th June in the name of S. Veeragathipillai & Sons. I became the sole proprietor of the business Veeragathipillai

No. 28.  
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& Sons carried on at Jaffna as well as at Point Pedro. From 6th June, I am carrying on the business of S. Veeragathipillai & Sons at Point Pedro also.

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Cross-  
examination—  
Continued

Q. 31.10.52 is the date given as the date of the change ?

A. I asked that the letters be delivered there. They refused to do so. The Post Office prevented the letters from being delivered to any one of us.

The Post Office was not agreeable to send the letters. I had to truthfully state in my application to the Registrar of Business Names the date of change. I asked for the letters addressed to the Company 10 at Point Pedro branch. The Post Office refused to give the letters unless a certificate was shown. So I had to amend it.

Q. The date 31.10.52 is not correct ?

A. I had not received letters up to that time. I have only given the date on which they refused. The date of change is the date of refusal to give the letters to me. It is only after registering the Point Pedro branch that they delivered the letters addressed to Point Pedro. Therefore I gave the date 31.10.52. The date 31.10.52 is also correct. I had started the business at Point Pedro under the name of S. Veeragathipillai & Sons before 31.10.52. The books are 20 with me. I have the books of my business Veeragathipillai & Sons which I carry on at Point Pedro. I am the proprietor of that business also.

(Intld.) S. T.,  
District Judge,  
4.3.55.

Adjourned for lunch.

(Intld.) S. T.,  
District Judge,  
4.3.55. 30

Resumed after lunch.

(Intld.) S. T.,  
District Judge,  
4.3.55.

V. RAJASEKERAM. Affirmed. Recalled.

*Cross-examination (continued).*

I filed answer in this case on 3rd October, 1952. In paragraph 11 of that answer I say that "in or about 1947 it was agreed between the plaintiff and the defendant that the business in Jaffna should be taken over by defendant (*i.e.* I) and that the plaintiff should manage 40 the business in Point Pedro." That is correct. That agreement was in the early part of 1947.

Q. You further say in paragraph 11 of the answer that the plaintiff transferred to you his interests, if any, in the business at Jaffna ?

A. We agreed that I should take over the Jaffna business and that he should take over the Point Pedro business after looking into the accounts.

Q. You say in paragraph 11 of the answer that as a result of the agreement in the early part of 1947 with the plaintiff, the plaintiff transferred to you his interests in Jaffna ?

10 A. That is not correct.

Q. You further stated that " the defendant states that in consequence of the said agreement the defendant became the sole owner of the business in Jaffna " ?

A. This answer was amended.

Q. In pursuance of the agreement in the early part of 1947 between you and the plaintiff you became the sole owner of the Jaffna business ?

A. We agreed that we should look into the accounts and divide the business.

20 As what was stated in the answer was not correct we amended the answer.

Q. When did you discover that ?

A. I mentioned the facts to the lawyers and the lawyers found it.

I do not know when they found it out. I filed an amended answer on 20.10.52. In paragraph 14 of that answer I say " that in or about 1947 it was agreed between the plaintiff and the defendant that the business in Jaffna should be taken over by the defendant and the plaintiff should take over the business in Point Pedro and that in consequence of the said agreements the defendant became the sole  
30 owner of the business in Jaffna," after accounts were looked into. I told my counsel " after accounts were looked into " but they have omitted to mention that. In the first two answers I told the lawyers that I told the plaintiff that on 25th May, 1952, I told the plaintiff that I would terminate the partnership. I filed amended answer dated 13.2.53. In that answer too the averments are the same in this respect as in the earlier answers. Thereafter the case went to trial on 25.6.53. Issues were framed on that day. Trial was had thereafter on 4.11.53 and the subsequent dates. On 11.1.54 certain  
40 new issues were suggested by my counsel and the case was re-fixed for hearing on 15.3.54. Thereafter I amended the answer again and filed the 4th answer in the case dated 2nd March, 1954. In that answer I say " in or about December, 1947, it was agreed between the plaintiff and the defendant that the plaintiff should take over the

No. 28.

Defendant's  
Evidence—  
Continued

V. Rajasegaram  
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Defendant's  
Evidence—  
Continued

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examination—  
Continued

Point Pedro business and the defendant the Jaffna business after accounts were looked into and the assets of the two business separated and divided." I did not make this allegation of the separation of the business after accounts were looked into in the earlier answers. That may have been omitted by the lawyers. For the first time in the answer of 2nd March, 1954, I allege that I took over the Jaffna business and the defendant the Point Pedro business after accounts were looked into. I also for the first time alleged that "there was considerable delay in looking into accounts" I gave notice to the plaintiff on or about 25th May, 1952. On giving notice on 25.5.52 10 I did not become the sole proprietor.

I became the sole proprietor on 7.6.52 after the registration.

Q. You did not allege even in the 4th answer that you gave one week's time ?

A. I gave the instructions to my lawyers and they may have omitted.

I gave the plaintiff one week's time as I told him that I would register the business and take over. I told him so on 25th May, 1952. Accounts were not looked into. Even now accounts have not been looked into. The children of the plaintiff obstructed me in carrying 20 on the business. The children of the plaintiff would not give the books and they used to keep the money separately. I have employees in the shop. Alagasunderam and others are there. The two sons of the plaintiff were also working there. Alagasunderam would have become aware if the children of the plaintiff placed any obstruction. He knows all these. He has given evidence in the case. There are reasons for him not to speak the truth. His daughter is working as a teacher in the school belonging to the plaintiff. Alagasunderam is obliged to both of us. He has not given false evidence. He has concealed some facts. He knew that money was taken by the plain- 30 tiff's son but he did not want to disclose it. Plaintiff's brother-in-law is also in charge of it. He concealed money in their own safe. The plaintiff's son had committed theft in respect of this business. That was in December, 1951, on the day when the plaintiff went to Moolay. A sum of about Rs. 6,400/- was involved. It was deducted on account of the building which was put up. Moneys were spent on a building. From 1947 every year in the books kept by Veeragathipillai & Sons profits have been divided in the proportion of 2/3rd to the plaintiff and one-third to me. I sent a separate return of my income from Veeragathipillai & Sons. It is only after 1946 that separate state- 40 ments were sent. From 1933 to 1946 there was no separate statement. My income from the business is shown separately as my income. The plaintiff's income was also shown separately. In his statement 2/3rd was shown and similarly in my return 1/3rd was shown. In July, 1945, the plaintiff desired to go to India for treatment.



Q. At that time the only business he carried on was this business Veeragathipillai & Sons ?

A. He had an interest in his son's business. He was a dealer in tiles and other miscellaneous articles.

Q. The business referred to in P32 is this business ?

Mr. Advocate Nadesan objects to this question as it is a general power of Attorney.

*Cross-examination (continued).*

At that time the plaintiff had lands in his name. The plaintiff  
 10 had no other business in his name. I sent P32 to the Chartered Bank. The power of attorney was registered in the books of that Bank. There was a fixed deposit in the name of the plaintiff in the Chartered Bank. We could not draw that money as it was a fixed deposit. He sent the power of attorney to draw the amount which was in his name. (Shown D38.) At pages 325, 351, 389 and 399 of this book appear the accounts of the Chartered Bank. Moneys belonging to Veeragathipillai & Sons were deposited in the Chartered Bank. This relates to current account. This Power of Attorney had nothing  
 20 to do with the business. The plaintiff went to India in the latter part of 1945. From the time he went over to India I was in sole charge of the business called Veeragathipillai & Sons. Although I was in sole charge he also used to draw cheques. The plaintiff operated on the account in the Indian Bank. Interest in the Indian Bank was more. We had an account in the Indian Bank. The plaintiff when he was in India operated on that account. I was in full charge of the entire business of Veeragathipillai & Sons from the latter part of 1945. He returned in November, 1946.

Q. You continued to be in charge of Veeragathipillai & Sons even after his return ?

30 A. Even the other business I was in charge.

I continued to be in full charge till 6.6.52. On 6.6.52 I became the sole proprietor. (Shown ledger J—P44.) My account in this book appears at page 309 and it is carried over to Ledger K (P45). My account appears in P45 at page 355 and is carried over to Ledger M(D28) and is carried over to page 277 and is continued at page 368 from there to page 470. It is carried forward to Ledger " O " and my accounts appear in Ledger " O " (P46) at page 125. It is carried over to page 166, and is continued at pages 212, 243, 253, 260, 282, 293, 305, 330, 372, 424, 471 and also 471. This account is continued  
 40 in ledger P, page 59 (P19) and at page 105. The last entry is at page 105 of P19 and is dated 29.12.51. The Ledger has not been posted thereafter, as there was trouble relating to the profits. From 6.6.52 I am the sole proprietor of the Jaffna shop. This case has come

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 Defendant's  
 Evidence—  
 Continued

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No. 28.  
Defendant's  
Evidence—  
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V. Rajasegaram  
Cross-  
examination—  
Continued

up and the posting of the ledger is postponed till a decision of this case. These books which I have produced, viz. P44, P45, D28, P46 and P19 show the amounts which I have been drawing from time to time from this business. I deny that during 1946 and thereafter that I have been drawing large sums of money from the business. In 1946 I drew about Rs. 8,000/-.

*Q.* Did you in 1947 and thereafter draw larger amounts ?

*A.* I bought a land in 1947. The plaintiff asked for this land and I refused. I utilised a sum of Rs. 25,000/- to put up a building in the name of S.V. account. The amount he spent in putting up a building he has not accounted. I wanted the sum of Rs. 25,000/- to be written in the S.V. account. I have paid for a share in the building he put in his land. I stood a share of his medical expenses which came to about Rs. 15,000/-. I also gave a share for his son's wedding amounting to about Rs. 8,000/-. He put up buildings and I had to pay a share. He spent about Rs. 30,000/- to Rs. 40,000/-. That has been written in the common account. Certain items have not been written. (Shown P18.) This is a trial balance for the period ending on 30th November, 1951. The total drawings by me according to P18 on that date amounted to Rs. 213,007·30½. That is correct. 20

*Q.* The total drawings of the plaintiff amounted to Rs. 29,595·98?

*A.* This refers to the amount in Jaffna.

All my personal accounts are in the Jaffna books. The plaintiff's accounts are in the Point Pedro books. The figures shown here are the figures taken from the Jaffna books.

*Q.* This is trial balance till the end of November, 1951, of the entire business ?

*A.* The plaintiff's main account is in the Point Pedro books. His accounts are transferred to the Point Pedro books at the end of the year. Rs. 29,595·98 are his drawings for that particular year. 30

*Q.* You have taken during the year 1951 Rs. 213,007·30½ ?

*A.* That represents the whole amount from 1939.

So far as my account is concerned that amount represents the debit balance from the time the business started. So far as the plaintiff is concerned it only represents the year's drawings only in Jaffna.

I did not instruct P18 to be sent to the plaintiff. When the Kanakapulle goes to Point Pedro he takes it. I agree that the Kanakapulle sent P18. (Shown P16.) This is a financial statement of Veeragathipillai & Sons for the year ending 31st December, 1950. 40 This was prepared by the auditors Sambamoorthy & Co. and sent to the Income Tax Department, P16 contains the accounts of both the Jaffna shop and the Point Pedro shop. P18 at page 4 shows

that Rs. 142,330·30½ was the debit balance on my account on 31st December, 1950. That is correct.

Q. The plaintiff has not drawn from the Jaffna shop during that year ?

A. It has been transferred to Point Pedro.

The Point Pedro accounts are shown in P16 at pages 9, 10 and 11. At page 10, it is shown that a sum of 8 lakhs odd had been transferred from the Point Pedro branch to the Jaffna. At page 11 the drawings by the plaintiff are given. The total drawings by the plaintiff is given as 1,797·70. He has accounted this amount in his name and the amounts in his son's name. In the Jaffna branch his son's accounts appear. He has taken from the S.V. branch from the Point Pedro business and invested in mortgages in favour of Sunderamoorthy. I am definite about it. He bought the land for Rs. 15,000/-. I started the business Segaram & Sons in 1950. I registered that business in 1950 January or February. The capital used for that business was money drawn from Veeragathipillai & Sons account and my personal account. I am the sole proprietor of that business. All the moneys I have invested there. The capital of that business is about 1 lakh. There are no assets. There are no liabilities. Tiles are the stock-in-trade of that business. I run that business called Segaram & Sons in a land adjoining the business Veeragathipillai & Sons. That land was partitioned and that particular share was allotted to me. Segaram & Sons deal in Queen brand tiles and Veeragathipillai & Sons deal in Pound Mark tiles. I do the import business. On receipt of documents moneys are paid. In the case of Segaram & Sons money need not be sent in advance. Not much money was sent from the Point Pedro shop to the Jaffna shop in 1947. I cannot say how much was sent. (Shown P41.) The account of the Jaffna shop appears at pages 265, 278, 279, 284, 290, 291, 292, 295, 303, 311, 312 and 316. Receipts are more from the Jaffna to the Point Pedro branch. Before 1946, more money was sent from Point Pedro to Jaffna. These pages show that moneys have been sent from Point Pedro to Jaffna. Those are small amounts. The plaintiff and his son have drawn on their individual accounts. They drew on the ship's account, on the tindal account and the son's account. The account in P41 is continued in Ledger B6 (P48) at page 39. The account is continued at page 47 and the rest of the account is at pages 48, 50, 54, 62, 67, 68 and 71. The last entry at page 71 of P48 is an entry dated 29.4.1952. The account is continued at page 2 of Ledger B7. Before 1946, more money was sent from Point Pedro to Jaffna and after 1946, more money was sent from Jaffna to Point Pedro. The pawn-broking accounts were in Jaffna. In 1947, 1948, 1949, 1950, and 1951 I have been sending more moneys to the Point Pedro branch than I received from the Point Pedro Branch during that period. The plaintiff used to go there and bring

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Defendant's  
Evidence—  
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No. 28.  
Defendant's  
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Continued

the money. Sometimes we settle the Point Pedro bills from the Jaffna account. Bills were settled from Jaffna account and brought to Point Pedro to obtain delivery. The Jaffna branch must have more money than the Point Pedro Branch. I got offended. The only business done at Point Pedro was the selling of tiles which were consigned to Point Pedro. (Shown D38.) At pages 132, 260, and 302, appears the account of Sunderamoorthy. These are accounts in respect of tiles.

Q. Moneys realised by the sale of the tiles have been brought to the credit of Sunderamoorthy in these accounts? 10

A. Some moneys have not been brought to his credit but rolled in business.

Q. D38 does not correctly show the dealings of Veeragathipillai & Sons with Sunderamoorthy?

A. Sunderamoorthy's personal account is not in this ledger. His account is entered in another folio of the Point Pedro books. D38 is not posted. This is always continued. Receipts and payments to Sunderamoorthy are continued. Alagasunderam would know more. I have put up many buildings in Jaffna recently. I started building in 1946. He objected to these accounts going into the common account of S.V. & Sons. The building which I put up in 1946 is adjacent to my Jaffna shop. It is worth Rs. 23,000/-. In 1947 I did not put up a building. I did not put up a house in 1948. Premises bearing No. 74/1, is my shop building. I put up that building in 1948. I put up the shop building for about Rs. 10,000/- in 1948. That money was taken from the business on my personal account. In 1950 I did not put up any building in Hospital road. I did not put up any additional building to my house at Bankshall Street, Jaffna. Some repairs were effected in 1947. The expenses in respect of that were entered in my account and the other expenses were entered in the common account of Veeragathipillai & Sons. I spent about Rs. 1,000/- or so for the repairs. That is included in the Rs. 25,000/-. I did not effect any repairs to the house at Thondaimannar. The plaintiff bought a land for Rs. 2,500/- and put up a house on it for more than Rs. 15,000/-. That does not appear in any of the accounts. It should appear in the accounts. I have bought two lands in Jaffna. The properties in unredeemed mortgages were bought in my name. They had been entered in the ratio of 2/3rd for the plaintiff and 1/3rd for me. The lands had been mortgaged in my personal account. Those lands were bought in 1947 or 1948. The deeds had been executed in my name. The rents had been in the proportion of 2/3rd for the plaintiff and 1/3rd for me. They are three boutiques in Stanley Road. The conveyances are still in my favour. The mortgagors are Nagalingam Subramaniam and Sethurajah Chettiar. Subramaniam executed several mortgage bonds in my 30 40

favour. He has been a customer of the firm Veeragathipillai & Sons. The mortgages and conveyances are in my name. The Jaffna properties are in my name and the Point Pedro properties are in the name of the plaintiff. There were two mortgages in my favour in Jaffna in 1943 or 1944. The mortgage bonds of Subramaniam and Sethurajah Chettiar were executed in 1942 or 1944. The sale was in 1947 or 1948. (Shown certified copy of conveyance No. 945 of 1st June, 1950—P49.) This conveyance was issued by the Secretary of the Jaffna District Court in my favour. P49 refers to a decree  
 10 entered in my favour against N. Subramaniam for Rs. 30,000/-. This land referred to in P49 belongs to me as well as the plaintiff. After the dispute I have taken it into my name. Today I am the absolute owner of the entirety of the premises described in P49. I have accounted for in the Jaffna books in the proportion of 2/3rd for the plaintiff and 1/3rd to me in 1950. Profits have not been divided in the proportion of 2/3rd and 1/3rd at the end of December, 1951. The land in P49 is one of the lands which I purchased with money belonging to the firm Veeragathipillai & Sons. I bought this land in my personal name.

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 Defendant's  
 Evidence—  
*Continued*

V. Rajasegaram  
 Cross-  
 examination—  
*Continued*

20 Q. How did you become the sole owner of the land ?

A. The plaintiff agreed to look into the accounts. He failed to do so and I have appropriated this land.

Q. You are prepared to concede that the plaintiff is entitled to any share of the land in P49 ?

A. He is not entitled.

There must be another land in Stanley Road from Sethurajah Chettiar which I bought in my name. It must be for Rs. 15,000/. Money belonging to the firm Veeragathipillai & Sons was invested on that. The mortgage was in my favour. The conveyance was  
 30 also in my favour. It was purchased later and is not shown in the proportion of 2/3rd and 1/3rd. Disputes started in 1947. The land was bought later and has not been accounted for. I claim the entirety of this land. No other lands have been purchased. There are mortgages outstanding invested out of money belonging to the firm Veeragathipillai & Sons. The mortgage bonds are in my favour. The lands at Point Pedro are entered in the name of the plaintiff and the lands in Jaffna are entered in my favour. I have lent moneys on mortgages in my name with moneys belonging to the firm Veeragathipillai & Sons. There were several such mortgages. Some of them  
 40 were redeemed. There will be one or two mortgages left worth below Rs. 15,000 to Rs. 20,000. I do not know the names of the mortgagors. They are entered in the personal names of the mortgagors.

No. 28.  
Defendant's  
Evidence  
Continued

Q. Without entering amounts drawn by you for the purpose of investment on mortgages you have invested moneys in your own name ?

V. Rajasegaram  
Cross-  
examination—  
Continued

A. Except this there are no other mortgages in my name.

Whenever orders are placed for tiles and other articles from India the documents are sent to Thondaimannar as well as to Jaffna. Whenever they are sent to Thondaimannar they are delivered to the plaintiff usually, but I am not sure.

*To Court :*

There is no particular office called S. Veeragathipillai & Sons 10 at Thondaimannar.

*Cross examination (continued).*

In the early part of 1952 I instructed the exporters not to send documents to Thondaimannar. In November, 1951, ill-feelings arose between me and the plaintiff in regard to the partition of the land adjoining the school of the plaintiff. I deny that I wanted the plaintiff to give up portion of the land where the school is situated to make up for the shortage. That dispute was not settled. I did not consent to any settlement because he made a last will creating a trust in favour of his children of that land. I came to know of this will in 20 1946. The plaintiff suggested that his 2/3rd be given for the purpose of the school playground. The land was surveyed in my absence. Till November, 1951, Veeragathipillai & Sons managed the Palai Estate. The plaintiff has transferred his share to his son Sivadas. I had a Kanakapulle in the estate. Either I or the plaintiff used to send chits to buyers of coconuts to hand over a particular quantity of coconuts. After November, 1951, I did not claim the right to sell the coconuts. I did not instruct the Kanakapulle not to deliver any coconuts on chits issued by the plaintiff. (Shown P33.) This is an action filed by Sivadas against me for the partition of the Palai 30 Estate. I filed answer and after trial the land was ordered to be partitioned. It was partitioned. Final decree was entered. Order for delivery of possession was issued thereafter at the instance of the plaintiff's son on 21.10.53. (Shown P34.) Journal entry under date 21.10.53 shows that order for delivery of possession was issued. I did not object to the delivery of possession. I did not keep the outer gate locked up. I am not at Palai. It may be that on 30.10.53 after the Fiscal returned the report that Mr. Esurapadham put in a motion asking for an order of Court to break open the gate. Mr. Ratnasingham, my Proctor, may have after that moved for time to 40 deliver possession. I did not want to deliver possession till compensation was paid. Rs. 6,000/- was due by way of compensation. (Shown P37.) Sivadas filed case No. 4316 against me and the plaintiff as owners of Veeragathipillai & Sons for the recovery of a sum of

Rs. 5,840·07 as due to him for his half share of the estate. He filed it on 21st July, 1952. That case was settled. The plaintiff must have given it to the plaintiff.

No. 28.  
Defendant's  
Evidence—  
Continued

Rs. 5,840·07 was due to Sivadas during the year 1951. In respect of that I filed answer. His father was liable to pay that amount. I take the position that I was not liable to pay the amount. It was the plaintiff who was liable to pay the entirety. (Shown paragraph 5 of the answer). I stated that the estate was managed by the 1st defendant in that case. During the whole of 1951 it was the 1st defendant in that case who managed the estate and not Veeragathipillai & Sons. The Palai Estate account appears in the Jaffna Ledger P19 at pages 26, 58, 100, 139 and 165. At page 165 of P19 a sum of Rs. 11,050·07 is shown as having been transferred to the Point Pedro account. The Jaffna shop has been receiving Rs. 11,050·07 by way of income from the Palai Estate during the year 1951. Half share of this amount belonged to Sivadas and a half share belonged to me. During the year 1951 the plaintiff was really managing the estate. My statement in paragraph 5 of the answer which I filed in case No. 4316 is correct. Finally of consent I had to pay 1/3rd of the amount claimed by the plaintiff in that case and the plaintiff in this case had to pay 2/3rd. I am not liable to account to Sivadas. I had received Rs. 11,050·07. I transferred this amount to the Point Pedro books. It was only a paper amount. Every year the money was with me.

V. Rajasegaram  
Cross-  
examination—  
Continued

*Q.* You were trying to keep the money with you in the Jaffna shop and say that the plaintiff was liable ?

*A.* The books show the amount in his favour.

*Re-examined.*

Subsequent to 1947 I asked the auditors to intervene and settle the disputes between me and the plaintiff. In connection with my request I have been writing a number of letters. One of those letters have been produced marked P35. The other letters which I wrote have not been produced. The auditor with whom I had conversation in respect of this matter is Sambamoorthy. I told Sambamoorthy about this undertaking by the plaintiff that he would give me half share of the business. At that stage of the discussions with the auditors the plaintiff was not willing to give half share.

V. Rajasegaram  
Re-  
examination

*To Court :*

That was during the latter part of 1949.

*Re-examination (continued).*

When he was not willing I told the auditors that I would agree to a division of the profits on the basis of 1/3rd and 2/3rd provided all the moneys which had been drawn and not accounted and not

No. 28.  
Defendant's  
Evidence—  
*Continued*

V. Rajasegarani  
Re-  
examination—  
*Continued*

entered after my father's death are brought in. I also requested that I may be paid a salary in respect of the work. On that basis Sambamoorthy tried to bring about a settlement but was not successful. (Shown P1.) The original business of Veeragathipillai & Sons had been registered as being carried in Jaffna, Point Pedro, and Thondaimannar were not mentioned as places of business. Subsequent to my father's death there was a change. My father's name was deleted and both the plaintiff and I were registered as partners. Thereafter the business was carried on in Jaffna. When these troubles became very acute on 25th May, 1952, he had prevented the Tile 10 Company from sending tiles to Veeragathipillai & Sons, Jaffna. He also had prevented the Post Office from delivering letters, invoices relating to consignment of tiles, etc. I told him that I wanted to register the business in my name and that I did not want a partnership, and that I wanted to carry on the Jaffna business. Thereafter I consulted my lawyers. I conveyed the fact to my lawyers that I was going to register it and carry on the business.

On the instructions of the lawyers I made the necessary application to Registrar for the purpose of registering myself as the owner by P4A. In P4A I have stated the date of change as 6th June. I 20 gave that date as I had told him that I was registering and severing connections. I have put the date of this to the registration as the date of change. Thereafter in respect of the Jaffna business lot of correspondence came to Point Pedro, and Thondaimannar. I was not able to get that correspondence by amicable arrangement with the plaintiff. With the registration standing as "Jaffna" on P1 I was not able to obtain the correspondence. For that purpose in October, I changed the place of business by adding Thondaimannar and Point Pedro. It was done purely for the purpose of enabling me to get the correspondence. During the years subsequent to 1947 30 the plaintiff has been drawing large sums from Jaffna itself besides Point Pedro. In 1951 and 1952 itself he had drawn Rs. 86,000/-. On the day previous to his entering hospital he drew Rs. 25,000/- from the Point Pedro account. I commenced to put up buildings in 1947. Before that I did not put up any buildings. The plaintiff commenced building operations in 1934 or 1935. He bought a land for Rs. 2,500/- and spent about Rs. 15,000/-. That was in 1935. That sum of money was not accounted for. In respect of buildings belonging to him repairs were effected from time to time. Large sums of money had been spent on repairs without being accounted. 40 Moneys spent on his house at Thondaimannar were not accounted for in any books. Repairs of the buildings in Jaffna were entered in the common account of S. Veeragathipillai & Sons. Because that practice had been followed by the plaintiff anterior to 1947, I told the plaintiff that it should also come to the common account. First he posted this amount into my personal account. I objected to it saying that he entered his building account into the common



account. I stated that this should also go into the common account. In respect of repairs to my buildings he did not agree to have them entered in the common account. Those were also put to the common account. That building was used for the office. Moneys lent on mortgages in Jaffna were made in my name and the moneys given on mortgages in Point Pedro were in the name of the plaintiff. Actions in Jaffna were filed by me and the actions in Point Pedro were filed by the plaintiff. I imported Queen Brand tiles with money belonging to Veeragathipillai & Sons in the name of Sunderampillai. I wanted  
 10 half the profits to me. The business known as Segaram & Sons was started after this dispute. He was continuing to ask on the basis of 2/3rd for himself and 1/3rd for me. I was not getting any profit on the Queen brand tiles. I started my business Segaram & Sons. I imported Queen Brand tiles. Earlier I had imported Queen Brand tiles in the name of Sunderampillai. Later I started importing Queen Brand tiles in the name of Segaram & Sons. I did not use the power of attorney for any matter in connection with the conduct of the business S. Veeragathipillai & Sons at any time. This power of attorney was not necessary for me for the purpose of conducting  
 20 the business of Veeragathipillai & Sons. I used this power of attorney for the purpose of withdrawing a sum of Rs. 50,000/- which was in fixed deposit in the Chartered Bank in the name of the plaintiff. That was money which was in the plaintiff's personal name and not in the name of Veeragathipillai & Sons. For the purpose of operating the account in the name of Veeragathipillai & Sons I did not require any power of attorney. Before this power of attorney I was operating on the account of S. Veeragathipillai & Sons signing my name as partner. During the pendency of the power of attorney also I did the same. After the return of the plaintiff to Ceylon, I continued  
 30 in the same old way. I had utilised the power of attorney for the purpose of filing actions, and for issuing writs in respect of actions filed by the plaintiff in his personal name. I produce marked D39 copy of proceedings in case No. 2355 P of the District Court, Jaffna, held at Point Pedro. This is an action where a decree has been entered in favour of the plaintiff for a sum of Rs. 1,500/- and interest. In that case on 31st July, 1946, I had filed my affidavit and also copy of the power of attorney and asked that writ be issued. I produce the plaint (D39) and the power of attorney (D39A). I also produce a certified copy of lease bond No. 2851 (D40) attested by  
 40 Ehamparam, on 18th February, 1946, by which I was leasing a building belonging to Mr. Rajaratnam to a person by the name Nagan. I have signed the deed as V. Rajaratnam by his attorney V. Rajasekeram. I have been questioned about the capital of the business on the day the plaintiff and I joined my father as partners in this business. I knew of this business which my father was carrying on when I was 8 or 9. I had commenced assisting my father about 7 or 8 years before 1929. During that period my father utilised the

No. 28.  
 Defendant's  
 Evidence—  
*Continued*  
 V. Rajasegaram  
 Re-  
 examination—  
*Continued*

No. 28.  
Defendant's  
Evidence—  
Continued

V. Rajasegaram  
Re-  
examination—  
Continued

profits to increase the capital of the business. Only a portion was drawn for expenses. Rest of the money was lying in the business for the purpose of conducting the business. In November, 1929, there was timber business, import of paddy, rice, tiles, pawn-broking business, etc. There was also the money lending business. The pawn-broking accounts were written in books.

*To Court :*

I cannot say the exact amount used as capital.

*Re-examination (continued).*

It is more than one lakh but I cannot say what the exact amount 10 is. The amount of money that had been invested at the time the plaintiff and I joined my father was over one lakh.

It is now 4 p.m.

Further hearing on 25th and 26th March, 1955.

(Intld.) S. T.,  
D.J.

D.C. Point Pedro No. 4323/M.

Trial—25.3.55.

Appearances as before.

Plaintiff and defendant present.

Further hearing.

20

V. RAJASEGARAM. Affirmed. Trader, Tondaimannar.

*Re-examined.*

Q. Did your father ever borrow money from anyone?

A. No.

Q. When was it for the first time in respect of this business which you carried on with your brother after your father's death, you had made arrangements to draw overdraft from the bank?

A. In 1949.

During my father's time, there was no overdraft taken by him. The overdraft that I took in 1949 was settled in 3 or 4 months' time. 30 The partnership money at Jaffna was lent out on mortgages and so also the partnership money at Point Pedro. The actual mortgage bonds at Jaffna were taken in my name and the mortgage bonds executed at Point Pedro were taken in the plaintiff's name. But in reality the money given on mortgage belonged to the partnership. At the time of my father's death, I was about 24 or 25 years old.

Q. After your father died, did you know that there was a Last Will?

A. I knew that there was a Last Will, but I did not know the contents.

I came to know of the contents of the Last Will in April, 1934 I did not know the contents of the Last Will when I signed the papers for the Testamentary case.

(Intld.) S. T.,  
D.J., 25.3.55.

C. KULASINGHAM. Affirmed. Age 25. Clerk, Chartered Bank, Colombo.

No. 28.  
Defendant's  
Evidence  
Continued

V. Rajasegaram  
Re-  
examination—  
Continued

C. Kulasingham  
Examination

10 I am a clerk of the Chartered Bank. (Shown D5.) This is a letter written by the plaintiff to the Chartered Bank. (Shown D6.) This is a letter sent by the plaintiff to the Chartered Bank. (Shown D7.) This is a letter written by the plaintiff to the Chartered Bank. (Shown D13.) This is a receipt sent by the plaintiff. (Shown D14.) This is a copy of letter written by the Chartered Bank to Veeragathipillai & Sons. (Shown D16.) This is a copy of letter sent by the Chartered Bank to Veeragathipillai & Sons. (Shown D35.) This is sent to the plaintiff by the Chartered Bank.

*Cross-examined* for the plaintiff.

C. Kulasingham  
Cross-  
examination

20 (Shown P42.) This is a letter written by the Chartered Bank to the defendant. I am not aware whether it has been usual for the Chartered Bank to send the documents of Veeragathipillai & Sons to Thondaimannar. I have been in the Chartered Bank for the last 5 years.

*Re-examined.* Nil.

(Intld.) S. T.,  
D.J., 25.3.55.

Defendant's case closed putting in D1 to D40. In regard to D3 and D3A which has been objected to and admitted subject to objection, 30 now that the case of the plaintiff and the defendant is closed, on being asked by Court whether they would require a special translation of D3 and D3A by a competent translator counsel indicate that it is not necessary.

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### No. 29.

#### Addresses to Court

No. 29.  
Addresses  
to Court

Mr. Nadesan addresses Court and states that he would examine the plaint with the view to finding out what precisely is the plaintiff's case and on what basis the plaintiff has come to Court. He refers to two matters in respect of this business before he considers the facts 40 of this case. One is the concept of partnership and the other is the

concept of co-ownership. He desires very briefly at this stage to refer to certain matters relating to these two concepts and thereafter it would be easier to understand precisely the basis on which the plaintiff came to Court and also the various questions that arise for consideration. He refers to the English Law on partnership by Lindley 10th Edition found in appendix at page 949.

Section 1 says that partnership is the relation which subsists between person carrying business in common with a view of profit. In the definition itself, there is no reference to agreement or contract, so far as the definition goes, if a number of persons carry on business 10 in common with a view of profit, then partnership is the relation that subsists between these persons. If the Court comes to the conclusion that there is an implied agreement between the parties with a view of profit, then the resulting situation is that a relationship exists between the persons as partners. This is a pure and simple partnership.

*Section 2* is in regard to rules whether a partnership exists or not.

*Rule 1* is about joint tenancy, joint property, etc.

*Rule 3* is about the receipt by a person of a share of the profits, then *prima facie* it is a partnership business. But that is liable to be rebutted by other circumstances. If it is established in a particular 20 case that the persons share the profits and no other circumstances are established to show that these sharing of the profits is due to any other reasons, then that circumstance will show that it is a partnership business. If a person advances Rs. 25,000/- to a person carrying on business and that person gets a certain instalment from the profit, it is not a case of partnership, though he is getting the money out of the profits.

*Rule 3(b)* and *(c)* referred to.

*Section 4* lays down that persons who collectively carry on business is a firm and the name is the firm's name. 30

*Section 12* sets out the liability of every partner.

*Section 20* deals with partnership property. If one of the partners buy a property, it is the property of the partnership and not the separate property of that person who bought it. It is not a trust property even. The position is that immovable property belongs to the partnership. But one of the partners may have legal title and if one of the partners die, the heir has to hold it in trust for the partnership and the heir cannot be the beneficiary.

(3) He says there is fundamental difference between a co-ownership and a partnership. Two persons may be co-owners of a land 40 at Ratnapura, but when they start a gemming business, then the business may be partnership.

*Section 21*. Unless the contrary appears, the property bought with the money of the firm should belong to the firm or the partnership.

*Section 22.* Landed property belonging to a partnership is considered as a movable property and not immovable property.

No. 29.  
Addresses to  
Court—  
Continued

*Section 24(4).* A partner is not entitled to pay interest on the capital supplied by him. No partners are entitled to remuneration in a partnership business. The above are subject to only when there is no agreement between the parties.

(7) No person may be introduced as a partner without the consent of all the existing partners.

(9) Partnership books are kept at the place of business and  
10 every partner may have access to it.

*Section 26* is in regard to retirement. Where no fixed term has been agreed upon for the duration of the partnership, any partner may determine the partnership by giving notice.

*Section 28.* Partners are bound to render full account to any partner or legal representative.

*Section 29.* Every partner must account to the firm for any benefit derived without the consent of the other partners.

*Sections 30 and 31.* One of the incidents of partnership law is that one cannot by assignment of his right enable the assignee to walk in  
20 and interfere with the management. The assignee cannot ask for an accounting in respect of the partnership.

*Section 32* is about dissolution of partnership.

*Section 39* deals with what happens on the dissolution of the partnership.

*Section 42.* When a member of the firm has died or otherwise ceased to be a partner and the surviving or continuing partners carry on the business with the capital or assets without any final statement of account, the outgoing partner or his estate is entitled to a share of the profits or to interest at 5%.

30 He refers to page 10—nature of contract and also to page 11 of Lindley. At page 31 are set out the principal differences between partnership and co-ownership.

1. Co-ownership is not necessarily the result of an agreement, but a partnership is. The agreement may be express or implied.

2. Co-ownership does not necessarily involve community of profit but partnership does.

3. One Co-owner without the consent of the other co-owner can transfer his assets to a stranger, but that is not so with a partnership.

40 4. Co-owner is not an agent of the business, but a partner is an agent of the business.

No. 29.  
Address to  
Court—  
Continued

5. No partner can say that he is entitled to a particular asset. He cannot bring a partition action and say that he is entitled to a half share. What is meant by a share in a partnership is that on a winding up or dissolution when all the assets are converted into money and when all the liabilities are paid out and there is a balance, he is entitled to a half and the other half to the other person or partner. But in the case of a co-ownership, the co-owner is entitled to a half of everything. Partners have no right to partition a land. He refers to pages 423 and 424 which deals with the share of a partner in a partnership business. 10

*Pages 41 and 44.* Partnership is the result of an agreement to share up the profits and losses. The right of a partner are dependent on the agreement entered into. The agreement to share the profits and losses is partnership although the word partner may not be mentioned. There is not the slightest doubt that the partnership relation flows from an agreement to share the profits and losses. That agreement might be express or implied.

He refers to the evidence on partnership in Chapter 5, page 101 at pages 105 and 110.

The business name registration facilitates the proof of a partnership. He refers to our Registration of Business Names, Chapter 120. Every firm which carries on business is a partnership has to be registered. When one speaks of a share in a partnership business, it does not mean that he has a share of the assets and goodwill. 10

Now he proceeds to examine the plaint of the plaintiff in this case. He refers to para 2 of the plaint. The plaintiff persistently maintains that it is not a partnership business. He analyses the whole plaint and states throughout the plaint the plaintiff's position is that he is not a partner and that he became entitled to a 2/3rd of the old business and not the new business. 30

If it is held that this is not a co-ownership, but a partnership, then the entire action must fail because the plaintiff has not come to Court on the basis of a partnership.

Neither is he asking for an accounting on the basis of a partnership. He refers to Lindley page 440, Book 3, Chapter 5.

Every change creates a new partnership. Though there may be a new partner, it does not mean a dissolution of the old partnership. He asks the question, is this a new partnership or an old partnership? The answer is, it is a new partnership.

If it is a partnership, in the first place that because the entire 40 basis on which the accounting is asked for by the plaintiff proceeds on the basis of a co-ownership and not on the basis of a partnership, that action must fail. Secondly, even if it can be held to proceed

on the basis of a partnership, the capital of this partnership is over Rs. 1,000/- and, therefore, the plaintiff will not be in a position to enforce his claim.

No. 29.  
Addressed to  
Court—  
*Continued*

Court adjourns for lunch interval.

Court re-assembles after lunch interval.

Mr. Nadesan continues his address and states that the case of the defendant is that there were two partnerships—one was the partnership business carried on under the name of S. V. & Sons by the plaintiff, the defendant and their father as from 2.3.29 and which  
10 business went on till the date of the death of Veeragathipillai in December, 1933. In respect of that partnership business, the capital was over Rs. 1,000/-. Then subsequently on the death of Veeragathipillai, the plaintiff and the defendant carried on another partnership business, which is a new partnership business and that the capital of that partnership was over Rs. 1,000/-.

He now deals with the documentary evidence to show that it is a partnership in respect of the first partnership.

The documents are P1, D3 and the translation D3A, D2 the evidence given by the plaintiff in the proceedings 58 Testamentary  
20 in respect of the estate duty and particularly the portion of evidence marked D2A, the inventory filed by the plaintiff in that case D34, the petition which the plaintiff referred to the Board of Review against the decision of the Commissioner of Income Tax D28. He refers to P31 which is a certified copy of the judgment of the Supreme Court in respect of the appeal which went up *re* the dispute between the plaintiff and the Commissioner of Stamps. That judgment is reported at page 481 of 39 N.L.R. The plaintiff has not only marked the decree but also the reasons. So far as the reasons are concerned, he says the opinion of another Judge of the Supreme Court in respect  
30 of these proceedings is not binding. It has only a persuasive value.

P1. This is an application for the registration of this business S.V. under the Business Name Registration Ordinance. Veeragathipillai has sworn an affidavit to the fact that the statement contained the truth and he has sworn to that fact. Here was a firm which required the registration of the business name. In this connection he refers to section 4 of the Partnership Act. He says the registration of the business name was sufficient to show that this is a partnership business and cites—27 N.L.R., page 231 at page 235—5th para.

In that case there was no writing but the capital was over  
40 Rs. 1,000/-. The learned Judge held that a certificate of registration proved that there was a partnership.

D3. Signed by the plaintiff, the defendant and their father in the life-time of Veeragathipillai on 14.10.33—D3 has been marked by the plaintiff as P36. At a time before this controversy arose, the plaintiff

No. 29.  
Addresses to  
Court—  
Continued

relied on this document D3 in support of his case that this business was a partnership and in those proceedings he produced a translation, a certified copy of which is now marked as D3A. In the translation, he has stated specifically "We 3 are carrying on the business in partnership." That document is in accordance with the affidavit sworn to by Veeragathipillai in P1. Therefore this document confirms that these 3 parties were carrying on this business in partnership. Veeragathipillai died and thereafter there was a Testamentary case. In the inventory D34 same as P26, item 14 reads thus "share of the deceased as partner in the firm of Veeragathipillai & Sons." 10 The Commissioner of Income Tax said that Veeragathipillai was the sole owner of the business and the plaintiff appealed on that by D8. In D8 the petition dated 17.8.37 to the Board of Review, the plaintiff stated that "Veeragathipillai was carrying on the business in partnership."

D8. In D8 the plaintiff stated that "he and the defendant were not servants, but signed as partners". On this the plaintiff succeeded. The plaintiff confronted with the difficulty of coming to Court on the basis of a partnership, adopted a method to get out of it by stating that it was a co-ownership. In 39 N.L.R. it was held that it was 20 not a *de jure* partnership but that it was a *de facto* partnership.

The Crown in that case stated that at one stage Veeragathipillai was the owner of the whole but His Lordship said that at one stage he had divested a 2/3rd share. This shows that at one stage the property may be co-ownership but the moment the property of the co-ownership is utilised as assets of a partnership business, then the entirety of it takes the character of a partnership property. Thereafter it can never revert back to the character of a co-ownership property. He cites.

39 N.L.R. Page 483 at page 485.

30

In D2 the evidence of the plaintiff, he has stated that this business was a partnership business in 1929. In 1929, there was an agreement that this business should be carried on as a partnership. From that day the business is carried on as a partnership. The partners drew money whenever they required. They used to send cheques to the bank and below the signature they state "partner". Their Lordships said that this is a partnership which cannot be established in law because there is no writing. All the circumstances of this case shows that the capital is over Rs. 1,000/- as stated by his Lordship in 39 N.L.R.

40

The substance of this judgment is that after this gift, there was a *de facto* partnership between the 3 persons who were partners and all the circumstances indicate that the capital was over Rs. 1,000/- and that the partnership cannot be proved in law. He refers to pages 553 and 558 of that judgment. He says the resulting position



is that so far as the earlier partnership is concerned, the Court will hold that there was a partnership subsisting between these persons. The decision is that somewhere in 1929 Veeragathipillai gifted 1/3rd to each and the 3 became co-owners admittedly but also immediately these 3 started with these assets which had been gifted and carried on the business in a partnership, and thereafter the co-ownership property took the character of a partnership property and therefore the entire business was carried on as a partnership.

No. 29.  
Addresses to  
Court—  
*Continued*

Now he deals with the documentary evidence after the death of  
10 Veeragathipillai. On the death of Veeragathipillai there must have been a dissolution of the partnership, but the plaintiff and the defendant continued the business as a new partnership business. They could have wound up the business, but they did not do so. He refers to the documents which show that the business carried on by the plaintiff and the defendant was a partnership business. P2 certificate of business names—was signed by the plaintiff and the defendant. In P2 it is stated that the partners are S. Rajaratnam and S. Rajasegaram. It is also stated that the first partner's name should be deleted. From 3.12.33 a new partnership business came into being  
20 of which Rajaratnam and Rajasegaram were the partners as evidenced by P2 which is the same as D4. On the death of Veeragathipillai the partnership stood dissolved with two surviving partners and one legatee. (Section 33.) So far as the legatee is concerned, he is in the position of a co-owner. So far as the others are concerned, they are surviving partners. These assets thereafter took upon the character of a partnership property in respect of the new partnership business which commenced on 3.12.33.

Now he refers to the accounts P11, P14, P15, P16 and P17. In a co-ownership business, there will be only profits and no capital.  
30 There will be no balance sheet. In P11 it is stated "partners rent account," etc., long before this controversy arose.

There is reference that they are partners. In P14 the allocation of capital, there is a reference "partner's current account". P15 to P17 are similar documents. In respect of the accounts P14 to P17 the partner's accounts are maintained on the basis of a partnership as assets and liabilities. In the case of a co-ownership, there cannot be that. He cites—

62 Law Times Reports, page 200.

If it is a co-ownership, then what came from Veeragathipillai  
40 cannot be concluded in the account. He refers to page 203 at page 204 of Lindley. In a co-ownership business, what a co-owner is entitled to does not come into computation, whereas in the partnership everything comes into the account. P3 Letter of 27.5.52, the plaintiff describes himself as a partner to the Government Agent.

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Continued

D5 to D7 which were written by the plaintiff on behalf of Veeragathipillai & Sons to the Chartered Bank, he describes himself as partner.

D9 the application to the Controller of Exchange dated 19.3.52 where the plaintiff describes himself as a partner.

D10 to D12 are proxies and plaints in certain cases filed and the plaintiff has described himself as a partner.

D13 which is a receipt of a document signed by the plaintiff on 14.5.52. and he has described himself as a partner.

D15 written to the Chartered Bank by the plaintiff and he 10 describes himself as partner.

D25 Letter addressed to the sub-postmaster in which the plaintiff describes himself as senior partner.

D27 affidavit of the plaintiff in which he says that he is carrying on the business as partner.

D21 to D24 sent by the plaintiff describing himself as partner.

D37 cheque signed by the plaintiff to state that he is a partner.

D26 application to the Bank of Ceylon by both the plaintiff and the defendant and both of them signed as partners.

Now he refers to the oral evidence. Palurajah has given evidence 20 regard to the business registration certificate.

S. Nagalingam has produced P11. That document was signed by the plaintiff for Veeragathipillai & Sons and that sets out that the business was established 50 years ago. The question was when the business of Veeragathipillai & Sons started and not the partnership business of the plaintiff and the defendant began. It means that the business has changed hands. The total value of the imports is given as Rs. 550,000/- odd. In that the name of the partners are given as Rajaratnam and Rajasegaram. He says P11 was produced by the plaintiff and it shows that it was a partnership business. It 30 states that the partners are authorised to operate on the bank account. P11 is the original. In P9A same as D27, the plaintiff says that the defendant has stated in that document that the plaintiff has ceased to be a partner.

(Intld.) S. T.,  
D.J.  
25.3.55.

Further addresses on 26.3.55.

(Intld.) S. T.,  
D.J. 40  
25.3.55.

D.C. Point Pedro No. 4323/M.  
 Appearances as before.  
 Plaintiff and defendant present.

Trial : 26.3.55.

No. 29.  
 Address to  
 Court—  
 Continued

*Further Hearing —Addresses*

Mr. Nadesan continues his address. Regarding the entries made in P11, and P14 to P17, that is not the way in which co-owners accounts are maintained. In co-ownership business, there is no question of a balance sheet. The balance sheet which sets out the resulting position of a business is that a partnership business and not that of a co-owner-  
 10 ship. There is fundamental distinction between the accounts kept for a partnership and that of a co-ownership.

*Oral Evidence*

Kumarasamy's evidence marked X3.

In the course of his evidence he has stated that he knows the partnership firm of S. V. & Sons and that the return to the Income Tax is signed by the partners of the firm. The return can be sent by any one of the partners. If it is a co-ownership, one co-owner cannot sign on behalf of the other co-owner. Right throughout his evidence, he goes on the basis that this is a partnership business. The balance  
 20 sheet is inconceivable of anything but of a partnership. Kumara-  
 samy stated that balance sheet cannot be prepared in the case of co-ownership. In his evidence on 27.1.55 he stated that he has submitted accounts of a co-ownership business. The fact that he prepared accounts of 2 or 3 estates run on a co-ownership basis does not mean that a balance sheet is prepared for a co-ownership business. Two or three persons may own an estate property on a co-ownership basis, but the business of the estate is run on a partnership basis.

*Capital of the Business*

The division of the assets in 1947 was into two parts—9 Lakhs  
 30 capital and 3 lakhs profits. Mr. Kumarasamy stated that according to his experience, this business required 9 lakhs capital. This is a large business according to Ceylon standards. Kumarasamy and Alagasunderam are witnesses for the plaintiff.

The evidence of Alagasunderam is marked X4.

In cross-examination he stated that there is a rent account of the partners and that the balance sheet has been prepared on the basis of a partnership and that either the plaintiff or the defendant operated the bank account which implies agency. In a co-ownership business, one cannot operate the bank account on behalf of the other.  
 40 The evidence of Alagasunderam given on 27.1.55 at page 11 referred

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to and he stated that in 1929 this was a large business and a large amount was invested as capital. Veeragathipillai was not doing business with borrowed capital. The evidence of this witness *re* the amount invested in Pawn-broking, the amount due from others and the amount lying in the Chartered Bank is referred to. At no time the pawn-broking business was wound up. Another significant fact in respect of this business is the goodwill. The goodwill is part of the capital of the business. Reference is made to the signature book where monies due from people are entered. This witness stated that the assets were used in the new business and that the outstanding monies, investments, etc., formed the capital of the business. Mr. Nadesan says that Veeragathipillai never borrowed any money. Subsequent to the death of Veeragathipillai the plaintiff and the defendant were carrying on the business without borrowing money. They were paying the creditors promptly. 10

D34 the inventory filed in the Testamentary case gives the value of a 1/6th share of Veeragathipillai as Rs. 99,680·32; so that the entire value of the business would be 6 times and that will be the capital. Alagasunderam and Kumarasamy say that they looked upon this business as a partnership business. 20

*Evidence in regard to how this business was conducted.*

Proceedings of 28.1.55 at page 6 is referred to evidence given by the plaintiff. The plaintiff stated that he did not draw any salary and that he used to sign on behalf of the firm. Page 2 of the evidence given by the plaintiff on 3.3.55 referred to. Plaintiff stated that he did not require a power of attorney to order things or to manage the business. During the plaintiff's absence in India, the defendant managed the entire business without any power of attorney from the plaintiff to manage the business. At the close of the year only the accounts are looked into and then the position of the business is known. The inference that can be drawn from the way the business was conducted is that it was a partnership business. 30

Mr. Nadesan refers to the plaintiff's evidence in regard to the capital. The plaintiff has been at great pains to show that the capital was not over Rs. 1,000/-. The plaintiff contradicts his witnesses on that point. Kumarasamy stated that it was a large business and that it required 9 lakhs as capital. To have a safe for the pawn-broking business, it would cost over Rs. 1,000/-. The evidence of the plaintiff at page 17 of proceedings of 27.1.55 is referred to. The plaintiff stated that his father borrowed money from chettiers. This shows the attitude of his mind. The plaintiff stated at page 9 of 27.1.55 that his father was a fairly wealthy man and that subsequent to 1929 his father did not borrow any money. The evidence is that there was no borrowing after 1929 except for the overdraft in 1949. The evidence of the plaintiff at pages 1 and 9 of the proceedings 40

had in the afternoon of 28.1.55 referred to. Mr. Nadesan says that both the parties are aware of the legal implications. He has confined himself to the evidence of the plaintiff and not to that of the defendant. The plaintiff stated that in 1950 the capital of the business was Rs. 400/- and that all the other monies are profits. At page 4 of 3.3.55 the plaintiff stated that he has schooners. According to the plaintiff his father started the business in 1886 with a capital of Rs. 400/- and therefore Mr. Nadesan says that in 1929 the capital would have been at least Rs. 2,000/-.

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*Continued*

10 On the evidence of the plaintiff and the two witnesses without the evidence of the defendant, the following conclusion can be arrived at. Firstly that there was a partnership among the plaintiff, the defendant and their father in 1929 which was duly registered by P1 and that the business was a partnership business and that the capital of the business was over Rs. 1,000/-.

Secondly, on the death of Veeragathipillai, a partnership business was begun by the plaintiff and the defendant, the capital of which was well over Rs. 1,000/-; 6 times Rs. 99,680.32.

20 Capital is that money value which parties agree to risk in the business. A person may start a business with Rs. 5,000/- and borrow one lakh. Then Rs. 5,000/- is the capital and the lakh cannot form part of the capital.

In this case there is admittedly a certain amount of difficulty created with regard to ascertaining accurately what is the capital of the business. In this case the profits were merged with the capital. In 1929, Veeragathipillai gifted 1/3rd each to the plaintiff and the defendant and thereafter they risked the entire money in the business. At any rate the Court is entitled to infer that the capital was over Rs. 1,000/-. Subsequently on the death of Veeragathipillai, instead  
30 of winding up the business, they carried on the business with the assets.

#### *Definition of Capital*

He refers to page 390. Capital is the aggregate amount contributed by the persons to be risked. The plaintiff was well aware of what is a partnership and that is why he denies that there was an agreement. The agreement has to be inferred from the conduct of the persons.

40 If the true relation between the parties was that of partners and that the capital was over Rs. 1,000/-, then the question arises, can the plaintiff maintain this action? Mr. Nadesan says a property which attached to the peculiar characteristic of a partnership property, that property cannot at the same time be a co-ownership property. It cannot partake of the same characteristics. It is

mutually exclusive. Two people who are co-owners of a gem land at Ratnapura agree to carry on a gem business and for this purpose they contribute capital. So far as the property is concerned, it was agreed that the property should be co-owned, but the business should be partnership. The co-owned property does not partake of the property of the partnership property. The property is owned in co-ownership but the business is on a partnership basis. Even in that case the fact that the partners carry on the business in a co-owned property, does not make a co-owned property a partnership property.

10

What is the characteristic of a partnership property.

The characteristic of a partnership property is that no person has any vested right, but on accounting after all assets have been converted into money and all the liabilities paid, what is left in cash is distributed in money. That is what is meant by a person having a share in a partnership property. If it is a partnership property one cannot divest himself of his title to somebody else. There is a clear and distinct distinction and that both these cannot subsist together. He cites 21 N.L.R., Page 225 at page 229. It was held that the partners interests are in the nature of a choice in 20 action. He also cites 1937 All India Reports, pages 438 and 441. The moment after Veeragathipillai's death, they did not wind up the business, but they started a new business with the assets.

When the sole proprietor of a firm dies, his heirs do not automatically become partners, but when they use the assets to carry on the business, then it is a partnership. On the gift of Veeragathipillai a 1/3rd share to each in 1929, in the first stage there was a co-ownership, but the moment thereafter they carry on a business with what has been gifted, that co-ownership loses the character of a co-ownership and takes up the character of a partnership and thereafter that 30 partnership character cannot be changed. The fact that they started with a capital of over Rs. 1,000/- may not be proved but the fact that they had been gifted 1/3rd each can be proved. For the purpose of finding out whether they have taken effective possession of the gift, we find that they carried on the business, which shows that they took possession of the gift. If the relationship between the parties is partnership, then the plaintiff cannot put forward anything else other than a partnership claim. The plaintiff cannot hide the real relationship between the parties to get out of 7 of 1840.

He cites—18 N.L.R., page 289 at page 291.

40

18 N.L.R., page 449.

2 Times Law Reports, page 223 at page 224. When a partnership is dissolved by death, even at that stage, there is no right to any of the individual partners or the heirs of the deceased partner

to a share of the property of the partnership. They can only wind up the business and divide the profits. He refers to section 109 of the Evidence Ordinance. He cites—

37 N.L.R., page 276.

If *de facto* partnership is established, then the burden of proof that it was not valid in terms of section 21 of Ordinance 7 of 1840 is on the party who asserts it. In 39 N.L.R., page 481, it was held that section 109 of the Evidence Ordinance operates only when the existence of a partnership has been proved according to law.

10 He cites 50 N.L.R., page 220.

51 N.L.R., page 86. This case illustrates the relationship of one partner to another partner. Issues 1, 2, 3, 4, 5, 6, 7, 8, 15, 31, 32, 33, 34, 35, 40(a) and 40(b).

He submits that with regard to these issues, there can only be one finding that the business has been carried on as a partnership and that, therefore, the plaintiff's action must fail or he cannot maintain this action.

Issue 20 which has been recast as 20(a), 20(b), 20(c) and 20(d) brings in the question of trust. He says if the Court holds in regard  
20 to issue 20(c) that he did not take charge of the capital, assets and goodwill of the said business as a co-owner or agent, but as a *de facto* partner, then that partnership cannot be relied on by the other side and the answer to it must be answered against the plaintiff.

So far as the relationship of partners are concerned, the partnership act tells what legal incidents are in respect of partnership business. One legal incident of a person being a partner is that he can receive assets in his hand and if he misappropriates the assets, then at an accounting between the partners all these matters will be adjusted and he will be called upon to make the payment of what he has taken.  
30 *He says to establish trust, partnership has to be proved.* If a person gives notice of dissolving a partnership or even without giving the notice, files an answer in a case saying that this partnership has been dissolved, he says, that even if that person had failed to give notice, the mere fact that he has pleaded that the partnership has been dissolved, is sufficient.

There is a specific provision in the Partnership Act—section 42, which says that when dissolution takes place, there is no trust, but that the business will be wound up and the profits distributed. He says the answer to issue 20(a), (b) and (c) should be that the entirety  
40 of the business was a partnership business.

It does not mean that the other person is holding it in trust. In the case of a partnership, there cannot be 2/3rd of the capital,

No. 29.  
Addresses to  
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*Continued*

assets and goodwill. He says even if the Court holds that it is a partnership, the answer to issue 20 should be that the capital, assets and goodwill of the business belong to the partnership business. If 20(a) is answered in the negative, it does not mean that the defendant is holding the 2/3rd share of the plaintiff at Jaffna in trust. If 20(a) is answered that the entirety of the capital, assets and goodwill of the business belongs to a partnership, then 20(b) and 20(c) do not arise. He says there can be no question of trust in respect of a partnership. The answer to 20(a) would be the defendant as partner has an interest in the business. No partner has any beneficial interest 10 in each of the assets of the business. He cites 50 Ceylon Law Weekly page 12.

In that case it has to be proved that he was an agent. There was no need of a partnership to be established. The syndicate has to prove that they gave the money to him. The trust ordinance is that if one purchases a property with the money of someone else, he holds it in trust. If there is a specific agency and if an action is based on that agency, then there cannot be a question of partnership. He refers to section 84 of the Trust Ordinance. He says there is an important distinction between the trust Ordinance and the partner- 20 ship act. He refers to section 5(3) of the Trust Ordinance. He says 7 of 1840 will become a dead letter if all want to defeat partnership and say it is co-ownership or trust. On the principle of Statute of Fraud, he cites 55 N.L.R., page 529.

Further hearing—addresses on 28th, 29th and 30th April, 1955.

(Intld). S. T.,  
D.J.,  
26.3.55.

D. C., Point Pedro, No. 4323/M.

28.4.55.

*Addresses (continued).*

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Mr. Adv. Soorasangaram with Mr. Adv. Shivapathasunderam instructed by Mr. Nagalingamudaly for plaintiff.

Mr. Adv. S. Nadesan, Q.C. with Mr. Adv. Kulasingham instructed by Mr. K. Ratnasingham for defendant.

Mr. Nadesan addresses the Court.

Mr. Nadesan refers to the question of trust. This is a partnership. If the Court answers the issues relating to partnership in favour of the defendant, and if the Court holds that these 2 people have been carrying on business in partnership and that the capital of this partnership is over Rs. 1,000/-., then the question arises whether 40 the plaintiff can in some manner invoke the provisions of the Trust Ordinance for the purpose of getting out of the difficulty. He refers to the concept of partnership. If these 2 people are carrying on business in partnership either of those persons can take possession of partnership assets, as agent of the partnership. He acts on his own



behalf and on behalf of the other. He is entitled to receive money on his own behalf and on behalf of the partnership. There is not the slightest doubt that so far as partners are concerned they are expected by the law to observe good faith in respect of the transactions one has with the other. *Sections 29 and 42 of the Partnership Act* specifically lay down what those obligations are in respect of partners. (Sections 29 and 42 read). Both partners are entitled to a share only of the partnership business on an accounting. Pending action being taken one partner can continue the business for the  
10 purpose, may be, of winding up. Business is something which is continuing. If the partnership is not in writing the resulting position is that the plaintiff is unable to come before Court and establish a partnership, which can only be the basis in which Section 42 can come in. The mere fact that he is unable to prove that in Court does not mean that he has some other vague trust. The only relief that he can obtain is if he has a partnership agreement. Otherwise he is out. He is absolutely helpless.

Mr. Nadesan refers to *Lindly last paragraph of page 147 and first paragraph of page 148, page 189*. "A partner . . . does not  
20 receive the money in a fiduciary capacity." *Page 379*. "General duty of partners to observe good faith." Bottom of page 380 "This obligation to good faith does not impose a fiduciary character" etc. In other words a partnership is a relationship which arises on a particular agreement and attached to that agreement there are certain obligations. If a partnership cannot be established then there will be no obligations. Mr. Nadesan refers to certain provisions of the Trust Ordinance.

#### Section 90 of the Trust Ordinance.

To succeed in Section 90 it must be established that a person  
30 is a partner. It cannot be done unless there is a writing. If you fail to establish in law that there is a partner, you fail to establish everything else. Section 90 is one of the Sections which come under Chapter 9, headed constructive trust. Sections 82 to 98 come under constructive trust.

#### Section 84.

One has to establish that there is a partnership to show that consideration has come out of the partnership funds. There is a principle of English Law of Trust that the statute of fraud cannot be made an instrument of fraud. The question is whether that  
40 principle may be of some avail in this case.

This principle of English law of equity has been introduced into Ceylon by section 5, Sub-section 3 of the Trust Ordinance, only to that limited extent. Section 5(3) is one of the sections which appear in Chapter 2 headed "creation of trusts". Section 5 "Subject to the provisions of Section 107, no trust in relation to immovable property is valid unless declared by the Last Will of the author of the

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trust or of the trustee, or by a non-testamentary instrument in writing signed by the author of the trust or the trustee, and notarially executed." Rule No. 1 and rule No. 2 do not apply where they would operate so as to effectuate a fraud. These are not rules which relate to constructive trust at all.

50 N.L.R., page 530.

18 N.L.R., page 289 and 291.

Mr. Nadesan submits that the main issues which will arise for consideration are issues 31, 32, 33, 34, 35 and 40. If those issues are answered on the basis that there has been a partnership and the capital of the partnership is over Rs. 1,000/-, the plaintiff's action must necessarily fail. None of the other issues will really arise for consideration. It may be necessary to consider issues 20A, B, C and D in so far as this question of trust is drawn. The issues raised on behalf of the plaintiff inclusive of issues 20A, B, C and D except for a slight alteration have proceeded on the basis that there has been a co-ownership of the old business "S.V." Issue 20A is in that context. In regard to issue 20C, he states that the answer would be "As Agent no, as partner yes." But partnership has to be established. The ultimate answer will have to be "No". So long as 20C is answered in negative an answer of 20A and 20B in the negative does not in any way mean that there is any trust in his favour. The mere fact that the defendant does not own the whole of the business does not mean that he is entitled to it. The mere fact that one person does not own the whole thing does not mean that he holds it in trust for somebody else. If 20C is answered in favour of the plaintiff then of course different constructions flow. 20C cannot be answered in favour of the plaintiff. It has to be answered against him. "Is the defendant the owner of the entirety of the capital, assets and goodwill of the business carried on"? How is one to find out whether he is not the owner of the entirety of the business. The only way to show is by establishing a partnership. If a partnership cannot be established, then the position is that he is the owner. Mr. Nadesan refers to *Section 42* and also to the case reported in—

*27 N.L.R. page 231.*

Mr. Nadesan submits that whatever may be the answers to 20A and 20B, that cannot lead to the conclusion that he held anything in trust. So far as the law is concerned there is nothing to prevent a partnership at will being terminated in a particular way. Once it is terminated one of the partners can carry on with the assets of the partnership. He is liable to account to the other partner. 20A and 20B are really issues which are corollaries to the earlier issues framed by the plaintiff on the basis of co-ownership. In that sense he has used the word "owner". If it is partnership there is no place for "goodwill". If parties who are partners do not enter into any

writing and carry on business they run certain risks. That cannot be set right by involving the Trust Ordinance.

50 Ceylon Law Weekly, page 12.

“ It is clear from the pleadings that the 1st respondent intends to raise in due course . . . *No relief is asked for on the basis of the partnership.*”

So far as the case is concerned the case entirely depends on the main issues. If the Court on the basis of trust is inclined to take a different view then it may be necessary to consider the other issues.

10 With regard to the capital and partnership of this concern, Mr. Nadesan states that he confines himself to the evidence given by the plaintiff's witnesses and the documents produced by the plaintiff. The entire volume of documentary evidence contradicts the evidence given by the plaintiff. The defendant says that it is no doubt true that at the outset that the father left 1/3rd to the defendant. He was a sick man and the defendant was generally in charge of the business. Mr. Nadesan refers to the division up to 1934 in the ratio of 1/3rd and 2/3rd. The defendant complained to the plaintiff about the matter and the matter dragged on. He also refers to the allocation of 9

20 lakhs as capital of the plaintiff, and 3 lakhs as capital of the defendant. As there was dispute the defendant took over the Jaffna business and the plaintiff the Point Pedro business. That was the reason for the defendant trying to divert the business in Jaffna and the plaintiff at Point Pedro. Mr. Nadesan refers to the evidence of Rajaratnam under cross-examination. (Pages 8, 9, 10 and 11 of the proceedings of 3rd March, 1955.) There we find how the troubles arose, long before the registration. The registration was on 6th June, 1952. We are concerned with what happened anterior to that.

39 N.L.R., pages 573 and 574.

30 As on the date of registration the partnership must be dissolved. The defendant has registered on a particular date saying that the plaintiff had ceased to be a partner. There is nothing fraudulent. Supposing he dissolves it, yet the business must go on. Something has to be done after the dissolution. He refers to Section 42 in this connection in regard to remedy.

The action is on the basis of a co-ownership. If it is a partnership, it is inconceivable that an accounting of the Jaffna business must be asked.

With regard to capital he cites—

40 52 N.L.R., page 75.

Capital of a firm is the actual cash and the value of property contributed by the partners for the common property of the firm to be used for the purpose of the joint business. Veeragathipillai was the original owner of the business. He donated a certain share.

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Continued

That business terminated on the death of Veeragathipillai. There is direct evidence that the capital was well over Rs. 1,000/-.

18 N.L.R., page 449.

39 N.L.R., page 553.

When the plaintiff comes into Court on a question of co-ownership, the defendant is entitled to lead evidence on partnership.

2 Times Law Reports page 223. (Head Note.) He is not entitled to claim the stock in trade.

41 N.L.R., Page 86.

Lindly deals with the question of accounting at page 587. 10

In regard to the other issues he states that

Issue No. 1—Answer to that is obviously “ Yes ”.

No. 2 do.

No. 3 do.

No. 4 do.

No. 5 do.

No. 6—“ Said business ”—whether it refers to the business “ S.V.” It is certainly not. It is not 1/3rd share of the original “ S.V.” business that he gifted. That 1/3rd has been utilised as the partnership capital in respect of the partnership business which 20 was carried on by these 3 people. When the business changes ownership it is a new business legally. By the “ said business ” is meant “ S.V.” business. Answer to that is obviously “ No ”.

Under the Last Will he devised 1/3rd share of the partnership business to the plaintiff. He carried on the business in partnership with his sons. He did not leave 1/3rd share of the original business— issue No. 6. Issue No. 7—Obvious answer is “ No ”.

On the death of Veeragathipillai there comes a dissolution of the partnership. On the dissolution of the partnership the partners had the right to convert that into money etc. 30

Adjourned for lunch.

(Intld.) S. T.,  
District Judge,  
28.4.55.

Resumed after lunch.

(Intld.) S. T.,  
District Judge,  
28.4.55.

Mr. Nadesan continues his address.

Lindly, pages 415 and 416.—What is meant by a share in partner- 40 ship business.

Up to issue No. 3 there is no difficulty in answering because at a certain stage Veeragathipillai gifted 1/3rd share. When we come to issue No. 6, it proceeds on the basis that there was no change in the original business. Issue No. 6 has to be answered in the negative.

At the time of the Last Will the original business of Veeragathipillai had ceased to exist and in its place a partnership had come into being. Therefore in the Last Will 1/3rd share of the original business could never have been left. The answer to issue No. 7 has to be "No". The original business never continued. In issue No. 8 "said business" refers to the original business of S.V. That business was not being carried on. In this connection one has to bear in mind 2 aspects of the matter. In a legal sense the original business carried on by Veeragathipillai had ceased to exist. Mr. Nadesan refers to the difference between the legal sense and the mercantile sense of the word "firm".

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Page 148 of Lindly.

When there is a change in the persons who compose the firm it is a new business. The answer to issues 6, 7 and 8 will have to be in the negative.

In regard to issue No. 9, the defendant represented to the Registrar that the plaintiff had ceased to be a partner. This was a partnership at will and he had terminated the partnership.

In regard to issue No. 10, Mr. Nadesan states that the plaintiff was in charge of the Point Pedro business and the defendant was in charge of the Jaffna business. The question of fraudulence does not arise. There was no balance sheet prepared in respect of the business. "Said business" is the infirmity of all these issues. (Issue No. 12 and 13.)

In regard to issue 15, Mr. Nadesan submits that the answer would be "No".

In regard to issue 16, Mr. Nadesan submits that the answer would be "Yes, he is in full possession". In regard to issue No. 17 the answer would be "Yes". In regard to issue No. 18 the answer would be "Yes". The defendant is carrying on the business in Jaffna. In regard to issue No. 19 the answer would be "Yes". (Issues 20A, B and C have been dealt with earlier.) In regard to issue No. 21, he submits that the defendant is entitled to account to the plaintiff in respect of the whole business on the basis that he is a partner. The accounts have to include not only of the Jaffna business but also of the Point Pedro accounts. If partnership cannot be proved he is not liable. Partnership cannot be established. There is no co-ownership.

In regard to issue No. 22, he submits that the answer would be "No", for the reason that he is not entitled to any such declaration at all. Partnership has been terminated. Therefore the plaintiff has ceased to be a partner. Once he has ceased to be a partner there is no question of his saying that he is entitled to 2/3rd share of the business carried on in Jaffna.

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In regard to issue No. 23A, the answer will be "Yes".

It was held so.

In regard to issue No. 23B, this does not arise at all. One partner died and there was a dissolution of partnership.

In regard to issue No. 31A, he states that it should be answered in the affirmative, and that 31B also has to be answered in the affirmative, and that 31C has to be answered in the negative. Issue No. 32 in the affirmative, 33 in the affirmative, and No. 34 in the negative.

Issue No. 35 in the negative. He cannot maintain this action.

The real position is that the Court is concerned with the capital. 10 If the capital is over Rs. 1,000/- the matter ends there. Mr. Nadesan states that 40A and 40B are the crucial issues.

In regard to issue No. 24, Mr. Nadesan states that the defendant has acquiesced in the devises. In regard to issue No. 25, he states that the plaintiff is not entitled to 2/3rd share. He is a partner in a business. As to what share he is entitled would depend upon the agreement. There is no agreement which can be proved. In regard to Issue No. 26, he states that there is no reason why he should not do so. In regard to issue No. 27 he states that there is no question of co-ownership at all. In regard to issue No. 28 he states the answer 20 will have to be "No". The account was kept on the footing of partnership. All these issues being on the basis of co-ownership.

Further hearing tomorrow.

(Intld.) S. T.,  
District Judge,  
28.4.55.

D.C., Point Pedro, No. 4323/M.

Trial :—29.4.55.

Appearances as before.

Plaintiff and defendant present.

*Further Hearing. Addresses*

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Mr. Soorasangaram addresses Court and states that the undisputed fact in this case is that sometime before 1907, Veeragathipillai started a business. In 1929, he gifted 1/3rd to the plaintiff and 1/3rd share to the defendant. He died in 1933, leaving behind a Last Will P21 which was admitted to probate in due course in 58 Testamentary District Court, Jaffna. The business was even thereafter carried on and somewhere in 1945, the plaintiff gave the power of attorney P32 to the defendant and went to India to take treatment. He came back after some time and in 1947 for the first time part of the assets is shown in the books of the firm as capital. It was divided 40 in the proportion of 2/3rd to the plaintiff and 1/3rd to the defendant. Thereafter in November, 1951, according to the plaintiff, dispute arose as a result of the plaintiff suggesting to the defendant that the

land adjoining the land where the school is situated of which the plaintiff is the manager being divided and the plaintiff's portion left for the use of the school. Soon afterwards the suggestion is made that the coconut estate at Pallai be partitioned. The defendant on 7.6.52 by P4A made an application to the Registrar of Business Names, Jaffna, and has himself shown in the Register as the sole proprietor of the business at Jaffna. Then this action has been filed.

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To decide the issues of law involved in this case, it is necessary to come to a finding on the facts essential for the purpose of this case and it is significant on most important facts, on which the question of law really depends, the defendant has shown that he is an utter stranger to truth and would utter anything to gain his own ends. The defendant says in his evidence at page 19 of the proceedings had on 3.3.55 that he did not know the Last Will P21 till the accounts were entered in D28. D28 was entered on 31.3.35. The position that the defendant took was that till 31.3.35 he did not know the execution of the Last Will. He also refers to the evidence of the defendant at page 5 of the same day's proceedings. He says the evidence of the defendant is clearly false in view of P36 which is a deed of declaration and P21 the Last Will. These two documents bear consecutive numbers attested by the same notary on the same day and they have the same witnesses. The defendant when he was confronted with this significant fact went on to the extent of saying that his father and mother were partners to the fraud and that the defendant was kept in the dark relating to the execution of the Last Will, though he was a party to the deed of declaration P36. The receipt P30 dated 26.2.34 is a receipt granted by the mother of the plaintiff and the defendant to the plaintiff. P30 refers to the Last Will specifically. The first witness to it is the defendant himself. The receipt dated 4.2.35 is again a receipt given by the mother of the plaintiff and the defendant in favour of the plaintiff. There is a reference to P21 in this and P29 is an acknowledgment of the receipt of the sum of Rs. 5,000/- which the plaintiff had to pay under the provisions of the Last Will. Dr. Duraisamy, a brother of the plaintiff and defendant, is the first witness and the defendant is the second witness. The defendant stated even at that state, that he did not know the existence of the Last Will. *P24 dated 19.5.34* is a consent paper granted by the defendant consenting to probate being granted on P21. After the final accounts were filed, the defendant gives the consent paper *P28 of 23.8.40* accepting the final accounts filed in that Testamentary case. The defendant claimed to be the sole proprietor of the business at Jaffna. At one stage of his evidence he stated that he was entitled to a half share of the business and later ended his evidence by saying that he has become the sole proprietor. In the proceedings of 3.3.55 the defendant has, in his evidence-in-chief stated on what basis he is claiming a half share of this

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business. At page 19 of the proceedings of 3.3.55 he says that he was not satisfied with the 1/3rd share which the plaintiff has given and that he wanted a half share because he was doing the major part of the work. In November, 1947, when his mother died, he asked the plaintiff for a half share and that the plaintiff put him off. That appears at page 21 of the proceedings of 3.3.55. The defendant says that in June, 1948, only he came to know that the plaintiff had entered in the books that 9 lakhs formed the capital of the business and that the plaintiff was entitled to 6 lakhs and the defendant to 3 lakhs. He says that he came to know it on 20.6.48. If what 10 the defendant says is true on this point, one would expect the defendant to take some steps at that stage, but no such thing is done. But he stated that he asked plaintiff not to come to the Jaffna business. Then the defendant says that he consulted his lawyers and made the application P4 as the sole proprietor. In P4A the defendant wants his name registered as the sole proprietor and for that he had notified the change. The defendant says that the plaintiff has ceased to be a partner and files an affidavit affirming that statement. When did the plaintiff cease to be a partner? According to the Government on 6.6.52. The defendant wants the Court to believe that he 20 obtained legal advice and his application P4A was the result of his legal advice. Is it conceivable that a member of the honourable profession would have advised the defendant to state such falsehood in an application like that?

In the light of this evidence, one might look at the defendant's answers in this case. The first answer filed in this case is dated 3.10.52. In the plaint, the plaintiff alleged that the defendant having denied the right of the plaintiff to the Jaffna business has excluded him from the Jaffna business and has fraudulently represented to the Registrar of Business Names that the plaintiff had ceased to be a 30 partner of the business and that he had become the sole proprietor. In the first answer the defendant says in para 5 that there was a dissolution of the partnership. Then to justify what he had stated to the Registrar of Business Names, in para 11 he states that the business was carried on at two places—at Jaffna and Point Pedro and that in or about 1947 it was agreed between the plaintiff and the defendant that the business in Jaffna should be taken over by the defendant and that the plaintiff should manage the Point Pedro business. The defendant further in para 11 alleges that the plaintiff transferred his interests, if any, in the Jaffna business in 1947 to him. 40 He further states that in consequence of the said agreement, the defendant became the sole owner of the business. *So that on 3.10.52 the defendant's case was that by virtue of an agreement in 1947, he became the sole proprietor of the Jaffna business and the plaintiff the sole proprietor of the Point Pedro business and the plaintiff has transferred his rights in the Jaffna business to the defendant. That*



is not the case now. That was not the case at the abortive trial had in this case. Then the defendant after the first answer thought it fit to amend the answer.

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The second answer was filed on 20.10.52. His case in this answer was the same as the first answer. In the third answer dated 19.2.53 the position is the same and the trial was had in this case before another judge on the third answer. Till 11.1.54 the case of the defendant on this point was that in 1947 he had become the sole proprietor of the Jaffna business and the plaintiff the sole proprietor of the Point Pedro business. Thereafter the defendant filed the 4th answer dated 2.3.54. In the earlier answers the defendant's position that there was a definite agreement in 1947 between the plaintiff and the defendant and the defendant was in a difficulty as the account books would not support that. The ledger balances had been sent to the plaintiff regarding the Jaffna business till November, 1951, (P18) which document was admitted to have been sent by the Kanakapillai of the Jaffna shop. Then returns had been sent to the Income Tax Department on that footing up to the end of the year 1951. The registration of Business Names was not amended in 1947 or even in 1948 until 1952. So that the defendant's case would appear to be false by the documents shown. The defendant could not explain why in P4A he affirmed to the statement that the plaintiff ceased to have any interest in the business. In fact the chief complaint in this plaint was this document. At the abortive trial the plaintiff had called all the necessary evidence and the plaintiff had been cross-examined although the cross-examination was not over. Thereafter the discrepancy in the defendant's case by documents and the difficulty of explaining the statement contained in P4A must have made the defendant to consider about it. In para 6 of the 4th answer dated 2.3.54 the defendant says that the business was carried on at two places and in or about December, 1947, it was agreed between the plaintiff and the defendant that the plaintiff should take over the Point Pedro business and the defendant the Jaffna business after accounts were looked into.

This introduction is there for the first time. This was done to show that the plaintiff and the defendant were carrying on business between 1947 and 1952. Then the defendant says that he was forced to terminate the business on 25.5.52 and that he gave notice and as a result of giving notice, he became the sole proprietor of the business. The plaintiff says that there was no agreement in or about 1947, but on the other hand the defendant says that on 20.6.48 the plaintiff entered the capital account without his knowledge and that he called upon the plaintiff why he had done that. *He submits that the new case which is introduced in the 4th answer is an after-thought and is an invention purely to support or explain the defendant's conduct in having himself registered as the sole proprietor in June, 1952.*

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If there was some agreement as alleged in the first three answers, why should there be capitalising of the profits and those entries which the defendant says were made on 20.6.48. He says giving of the notice is false. (Mr. Nadesan says that there is the evidence of the defendant that the plaintiff agreed to give the Jaffna business to the defendant and what counsel for the plaintiff says is not correct.) Assuming that in December, 1947, there was an agreement between the plaintiff and the defendant to divide the business, how can the defendant say that on 20.6.48 the plaintiff entered the accounts without his knowledge ?

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The defendant says he became the sole proprietor on 7.6.52 and that he gave to the plaintiff one week's notice. Assuming that partners can terminate the business or dissolve the business by giving notice of this kind, can he say that he has become the sole proprietor ? Counsel for the defendant was saying that it was necessary for the defendant to have himself registered as the sole proprietor for the purpose of winding up the business.

He says, for the purpose of winding up of the business, it is not necessary for one of the partners, even assuming that it is a partnership, to have himself registered as the sole proprietor. If the partnership can be dissolved, it can be done without the defendant making himself as the sole proprietor and making a declaration to the Registrar of Business Names. If the defendant wanted to safeguard the assets of the business, was it necessary for him to say in the answer that he was the sole proprietor of the business ? The defendant is not satisfied with the Registration of Business Names P4A. On the face of P5 he is the proprietor of the Jaffna business. He is not satisfied with it. He refers to the document P6. The goods which were ordered by the plaintiff and which were meant for the Jaffna shop and which had been paid for could not be taken delivery by the plaintiff because the defendant had got the bank not to send the documents to Thondaimannar. The plaintiff pays for the goods and the defendant gets the goods. In the result the Point Pedro shop will be left with neither stock-in-trade or money and the entire money and stock-in-trade will be at the Jaffna shop. The defendant makes his application by P6 dated 30.10.52 in which he says that the firm of which he is the sole proprietor has branches at Point Pedro and Jaffna. In his evidence the defendant claims to be the proprietor of the Point Pedro shop also. In the 4th answer the defendant did not claim to be the proprietor of the Point Pedro shop. When the defendant was questioned about P6, the defendant could not explain and said that he was also the proprietor of the Point Pedro shop at page 15 of the proceedings of 4.3.55. To justify his application P6, he says that he became the sole proprietor of the Point Pedro shop also. But this is not so according to the answers. These are the statements made by the defendant in his evidence and answers in

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respect of the documents P32, P21, P36, P4A, P30, P29, P24, P21 and P6. The returns to the Income Tax had been sent on the basis of 2/3rd to the plaintiff and 1/3rd to the defendant. P14 to P17 are returns prepared by the auditors for the purpose of the income tax. The defendant made an allegation that the plaintiff would not give the Point Pedro books. Another allegation is that the plaintiff's son obstructed him. These are obviously false and this is supported by the evidence of Alagasunderam who is still under the employ of the defendant. He is the Kanakapillai of the business  
 10 which is under the sole proprietorship of the defendant. He denies that the plaintiff refused to hand over the books or documents or that the plaintiff's son obstructed the defendant. The defendant alleges that he made representations to the auditors and that allegation is false. He submits that the allegation that the auditors came and there was a delay is false. This was not put to the plaintiff or to Alagasunderam the Kankapillai. This contention is supported by the document P35 which is dated 17.2.50. The defendant has started a rival business under the name of Segaram & Sons and he had  
 20 Sons. P35 was written before the ill-feeling arose. In P35 he writes that the plaintiff is entitled to 2/3rd share and the defendant to 1/3rd share. The defendant was trying to use his influence on the auditors but the real point is that he admits P35.

As against the defendant's evidence, there is the evidence of the plaintiff, Alagasunderam, who is still under the employ of the defendant and Mr. Cumarasamy who audits the accounts of Veeragathipillai & Sons contradicting the defendant's evidence on material points.

Issues 31A, 31B, 31C, 32 to 36 are issues on law relating to partnership contained in Chapter 57, Section 18, Chapter 66, section 3 and  
 30 Chapter 69. Chapter 57 is commonly known as the Statute of Fraud. It came into operation in 1840. Section 18 of Chapter 57 says that no agreement, unless it be in writing or signed by the parties, shall be of any force or avail in law for establishing a partnership. Under the proviso, the third parties could sue partners without proof of any such agreement in writing. Section 3 of Chapter 66 introduced into Ceylon the Law of England relating to partnership except in so far as there is specific provision by any other Ordinance in Ceylon. Chapter 66 was enacted in 1853. Chapter 69 is really part of the partnership Chapter 66. So that in Ceylon so far as the Law of partnership  
 40 is concerned, the English law applies. Section 18 of the Statute of Fraud or Chapter 57 would be law.

The plaintiff in this case has not come to Court on the footing of a partnership. The plaintiff has come to Court on the footing that he is entitled to a 2/3rd share and the defendant 1/3rd share and has asked for an accounting on that footing. The facts on which

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he bases his claim on the footing of a co-ownership are admitted. The Last Will P21 and the course of conduct from 1929 up-to-date has been on the footing that the plaintiff was entitled to a 2/3rd of the business and the defendant 1/3rd share. Counsel for the defendant placed too much reliance on certain documents to show that the relationship between the parties was one of partnership. *The question whether the relationship between the two persons carrying on the business is one of partnership or co-ownership does not depend on the documents to which they have been parties, but it really depends whether the essentials to a partnership are found in that particular business.* 10 Counsel for the defendants relied on P1, P9A, or D27, P11, P25, D2, D4 to D14, D16, D21 to D26. These documents to which the plaintiff and the defendant are parties are documents which do not have the effect of proving the relationship that existed between the plaintiff and the defendant in relation to this business was one of partnership, but in actions by third parties against the plaintiff or the defendant, these documents will be of evidence of what is termed as holding out. *The defendant and the plaintiff by these documents have held out to the public that they are partners.*

The proviso to section 18 of Chapter 57 says that. But if the 20 dispute is between the two persons who are carrying on the business, one cannot by displaying those documents say that it is stated he is a partner and therefore it is a partnership ; it must be independently looked into. Even if two persons are carrying on a business and the evidence placed before Court is only the documents referred to, the Court would, for lack of other evidence, hold that this was not a partnership ; but in this case fortunately both the parties are not left with it. In fact documents of this kind do not really indicate the true nature of the business carried on. In fact other evidence has been led in this case showing the nature of the business and from 30 the other evidence, the Court is in a position to apply the test laid down by Lindley and come to the conclusion whether this business was a partnership one or not. In other words, if in 1933 the plaintiff and the defendant entered into an informal agreement—one man is described as a sleeping partner and if from the conduct of the business none of the essentials of a partnership is found, the Court will not hold that it is a partnership. He cites—

1946 All India Reports, Volume 33, Bombay, page 174  
at page 180.

Regarding the citations quoted by counsel for the defendant, 40  
27 N.L.R., page 231.  
39 N.L.R., page 481.  
50 N.L.R., page 220.

Mr. Soorasangaram says that those are cases where there was no other evidence of the real intention or agreement of the parties.

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So that in spite of such documents, it can be proved by evidence that the real nature of the business or the real agreement and intention between the parties was not to carry on the business in partnership, but something else. Then those documents are not valid.

Counsel for the defendant stated that if the plaintiff and the defendant carried on the business in co-ownership, what was the necessity of the business name to be registered? Counsel for the  
10 defendant said that P1 alone will show that the relationship between the plaintiff and the defendant is that of a partnership. The Business Name Registration Ordinance does not require more than one person carrying on business, if they are individual names, to register any business name. In other words, if business is carried on by individuals in their own names, it need not be registered. The provisions of the Business Names Registration Ordinance has to be complied with where an individual or more than one person carry on business, not in their individual names but under a business name. If as a result  
20 of the gift in 1929, Veeragathipillai & Sons—the plaintiff and the defendant—started carrying on the business under the name of Veeragathipillai, Rajaratnam and Rajasegaram, no registration was necessary; but the registration was necessary because they carried on the business under the name of “S.V.”. The general impression is that when two persons carry on a business, it is a partnership. Cases like this where the business is started by one and devolved on his children are very rare. To provide for the normality of cases, the Business Name Registration Ordinance assumed that every business carried on by more than one person is a partnership. The Business Name  
30 Registration Ordinance requires that business name has to be registered whether it be partnership or anything else. Merely because the word partner in section 2 is stated, counsel for the defendant cannot say it is a partnership. He says even a partnership which confirms to all the requirements of a partnership need not have its name registered. Unfortunately the form provided by this Ordinance are of two kinds—in the case of an individual and the case of more than one person. One form is provided for more than one person carrying on a business. It is settled law that partnership is the result of an agreement between the persons who carry on the business. On  
40 this point he refers to pages 34 and 35 of Lindley 15th Edition and cites Pollocks at pages 6 and 18 N.L.R. page 289.

There is no evidence in this case to the effect that there was an agreement either in 1929 or 1933. In fact the defendant who seeks to establish partnership and on whom the burden is, did not say one word that there was an agreement either in 1929 or 1933 to carry on the business in partnership. In that plight the defendant was com-

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pelled to place too much reliance on the statement D2A made by the plaintiff in 58 Testamentary. In that case the plaintiff as executor of the Last Will of his late father was the assessee in regard to the Estate Duty and the Commissioner of Estate Duty was the defendant. The plaintiff sought to put forward the claim on the footing that his father, he and the defendant were carrying on the business in partnership and in the alternative, claimed that he, his father and the defendant were co-owners. Mr. Justice Soertz held that plaintiff could not maintain the first claim but that he could maintain the second claim. The evidence given by the plaintiff 10 in that case cannot be used as plaintiff's evidence in this case. He cites—28 N.L.R., page 126 and refers to section 155 of the Evidence Ordinance.

If there is no agreement that there was a partnership, then we have to look into the facts proved in this case and see whether the parties can be considered to have agreed to carry on the business in partnership. There is no express evidence on this point. The question is whether we can imply it.

Partnership can subsist even in relationship to an immovable property. Partnership may not subsist even in relation to a movable 20 property. He cites—

62 Law Times, page 200.

He refers to pages 36 and 37 of Lindley.

Under section 18 for the validity of the agreement to carry on business in partnership is not found in the English Law or the Indian Law. The distinctions between co-ownership and partnership under the English Law and Indian Law are very important because of the consequences which flow from the relationship and those consequences are given by Lindley at pages 34 and 35. He says whether it be partnership or co-ownership, in any event, they are entitled to an 30 accounting. The differences are very little. According to Lindley, it is very difficult to distinguish between a partnership and co-ownership in some cases—para 2 of page 35. He refers to Lindley, page 30. He says in this case there was no sharing of the profits.

The assets and goodwill are part of the business. The evidence led in this case is that the same business which was started by Veeragathipillai is carried on even now. P11 shows that the same business was carried on. The account books which have been placed before Court will show that it is the same business. The very books which they kept show that it was the same business. If the old business 40 was closed in 1929 and a new business opened in 1929, there would have been new accounts and so also in 1933.

It is not necessary in every case to have a new partnership at every change. The question is whether there was a partnership

and the rest flows from it. Counsel for the defendant was begging the question.

Either party could sign cheques, but that is a matter of arrangement with the bank. The evidence of the plaintiff is that at the request of the bank he signed as partner.

Court adjourns for lunch interval.

(Intld.) S. T.,  
D.J.,  
29.4.55.

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10 Court re-assembles after lunch interval.

Mr. Soorasangaram states that to decide the nature of the business, one has to look into the facts of the case. Counsel for the defendant stated that after the gift, they all carried on a business with their shares and therefore it was a partnership. He says co-owners can become partners only by using the common property with a view to profit. He refers to the distinction drawn by Lindley at page 35, paras 1, 2 and 3. The question is how was the common property used after the gift. In the absence of any specific agreement between the two persons, we have got to find from their conduct how they carried  
20 on the business. In other words, the question is whether the business was carried on in the same way as it was carried on earlier or whether the business was carried on in such a way as to make the necessary implication that the co-owners carried on the business with a view to profit. In other words, did the 3 of them in 1929 carry on the business with a view to dividing the profits. The evidence led on either side shows that during the lifetime of Veeragathipillai and after 1933—all could draw whatever amount they wanted, and money so drawn was not debited against the party who drew the money. All moneys drawn were debited to the S.V. account; that is the  
30 common account. Is that a business carried on as a partnership in which the owners could draw as much as they could and the money was not debited to the party who drew the money. In the case of a partnership business it is carried on with a view to profit and the division and the sharing of the profits is the essential element in a partnership. So that at the end of each year, the money that was drawn by each partner is debited and he will be entitled to draw the balance profits. Here it is not so. What happened at the end of a year in this case is that the profits are accumulated and no capital is shown in the books till 1947. The partnership in the legal sense  
40 of the term, is business with a view to profit. The chief essential ingredient is that the profit should be divided between the partners at the end of each year. So far as the account books are concerned, there was no sharing of the profits or division of the profits. Even the profits were not credited to the plaintiff or to the defendant. So that the main essential element of a partnership is not found in this particular business. Therefore it is not a partnership. This

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business is analogous to business carried by persons governed by the Hindu Undivided Family. Such business cannot be said to be a partnership in the sense of the English Law on partnership. The business in this case is that type. Chetties have been carrying on business in Jaffna and Veeragathipillai had been following that custom. He cites—

51 N.L.R., page 169 at page 171 which was affirmed in 53 N.L.R., page 505.

The expenses of the two households were met out of the income derived from the business. This is debited to the common account. 10  
In this case it has been proved that there has been no division of profits from 1929 up-to-date. One cannot say by looking at the books, how much either the plaintiff or the defendant has withdrawn or how much money is to the plaintiff's credit or to the defendant's credit. There was no individual account against any of the partners. After 1947, there was a separate account for the investments by each partner. According to Lindley the sharing of the profits is an essential element for a partnership. This business was not carried on with a view to profits. He refers to the defendant's evidence at pages 2 and 3 of the proceedings of 4.3.55 where he admits that the 20  
profits are shown in the S.V. account and the expenses are debited to the S.V. account. The accounts P14 to P17 are not kept by this firm. This was prepared by the auditors for the purpose of the income tax. Their profits are shown in the proportion of 2/3rd and 1/3rd. The profits shown in this case would not be real profits.

P14 to P17 incidentally show the defendant's case that there was an agreement in 1947 to take over the Jaffna business cannot be true. P14 to P17 was prepared after 1947. In the case cited by counsel for the defendant, 1937 All India Reports, page 438, he says their Lordships held that partnership has to be determined by the 30  
conduct of the parties. He also refers to the Power of Attorney P32 which refers to the business carried on by the plaintiff and the defendant. After the plaintiff went to India, the defendant was in charge of the business. The defendant himself admits that. There is another important fact that prior to 1929 and thereafter this business, the coconut estate lands, etc., were managed and the income derived had been brought into the S.V. account. If it was a partnership, these things would not take place. One does not know the profit one was entitled to. P37 is a plaint filed by R. Sivadas against the plaintiff and the defendant for the recovery of Rs. 5,840.07 being 40  
his share of the profits from the coconut estate at Pallai for the year 1951, and judgment was entered against the plaintiff and the defendant in this case. The conduct of the partners in acquiescing in the Last Will by Veeragathipillai is another factor which goes to show that there was no partnership. The conduct of the plaintiff and the



defendant in acquiescing the position that the plaintiff was entitled to a 2/3rd and the defendant 1/3rd from 1933 and submitted returns to the Income Tax on that footing goes to show that it is not a partnership business. Regarding 62 Law Times cited by counsel for the defendant, he says in that case the business was purchase and sales of immovable property and the accounts were kept to show that there was sharing of the profits. In that connection counsel for the defendant referred to P14 to P17 but he says P14 to P17 are not accounts of the firm but prepared for the purpose of the income tax.

10 According to the account books there was no division of profits. It is true that some profits have to be shown to the Income Tax and it was shown on the basis of 2/3rd to the plaintiff and 1/3rd to the defendant. So far as the Indian Law, no writing is necessary to constitute a partnership. Our law requires that a writing is necessary, otherwise a partnership is of no force or avail in law. Section 18 is as follows:—"No promises, contracts or bargain or agreement unless it be in writing or signed by the parties making the same . . . shall be of any force or avail in law . . . for the establishment of a partnership. In other words, unless one complies with section 18, otherwise there is no *de jure* partnership. The agreement to establish a partnership is no agreement, unless it be in writing as required by section 18. Any partnership which does not conform to section 18 cannot be a *de jure* partnership but it may be a *de facto* partnership. He says no legal consequences flow from a *de facto* partnership. Chapter 57 is to prevent fraud and not cover up fraud.

He cites—

30 Livinia on trust 15th edition, page 41, para 3. Section 18 of Chapter 57 says that for the purpose of establishing a partnership, an agreement which is not in writing, is no force or avail or where the capital exceeds Rs. 1,000/-. Regarding the 18 N.L.R. 289 the Privy Council upset the previous decision on the ground that the capital was over Rs. 1,000/-. A person is entitled to come to Court on the footing that he is a partner and at the same time ask for an alternative claim on another footing, and if he is not entitled to the relief on the footing of a partnership, he could get a relief on the ground that he is a co-owner or something. He refers to 39 N.L.R., page 481. The plaintiff stated there that it was a partnership and in the alternative a co-ownership. At page 486 he deals with it as an alternative claim. That claim was on the basis of a co-ownership.

40 He says according to 39 N.L.R. the business may be a partnership as well as a co-ownership. If in 1929 the 3 persons were carrying on the business in partnership, then neither of the party was entitled to a 1/3rd share. He cites—

50 Ceylon Law Weekly page 12.

He refers to para 6 of the plaint which shows that the business was entrusted to the 1st defendant who was himself a shareholder.

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He cites this case to show that a person may come not only as a partner but also as something else. In that case the 1st defendant himself was one of the partners, but the plaintiff did not come on the footing of a partnership. They came to Court on the footing that the 1st defendant was the agent of the others in so far as he was entrusted with the management of the business. He says that the cases reported in 50 Ceylon Law Weekly and 39 N.L.R. show that the plaintiff can come either as a partner or even something else.

(Intld.) S. T.,  
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Addresses (*continued*).

Mr. Adv. Soorasangaram continues his address.

50 Ceylon Law Weekly, page 12.

The 1st defendant and another defendant in that case contended 20 that the action was not maintainable so far as the relation was one of partnership with a capital of over Rs. 1,000/-. Therefore in view of Section 18 of Chapter 57 the action was not maintainable. The Supreme Court did not hold that. On the facts which were pleaded the plaintiffs says the 1st defendant one of the parties who contributed money to the business was their agent. He was managing the affair. The defendant on the other hand contended that he was a partner along with others. It is consistent. Even if partnership was established it was open to the plaintiff even then to say it is true it is partnership. The 1st defendant as managing partner was entrusted with 30 the business and was therefore acting as our agent and therefore I am entitled to claim relief on the footing that he was agent. Agency alleged in that case was not a mere consequence of a legal partnership. Agency alleged in this particular case is that the 1st defendant gets the moneys of the various shareholders. He had the entire charge of the business. In that sense he was agent of the others. In fact the plaintiffs in that case instead of putting forward relief on the basis of agency alone could have claimed as an alternative relief on the footing of partnership. The plaintiffs in that case could have claimed relief still on the ground that it was a partnership and that 40 the 1st defendant was liable to account and as an alternative could have claimed 1st defendant was entrusted with the management of the business and was therefore our agent and liable to account. According to 50 Ceylon Law Weekly, page 12, it is the basis of the plaintiff's claim that has to be looked into. Has the plaintiff come to

Court on the footing of partnership. If he has such a claim is not maintainable. If he has not, the plaintiff can still ask for relief on another footing. Section 18 of the Prevention of Frauds Ordinance does not exclude the right of a litigant to come to Court asking for relief on a footing other than that of a partnership.

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39 N.L.R., page 481.

The Court has to read the judgment and abstract the principle involved. Relief on the footing of partnership and in the alternative relief on the footing of a co-ownership.

10 Q. The main question in 39 N.L.R. was what was assessable ?

A. Yes. That is with regard to the relief the Court was going to grant. The question was whether the plaintiff was entitled to the relief.

If a party cannot come to Court on the footing of partnership, he can frame his action in such a way as to claim relief on some other footing provided that footing can be established. If you come to the conclusion that it is a partnership, the matter does not stop there, because co-ownership can also be associated with partnership. The same facts can constitute some other relationship between the partners.

20 Ceylon law is slightly different from the English law. In addition to the English law our law requires a partnership to be a partnership *de jure*, which is evidenced by a writing. The Court will have to on the facts placed before it decide whether it is partnership, or co-ownership or whether it could have the elements of both. In this case the plaintiff has placed sufficient facts before Court on which the Court will hold that the facts disclose a co-ownership and nothing else. In 1929 since the gift was made a co-ownership came into existence. According to Counsel for defendant, the co-owners must divide the assets and take their respective shares. If they do not  
30 do so, and carry on business thereafter it becomes a partnership.

Q. With a view to profit—all those elements of partnership come in ?

A. Yes.

If co-owners use the co-owned property without intending to carry on the business in partnership it does not involve the other ingredients of a partnership. The business is still co-owned business.

Page 35 of Lindley.

If at the time when Veeragathipillai, Rajaratnam and Rajasegeram became co-owners as a result of the gift, in 1929, they without  
40 any writing as is required by Section 18 of Chapter 57 carried on, no *de jure* partnership comes into existence. Therefore it is not a partnership in the legal sense. Therefore co-ownership must be presumed to continue. "A" is the owner of an immovable property. He gets the price from "B" for the land, sells it to him but no deed

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is executed. Under section 2 of Statute of Frauds "A" is still the owner. "B" is not, "B" cannot come to Court and say "I gave money being the price for this land." "That man sold to me, declare me entitled to the land." One has got then to go under the Trust Ordinance.

Mr. Soorasangaram refers to Section 18 of Chapter 57 and to Section 2 of Chapter 57. They are in the same Section. The purpose is the same. No transaction which can be recognised by law comes into existence without formalities which are required by these 2 Sections being complied. 10

*Trust.*—In England certain principles were evolved to give relief to litigants where they found one party or other had some undue advantage over the other. Those principles have been embodied in the Trusts Ordinance, Chapter 72, which came into operation on 16.4.1918. Chapter 57 Prevention of Frauds is a very much earlier Ordinance.

18 N.L.R., case No. 289 was decided before the Trust Ordinance.

(Mr. Nadesan refers to 9 N.L.R. case.)

Law of Trust as it obtains in England was never introduced into Ceylon before 1918. Courts in Ceylon did adopt from time to time 20 the principles of the Court of equity in England. That is not the same thing as to say that the entire body of the law of England was imported into Ceylon. They had to base some of their decisions on the principle of equity obtaining in England. Mr. Soorasangaram refers to Section 2 of the Trusts Ordinance. Section 2 introduced into Ceylon principles of equity in force in England in all matters in which the Trusts Ordinance is silent in regard to express trust and constructive trust. Section 5 lays down the formalities which have got to be observed by any person seeking to create an express trust. If an express trust is created it must be notarially executed. Section 30 5(3) states that those formalities would not apply in a case where provisions of Sub-Section (1) would operate so as to effectuate a fraud.

48 N.L.R., page 289, page 292.

In considering the question of trust we are not concerned with Section 2 of the Prevention of Frauds Ordinance. We must look to Section 5, Sub-Section 3 for formalities.

55 N.L.R., page 529.

Section 5, Sub-Section 3, applies to an express trust. In Chapter 9 of the Trusts Ordinance what are called constructive trusts are dealt with. 40

Lewin, page 155 ("A constructive trust is raised by a Court of equity . . .")

Section 83 provides for a case like "A" transferring a property to "B". He does not execute a notarial deed. He does not intend to dispose of the beneficiary interest to "B". Court of equity intervenes and says that "B" holds it in trust.

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48 N.L.R., page 357.

Constructive trusts are not merely exceptions.

Mr. Soorasangaram refers to Section 84. If "A" transfers a property to "B" for consideration supplied by "C", "B" holds the property for the benefit of "C".

10 32 N.L.R., page 306.

32 N.L.R., page 306 was relied on by Justice Rose in the case reported in—

50 Ceylon Law Weekly, page 12—as laying down the correct principle.

Mr. Soorasangaram refers to Sections 85 to 88, and to *Section 90 in particular*.

50 Ceylon Law Weekly, page 12, has been decided on the footing of the provisions of Section 90. The word "Agent" also comes under Section 90. Illustration "E" and "F" under that Section  
20 referred to. Section 92 read.

Assuming that Sections 83 to 90 do not apply to the facts of this case, Mr. Soorasangaram contends that Section 96 would apply to the facts of this case. The defendant admittedly was entitled to 1/3rd share and the plaintiff a 2/3rd share. The defendant's position now is that he is the sole proprietor. Therefore he denies that the plaintiff is entitled to any interest in the Jaffna business. He therefore is in possession of property and he has not the whole beneficiary interest in the property. He admits that the plaintiff is entitled to 2/3rd and he claims to be entitled to the remaining 1/3rd.  
30 He admits that he is in possession of the property and claims the entirety. Therefore he does not have the beneficiary interest in the property to more than 1/3rd. So far as the plaintiff's 2/3rd share is concerned he does not have the beneficiary interest for that share. Therefore Section 96 says he must hold the property for the benefit of the persons having such interest. He must hold 2/3rd share of the business for the benefit of the plaintiff. Section 96 provides for a case where you cannot come under the statute of Frauds Ordinance. All these Sections apply to a case where the statute of Fraud stands in the way of getting relief.

40 Mr. Soorasangaram refers to Section 97. If the Court comes to the conclusion that the defendant is holding 2/3rd share in trust for the plaintiff under any one of the Sections referred to, then he is in the position of a trustee who has by virtue of a valid deed acknowledged that I am entitled to 2/3rd. Sections 83 to 96 impose an obligation

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on the person holding property and declaring that he must hold it for the benefit of the beneficiary. In dealing with what his duties and liabilities are Section 97 says that so far as duties of such a person are concerned he is in no way better than an express trustee.

Section 3, Chapter 72 for definition of the word "Trust". Section 93—he will be subject to liabilities and disabilities as if he was a trustee.

Section 51.

Section 52—The word "trustee" has only one meaning under this Ordinance.

10

45 N.L.R., pages 128, 131.

"Obligation in the nature of trust"—constructive trust. "To the extent necessary to satisfy their just demand."

"Earlier Sections"—Sections 83 to 95.

Q. What is the effect of D2 ?

A. He says he gave evidence in Tamil and that he never used the word "partnership". In that case relief claimed was on the basis of partnership and in the alternative on the basis of co-ownership.

(Mr. Nadesan states that the only basis on which relief was claimed at the stage at which evidence was led was on the basis of partnership. No question of any co-ownership arose. In appeal when this question of partnership was failing, Mr. H. V. Perera argued the question of co-ownership).

Mr. Nadesan hands over certified copies of judgment in case No. S.C. 11., D.C. Mannar case No. 10833.

Call for documents on 19.5.55.

(Intld.) S. T.,  
District Judge,  
30.4.55. 30

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No. 30.

Judgment of the Supreme Court

S.C. 220

D-C. Point Pedro 4323

V. Rajaratnam.....Plaintiff-Respondent.

vs.

V. Rajasekeram.....Defendant-Appellant.

Present : De Silva, J. and Fernando, J.

Counsel : S. Nadesan, Q.C., with C. Renganathan for defendant-appellant.

H. V. Perera, Q.C., with T. Arulambalam for plaintiff-respondent. 40

*Argued on* : 19th July, 1955.

*Decided on* : 21st July, 1955.

De SILVA, J. :

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The plaintiff instituted this action on July 28th, 1952, against his brother, the defendant, for a declaration that he was the owner of 2/3rd share of the business carried on under the name of "S. Veeragathipillai & Sons" at Jaffna and of the assets and goodwill thereof and for an order for an accounting. In the plaint the subject matter of the action was valued at Rs. 600,000/-. The defendant in his answer 10 denied the claim of the plaintiff and set up various defences. The case first came up for trial on 25.6.1953 when issues were framed and adopted. Thereafter the hearing was continued on 6.11.1953 and adjourned for the 11th and 12th January, 1954. On 11.1.1954 in the course of cross-examining the plaintiff the Counsel for the defendant sought to add three new issues to the fifty issues which had been adopted earlier. The Counsel for the plaintiff objected to the three new issues and the learned District Judge made order rejecting them. Thereupon the defendant's Counsel moved to amend the answer to enable him to raise the three issues in question. The 20 plaintiff's Counsel objected to that application also, on the ground that it was an attempt to keep his client away from the business. The learned District Judge, however, allowed the application to amend the answer but ordered the defendant to pay to the plaintiff the "incurred costs" of that day and the following day. Later, on the suggestion of the Counsel for the plaintiff, the three issues in question were adopted without the amendment of pleadings in order to obviate delay. But the order for costs however already made was retained. Further hearing was refixed for 15th and 16th March, 1954. This appeal is by the defendant against the order for costs referred to 30 above. The order appealed from was obviously made under Section 143 of the Civil Procedure Code (hereinafter referred to as the Code). The Sub-Section 1 of that Section empowers the Court to adjourn the hearing of the action on the application of either party if sufficient cause is shown. Sub-Section 2 of the same Section enacts "in all such cases the Court shall fix a day for the further hearing of the action, and may make such order as it thinks fit with respect to the costs occasioned by the adjournment". Mr. Nadesan conceded that the Court in granting an adjournment of the hearing, is entitled to order the party at whose request the adjournment is granted, to 40 pay costs as taxed by the Court or to pay a specified amount fixed by it as costs.

He however argued that there is no provision in the Code which empowers the Court to order a party to pay the "incurred costs". Provision is made in Section 214 to tax bills of costs. According to that Section a bill of costs in a District Court has to be taxed by the Secretary, according to the rates specified in the Second

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Schedule. Mr. Nadesan in support of this argument submitted that there was no provision in the Code to tax bills in respect of "incurred costs". But I do not think that there is any insurmountable difficulty in the matter of taxing such bills. Section 214 itself can be vailed of for that purpose, subject to one variation, the variation being the substitution of the costs actually incurred in place of the rates specified in the Second Schedule. Of course, the party who is to receive "incurred costs" would be entitled to recover such costs only in respect of items taxable under that Schedule. In other words he would be entitled to get the bill taxed in terms of the Second 10 Schedule, but free from the restrictions set out therein in regard to the amounts permitted under it. Such amounts will be limited to the sums actually incurred.

The awarding of costs is a matter in the discretion of the Judge. But that discretion must be exercised judicially. The Judge is not entitled to make an order in a vague or arbitrary manner. But he should be guided by rules of reason and justice—*Sunderam v. Gonsalves*<sup>1</sup>. In *Yapa v. Don Davith*<sup>2</sup> Herane, J. stated, "It is true that a Court of Appeal does not ordinarily interfere with the discretion exercised by a Court of trial as to costs but where it is clear that a Court 20 of trial has exercised no discretion at all and has arbitrarily given costs against the party who succeeded on the issues before the Court, it would be contrary to all principles of justice if it did not interfere." As observed by Basnayake J. in *Sunderam v. Gonsalves*<sup>1</sup> the interference should not be restricted to the instance referred to by Hearne J. if it is evident that the Judge has not exercised his discretion at all or if he has used it arbitrarily. There are various factors to be taken into consideration in fixing the amount of costs when the hearing of a case is adjourned on the application of a party. One such factor is the amount involved in the litigation and another is the extra 30 expenditure that is incurred by the other party as a result of the postponement. The Judge is also entitled to take into consideration the stage of the case at which the postponement is granted, in fixing the costs. But in no case should a Judge enhance the amount of costs for the reason that the party who is condemned to pay the same is in affluent circumstances. In this case the learned District Judge in making the order for costs has made the observation "the defendant is not a poor person". That is indeed an unfortunate remark to have been made. The fact that the defendant was not a poor person appears to have influenced the Judge in ordering him to pay unusually heavy 40 costs. Although I would not go so far as to say that a Judge in no circumstances should order a party to pay "incurred costs" I would however venture to observe that such an order is an undesirable one and should be made only in cases where the Judge is in a position to form a fairly accurate estimate of the "incurred costs". Where he makes such an order the record also should show that he had material



before him to arrive at the estimate of "incurred costs". Otherwise it would not be possible for this Court to ascertain whether or not the Judge had exercised his discretion judicially. In this case it is not possible to gather from the Judge's record even a very rough idea of the amount of costs incurred by the plaintiff and which the defendant was ordered to pay. If the Judge had no means of knowing what the plaintiff had spent it cannot be said that he used his discretion judicially in ordering the defendant to pay the "incurred costs". The learned District Judge should have stated in his order his estimate of the "incurred costs" and the grounds on which he based that estimate before he made the order. In these circumstances I am not satisfied that the Judge used his discretion judicially. If the learned District Judge felt that an order for taxed costs in favour of the plaintiff was inadequate it would have been desirable if he fixed a specified amount as costs after consulting the Counsel for both parties. The order to pay "incurred costs" is set aside. The plaintiff however is entitled to an order for costs. I would fix the costs at Rs. 1,000/-. There will be no costs of this appeal.

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(Sgd.) K. D. De SILVA,  
*Puisne Justice.*

20

I agree.

(Sgd.) H. N. G. FERNANDO,  
*Puisne Justice.*

1. 51 N.L.R.

2. 10 C.L.W.

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**No. 31.**

**Decree of the Supreme Court**

D.C. (Inty.) 220.  
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No. 31.  
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21.7.55

ELIZABETH THE SECOND, Queen of Ceylon and of Her  
Other Realms and Territories, Head of the Commonwealth

30

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

Veeragathipillai Rajaratnam of Tondamanar . . .  
..... *Plaintiff-Respondent*  
*against*

Veeragathipillai Rajasegaram of Tondamanar . . .  
..... *Defendant-Appellant.*

Action No. 4323.

District Court of Point Pedro.

This cause coming on for hearing and determination on the 19th  
and 21st days of July, 1955, and on this day, upon an appeal preferred  
by the defendant-appellant before the Hon. K. D. de Silva, Puisne

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Justice and the Hon. H. N. G. Fernando, Puisne Justice of this Court, in the presence of Counsel for the appellant and respondent.

It is considered and adjudged that the order to pay "incurred costs" be and the same is hereby set aside. The plaintiff however is entitled to costs, which are fixed at Rs. 1,000/-. There will be no costs of this appeal.

*(Vide copy of order attached.)*

Witness the Hon. Hema Henry Basnayake, Q.C., Acting Chief Justice at Colombo, the Twenty-second day of August, in the year One thousand Nine hundred and Fifty-five, and of Our Reign the 10 Fourth.

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

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### No. 32.

#### Judgment of the District Court

D.C. Point Pedro No. 4323/M.

#### JUDGMENT

The plaintiff Rajaratnam is the elder brother of this defendant Rajasekeram. Their father the late Mr. S. Veeragathipillai started and carried on business in rice, paddy tiles, tobacco, timber, etc., and 20 as money lender and pawn-broker under the business name S.V. The plaintiff started assisting his father in this business in the year 1907 while the defendant the youngest in the family came to assist his father about 20 years later.

The plaintiff's case is that in the year 1929 his father gifted a one-third share of his business to each of his sons, *i.e.* the plaintiff and the defendant, reserving to himself the balance one-third share; thereafter the plaintiff, the defendant and their father each became entitled to one-third share of this business which was from that stage onwards carried on under the name "S. Veeragathipillai & Sons". 30 S. Veeragathipillai, their father, died on 3.12.33 leaving behind a last will dated 14.10.1933 (P21) by which he bequeathed his one-third share in the said business, the assets and goodwill thereof to the plaintiff; this will was duly proved in case No. 58 D.C. Jaffna (Testamentary). Thus the plaintiff maintains that he became entitled to two-third share of the business assets and goodwill and the defendant to the balance one-third.

This business was carried on at Jaffna and at Point Pedro. The plaintiff was in charge of the Point Pedro branch while the defendant was managing the business in Jaffna. These brothers appear to 40 have got on well and the business flourished under their management.

The plaintiff maintains that after the father left the Last Will P21 the plaintiff and the defendant carried on business on the footing that the plaintiff was entitled to two-third and the defendant to one-third of the business assets and good-will. He now complains that on 7.6.52 “ the defendant wrongfully and fraudulently and with a view to deprive the plaintiff of his rights applied to the Registrar of Business Names, Northern Province, to have himself registered as the sole proprietor . . . and falsely alleged . . . that the plaintiff had on 6.6.52 ceased to have any interest or right in the said business ”.

10 Appilication P4 of 7.6.52 made by the defendant to the Registrar of Business Names is relied on by the plaintiff as evidence in support of this allegation. In P4 the defendant had represented to the Registrar of Business Names that “ Veeragathipillai Rajaratnam ” (the plaintiff) “ had ceased to be a partner ”. On this application the Registrar issued to plaintiff P5 viz. “ Certificate of Registration of an individual pursuant to a change on 6.6.52 ”, giving the present name of the individual proprietor of the business as Veeragathipillai Rajasekeram, the defendant.

The plaintiff complains that by P4 the defendant had made a

20 false declaration with a view to deprive the plaintiff of his rightful share in this business and has obtained the Certificate of change P5 by such a declaration. He further alleges that since 3.12.50 the defendant had not rendered any accounts in respect of the business carried on at Jaffna and that since 7.6.52 the defendant has taken possession of that business excluding him (the plaintiff) therefrom. He submits that “ the defendant is holding the business carried on at Jaffna in respect of a 2/3rd share in trust for the plaintiff and is liable to account to the plaintiff . . . ”

The balance-sheet prepared up to 31.12.50—*vide* account “ X ”

30 annexed to the plaint—in respect of this business by the duly appointed auditors was on the basis that the plaintiff was entitled to 2/3rd and the defendant to 1/3rd share in the business. The plaintiff now seeks to have a declaration in this action that he is the owner of two-third share of this business and for an order on the defendant to render an account of all the assets taken charge of by him and of all profits that came into his hands thereafter in the course of carrying on the said business ; or in the alternative for an order on the defendant to pay to the plaintiff Rs. 600,000/- representing the value of his 2/3rd share in this business.

40 The defendant resists this claim and maintains—

- (1) that in 1929 there was no such gift of a one-third share by their father Veeragathipillai, to the plaintiff ;
- (2) that prior to their father's death the business of Veeragathipillai & Sons was carried on in partnership—partners being their father Veeragathipillai and his 2 sons *i.e.* the

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- plaintiff and defendant and that on the death of their father on 3.12.33 there was a dissolution of that partnership ;
- (3) that from 3.12.33 up to 5.6.52 the plaintiff and defendant the surviving partners carried on the business again in partnership ;
- (4) that no agreement in writing as required by Section 18 of the Prevention of Frauds Ordinance was entered into, though the capital of the business was well over Rs. 1,000/- and therefore the present action of the plaintiff which is on the basis that there was a co-ownership as opposed to partnership cannot be maintained. 10
- (5) that there was an agreement between the parties that the profits and assets of the business should be shared equally ; that in December, 1947, it was agreed that the Jaffna business should be taken over by the defendant while the plaintiff should take over the Point Pedro business after the accounts were looked into and that " as there was considerable delay in looking into accounts and carrying out the agreement . . . the defendant was compelled to terminate the partnership which he did by giving notice to the plaintiff on 25.5.52 and thereafter the defendant became the sole proprietor of the business carried on at Jaffna as from 6.6.52 ". 20

In regard to the Last Will P21 relied on by the plaintiff the defendant " admits the execution of the said Last Will but maintains that the father Veeragathipillai was not in law entitled to leave any share of the said business to the plaintiff or to anyone else ", and that therefore " no share of the said business devolved on the plaintiff by virtue of the said Last Will ". 30

To put the point of contest briefly the plaintiff seeks to have relief on the basis that this business was co-owned in the proportion of two-third to plaintiff and one-third to defendant. The defendant resists this on the ground that the business was carried on in partnership without co-ownership ; the capital being over Rs. 1,000/- the partnership cannot be established as there was no agreement in writing as required by Section 18 of the Statute of Frauds Ordinance, and therefore the action of the plaintiff must fail.

Before considering the legal aspects involved in this matter, I think it would be helpful if at the outset certain findings of facts are recorded. It is not in dispute that the father carried on this business as sole proprietor for a long time and that the the plaintiff and defendant had at different times joined him for the purpose of assisting him in this business. The plaintiff has stated in evidence that in 1929 the plaintiff and the defendant were gifted 1/3rd share each. 40

Declaration P36/D3 of 14.10.33 refers to this in the following terms :—

“ Whereas we the said three of us are carrying on the business . . . and whereas the said business was registered on 8.3.29 (*vide* P1) . . . and whereas the 3 of us are entitled to equal shares in the said business . . . now know ye . . . that we the said Veeragathipillai (the father) V. Rajaratnam (plaintiff) and V. Rajasekeram (defendant) declare that we are entitled to equal shares in the joint business . . . ”

On the death of their father S. Veeragathipillai, the question as to what extent of this business passed for purpose of estate duty came  
 10 up for consideration in Case No. 58 D.C. Jaffna (Testamentary). The matter went up in appeal and the judgment of the Supreme Court is reported in 39 N.L.R. at page 481. It was held in that case “ that there had been a gift by the father of a one-third share of the business to each of the sons ” (the plaintiff and the defendant in this case) and “ that *bona fide* possession and enjoyment of those shares had been assumed by the sons immediately upon the gifts being made and thence-forward retained to the exclusion of the father of any benefit to him by contract or otherwise.” There can be no doubt that  
 20 the exclusion of their father as from the time the gifts were made by the father.

In regard to the question whether Veeragathipillai their father bequeathed by Last Will P21 his 1/3rd share to the plaintiff, there is a volume of evidence both oral and documentary to support the contention that the father did in fact bequeath his share to the plaintiff. The question whether the father was in law entitled to bequeath any share to the plaintiff is another matter and will be considered at a later stage. The defendant in his evidence at this  
 30 trial sought to make out that he was not aware of the existence of this Last Will till sometime after 31.3.35. This evidence cannot be regarded as truthful for the reason that this Last Will P21 was executed on the same day, same place and presumably at the same time as the declaration P36/D3. The same Notary has attested both the Last Will P21 and the Declaration P36, and the witnesses to both these documents are the same. There can therefore be no doubt that the defendant himself must have been present at the time of the execution of this Last Will P21 and was well aware that the father was leaving a Last Will bequeathing his 1/3rd share as mentioned in P21 to the plaintiff.

40 In paragraph 4 of P21 this 1/3rd share is bequeathed by the father to the plaintiff as follows :—“ Out of the money and articles in the business carried on under the name and style of “ S.V. ” ; S. Veeragathipillai & Sons, 1/3rd share belonging to the said Veeragathipillai and the whole of our lands, mortgage amounts, promissory-note accounts, sailing vessels . . . should devolve on our son V. Rajaratnam.” In paragraph 5 of the Last Will it is stated that if Veera-

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gathipillai the father predeceases his wife Rajaratnam the plaintiff should pay to the wife a sum of Rs. 5,000/- out of the share hereby devised to him.

Veeragathipillai pre-deceased his wife and in terms of this Will the plaintiff paid Rs. 5,000/- to the widow and obtained receipt which has been produced in this case marked P29. This defendant Rajasekeram was a witness to this receipt. Similarly to purchase the life interest which was in favour of this lady, the plaintiff paid a further sum of Rs. 1,000/- and obtained receipt P30 from her. This defendant was a witness to that receipt as well. Both in P29 and in P30 reference is made to the Last Will P21. It is thus clear that after the death of the father the plaintiff had made payments to his mother (widow of Veeragathipillai) to clear the 1/3rd share bequeathed to him by his father of all liabilities. The defendant must have been undoubtedly aware of the purpose for which the payments were made. The defendant in his evidence sought to make out that these receipts were obtained without in fact payments being made to the mother, but in the face of these 2 documents P29 and P30 I find that the defendant's evidence on this point cannot be regarded as true.

The Last Will was admitted to probate and by P24 of 19.5.34 this defendant has given his consent to probate being granted to the plaintiff in D.C. Jaffna case No. 58 (Testamentary). The defendant was the 1st respondent in that case. No objection was taken by him to the Inventory or to the Final Account filed in that case. The final account reveals that the plaintiff became entitled to the 1/3rd share left by his father by this Will P21. If this business and the assets thereof are to be regarded as co-owned by the parties as the plaintiff maintains the plaintiff would be entitled to a 2/3rd share and the defendant to a 1/3rd share.

As I have stated earlier the defendant maintains that this business was carried on in partnership and had suggested both in the pleadings and in submissions made at the Bar that the plaintiff had brought this action alleging co-ownership of the business in order to get over the bar created by Section 18 of the statute of Frauds Ordinance. It is thus necessary to examine the facts, the manner in which the accounts were kept, the manner in which the parties had generally acted *inter se* and towards the public in order to determine the nature of the business that had been carried on by these parties.

According to the defendant there were 2 partnerships —

- (1) Veeragathipillai & Sons as from 2.3.33 till the death of Veeragathipillai in December, 1933, the members being the plaintiff, defendant, and their father the late Veeragathipillai; and

- (2) Veeragathipillai & Sons as from December, 1933, the members being the surviving partners, viz. the plaintiff and the defendant.

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In respect of the business carried on during the first period reference to the nature of the business is found in certain documents produced in this case. P1 Registration of the business of S. Veeragathipillai & Sons under the Business Names Registration Ordinance gives the names of *partners* as Veeragathipillai, Rajaratnam and Rajasekeram. The Inventory P26/D34 filed on the death of Veeragathipillai in case No. 58, D.C. Jaffna (Testamentary) under item 14 reads "that the share of the deceased as *partner* is Rs. 99,000/- and over". When the question arose as to what extent passed on the death of Veeragathipillai the plaintiff in this case had given evidence — *vide* D2 —to the effect "that this business was registered as a partnership business in 1929 . . ." "In 1929 there was an agreement that this business would be carried on in partnership . . . and from that date the business was carried on in partnership between my father, myself and my brother."

In regard to the manner in which accounts were kept, the plaintiff, in his evidence in that case D2 stated "there was an allocation of profits between the 3 of them . . . In the Point Pedro branch there was a loss in that year and there was a distribution of losses between the 3 of us . . . In the course of the partnership business I have myself drawn large amounts of money and bought properties and my brother also had done the same thing."

Further the document D8, the petition of Appeal to the Board of Review filed by the plaintiff, shows the position taken by the plaintiff in paragraph 2 in D8. He declared that the said Veeragathipillai was carrying on business in partnership with his two sons under the firm name S. Veeragathipillai & Sons or Vilasam S.V. In paragraph 7 (b) he declared "the appellant" (the plaintiff in this case) "submits that a partnership did in fact exist between the deceased Veeragathipillai and his two sons the appellant and Rajasekeram". In paragraph 7(d) he further declared "that in October, 1933 the deceased and the said two sons executed deed No. 22276 . . . whereby the contract of partnership was reduced to writing". The reference here is to the declaration P36/D3 referred to earlier.

Document P36/D3 was also filed in D.C. Jaffna case No. 58 (Testamentary) between the plaintiff and the Commissioner of Estate Duty for the purpose of showing that this business was a partnership. D3A is the translation of the document P36/D3 tendered to Court by the plaintiff in that case to show "that the business was carried on in partnership". But the translation now tendered to Court by the plaintiff along with document P36 mentions the business as "joint

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business". I must however point out that this translation of P36/D3 is in keeping with the present basis of plaintiff's case viz. one of co-ownership, but in the earlier proceedings D3 and D3A were filed to show that there was a partnership in fact. This only shows the extent to which parties are prepared to change and shift their position purely to gain their own ends at various stages in respect of the same matter. I must however point out that during those proceedings in case No. D.C. 58 (Testamentary) the question whether this business was carried on in partnership or as co-owners between the various parties did not come up specifically in that form for determination. 10  
 The question that arose in that case was what extent of the business passed for the purpose of estate duty on the death of Veeragathipillai. It is only now in this case that the question whether this is co-ownership or partnership *inter se* that is being canvassed between these parties.

The documents detailed above are some of the more important documents relied on by the defendant to show that this business was a partnership from the time their father gifted one-third share each. Partnership has been defined as "the relation which subsists between persons carrying on business in common with a view to profit". Such 20  
 a relation can arise only as a result of expressed or implied agreement. In this case there is no evidence of any expressed agreement entered into between the parties. In this situation the defendant places reliance on the documents referred to above to submit that the reference in these documents to these parties as partners must necessarily have been the result of an agreement between them. In the oral evidence the plaintiff gave before me he stoutly denied that this business was carried on in partnership. He maintained that they were co-owners throughout and that the same business that had been started by their father is yet being carried on in the same way. On 30  
 the other hand the defendant maintains that after the gift by the father this business had been carried on in partnership. But I must point out that the defendant in his evidence at trial has not specifically stated in so many words that either in 1929 or 1933 when their father died there was an agreement to carry on the business in partnership. Hence it is, that he relies on these documents referred to above for the purpose of submitting that an agreement for partnership has to be inferred from these documents.

Counsel for plaintiff submitted that the question whether the relationship between the two parties carrying on this business is one of 40  
 partnership or co-ownership does not depend on the documents to which they have been parties but that it really depends in ascertaining whether the essential elements of partnership can be found in this particular business. He further submitted that the documents relied on by the defendant cannot in themselves prove the existence of a



partnership though these parties can be made liable on the doctrine of "holding out in actions filed by third parties".

"A mere statement that the parties are to be partners will not necessarily constitute them partners in law. . . . although 2 persons may hold themselves out to be partners and be liable to third parties accordingly, yet it does not necessarily follow that they would be partners *inter se*." (51 Bombay page 342, at page 346.)

There can be no doubt that these documents bear strong evidence of "holding out" but the question is whether *inter se* these parties were partners in this business. I would go still further and say that if these were the only documents available for the determination of this question one would be driven to the conclusion that even *inter se* these parties had acted as partners presumably in pursuance of an agreement between them to carry on business as such. The documents referred to above could also be used as corroborative evidence of partnership if there is independent evidence to show that there was a partnership *inter se*.

In this case the parties had not left the matter at these documents alone. There is other evidence available in regard to the nature of this business. The account books maintained for this period show that after the gift of a one-third share each by their father in 1929 these parties could draw whatever amounts they required; the amounts so drawn were debited to the S.V. account which was the common account of this business. The expenses required to run the two households of the plaintiff and of the defendant were all drawn from the income derived from the business, and were debited to the common account. There does not appear to have been any division of profits as such at any time, and all the profits which accrued went to swell the common account. No individual or separate account appears to have been opened in the name of any of these persons. Counsel for plaintiff submits that in as much as there was no division of profits or sharing in the profits the existence of an agreement to share in the profits cannot be presumed. Counsel went to the extent of submitting that the manner in which the accounts were kept was very much similar to the Hindu Undivided Family System in which all parties are owners of the business with a right to draw any amount subject to the control of the head of the family. I must say that I was somewhat attracted by this argument but I do not think that this submission should be considered in this case for the reason that the chief point of contest in this case is whether this business was carried on as co-owners as the plaintiff maintains or as partners as the defendant maintains.

If one goes purely by the manner in which the accounts were kept, it would show that the business that had been started and carried on by the father was maintained without any change until

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sometime in 1947. It cannot be denied that this business was carried on jointly or in common with a view to profit. I suppose that even though these account books did not have separate accounts in respect of these persons, a proper accounting by a competent accountant would reveal the amount each person became entitled to by way of profit at the end of each year. I was considering the question whether this method maintaining accounts was due to any agreement by the parties whereby they agreed that there should be no division of profits or sharing of the profits but that whatever amount which accrued by way of profits should go to swell the common account. For long they 10 have maintained a common account. After the gift of one-third to each of these parties they yet continued with the same account. No separate accounts were opened. There was no division or sharing in profits among them till 1947. On a consideration of this aspect of the matter it appears to me to be highly probable that this form of accounting was the result of an implied agreement whereby they agreed not to divide the profits but to allow them to accumulate. Division of profits and sharing in them is an essential element in partnership and this appears to be lacking in this business.

It was in this situation that when their father died the question 20 arose in D.C. Jaffna Case No. 58 (Testamentary), as to what extent of the business passed. The plaintiff took up the position as I have stated earlier that this was a partnership business or in the alternative "that when in March, 1929, the deceased admitted his 2 sons into the business on an equal footing with himself as evidenced by A4 (P36/D3 in this case) there was in effect a gift of 1/3rd of the business to each of his sons and that gift satisfied the condition necessary to ensure that their shares did not pass on his death."—39 N.L.R. page 481 at page 486.

It was held in that case that "partnership could not be estab- 30 lished in the absence of a written agreement . . . and that there had been a gift by the father of a one-third share of the business to each of the sons and that *bona fide* possession and enjoyment of these shares had been assumed by the sons immediately upon the gifts being made and thenceforward retained to the entire exclusion of the father of any benefit to him by contract or otherwise— . . . "

It is thus clear that even though partnership could not be proved without a written agreement relief was given to these two sons viz. the plaintiff and the defendant in this case, on the basis of co-owner- 40 ship. In 1929 when this gift was made to each of these sons it has to be presumed that a co-ownership of this business commenced between the father and these two sons and this presumption would continue until there is unmistakable proof that the nature of the business had changed to one of partnership thus eliminating co-ownership.

I have carefully considered the question whether despite the evidence this plaintiff had given in case No. 58 (Testamentary) D.C. Jaffna, and the affidavit that he had filed in that action all asserting to the positive fact that this business was a partnership, he can now be heard to say something different. But as I have stated earlier the question whether this was co-ownership or partnership did not come up as a question for determination at that stage. The plaintiff in that case had sought to obtain relief on the basis of either partnership or co-ownership and as is clear from the case reported in 39 N.L.R. referred to above, he succeeded in obtaining the relief on the basis of co-ownership. In leaving the Last Will P21 their father had acted on the basis that he was a co-owner. The Testamentary case in which this Will was proved was carried on the basis that they were co-owners. The defendant has been a witness to the documents P29 and P30 by which the plaintiff cleared the 1/3rd share of his father of its liabilities. The defendant had given consent to the correctness of the final account filed in case No. 58 (Testamentary) D.C. Jaffna, and had thereby acquiesced in the assertion that they were co-owners and that the father's one-third share had been bequeathed to the plaintiff. As has already been pointed out there was at no stage any division of the profits or any sharing in them till 1947. All these in my opinion tend to negative an agreement for partnership as maintained by the defendant in this case. I hold that even though these parties have purported to act as partners and have described themselves as such in a number of documents and had also given evidence to that effect, the existence of a co-ownership cannot be excluded.

I now proceed to consider the question whether the business carried on during the second period *i.e.* after the death of their father in 1933 is consistent with partnership or with co-ownership. Here again there is a number of documents relied on by the defendant for the purpose of showing that this was a partnership. P2/D4 registration of the business name after the father's death shows that the name of the first partner S. Veeragathipillai is deleted and that the other two parties viz. the plaintiff and the defendant are referred to as "the other two partners". P11 the financial statement of Messrs. Veeragathipillai & Sons for the year ended 31.12.46 sets out the profits and loss accounts in the business. The assets and liabilities are shown. This accounting is on the basis on which partnership accounts are kept. Similarly in the other financial statements P14 to P17 these parties are not only referred to as partners but the assets and liabilities of the business are shown. These accounts are referred to as accounts of the firm S. Veeragathipillai & Sons.

Mr. Cumarasamy, Accountant, in his evidence stated that as far as these accounts go, they have been kept on the basis of a partnership. In regard to the manner in which the profits were shown, he

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stated that he "allocated the profits of the partners on the basis of two shares to the plaintiff and one share to the defendant".

It is thus clear therefore that as far as these accounts P14 to P17 are concerned, they have been prepared on the basis of a partnership but the allocation of profits was on the basis of 2 shares to the plaintiff and 1 share to the defendant. Copies of these accounts had been sent to each of these parties and they were thus fully aware of the manner in which the accounts were prepared and profits allocated. By P2 of 25.5.52—this would represent a period after disputes had arisen between these parties—the plaintiff in addressing this letter 10 to the Government Agent, Northern Province, had described himself as a partner. Letters of a similar nature D5 to D7 all written on various dates in May, 1952 have been produced in all of which the plaintiff has described himself as partner. Further in D13 and D15 the plaintiff had described himself as senior partner. In D10 to D12 proxies and Plaints filed in certain cases these parties appear to have described themselves as partners. Cheques D1 and D24 all drawn on the Bank of Ceylon have been issued by the plaintiff as partner of Veeragathipillai & Sons. By Affidavit P9A/D27 of 28.6.52 the plaintiff declares that "A firm with S. Veeragathipillai, 20 Rajasekeram and myself as partners was started in 1929 . . ." It must also be pointed out that in this very affidavit he further declared that he was "still the owner and proprietor of a 2/3rd share of the said business". This document reveals that at least as far as this plaintiff is concerned he had never appreciated the difference between a partnership and a co-ownership, and the legal consequences that flowed directly from them. It is thus not difficult for one to understand the evidence given by him in D.C. Jaffna case No. 58 (Testamentary) and the Affidavit and other documents that he filed asserting that he was a partner. 30

Further it would appear that after the death of their father these two parties carried on business and had been entering into contracts with persons abroad and the necessary documents in respect of those contracts had been signed by one or the other of those persons. Such signing of contracts by one person or the other would lead to the inference that such party who signed such contracts acted as agent of the firm. As I have already pointed out cheques have been drawn by one party or the other as agent of the firm.

The inference to be drawn from all these documents in which they have described themselves as partners would be that this 40 business appears to have been carried on on the basis of a partnership. But the matter does not stop there. One has to probe further and consider the other documents and evidence placed in this case to determine whether in fact there was only a partnership that had come

into existence or whether the facts could also be consistent with co-ownership.

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Document P11 is an application to the Controller of Imports and Exports entered up and signed by both these parties on 28.4.49. In cage 2 of the questionnaire in answer to the question when the business was established they have stated that it was "about 50 years ago". This would show that the business that had been started by their father is yet being continued in the same way. In cage 10(1) these parties have described themselves as partners and in cage 10(3) 10 "The capital contribution of each partner" is given as Rs. 600,000/- by the plaintiff and Rs. 300,000/- by the defendant. This was on the basis that the plaintiff was entitled to 2/3rd and the defendant to 1/3rd of the capital. This document P11 shows that there is a description of these parties both as partners and also as co-owners. In any event co-ownership cannot be excluded for the reason that the capital contribution of each of these parties is specifically mentioned in figures.

The returns to the Income Tax Department P14 to P17—incidentally these are some of the documents relied on by the defendant 20 also to show that this was a partnership—are on the basis that the plaintiff was entitled to 2/3rd share of the profits while the defendant was entitled to 1/3rd share. These returns were prepared by a firm of Accountants to whom these parties referred the accounts of this business. One has to take it that it is on instructions given by both these parties that the allocation of profits was on the basis of 2/3rd to the plaintiff and 1/3rd to the defendant. The defendant however in his evidence stated that he was protesting against this allocation of profits in this form but having regard to the fact that these are Income Tax returns forwarded for about 4 or 5 years on that basis 30 and that the defendant himself had paid Income Tax on the basis of profits shown in that manner, he cannot be now heard to say that the allocation of profits should have been on the basis of 50 : 50, which would be the case if it was a partnership. To repeat here, the Last Will P21 was left on the basis that this business was co-owned. The final account was entered on the basis that it was co-owned. In view of the fact that the defendant himself had acquiesced in the filing of the final account and has signed as witness to documents P29 and P30 by which the plaintiff acquired his father's 1/3rd share he cannot now be heard to say that his father had no right to 40 bequeath one-third share to his brother the plaintiff.

As recently as 17.2.50 the defendant wrote the letter P35 to the firm of accountants relating to the manner in which certain items of expenditure should be dealt with. The defendant refers to 2 particular items of expenditure, viz. :—

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- (1) In regard to " a land case with C. Nagalingam . . . a sum of more than 1,200/- would have been spent for that case, of which a sum of Rs. 1,000/-, one-third share should be credited to my account " and
- (2) The defendant says that " he himself had spent the entire accounting fees, of which amount also 2/3rd should be borne by my brother the plaintiff". This letter clearly shows that the defendant claimed certain re-adjustment of accounts on the basis of 2/3rd to the plaintiff and 1/3rd to himself. This clearly shows that this defendant as 10 recently as 17.2.50 recognized the fact that his brother the plaintiff was entitled to 2/3rd and he to 1/3rd share.

The defendant in his evidence at one stage stated that when the accounts for the period 18.2.33 to 31.3.34 were entered up in account book P43 he objected to the plaintiff allotting 2/3rd share of the profits to himself and 1/3rd to the defendant. He further stated that the plaintiff agreed to give him half share of the profits. This evidence cannot be true in the face of defendant's own letter P35 whereby he wrote to the accountant to enter the account on the basis of 2/3rd to plaintiff and 1/3rd to himself. It appears to me to be 20 extremely unlikely that after the defendant himself had acquiesced in the final account filed in case No. 58 (Testamentary) D.C. Jaffna, whereby he consented to his father's 1/3rd share being given over to the plaintiff, the plaintiff would have at any time agreed to a division of the profits on the basis of 50 : 50. This is a very large business, and the profits that have accrued appear to be enormous. I do not think that the plaintiff would have agreed to part with the large profits that would have accrued to him so as to place them on equal basis.

These parties have been lending moneys to several persons on 30 mortgages. In regard to this the defendant stated " that the properties in unredeemed mortgages were bought in his name ". They have been entered in the ratio of 2/3rd to plaintiff and 1/3rd to defendant . . . Rents have been in the proportion of 2/3rd to plaintiff and 1/3rd to defendant.

It appears to me to be clear that throughout the entire period until about December, 1951, when the defendant asserted exclusive rights to the Jaffna branch of this business both these parties have acted on the basis that the plaintiff was entitled to 2/3rd and the defendant to 1/3rd. The resulting position appears to me to be that 40 while in accounts and documents they have described themselves as partners, the plaintiff and defendant had all along recognized the fact that the plaintiff was entitled to 2/3rd and the defendant to 1/3rd share of this business. I am of the view that though this business was carried on in common with a view to profit the plaintiff

was in *bona fide* possession of 2/3rd share of the business and the defendant 1/3rd share of it and that this possession continued until December, 1951, when defendant started disputing it. All along these parties appear to have had their respective shares of this business in common with a view to profit. No separate accounts were opened in the names of either of these parties and they were at liberty to draw whatever amounts they required from the gross income which was entered up in the common account.

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The defendant himself admitted in evidence that "at no point  
10 of time could either the plaintiff or I" (defendant) "say how much  
was to the credit of either of us by way of profits". Lindley at page 35  
(11th edition) observes "that if each owner does nothing more than  
take his share of the gross returns obtained by the use of common  
property partnership is not the result. On the other hand if the  
owners convert these returns into money, bring that money into  
common stock, defray out of it the expenses of obtaining the returns  
and then divide the net profits partnership is created in the profits if  
not in the property which yields them." Even though it could be  
said in this case that all other conditions existed there certainly was  
20 no division of or sharing of profits in this case.

In all the circumstances of this case I find that though an agree-  
ment for a partnership may be inferred the facts of this case taken  
together do not shut out the existence of a co-ownership, the character  
which this business assumed originally. In any event it is my opinion  
that the vanishing point of co-ownership has not been established in  
this case.

The plaintiff has not asked for any relief in this case on the basis  
of an agreement for partnership. He is not in this case seeking to  
enforce an obligation arising out of a partnership agreement. If that  
30 were the basis he would clearly be barred by Section 18 of Statute of  
Frauds as the agreements is not in writing. He has asked for relief  
in this case on the basis that this was a co-ownership. The finding  
that I have come to is that though a partnership may be inferred  
from some of the documents in this case, the facts proved taken  
together are not inconsistent with the existence of co-ownership. It  
is the basis of the case that has to be examined. Could that basis be  
established by evidence? Even though other relationship may be  
inferred if the basis on which the plaintiff came into Court could be  
established by evidence he would be entitled to relief on that basis.  
40 In view of my finding that the facts are not inconsistent with co-  
ownership I hold that the plaintiff is entitled to the relief he claims in  
this action.

In view of this finding it is not necessary for me to decide what the  
original capital was in this business. But I think it may be helpful,

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if not at this stage at least at a later stage when this matter comes up for review by a higher Court, if I record my finding on that point and also on the question of trust that has been raised by the plaintiff.

Capital is that amount which parties put in to risk in the business. It must be the amounts put in at the time of the commencement of the business. The plaintiff while admitting that his father was a wealthy man sought to suggest that he had borrowed moneys from Chettiars for the purpose of running his business. It may well be that their father rose from humble beginnings, but it would appear that in 1929 when the father gifted 1/3rd share each to these parties, 10 this was a very large business. Thereafter there was no borrowing of money from any person for the purpose of carrying on the business. In 1933 when the father died Inventory D34 showed sum of Rs. 99,000/- and over as the one-sixth share that represented the father's interests. The balance one-sixth out of the one-third that was his share had devolved on his wife, being "thediathetam" share. If 1/6th share in 1933 represented Rs. 99,000/- the entire assets at the time of the father's death must have been six times that amount. About 4 years earlier when he admitted the 2 sons to this business, the entire assets could not have been much less. After the father's 20 death the 2 sons carried on the business and it has to be presumed that the capital was about six times Rs. 99,000/-. I do not think that this question needs any further consideration. There is no specific proof available as to what exactly was the capital in 1933. It does not require much imagination for one to infer from the volume of business had that the capital must have been in the region of six or seven lakhs, if not more. I hold that at all times material to this action the capital was well over Rs. 1,000/-.

The plaintiff has also taken up the position that this defendant is holding the business carried on at Jaffna in respect of his 2/3rd share 30 in trust for the plaintiff and is therefore liable to account. The defendant is admittedly in charge of the Jaffna branch of this business, and all along until he got himself registered as the sole proprietor of this business in May, 1952, the plaintiff's right to 2/3rd share has been recognised by the defendant and accounts had been entered up on that basis. After May, 1952, the defendant has taken up the position that he is the sole proprietor of the business and asserts that the plaintiff has no right whatsoever in the Jaffna business. The plaintiff submits that in this situation the defendant must be regarded 40 as having obtained possession of the plaintiff's share also in this business subject to a trust with an obligation to account for it at all times.

The facts relating to this matter have to be considered at this stage. In 1929 these two brothers were gifted 1/3rd each. In 1933 the father bequeathed his 1/3rd share by Will which was duly proved.



The plaintiff managed the Jaffna business while the defendant was in charge of the Point Pedro branch. In 1945 the plaintiff went away to India for treatment, giving general power of attorney to defendant to represent him in all his affairs in Ceylon. In 1947 some time after his return from India a part of the assets of this business is shown as capital for the first time in the books of accounts in the proportion of 2/3rd to plaintiff and 1/3rd to defendant. According to the plaintiff in 1951 disputes arose between him and defendant regarding a land in which both had shares. The evidence relating to  
 10 this matter shows that considerable ill-feelings arose between the parties on account of the land dispute. Thereafter on 7.6.52 by P4A the defendant applied to have himself registered as sole proprietor of the business and obtained a certificate to that effect. It was this act of the defendant which was the immediate cause for the filing of this action by the plaintiff.

The version of the defendant regarding this matter could be understood by a reference to the various answers filed by him in this case. In his first answer of 3.10.52 he says that in 1947 it was agreed between himself and the plaintiff that the Jaffna business should be  
 20 taken over by the defendant and that in pursuance of that agreement the plaintiff transferred his interests in that business and that in consequence of such a transfer he became the sole proprietor. This would mean that the defendant became the sole proprietor of the Jaffna business in 1947 itself by virtue of a transfer by the plaintiff of his interests in the Jaffna branch.

The plaintiff denied that there was any such agreement or that he transferred his interests in the Jaffna branch to the defendant in 1947 or at any other time. The account books, the Income Tax returns P14 to P17, the ledger balance sent to the plaintiff by Alaga-  
 30 sunderam the Kanakapullai who works under the defendant at Jaffna, all go to show that the rights of the plaintiff in the Jaffna business were recognized and accepted by the defendant until the end of 1951. At any rate these books and other evidence clearly show that business was carried on by both these parties until about the end of 1951. Between the various dates on which this case was called the defendant had filed 2 other answers which did not materially alter the position taken in the first answer. In the fourth answer filed on 2.3.54 he took up the position that in December, 1947, it was agreed that the Jaffna business should be taken over by the defendant while  
 40 the plaintiff should take over the Point Pedro business "after accounts were looked into" and as there was considerable delay in looking into accounts the defendant was compelled to terminate the partnership, which he did by giving notice to the plaintiff on 25.5.52 and thereafter he became the sole proprietor of the Jaffna business as from 6.6.52. No question of any transfer by the plaintiff of his

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interests in the Jaffna business arises from the fourth answer. It speaks of only an agreement to transfer, which could not be effected as there was considerable delay in the looking into accounts and therefore the defendant maintains that he was compelled to terminate the partnership, and that he thereafter became the sole proprietor of the Jaffna business.

The plaintiff denied that any notice was given to him. If there was this agreement in 1947 as alleged by the defendant there was no need for capitalizing in 1948 ; no need for ledger balances to be sent to plaintiff by defendant's kanakapulle up to 1951. These would 10 obviously contradict the defendant's version. I agree with the submission made by counsel for plaintiff that the 4th answer filed on 2.3.54 was for the purpose of explaining away the difficulties created by these account books and other evidence which go to show that the business was carried on without a break until 1951. I find that there was no such agreement between the plaintiff and defendant in 1947 or at any time whereby the plaintiff agreed to the arrangement that the defendant should be the sole proprietor of the Jaffna business.

In P4A of May, 1952, the defendant has declared that the plaintiff has ceased to have any interest in this business. The plaintiff sub- 20 mits that this has been done fraudulently by the defendant with a view to depriving him of his rightful share in the business. The plaintiff was all along entitled to and his rights were recognized to a two-third share and the defendant to a one-third share. The defendant's position now is that the plaintiff has no right whatsoever in the Jaffna business. In these circumstances the defendant must be deemed to be in possession of property over which he does not have the whole beneficial interest. He is taking up the position that this is partnership property and that he as partner is fully entitled to be in possession of that property as agent of the firm ; that the remedies 30 if any that are available to the plaintiff as partner are to be found in the Partnership Act itself ; that no question of beneficial interest arises in a partnership and that the plaintiff would become entitled only to a share of the business on an accounting on partnership basis. He further maintains that as partnership agreement cannot be established in this case, the plaintiff has no remedy. In short the defendant's position is that the present situation created by himself whereby he is himself the sole proprietor of the Jaffna branch gives no room for escape from the plaintiff. He submits that the plaintiff is absolutely helpless. 40

The defendant is consciously in possession of the plaintiff's share in the Jaffna business and is refusing to recognize the plaintiff's rights therein taking advantage of the peculiar difficulties created by the Partnership Law.

It is in these circumstances that the English principles of equity which have been introduced into Ceylon have to be considered to see whether the transactions between these parties viewed as a whole could be brought under any of the provisions of the Trusts Ordinance. The aim of the Frauds Ordinance is to prevent frauds. Agreement in writing is needed in terms of Section 18 to prove the partnership. No agreement in writing has been entered into by these parties. Could this defendant who himself claims to be a member of that partnership be heard to say "I have succeeded in taking possession of these properties. You have no remedies because partnership cannot be established." In my view the answer to this must be in the negative. "Proof of fraud entitles the Court in certain circumstances to depart from the general rule. This principle has found statutory recognition in Section 5, Sub-Section 3 of the Trusts Ordinance . . . and in some cases the provisions of the Frauds Ordinance have been relaxed on proof of fraud on the ground that the statute of frauds cannot be made an instrument of fraud. It must, however, be remembered that this proposition has only a limited application." This is how Their Lordships expressed their view in regard to the scope of the applicability of this equitable principle in 55 N.L.R. 529 at page 532. The question is whether this principle could be extended to the facts of this case ; whether any of the provisions of the Trusts Ordinance could be invoked to avoid the statutory bar created by Section 18 of the Statute of Frauds. Counsel for the plaintiff submitted that Sections 83 to 90 of the Trusts Ordinance provide scope to cover a case like this. He further submitted that in any event Section 96 would apply. Section 96 reads as follows : "In any case not coming within the scope of any of the preceding Sections where there is no trust but the person having possession of the property has not the whole beneficial interest therein he must hold the property for the benefit of the person having such interest or the residue thereof to the extent necessary to satisfy their just demand."

Admittedly the defendant is in exclusive possession of the Jaffna business. He is not entitled to the whole beneficial interest therein. He must be deemed to have entered into possession of the Jaffna branch with the sanction of the plaintiff just as much as the plaintiff entered into possession of the Point Pedro business with the sanction of the defendant. They owed a duty towards each other to maintain the utmost good faith and to account for the assets that came into their hands in their respective places where they were in charge. They have been faithfully carrying out this duty until the defendant disturbed it in May, 1952. In as much as the defendant has not the whole beneficial interest in the Jaffna business and as the plaintiff is entitled to 2/3rd interest the defendant must hold the property to that extent for the benefit of the plaintiff. In my view the facts of this case would fall within the principles enunciated in Section 96.

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I find that an obligation in the nature of a trust has to be presumed and that the plaintiff is therefore entitled to an accounting on this basis as well.

In paragraph 7 of the plaint the plaintiff alleges that "no account has been rendered to the plaintiff in respect of the business carried on at Jaffna since 31st December, 1950, and that the defendant has since 7th June, 1952, taken possession of the said business . . . excluding the plaintiff therefrom . . . and is refusing to render an account." In his prayer part 2 he prays that the defendant be ordered to render an account of all the assets taken charge of by him and the 10 profits thereafter coming into the defendant's possession from time to time in the course of carrying on the said business. The accounting is asked for as and from 31st December, 1950. The account up to 31.12.50 is the one which is produced as part and parcel of the plaint marked "X".

On the other hand the defendant in the course of his evidence in answer to Court stated "I am agreeable to a division of the business on the basis that the plaintiff is entitled to 2/3rd and I to 1/3rd from the *time of the death of my father provided all the moneys that he has not included in the account books are brought in. There are no accounts 20 for that.*" Throughout the evidence given by the defendant it appeared to me that his chief grievance was that the plaintiff has drawn large sums of money from time to time from the common account which had not gone into the account books. He feels that if all these sums alleged to have been drawn by the plaintiff which had not gone into the account books were faithfully accepted and shown in the account books by the plaintiff he would be entitled to a larger amount than what the books now reveal. I was much attracted by this offer on the part of the defendant agreeing to a division of the business on the basis that the plaintiff is entitled to 30 2/3rd and he to 1/3rd from the time of the death of their father. It would certainly be very fair by all parties concerned if an accounting is had from the time of the death of the father in 1933 but the question is whether this is practicable and possible. He himself admitted that amounts so drawn have not been included in the account books and that there are no account books for the sums which he alleges have been drawn by the plaintiff. If such amounts drawn by both parties as from the date of death of their father can be ascertained or admitted by both parties it would be the ideal position to arrive at in this case. If as the defendant says that the amounts drawn by the plaintiff are 40 not included in any of the account books it appears to me that an accounting as from the time of the death of the father would be difficult, perhaps impossible. The plaintiff has denied this allegation that he has drawn large sums of money which have not been accounted for. Evidence in this case has not been led precisely to show which

party is speaking the truth in regard to this matter. I must confess that on the evidence available it is not possible for me at this stage to say whether the allegations made by the defendant in this connection are true. I would further say that if all the amounts drawn are shown somewhere in any of the books I would have no hesitation in ordering an accounting as from the death of the father, but this is not available.

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In the fourth answer of 2nd March, 1954, the defendant had prayed that in the event of the Court ordering an accounting, that  
10 such accounting should proceed as from 3rd December, 1933, in regard to the business of S. Veeragathipillai & Sons both at Jaffna and at Point Pedro and that the profits be shared equally between the parties. This, of course, cannot be allowed in view of the findings in this case to the effect that the plaintiff is entitled to a two-third share and the defendant to a one-third share in this business, assets, etc. I have further considered the question whether the account marked "X" which is the same as the Financial Statement P16 could be regarded as safe basis from which the accounting should proceed. As I have stated already both parties have been drawing  
20 from the common account at all times and it may well be that some of the amounts drawn by these parties had not gone into the regular accounts. Financial Statement "X" or P16 was prepared for the purpose of income tax. It is not for me to say whether that statement represent, the true state of affairs. What I do mean to state is that it would be more satisfactory and desirable if accounting is had as suggested by the defendant in his evidence before me, as from the date of the death of his father. I am not unmindful of the fact that both these parties have acted on the basis that the financial statement "X" or P16 represents the correct position. In these circumstances I am  
30 of the view that as the defendant himself is keen that an accounting should be had as from the date of death of his father, that accounting should be allowed as from that date onwards and the costs of such accounting to the date of account "X" should be at the expense of the defendant himself. The accounting thereafter *i.e.* from 1.1.51 would be at the expense of both parties and the plaintiff would bear 2/3rd of the expenses and the defendant 1/3rd. I have ordered earlier that the accounting for the period up to 31.12.50 as shown in account "X" should be at the expense of the defendant for the reason that he himself has acquiesced in the correctness of account "X". In view  
40 of the fact that he is having doubts in regard to the correctness of the account, I think he must bear the expenses of such accounting up to that period.

I answer the issues as follows :—

*Issue No. 1.*

Was Sinnathamby Veeragathipillai the sole owner of the business carried on at Jaffna and at Point Pedro under the name "S.V." in

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rice, paddy, tiles, etc., and as pawn-broker and money-lender prior to the year 1929 ? . . . Yes.

*Issue No. 2.*

Did the said Veeragathipillai in or about the year 1929 gift—

(a) a 1/3rd share of the said business to the plaintiff? Yes.

(b) a 1/3rd share of the said business to the defendant? Yes.

(c) and reserve unto himself the balance 1/3rd share? Yes.

*Issue No. 3.*

Did the said Veeragathipillai, the plaintiff and the defendant thereupon become each entitled to a 1/3rd share of the business? 10

Yes.

*Issue No. 4.*

Did the said Veeragathipillai die on 3.12.33 leaving behind a Last Will No. 22277 of 14.10.33?

Yes.

*Issue No. 5.*

Was the said Last Will admitted to probate in case No. 58 Testamentary of the District Court, Jaffna?

Yes.

*Issue No. 6.*

Was it one of the devises under the said Last Will that the 1/3rd share of the said Veeragathipillai in the said business should devolve on the plaintiff? 20

Yes.

*Issue No. 7.*

Did the plaintiff and the defendant thereupon become entitled to the business and to the assets and goodwill thereof in the proportion of 2/3rd share and 1/3rd share respectively?

Yes.

*Issue No. 8.*

Did the plaintiff and the defendant carry on the said business at Jaffna and at Point Pedro on the footing that the plaintiff was the owner in respect of a 2/3rd share and the defendant to a 1/3rd share? 30

Yes.

*Issue No. 9.*

Did the defendant on 7.6.52 fraudulently represent to the Registrar of Business Names that the plaintiff had ceased to have any interest in the said business as from 6.6.52?

Yes.

40

*Issue No. 10.*

Did the defendant on 7.6.53 fraudulently apply to the Registrar of Business Names to have himself registered as the sole proprietor of the said business?

Yes.

*Issue No. 11.*

Did the defendant fraudulently procure the registration of the Business Name of the said business as his sole concern?

Yes.

**10** *Issue No. 12.*

Were the balance sheets prepared up to 31.12.50 in respect of the said business carried on at Jaffna by the duly appointed Auditors on the basis that the plaintiff was a 2/3rd share owner and the defendant a 1/3rd share owner? . . .

Yes.

*Issue No. 13.*

Is the account for the year ended 31.12.50 and annexed to the plaint marked " X " one such account?

Yes.

**20** *Issue No. 14.*

Has the defendant rendered any account after 31.12.50?

No.

*Issue No. 15.*

Has the defendant since 7.6.52 taken possession of the business at Jaffna, the assets thereof and the goodwill relating thereto?

Yes.

*Issue No. 16.*

Has the defendant excluded the plaintiff therefrom?

Yes.

**30** *Issue No. 17.*

Did the defendant deny the right of the plaintiff in respect of the business at Jaffna?

Yes.

*Issue No. 18.*

Is the defendant refusing to render an account of the business at Jaffna?

Yes.

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*Issue No. 19.*

Is the defendant making use of the business at Jaffna and the assets thereof as property belonging to him?

Yes.

*Issue No. 20 (a).*

Is the defendant the owner of the entirety of the capital assets and goodwill of the business carried on at Jaffna? . . .

No.

*Issue No. 20 (b).*

Has the defendant the whole beneficial interest in the capital, 10 assets and goodwill of the business carried on at Jaffna?

No.

*Issue No. 20 (c).*

Did the defendant take charge of the capital, assets and goodwill of the said business carried on at Jaffna as co-owner and/or as agent and/or as a partner?

On the basis that he was a co-owner.

*Issue No. 20 (d).*

If either of the issues 20(a) or 20(b) is answered in the negative and/or issue 20(c) is answered in the affirmative, is the defendant 20 holding a 2/3rd share of the business carried on at Jaffna and the assets and goodwill thereof in trust for the plaintiff?

Yes.

*Issue No. 21.*

Is the defendant liable to render an account to the plaintiff for all assets taken charge of by him and for all profits coming into this possession from time to time in the course of carrying on the said business as from 1.1.51?

Yes, but the account would proceed as indicated in the judgment as from 3.12.33, the date of the death of Veeragathipillai, of the business 30 at both places, viz. Point Pedro and Jaffna.

*Issue No. 22.*

Is the plaintiff entitled to a declaration that he is the owner of a 2/3rd share of the business carried on at Jaffna and at Point Pedro and the assets and goodwill thereof?

Yes.



*Issue No. 23(a).*

Was it held in case No. 58 (Testamentary) D.C. Jaffna that Sinnathamby Veeragathipillai has gifted a 1/3rd share of the said business to the plaintiff and a 1/3rd share to the defendant?

Yes.

*Issue No. 23(b).*

If so, is the defendant precluded from denying that the said business of Veeragathipillai & Sons was owned in the proportion of 2/3rd share to the plaintiff and 1/3rd share to the defendant?

10 Yes.

*Issue No. 24.*

Has the defendant accepted and acquiesced in the devices contained in the said Last Will No. 22277?

Yes.

*Issue No. 25.*

If issue No. 24 is answered in the affirmative, is the defendant estopped from denying that the plaintiff is entitled to a 2/3rd share of the business and the assets and goodwill thereof in terms of the said Last Will?

20 Yes.

*Issue No. 26.*

Is it open to the defendant to dispute the correctness of the accounts marked " X " and earlier accounts as pleaded in para. 3 of the replication?

No. But as indicated in the judgment accounting to be had as from 3.12.33 up to the date of account " X " and the expenses of same to be borne by defendant.

*Issue No. 27.*

30 If not, is the defendant estopped from disputing the ownership of the said business of the plaintiff and the defendant in the proportion of 2/3rd share and 1/3rd share respectively?

No.

*Issue No. 28.*

Did the defendant himself keep the accounts of the said business at Jaffna up to 31.12.50?

Yes.

*Issue No. 29.*

40 Were such accounts kept on the footing that the plaintiff owned a 2/3rd share and the defendant a 1/3rd share of the business, the assets and goodwill?

Yes.

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*Issue No. 30.*

If issue 28 and or 29 are answered in the affirmative, is the defendant now estopped from—

(a) denying that the plaintiff is still entitled to a 2/3rd share of the business?

Yes.

(b) Asserting an alleged division in 1947?

Yes.

(c) Asserting that he has become the sole proprietor of the business at Jaffna on 6.6.52 ?

10

Yes.

*Issue No. 31(a).*

Did the plaintiff, defendant and the deceased Veeragathipillai carry on the business in partnership from 1929 to 3.12.1933 under the name, firm and style of S.V.?

Yes. But as stated in the judgment the facts are not inconsistent with the existence of co-ownership.

*Issue No. 31(b).*

Was the initial capital of the said partnership business over Rs. 1,000/-?

20

Yes.

*Issue No. 31(c).*

Was an agreement in writing creating the said partnership entered into among the said partners?

No.

*Issue No. 32.*

Was the said Partnership dissolved on the death of the said Veeragathipillai on 3.12.53?

Yes. But co-ownership cannot be excluded.

*Issue No. 33(a).*

30

Did the plaintiff and the defendant carry on business in partnership from 3.12.33 up to 5.6.52 under the name, style and firm of "S. Veeragathipillai & Sons" ?

Yes, but the facts are not inconsistent with the existence of co-ownership.

*Issue No. 33(b).*

Was the initial capital of the said partnership business over Rs. 1,000?

Yes.

*Issue No. 33(c).*

Was an agreement in writing creating the said partnership entered into between the plaintiff and the defendant?

No.

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*Issue No. 34.*

If issues 31(a) and 31(b) are answered in the affirmative and 31(c) in the negative, can the plaintiff have and maintain this action in view of the provision of Ordinance No. 7 of 1840?

Yes, as this action is on the basis of co-ownership, the existence  
10 of which cannot be excluded from this business.

*Issue No. 35.*

If issues 33(a) and 33(b) are answered in the affirmative and 33(c) in the negative, can the plaintiff have and maintain this action in view of the provision of Ordinance No. 7 of 1840?

Does not arise.

*Issue No. 36.*

In respect of the partnership business carried on by the plaintiff and the defendant under the name, style and firm of "S. Veeragathipillai & Sons", was it agreed between the parties that they should  
20 share equally the profits and losses of the said business after the death of the father on 3.12.33?

No.

*Issue No. 37(a).*

Did the plaintiff and the defendant carry on the said business of S. Veeragathipillai & Sons at Jaffna and at Point Pedro?

Yes.

*Issue No. 37(b).*

Was it agreed between the plaintiff and the defendant in December, 1947, that the plaintiff should take over the Point Pedro  
30 business and the defendant the Jaffna business after accounts were looked into and the assets of the business divided and separated?

No.

*Issue No. 38(a).*

Did the defendant terminate the said partnership by notice to the plaintiff on or about 25.5.52?

No.

*Issue No. 38(b).*

Thereafter did the defendant become the sole proprietor of the business of S. Veeragathipillai & Sons carried on at Jaffna as from  
40 6.6.52?

No.

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*Issue No. 39.*

Is the defendant under a legal liability to render any account to the plaintiff in respect of the business carried on at Jaffna as the plaintiff maintains?

Yes.

*Issue No. 40(a).*

Was the business of S. Veeragathipillai & Sons carried on by the plaintiff and the defendant as partners (as the defendant maintains) or as co-owners (as the plaintiff maintains)?

The facts do not shut out either. In any event co-ownership has not been proved to have ended at any time.

*Issue No. 40(b).*

If the business was carried on as a partnership, can the plaintiff maintain this action?

No, but the facts are consistent with co-ownership as well.

*Issue No. 41.*

In the event of the Court ordering accounting, should the accounting proceed on the basis—

(a) that the profits of the business should be shared equally between the partners? . . . 20

No. It would proceed on the footing that the plaintiff is entitled to 2/3rd and the defendant to 1/3.

(b) that the account be taken between the partners as from 31.12.33? . . .

Yes on the same basis *i.e.* plaintiff entitled to 2/3rd of the business and the defendant to 1/3rd of the business.

*Issue No. 42.*

If any of the issues 3, 7 or 20(d) is answered in favour of the plaintiff, is the plaintiff entitled to judgment even if issues 31 to 33 and 36 to 41 are answered in favour of the defendant? 30

Yes.

*Issue No. 43.*

Were the agreements alleged in issues 36 and 37 entered into in writing as required by Section 18 of Chapter 57?

No.

*Issue No. 44.*

If not, is the defendant entitled to relief in respect of the claims put forward in issues 38 and 41?

No.

*Issue No. 45.*

Even if the said business was a partnership business, as alleged by the defendant, was the defendant entitled to terminate the same as alleged in issue 38?

Yes.

10 *Issue No. 46.*

Even if issue No. 45 is answered in the affirmative—

- (a) Did the defendant become the sole proprietor of the business carried on at Jaffna? . . . No.
- (b) Is the defendant liable to account for the assets, profits and goodwill of the said business carried on at Jaffna?

Yes, on the basis that the defendant is holding the plaintiff's interests in trust.

In the result I enter judgment declaring the plaintiff entitled to 2/3rd share of the business, assets and goodwill and the defendant to 1/3rd share of the business, assets and goodwill.

It is ordered that accounting will proceed as from 3.12.33 (the date of death of the father Veeragathipillai) of the accounts of the business at both Point Pedro and Jaffna. Costs of accounting from 3.12.33 up to 31.12.50 would be borne by the defendant, and the accounting as from 1.1.51 onwards would be at the expense of both these parties *i.e.* the plaintiff who would bear 2/3rd the expenses and the defendant who would bear 1/3rd the expenses. Accounting will proceed on the basis that the plaintiff is entitled to 2/3rd of the business, assets and goodwill, and the defendant to 1/3rd.

30 In as much as the accounting is ordered to proceed as from 3.12.33 as requested by the defendant, and as he would have to bear the costs of accounting from that date up to 31.12.50, I order that the plaintiff will be entitled to only half costs of this action.

(Sgd.) S. THAMBIDURAI,  
*District Judge.*  
5.8.55.

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No. 33.

Decree of the District Court

DECREE

IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Thondaimannar.....  
.....*Plaintiff*

No. 4323.

*vs.*

Veeragathipillai Rajasegaram of Thondaimannar....  
.....*Defendant.*

This action coming on for final disposal before S. Thamby Durai, 10  
Esquire, District Judge, Point Pedro, on the 5th day of August,  
1955 in the presence of Mr. Advocate S. Soorasangaram with  
Mr. Advocate R. Shivapathasunderam instructed by Mr. S. Nagalinga-  
mudaly, Proctor, on the part of the plaintiff and of Mr. S. Nadesan,  
Q.C., with Messrs. Advocates A. V. Kulasingham and S. R. Kanaga-  
nayagam instructed by Mr. K. Ratnasingham, Proctor, on the part  
of the defendant and the case having been heard.

It is ordered and decreed that the plaintiff be and he is hereby  
declared entitled to two-thirds share of the business, its assets and  
goodwill carried on at Jaffna and at Point Pedro under the name of 20  
" S. Veeragathipillai & Sons " and the defendant be and he is hereby  
declared entitled to the balance one-third share of the said business,  
assets and goodwill.

It is further ordered and decreed that the defendant do render  
an account to the plaintiff for all the assets of the said business taken  
charge of by him and for all profits.

It is further ordered and decreed that accounting do proceed  
as from 3.12.33 (the date of the death of the father Veeragathipillai)  
of the accounts of the business at both Point Pedro and Jaffna.

It is further ordered and decreed that costs of accounting from 30  
3.12.33 up to 31.12.50 be borne by the defendant and the accounting  
as from 1.1.51 onwards at the expense of both these parties, that is,  
that the plaintiff do bear 2/3rd of the expenses and the defendant  
do bear 1/3rd of the expenses.

It is further ordered and decreed that the accounting do proceed  
on the basis that plaintiff is entitled to two-thirds share of the said  
business assets and goodwill and the defendant to one-third share.

And it is further ordered and decreed that the defendant do pay the plaintiff half costs of this action as taxed by the officer of this Court.

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*Continued*

This 5th day of August, 1955.

(Sgd.) S. THAMBY DURAI,  
*District Judge.*  
15.9.55.

Drawn by :

10 (Sgd.) S. NAGALINGAMUDALY,  
*Proctor for Plaintiff.*

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**No. 34.**

**Petition of Appeal of the Defendant to the Supreme Court**

No. 34.  
Petition of  
Appeal of the  
Defendant to  
the Supreme  
Court  
16.8.55

IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Thondaimannar.....  
.....*Plaintiff*

No. 4323. *vs.*

Veeragathipillai Rajasegaram of Thondaimannar.....  
.....*Defendant.*

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

20 D.C. (F) 515. Veeragathipillai Rajasekaram of Thondaimannar....  
1955. ....*Defendant-Appellant*

*vs.*

Veeragathipillai Rajaratnam of Thondaimannar.....  
.....*Plaintiff-Respondent.*

To His Lordship the Chief Justice and other Judges of the Honourable the Supreme Court of the Island of Ceylon.

On this 16th day of August, 1955.

The Petition of Appeal of the defendant-appellant abovenamed appearing by K. Ratnasingham, his Proctor, states as follows : —

30 1. The plaintiff-respondent instituted the above action No. 4323 alleging *inter alia* :—

(a) That S. Veeragathipillai, the father of the plaintiff-respondent and of defendant-appellant, carried on business at Jaffna and Point Pedro under the name of "S.V." prior to the year 1929.

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(b) That S. Veeragathipillai in or about 1929 gifted a one-third share of the said business assets and goodwill to each of his sons plaintiff-respondent and defendant-appellant; that S. Veeragathipillai, plaintiff-respondent and defendant-appellant thereby became entitled to a one-third share each of the said business, assets and goodwill.

(c) That the business was thereafter carried on under the name of "S. Veeragathipillai & Sons" and the said change was duly notified to the Registrar of Business Names.

(d) That S. Veeragathipillai died on or about 3.12.33 leaving a 10 Last Will No. 22277 dated 14.10.33 which was proved in case No. 58 Testamentary D.C. Jaffna.

(e) By the said Last Will, S. Veeragathipillai bequeathed his one-third share of the said business assets and goodwill to the plaintiff respondent and thus plaintiff-respondent became entitled to a 2/3rd share and defendant-appellant to a 1/3rd share of the same and that on that footing the plaintiff-respondent and defendant-appellant continued to carry on the said business at Jaffna and Point Pedro.

(f) That on or about 7.6.52 the defendant-appellant wrongfully and fraudulently and with a view to deprive the plaintiff-respondent 20 of his rights applied to the Registrar of Business Names to have himself registered as sole proprietor and falsely alleged in his affidavit of 6.10.52 that plaintiff-respondent ceased to have any interest or right in the said business.

(g) That accounts have been rendered up to 31.12.50 and no account has been rendered to plaintiff-respondent since 31.12.50.

(h) That since 7th June, 1952, defendant-appellant has taken possession of the books of accounts relating thereto and the business to the exclusion of the plaintiff-respondent and was refusing to render account and was making use of the property and assets as solely 30 belonging to him.

(i) That defendant-appellant was holding the business carried on at Jaffna, the assets and good-will thereof in respect of 2/3rd share in trust for the plaintiff-respondent on the footing of the balance sheet up to 31.12.50, for all assets taken charge of by defendant-appellant as at that date and all other assets and profits coming into his possession from time to time in the course of carrying on of the said business.

2. The plaintiff-respondent claimed in the said action No. 4323 :—

40

(a) That he be declared entitled two-thirds owner of the said business, assets and goodwill thereof.



(b) That the defendant-appellant be ordered to render an account of all assets taken charge of by him and other assets and profits thereafter coming into defendant-appellant's possession from time to time in the course of carrying on the said business or in the alternative to pay plaintiff-respondent Rs. 600,000/-.

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3. The defendant-appellant contested the plaintiff-respondent's claim *inter alia* on the following grounds :—

(a) That prior to their father's death the business of S. Veeragathipillai & Sons was carried on in partnership-partners being their father  
10 Veeragathipillai and his two sons *i.e.* the plaintiff and defendant—and that on the death of their father on 3.12.33 there was a dissolution of partnership.

(b) That from 3.12.33 up to 5.6.52 the plaintiff and defendant, the surviving partners, carried on business again in partnership.

(c) That no agreement in writing as required by section 18 of the provisions of Frauds Ordinance was entered into, though the capital of the business was well over Rs. 1,000/- and therefore the present action of the plaintiff which is one of the basis of co-ownership as opposed to partnership cannot be maintained.

20 (d) That there was an agreement between the parties that the profits and assets of the business should be shared equally, that in December, 1947, it was agreed that the Jaffna business should be taken over by the defendant while the plaintiff should take over the Point Pedro business after accounts were looked into and that "as there was considerable delay in looking into accounts and carrying out the agreement . . . the defendant was compelled to terminate the partnership which he did by giving notice to the plaintiff on 25.5.52 and thereafter the defendant became the sole proprietor of the business carried on at Jaffna as from 6.6.52.

30 (e) That the said S. Veeragathipillai was not in law entitled to have any share of the business to the plaintiff or to any one else by Last Will and that therefore no share of the said business devolved on the plaintiff by virtue of the Last Will.

4. At the trial on the following issues :—

(1) Was Sinnathamby Veeragathipillai the sole owner of the business carried on at Jaffna and at Point Pedro under the name "S.V." in rice, paddy, tiles, etc. and as pawnbroker and moneylender prior to the year 1929?

(2) Did the said Veeragathipillai in or about the year 1929  
40 gift—

(a) a 1/3rd share of the said business to the plaintiff?

(b) a 1/3rd share of the said business to the defendant?

(c) and reserve unto himself the balance 1/3rd share?

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- (3) Did the said Veeragathipillai, the plaintiff and the defendant thereupon become each entitled to a 1/3rd share of the business?
- (4) Did the said Veeragathipillai die on 3.12.33 leaving behind a Last Will No. 22277 of 14.10.33?
- (5) Was the said Last Will admitted to probate in case No. 58 (Testamentary) of the District Court Jaffna?
- (6) Was it one of the devises under the said Last Will that the 1/3rd share of the said Veeragathipillai in the said business should devolve on the plaintiff? 10
- (7) Did the plaintiff and the defendant thereupon become entitled to the business and to the assets and goodwill thereof in the proportion of 2/3rd share and 1/3rd share respectively?
- (8) Did the plaintiff and the defendant carry on the said business at Jaffna and at Point Pedro on the footing that the plaintiff was the owner in respect of a 2/3rd share and the defendant to a 1/3rd share?
- (9) Did the defendant on 7.6.52 fraudulently represent to the Registrar of Business Names that the plaintiff has ceased to have any interest in the said business as from 6.6.52? 20
- (10) Did the defendant on 7.6.52 fraudulently apply to the Registrar of Business Names to have himself registered as the sole proprietor of the said business?
- (11) Did the defendant fraudulently procure the registration of the Business Name of the said business as his sole concern?
- (12) Were the balance sheets prepared up to 31.12.50 in respect of the said business carried on at Jaffna by the duly appointed Auditors on the basis that the plaintiff was a 2/3rd share owner and the defendant a 1/3rd share owner?
- (13) Is the account for the year ended 31.12.50 and annexed to 30 the plaint marked " X " one such account?
- (14) Has the defendant rendered any account after 31.12.50?
- (15) Has the defendant since 7.6.52 taken possession of the business at Jaffna the assets thereof and the goodwill relating thereto?
- (16) Has the defendant excluded the plaintiff therefrom?
- (17) Did the defendant deny the right of the plaintiff in respect of the business at Jaffna?
- (18) Is the defendant refusing to render an account of the business at Jaffna? 40

- (19) Is the defendant making use of the business at Jaffna and the assets thereof as property belonging to him?
- (20) (a) Is the defendant the owner of the entirety of the capital, assets and goodwill of the business carried on at Jaffna?
- (b) Has the defendant the whole beneficial interest in the capital, assets and goodwill of the business carried on at Jaffna?
- (c) Did the defendant take charge of the capital assets and goodwill of the said business carried on at Jaffna as co-owner and/or as agent and/or as a partner?
- 10 (d) If either of the issues 20(a) or 20(b) is answered in the negative and/or issue 20(c) is answered in the affirmative, is the defendant holding a 2/3rd share of the business carried on at Jaffna and the assets and goodwill thereof in trust for the plaintiff?
- (21) Is the defendant liable to render an account to the plaintiff for all assets taken charge of by him and for all profits coming into his possession from time to time in the course of carrying on the said business as from 1.1.51?
- 20 (22) Is the plaintiff entitled to a declaration that he is the owner of a 2/3rd share of the business carried on at Jaffna and at Point Pedro and the assets and goodwill thereof ?
- (23) (a) Was it held in case No. 58 (Testamentary) D.C. Jaffna that Sinnathamby Veeragathipillai has gifted a 1/3rd share of the said business to the plaintiff and a 1/3rd share to the defendant?
- (b) If so, is the defendant precluded from denying that the said business of Veeragathipillai & Sons was owned in the proportion of 2/3rd share to the plaintiff and 1/3rd share to the defendant?
- 30 (24) Has the defendant accepted and acquiesced in the devises contained in the said Last Will No. 22277?
- (25) If issue No. 24 is answered in the affirmative, is the defendant estopped from denying that the plaintiff is entitled to a 2/3rd share of the business and the assets and goodwill thereof in terms of the said Last Will?
- (26) Is it open to the defendant to dispute the correctness of the accounts marked " X " and earlier accounts as pleaded in para 3 of the replication?
- 40 (27) If not, is the defendant estopped from disputing the ownership of the said business of the plaintiff and the defendant in the proportion of 2/3rd share and 1/3rd share respectively?

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- (28) Did the defendant himself keep the accounts of the said business at Jaffna up to 31.12.50?
- (29) Were such accounts kept on the footing that the plaintiff owned a 2/3rd share and the defendant a 1/3rd share of the business, the assets and goodwill?
- (30) If issue 28 and/or 29 are answered in the affirmative is the defendant now estopped from —
- (a) denying that the plaintiff is still entitled to a 2/3rd share of the business?
- (b) asserting an alleged division in 1947? 10
- (c) asserting that he has become the sole proprietor of the business at Jaffna on 6.6.52?
- (31) (a) Did the plaintiff, defendant and the deceased Veeragathipillai carry on the business in partnership from 1929 to 3.12.33 under name, firm and style of "S.V."?
- (b) Was the initial capital of the said partnership business over Rs. 1,000/-?
- (c) Was an agreement in writing creating the said partnership entered into among the said partners?
- (32) Was the said partnership dissolved on the death of the said 20 Veeragathipillai on 3.12.33?
- (33) (a) Did the plaintiff and the defendant carry on business in partnership from 3.12.33 up to 5.6.52 under the name, style and firm "S. Veeragathipillai & Sons"?
- (b) Was the initial capital of the said partnership business over Rs. 1,000/-?
- (c) Was an agreement in writing creating the said partnership entered into between the plaintiff and the defendant?
- (34) If issue 31(a) and 31(b) are answered in the affirmative and 31(c) in the negative, can the plaintiff have and maintain 30 this action in view of the provisions of Ordinance No. 7 of 1840?
- (35) If issues 33(a) and 33(b) are answered in the affirmative and 33(c) in the negative, can the plaintiff have and maintain this action in view of the provision of Ordinance No. 7 of 1840?
- (36) In respect of the partnership business carried on by the plaintiff and the defendant under the name, style and firm of "S. Veeragathipillai & Sons", was it agreed between the parties that they should share equally the profits and 40 losses of the said business after the death of the father on 3.12.33?

- (37) (a) Did the plaintiff and the defendant carry on the said business of S. Veeragathipillai & Sons at Jaffna and at Point Pedro?
- (b) Was it agreed between the plaintiff and the defendant in December, 1947, that the plaintiff should take over the Point Pedro business and the defendant the Jaffna business after accounts were looked into and the assets of the business divided and separated?
- 10 (38) (a) Did the defendant terminate the said partnership by notice to the plaintiff on or about 25.5.52?
- (b) Thereafter did the defendant become the sole proprietor of the business of S. Veeragathipillai & Sons carried on at Jaffna as from 6.6.52?
- (39) Is the defendant under a legal liability to render any account to the plaintiff in respect of the business carried on at Jaffna as the plaintiff maintains?
- (40) (a) Was the business of S. Veeragathipillai & Sons carried on by the plaintiff and the defendant as partners (as the defendant maintains) or as co-owners (as the plaintiff maintains)?
- 20 (b) If the business was carried on as a partnership, can the plaintiff maintain this action?
- (41) In the event of the court ordering accounting, should the accounting proceed on the basis —
- (a) that the profits of the business should be shared equally between the partners?
- (b) that the account be taken between the partners as from 31.12.33?
- 30 (42) If any of the issues, 3, 7 or 20(d) is answered in favour of the plaintiff, is the plaintiff entitled to judgment even if issues 31 to 33 and 36 to 41 are answered in favour of the defendant?
- (43) Were the agreements alleged in issues 36 and 37 entered into in writing as required by section 18 of Chapter 57?
- (44) If not, is the defendant entitled to relief in respect of the claims put forward in issues 38 and 41?
- (45) Even if the said business was a partnership business, as alleged by the defendant, was the defendant entitled to terminate the same as alleged in issue 38?

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(46) Even if issue No. 45 is answered in the affirmative :—

- (a) Did the defendant become the sole proprietor of the business carried on at Jaffna?
- (b) Is the defendant liable to account for the assets, profits and goodwill of the said business carried on at Jaffna?

5. After hearing held on various dates between 26th January, 1955, and 30th April, 1955, the learned District Judge delivered judgment on the 5th August, 1955.

(a) Declaring the plaintiff-respondent entitled to a 2/3rd share of the business assets and goodwill and the defendant-appellant to a 1/3rd share of the same.

(b) Ordering that an accounting will proceed as from 3.12.33 of the account of the business at Point Pedro and at Jaffna.

(c) Ordering that costs of accounting from 3.12.33 up to 31.12.50 would be borne by the defendant-appellant and an accounting as from 1.1.51 onwards would be at the expense of both parties in the proportion of 2/3rd by the plaintiff-respondent and 1/3rd by the defendant-appellant.

(d) Ordering that accounting will proceed on the basis that plaintiff-respondent is entitled to 2/3rd share of the business assets and goodwill and the defendant-appellant to a one-third.

(e) Awarding plaintiff-respondent half costs of the action.

6. Being dissatisfied with the said judgment and decree thereon the defendant-appellant begs to appeal therefrom to Your Lordships' Court on the following among other grounds that may be urged by his counsel at the hearing of this appeal :—

(a) That the said judgment is contrary to law and to the weight of evidence adduced at the trial.

(b) The documentary evidence adduced at the trial in particular P1, D3, D3A, D2, D2A, D34, D8, P2, P3, D5 to D7, D9, D10 to D12, D15, D25, D27, D21 to D24, D37, D26, P11 and P14 to P17 conclusively established and the learned District Judge has correctly found :—

- (i) that S. Veeragathipillai, plaintiff-respondent and defendant-appellant carried business in partnership under the name, style and firm "S. Veeragathipillai & Sons" from about 1929 till December, 1933 ;

(ii) that from December, 1933, till 7.6.52 the plaintiff-respondent and defendant-appellant carried on the said business in partnership.

The learned District Judge was therefore wrong in holding—

(i) that “co-ownership could not be excluded” or that the “facts are not inconsistent with co-ownership”.

10 (ii) therefore the plaintiff-respondent was entitled to relief claimed by him on the basis that the plaintiff-respondent was co-owner of a 2/3rd share of the business assets and goodwill and the defendant-appellant of a one-third;

(iii) that the defendant-appellant took charge of the Jaffna business as a co-owner;

(iv) that as such co-owner he held a 2/3rd share of the business, its assets and goodwill in trust for the plaintiff-respondent;

(v) that the balance sheets up to 31.12.50 in respect of the said business were prepared on the basis that the plaintiff was a 2/3rd share owner and the defendant a one-third share owner;

20 (vi) that there was no division or sharing of profits.

(c) The basis of the plaintiff's claim is that he is a co-owner of the business, the burden was therefore on him to prove that he was a co-owner of the business; the plaintiff-respondent failed to discharge this burden; on the other hand it has been established by evidence adduced at the trial including the plaintiff-respondent's admissions that from 1929 to 1933, S. Veeragathipillai, plaintiff-respondent and defendant-appellant were partners and thereafter from 1933 to 7.6.52 plaintiff-respondent and defendant-appellant were partners of the business; the learned District Judge should therefore have dismissed  
30 the plaintiff-respondent's action.

(d) The plaintiff-respondent did not ask for any relief on the footing of a partnership; further as the learned District Judge has rightly held that the capital, of the partnership exceeded Rs. 1,000/-; the plaintiff-respondent could not therefore have and maintain an action for an accounting or for any of the other reliefs claimed.

(e) The learned District Judge has erroneously considered that the allocation of profits in the case of partnership should be on the basis of fifty-fifty and that the allocation of profits in the proportion of two-thirds and one-third showed that the business was co-owned.

40 (f) The facts adduced at the trial conclusively established that whatever possession the defendant-appellant had for the Jaffna business was as a partner and not as a trustee; that learned District Judge

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finding that the defendant-appellant was trustee in respect of the 2/3rd share is unjustified upon the evidence adduced and is wrong in law.

(g) The learned District Judge is wrong in law in holding that although the partnership could not be proved or be forced in law by reason of the provisions of section 18 of the Prevention of Frauds Ordinance the plaintiff-respondent could have and maintain this action (i) in equity and/or (ii) on the basis of a trust and/or by reason of section 96 of the Trusts Ordinance, the principles of equity referred to by the learned District Judge and section 96 of the Trusts Ordinance do not apply to the facts of this case and cannot in any event override the provisions of section 18 of the Prevention of Frauds Ordinance. 10

(h) The learned District Judge is wrong in holding —

- (i) that the defendant-appellant did not become the sole proprietor of the Jaffna business as from 6.6.52 and is not the sole owner of the said business ;
- (ii) that the defendant-appellant fraudulently applied to the Registrar of Business Names and fraudulently had himself registered as sole owner of the said business. 20

(i) The learned District Judge is wrong in making an order as to costs of accounting at this stage ; in any event the learned District Judge should not have ordered the defendant-appellant to bear the costs of accounting from 3.12.33 to 31.12.50.

Wherefore the defendant-appellant prays :—

- (a) that the said judgment and decree of the learned District Judge be set aside ;
- (b) that the plaintiff-respondent's action be dismissed ;
- (c) for costs of the Court below and of this appeal ; and
- (d) for such other and further relief as to this Court shall seem meet. 30

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant-Appellant.*

*Memorandum of documents annexed.*

1. List of documents produced by the plaintiff-respondent.
2. List of documents produced by the defendant-appellant.

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant-Appellant.*



## List of Documents Produced by the Plaintiff-Respondent

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- P1. Certificate of Business Names Registration dated 6.3.29.
- P2. Statement of change of Business Name Registration dated 19.11.34.
- P3. Plaintiff's letter of 27.5.52 to Registrar for copies of Certificate of business names registration dated 27.5.52.
- P4. Copies of statement of change of business names registration dated 7.6.52.
- P4A. Original statement by defendant dated 7.6.52.
- 10 P5. Certification of Registration dated 11.6.52.
- P6. Statement of change including Thondamannar and Point Pedro dated 31.10.53.
- P7. Fresh Certificate dated 10.4.53.
- P8. Letter by Registrar of Business Names to plaintiff dated 26.6.52.
- P9. Letter dated 1.7.52 by plaintiff to the Registrar of Business Names.
- P9A. Affidavit dated 28.6.52 by plaintiff to Registrar of Business Names.
- 20 P10. Letter dated 17.7.52 by Registrar of Business Names to Plaintiff.
- P11. Copy of application dated 28.4.49 by the defendant to the Controller of Imports.
- P11A. Original of P11 by defendant attached to P11.
- P11B. Accounts for year ended 31.12.46.
- P12. Covering letter by defendant dated —.4.49 in which P11 and P11A were sent.
- P13. Letter dated 23.9.49 by defendant to Controller of Imports.
- P14. Statement of Accounts for the year ended 31.12.48.
- 30 P15. 31.12.49.
- P16. 31.12.50.
- P17. 31.12.47.
- P18. Ledger balance for November, 1951.
- P19. Ledger O (same as P46).
- P19A. Ledger pages 59, 105, 31, 109, 144, 120, 140, 149.
- P20. Ledger M pages 194, 277, 368, 470, 361.
- P21. Last Will No. 22277 of 14.10.33.
- P22. Probate issued in 58 Testamentary D.C. Jaffna.
- P23. Journal Entry in 58 Testamentary D.C. Jaffna.

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- P24. Minute of consent by defendant dated 19.5.34 in Testamentary case No. 5241 D.C. Kandy.
- P25. Petition issued in 58 D.C. Jaffna.
- P26. Inventory in 58 Testamentary.
- P27. Final Account in 58 Testamentary.
- P28. Minute of consent by defendant dated 23.8.40 re-Final Account.
- P29. Receipt of Walliammai No. 13754 of 4.5.35.
- P30. Receipt of Walliammai dated 26.2.34.
- P31. S.C. Order in 58 Testamentary (39 N.L.R. 481).
- P32. Power of Attorney No. 647 of 22.7.45 by the plaintiff appointing 10 defendant.
- P33. Plaint in case No. 4278 D.C. Point Pedro.
- P34. Journal Entries in case No. 4278.
- P35. Letter dated 17.3.50.
- P36. Declaration Deed No. 22276.
- P37. Plaint in case No. 4316 D.C. Point Pedro.
- P38. Amended answer in case No. 4316 D.C. Point Pedro.
- P39. Order in case No. 4316 D.C. Point Pedro.
- P40. Ledger B4 pages 61, 69, 227 and 376.
- P41. Ledger B5 pages 103, 145, 247, 255, 278, 279, 284, 290, 291, 292, 295, 303, 311, 312 and 316.
- P42. Letter by Chartered Bank dated 22.1.46.
- P43. Ledger B2 pages 72 and 135.
- P44. Ledger J page 309.
- P45. Ledger K page 355.
- P46. Ledger O pages 125, 166, 212, 143, 253, 260, 282, 293, 305, 330, 372, 424, 472, 222, 261, 306, 340 and 399.
- P48. Ledger B6 pages 39, 47, 48, 50, 54, 62, 67, 68, 71.  
Ledger B7 page 2.
- P49. Conveyance No. 945 dated 1.6.52. 30

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant-Appellant.*

**List of Documents Produced by Defendant-Appellant**

- D1. Day Book for June 1948.
- D2. Evidence of the plaintiff in case No. 58 Testamentary D.C. Jaffna.
- D3. Deed of Declaration No. 22276 of 14.10.33.

- D3A. Certified copy of translation of D3 filed in case No. 58 Testamentary D.C. Jaffna.
- D4. Statement of change under section 7 of the business Names Ordinance dated 19.11.34.
- D5. Letter written by plaintiff to Chartered Bank, Colombo, dated 10.5.52.
- D6. Letter written by plaintiff to Chartered Bank, Colombo, dated 8.5.52.
- 10 D7. Letter written by plaintiff to Chartered Bank, Colombo, dated 11.5.52.
- D8. Certified copy of petition of appeal filed in respect of Estate Duty to the Board of Revenue, produced and filed of record in case No. 58 Testamentary.
- D9. Application signed by the plaintiff and addressed to the Exchange Controller dated 19.3.52.
- D10. Certified copy of plaint and proxy in case No. 6418. D.C. Jaffna dated 7.3.50.
- D11. Certified copy of plaint in case No. 12916 C.R. Jaffna dated 17.6.30.
- 20 D12. Certified copy of the proxy in case No. 12916 C.R. Jaffna.
- D13. Chartered Bank Receipt dated 14.5.52.
- D14. Letter by Chartered Bank to Messrs. Veeragathipillai & Sons dated 21.5.52.
- D15. Letter dated 23.5.52 from the plaintiff to Chartered Bank, Colombo.
- D16. Letter dated 24.5.52 from the Chartered Bank, Colombo to Messrs. S. Veeragathipillai & Sons.
- D17. Certified copy of Pawn Brokers' Licence dated 12.7.39 issued to Messrs. Veeragathipillai & Sons.
- 30 D18. Certified copy of Pawn Brokers' Licence dated 2.8.50 issued to Messrs. S. Veeragathipillai & Sons, Jaffna.
- D19. Pawn Brokers' Licence issued to Messrs. Veeragathipillai & Sons dated 10.8.49.
- D20. Pawn Brokers' Licence issued to Messrs. Veeragathipillai & Sons dated 26.7.51.
- D21. Cheque issued by plaintiff and signed as Partner of S.V. & Sons, Jaffna, dated 21.1.51.
- D22. Cheque issued by plaintiff and signed as partner of S.V. & Sons, Jaffna, dated 14.8.51.
- 40 D23. Cheque issued by plaintiff and signed as partner of S.V. & Sons, Jaffna, dated 23.5.51.

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Appeal of the  
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Petition of  
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- D24. Cheque issued by plaintiff and signed as partner of S.V. & Sons, Jaffna dated 17.7.51.
- D25. Letter dated 7.5.52 written by the plaintiff to the Sub-Post Master, Thondamannar.
- D26. Application to the Bank of Ceylon signed by plaintiff and defendant as partners dated 2.2.45.
- D27. Affidavit dated 28.1.52 sent by the plaintiff to the Government Agent, Northern Province.
- D28. Ledger commencing from 1.3.52 containing the profits account for 2.12.33 to March, 1934. 10
- D29. Ledger up to the year 1939 page 93.
- D30. Pawn Ledger.
- D31. Paddy account in the ledger and the statement of account of monies lying in the Chartered Bank to the credit of the business.
- D32. Signature book pages 113, 117, 120, 121.
- D33. Day Book for 2.3.29.
- D34. Certified copy of the Inventory filed in case No. 58 Testamentary.
- D35. Bill dated 7.5.52. 20
- D36. Rough day book dated 27.10.52.
- D37. Cheque drawn by plaintiff on the Bank of Ceylon dated 27.3.52.
- D38. Ledger showing the account of the Chartered Bank.
- D39. Certified copy of the plaint in case No. 2355 P. with Journal Entry of 31.7.46.
- D39A. Certified copy of the Power of Attorney No. 647 of 22.7.45 filed in case No. 2355 P.—D.C. Point Pedro.
- D40. Lease Bond No. 2851 dated 18.2.46 and attested by M. Eham-paranathan, Notary Public. 30

(Sgd.) K. RATNASINGHAM,  
*Proctor for Defendant-Appellant.*

No. 35.  
Proceedings  
before the  
District Court  
25.8.55

**No. 35.**

**Proceedings Before the District Court**

D.C. Point Pedro No. 4323/M.  
25.8.55.

Mr. Ratnasingham says that the accepted practice of this Court is that in cases of this type the security for costs is fixed at Rs. 200/-

and that there was hardly any dispute over this matter in this Court up to now. He also refers to the Standing Order that has been made by this Court in regard to the tendering of security for appeal.

Mr. Shivapathasunderam for the plaintiff submits that this is a very heavy case and that the typewritten copies alone will be over Rs. 1,000/- and submits that in the circumstances of this case, the reasonable security would be about Rs. 1,000/-.

Mr. Ratnasingham submits that all that he would be called upon to deposit by way of typewritten fees in the first instance would be only Rs. 25/- irrespective of the volume of the record.

Call this case in the afternoon for order.

(Intld.) S. T.,  
D.J.  
25.8.55.

2 p.m.

#### ORDER

It is correct as Mr. Ratnasingham stated that the Standing Order of this Court fixes a sum of Rs. 200/- as security for costs for all appeals in any amount upwards of Rs. 5,000/-. Presumably, this Court has never considered the question whether a case of this magnitude and record of this size would ever be coming up in this Court and it has been stated at the bar that this is the first time that a case of this magnitude has been brought up for trial. Whatever it may be, it is my view that until this Court revises its own Standing Order, the present Standing Order which fixed security in a sum of Rs. 200/- for upwards of Rs. 5,000/- has to be applied. I, therefore, fix the amount of security at Rs. 200/-.

(Intld.) S. T.,  
D.J.  
25.8.55.

30

#### No. 36.

#### Judgment of the Supreme Court

RAJASEKARAM *v.* RAJARATNAM

S.C. No. 515.

D.C. (F) Point Pedro.  
4323/M.

*Present* : Weerasooriya, J and Sansoni, J.

*Counsel* : S. Nadesan, Q.C., with C. Renganathan and V. Ratnasabapathy for defendant-appellant.

H. V. Pererra, Q.C., with T. Arulananthan for plaintiff-respondent.

40

*Argued on* : 26th, 27th, 28th, 29th and 30th August, 1957.

*Delivered on* : 20th January, 1958.

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Proceedings  
before the  
District Court  
25.8.55—  
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the Supreme  
Court  
20.1.58

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*Continued*

WEERASOORIYA, J. :

The plaintiff-respondent and the defendant-appellant are the sons of one Veeragathipillai who carried on business as a trader, money-lender and pawn-broker under the name of S.V. at Point Pedro with a branch at Jaffna. In 1929 Veeragathipillai gifted a one-third share in the business to each of the two sons and the business was thereafter carried on by the father and the sons under the name of S. Veeragathipillai & Sons, as appears from a declaration dated the 14th October, 1933, and signed by them of which P36, D3 and D3A purport to be translations and according to which each of them 10 was entitled to a one-third share in the business. Veeragathipillai died on the 3rd December, 1933, leaving a Last Will which was admitted to probate and under which he bequeathed his one-third share in the business to the plaintiff, who was some 18 years older than the defendant. Consequent on the death of Veeragathipillai, the plaintiff filed the declaration P2 dated the 19th November, 1934, under the Business Names Registration Ordinance (Cap. 120) setting out, as far as was necessary for the purpose of that Ordinance, the altered constitution of the business and describing himself and the defendant as the partners of the firm as from the 3rd December, 1933. 20

The evidence shows that until the year 1947 the plaintiff and the defendant carried on the business on the footing that the plaintiff was entitled to a two-thirds share and the defendant to a one-third share. The plaintiff's case is that it was on the same footing that the business continued to be carried on until June, 1952, when the defendant claimed the sole ownership of the Jaffna branch, of which he was in charge, and thus gave rise to the cause of action pleaded in the plaint, which has been framed on the basis that the relationship subsisting between the parties in respect of the business is one of co-ownership. 30

The substantial defence taken by the defendant is that the business as carried on by him and the plaintiff is a partnership and not a co-ownership, that although the capital of the partnership was over Rs. 1,000/- no agreement in writing and signed by the partners as required by Section 18 of the Prevention of Frauds Ordinance (Cap. 57) was entered into and the present action is, therefore, not maintainable. There is a finding by the learned trial Judge, which is supported by ample evidence, that at all times material to this action the capital of the business was far in excess of Rs. 1,000/- and this finding was not canvassed at the hearing of the appeal. It 40 is common ground that there is no agreement in writing as required by the relevant provisions of Section 18 of the Prevention of Frauds Ordinance in respect of the business carried on by the plaintiff and defendant after their father's death. It would seem to follow, therefore, that if that business is a partnership the plaintiff would be

precluded by the same provisions from maintaining any action against his other partner, the defendant, in which the existence of the partnership would have to be established as the basis of the suit, nor could he circumvent those provisions by instituting an action framed on the colourable footing that the business is a co-ownership. The question whether the business is a partnership or a co-ownership is, thus, of vital importance to the decision of this case.

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For the purpose of deciding that question it is necessary to consider certain evidence adduced at the trial which has a bearing  
10 on it. I have already referred to the declaration P2 in which the plaintiff described himself and the defendant as partners of the business that was carried on after the 3rd December, 1933. Annexed to the  
20 plaintiff in this case is a financial statement (also produced in evidence marked P16) of the business for the year ending the 31st December, 1950. There are similar statements for the years 1946 (P11B), 1947 (P17), 1948 (P14) and 1949 (P15). All these statements have been prepared on the basis that the business is a partnership. In P11A dated the 28th April, 1949, which is a communication sent by the  
30 plaintiff to the Controller of Imports applying for the inclusion of the name of S. Veeragathipillai & Sons in the list maintained by the Controller for the issue of import licences, the plaintiff has described himself and the defendant as the partners of the firm and given the capital contribution of the two partners as Rs. 600,000/- and Rs. 300,000/-. In the year 1945 the letter D26 was signed and addressed by the plaintiff and defendant to the Bank of Ceylon describing themselves as the "individual partners" of the firm of S. Veeragathipillai & Sons and requesting and authorising the Bank to honour all cheques, orders, bills and receipts signed by any one of them in the name of or on behalf of the firm. D21 to D24 are some  
of the cheques which were drawn on the Bank of Ceylon in the  
ordinary course of business by the firm of Veeragathipillai & Sons and signed by the plaintiff as partner. D10 dated the 7th March, 1950, is the plaintiff in an action instituted by the plaintiff and the defendant as partners carrying on business as S. Veeragathipillai & Sons.

Towards the end of 1951 differences arose between the plaintiff and the defendant which culminated in the present action. As a result of these differences the plaintiff seems to have been at pains on occasions to stress his position as the senior partner of the firm.  
40 He has so described himself in his letters D6 dated the 8th May, 1952, D13 dated the 14th May, 1952, D15 dated the 23rd May, 1952, and D25 dated the 7th May, 1952. On the 7th June, 1952, the defendant, in pursuance of an agreement alleged by him in his evidence to have been entered into between himself and the plaintiff (which evidence, however, was rejected by the learned District Judge), made the declaration P4 under the Business Names Registration Ordinance.

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According to P4 the plaintiff ceased to be a partner of the firm of S. Veeragathipillai & Sons as from the 6th June, 1952, and the defendant became the sole proprietor thereof. This declaration was made without the concurrence or knowledge of the plaintiff but when he came to learn of it shortly afterwards, he sent to the Registrar of Business Names the letter P9 protesting that he was still a "two-third shareholder of the business". In the affidavit P9a which accompanied P9 the plaintiff, while claiming to be "the owner and proprietor of the two-third share", also asserts that the declaration of the defendant that the plaintiff had ceased to be a partner on the 6th June, 1952, 10 is false.

There is also the evidence of Alagasundaram the *Kanakapulle*, an employee of the firm since 1928 and who was called as a witness by the plaintiff, that the business has been carried on as a partnership and the profits ascertained from time to time and divided between the partners. In giving this evidence he did not differentiate between the periods prior to and subsequent to the death of Veeragathipillai in 1933.

Although the learned District Judge seems to have felt the cumulative force of the evidence outlined by me as indicating a business 20 carried on in partnership since 1933, it would appear from his findings, read with the answers given by him to the specified issues relevant to the question, that he thought that co-ownership also of the business could not be excluded. No authority, however, is given by him, nor was any cited before us, for the proposition that a business can be a partnership as well as a co-ownership at the same time.

The principal reason that appears to have induced the trial Judge to take the view that co-ownership could not be excluded in regard to the business carried on after Veeragathipillai's death is that the shares of the plaintiff and the defendant in the business and the division of 30 the profits between them were in the proportion of two-thirds and one-third respectively, and that the inequality of shares is inconsistent with partnership. It is clear, however, from Section 24 of the English Partnership Act, 1890, that the rule that the shares of partners are equal is only a *prima facie* one, to be applied in the absence of an express agreement to the contrary or circumstances from which an agreement to the contrary may be implied.

The inferences to be drawn from the evidence relating to the nature of the business carried on after the death of Veeragathipillai are matters in respect of which this Court is not in a less advantageous 40 position than the Court of trial. The plaintiff and the defendant gave conflicting versions on the point but neither of them can be described as a reliable witness and the District Judge had ample grounds for ignoring their evidence (as he seems to have done). One is then left with the evidence of the accountant Kumaraswamy, the



*Kanakapulle* Alagasundaram and the documentary evidence. Mr. Nadesan who appeared for the appellant rightly stressed the almost insuperable difficulties in the way of a business such as that of the plaintiff and defendant being conducted as a co-ownership; nor has any special reason been disclosed as to why despite these difficulties the plaintiff and the defendant should have decided, while ostensibly carrying on business as partners, that their real relationship should be one of co-owners.

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In my opinion the learned District Judge was wrong in holding  
10 on the evidence that the business was also a co-ownership. I think no conclusion other than that the business is a partnership is reasonably possible on that evidence.

In view of this finding the only other question which arises for decision is whether the plaintiff's action is maintainable. Mr. H. V. Perera who appeared for the plaintiff readily granted that if the business is indeed a partnership the plaintiff would not be able to maintain an action on the false basis that the business is a co-ownership. He submitted, however, that in law the business was never a  
20 partnership, that from its inception after Veeragathipillai's death the business was carried on by the plaintiff and the defendant as co-owners and their relations continued to be such throughout. To put Mr. Perera's argument shortly, on the death of Veeragathipillai in 1933 the plaintiff and the defendant became co-owners of the stock-in-trade and other assets of the business which had been carried on up to that point of time by the three of them; and that as regards the new business which was carried on subsequently by the plaintiff and the defendant with the self-same assets, even if they purported to do so on the basis of a partnership, no such relationship could in law have  
30 come into existence because of non-compliance with the imperative provisions of Section 18 of the Prevention of Frauds Ordinance. Hence the relationship of co-owners, which existed at the inception of the new business, was never superseded by, or merged into, a valid partnership.

For this argument Mr. Perera relied on the wording of the relevant provisions of Section 18 of the Prevention of Frauds Ordinance and on what, in his contention, is the interpretation of those provisions by the Judicial Committee of the Privy Council in *Pate v. Pate*<sup>1</sup>. But that was a case where the action was founded on an allegation of a partnership and although there was no written agreement of the  
40 partnership as required by Section 18, parol evidence had been adduced on the plaintiff's behalf at the trial for the purpose of establishing the partnership as the basis of the suit. I do not think that the decision in that case went beyond laying down, as explained

1. 18 N.L.R. 289.

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by Gratiaen, J., in *The Commissioner of Income Tax v. Allaudin*<sup>2</sup>, that “apart from cases to which the proviso applies, the existence of a partnership (whose capital exceeds Rs. 1,000/-) cannot in the absence of a written agreement be established ‘as the basis of a suit’, or, to put it in another way, as the foundation of a claim in proceedings before the appropriate tribunal vested with jurisdiction in the matter”. He, therefore, held that in proceedings on a case stated under the Income Tax Ordinance (Cap. 188) the Assessor was not precluded from proving a partnership for the purpose of resisting the assessee’s claim to have the assessment reduced upon a false hypothesis. 10

In *Balasubramaniam v. Valliappar Chettiar*<sup>3</sup> it was held that even in an action between two partners one of them might lead evidence to prove the existence of the partnership (in regard to which there was no agreement in writing as required by Section 18 of the Prevention of Frauds Ordinance) by way of defence against the other partner’s action for an accounting on the basis that their relationship was one of principal and agent. Keuneman, J., pointed out in that case that if in such circumstances a defendant is not allowed to adduce evidence of the partnership “a ready means would be available for dishonest plaintiff so to frame his action as to escape the effect of 20 Section 21” (now Section 18 of the Prevention of Frauds Ordinance). So also, in *Yoosoof v. Hassan*<sup>4</sup> the absence of an agreement of partnership as required by Section 18 was held not to preclude the defendant, as a partner, from adducing parol evidence of the partnership in order to defeat the claim of the plaintiff which was based on the allegation that the defendant was only a manager of the business.

I did not understand Mr. Perera to question the correctness of these decisions. As I stated earlier, he was prepared to concede that if, as the defence alleged in the present case, there was in reality a partnership between the plaintiff and the defendant, the plaintiff 30 would not be able to maintain an action for an accounting or other relief on the false basis that the business is a co-ownership. But it seems to me that these decisions cannot be regarded as correct if Mr. Perera’s argument is to be accepted that non-compliance with Section 18 of the Prevention of Frauds Ordinance has the effect that even if parties purport to carry on business on the basis of an informal agreement of partnership, no such relationship is created in law. Since partnership is essentially a legal relationship, there would be no meaning in having held in these cases that a defendant may, within the limits laid down in them, adduce evidence of a non-existent partner- 40 ship. The proviso to Section 18 contemplates the existence of a partnership, with its legal incidents, notwithstanding that the agree-

2. 54 N.L.R. 385.

3. 39 N.L.R. 553.

4. 45 N.L.R. 137.

ment is not in writing and signed by the parties making the same. In my opinion, non-compliance with Section 18 does not prevent the creation of the partnership. All that it does is to prevent evidence of the partnership being adduced in certain circumstances.

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It was, accordingly, competent to the defendant in the present case to show that the business between himself and the plaintiff did not constitute a co-ownership but is a partnership. The evidence relating to the nature of that business I have already discussed. Even if on the death of Veeragathipillai and the consequent dis-  
10 solution of the business which was carried on by him along with the plaintiff and the defendant, it be assumed that by some legal process (which is not very clear to me) the plaintiff and the defendant became co-owners in the stock-in-trade and other assets of that business, it remains to be considered whether they can be regarded as co-owners of the new business that commenced thereafter. The evidence of Alagasunderam is that after Veeragathipillai's death on 3rd December, 1933, business was suspended until the 7th December, 1933, when business was resumed with all the cash, stock-in-trade and other  
20 assets which comprised the old business as on the 2nd December, 1933. This evidence is supported by the entries in the ledgers D30 and D31. It is clear, therefore, that all the assets of which the plaintiff and defendant were co-owners (assuming that to be their position originally) were brought by them into the partnership business (as already held by me) which commenced on the 7th December, 1933. Section 20(1) of the English Partnership Act, 1890, provides, *inter alia*, that property brought into the partnership stock is partnership property and must be held and applied by the partners exclusively for the purpose of the partnership.

A volume of evidence was led at the trial regarding the nature  
30 of the business which was carried on by the plaintiff, the defendant and their father prior to the father's death. The plaintiff's case is that after his father gifted a one-third share of the business in 1929 to each of the plaintiff and the defendant the business was carried on by the three of them in co-ownership. Although the trial Judge held with him I am far from convinced that the plaintiff, on whom the burden lay, has established that at any point of time during the relevant period he and the defendant stood in the position of co-owners in respect of the business; and if the occasion had arisen for the matter to be considered in appeal it would have become necessary  
40 to review the learned Judge's decision in the light of all the evidence relevant to that question.

On the basis of the trial Judge's findings that the business carried on by the plaintiff and the defendant since 1933 is also one of co-ownership, he has held that the plaintiff is entitled to an accounting on the footing of a constructive trust arising under Section 96 of the

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Trusts Ordinance (Cap. 72) in respect of the plaintiff's two-thirds share in the business carried on at the Jaffna branch. No argument was addressed to us by Mr. Perera that if the business is a partnership and not a co-ownership, the plaintiff is entitled to any relief on the basis of a constructive trust by virtue of Section 90 or Section 96 of the Trusts Ordinance. In my opinion no such relief can be given to the plaintiff under the action as constituted. The only reference in the plaint to a trust is in paragraph 8 of it where the averment is that the defendant is holding the "business carried on at Jaffna, the assets and goodwill thereof, in respect of a 2/3rd share in trust for 10 the plaintiff".

It is clear that in the case of a partnership it cannot be predicated of a partner that he owns any portion of the assets and goodwill of the business since what is meant by the share of a partner is "his proportion of the partnership assets after they have all been realised and converted into money and all the partnership debts and liabilities have been paid and discharged". (Lindley on Partnership, 11th ed., Bk. 3, Ch. v, p. 427.) Still less can it be said of a partner that he owns any portion of the assets and goodwill of a particular branch of the business. 20

For the reasons given by me the judgment and decree appealed from must be set aside and the plaintiff's action dismissed with costs here and in the Court below.

(Sgd.) H. W. R. WEERASOORIYA,  
*Puisne Justice.*

SANSONI, J. :  
I agree.

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

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**No. 37.**

**Decree of the Supreme Court**

D.C. (F) 515/M.  
1955

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

Veeragathipillai Rajaratnam of Thondamannar...  
..... *Plaintiff*

*vs.*

Veeragathipillai Rajasegaram of Thondamannar... 40  
..... *Defendant.*

Veeragathipillai Rajasegaram of Thondamannar...  
 ..... *Defendant-Appellant.*

*vs.*

Veeragathipillai Rajaratnam of Thondamannar...  
 ..... *Plaintiff-Respondent.*

No. 37.  
 Decree of the  
 Supreme Court  
 20.1.58—  
*Continued*

Action No. 4323.

District Court of Point Pedro.

This cause coming on for hearing and determination on the 26th, 27th, 28th, 29th, 30th August, 1957, and 20th January, 1958, and on this day, upon an appeal preferred by the defendant-appellant 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 defendant-appellant and plaintiff-respondent.

It is considered and adjudged that the judgment and decree appealed from be and the same are hereby set aside and the plaintiff's action is dismissed.

It is further decreed that the respondent do pay to the appellant the taxed costs in this Court and in the Court below.

*(Vide copy of judgment attached)*

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 29th 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.*

**No. 38.**

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

Stamped Rs. 318/-

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for leave to appeal to the Privy Council under the Appeals (Privy Council) Ordinance Chapter 85.

Veeragathipillai Rajaratnam of Thondamannar...  
 ..... *Plaintiff-Appellant*

D.C. Point Pedro.  
 No. 4323.

*vs.*

S.C. 515 Final of 1955. Veeragathipillai Rajasegaram of Thondamannar...  
 ..... *Defendant-Respondent.*

No. 38.  
 Application for  
 Conditional  
 Leave to Appeal  
 to the Privy  
 Council  
 14.2.58

No. 38.  
Application for  
Conditional  
Leave to Appeal  
to the Privy  
Council  
14.2.58—  
Continued

To The Hon'ble the Chief Justice and the Justices of the Supreme Court of the Island of Ceylon.

On this 14th day of February, 1958.

The petition of Veeragathipillai Rajaratnam of Thondamannar the plaintiff-appellant abovenamed appearing by his Proctor, Subramaniam Sivasubramaniam, states as follows :—

1. Feeling aggrieved by the judgment of this Hon'ble Court delivered on 20th January, 1958, and the decree of the said Court, the plaintiff-appellant is desirous of appealing therefrom to Her Majesty in Council. 10

2. The said judgment is a final judgment and the matter in dispute on the Appeal amounts to or is of the value of Rupees Six hundred thousand (Rs. 600,000/-).

3. On 25th January, 1958, the plaintiff-appellant sent to the defendant-respondent abovenamed to the following five addresses five separate notices containing the following message :—

- (i) To Veeragathipillai Rajasegaram,  
Nadutheru, Thondamannar,
- (ii) To Veeragathipillai Rajasegaram,  
Thondamannar, 20
- (iii) To Veeragathipillai Rajasegaram,  
Care S. Veeragathipillai & Sons,  
42, K.K.S. Road, Jaffna,
- (iv) To Veeragathipillai Rajasegaram,  
74/4, Hospital Road, Jaffna,
- (v) To Veeragathipillai Rajasegaram,  
Care Segaram & Sons, 271, Sea Street,  
Colombo—11.

“ Take Notice that I Veeragathipillai Rajaratnam of Thondamannar the plaintiff in case No. 4323 of the District Court of Point Pedro intend applying to the Supreme Court of Ceylon for leave to appeal to the Privy Council from the judgment of the Supreme Court delivered on 20th January, 1958, in S.C. 515 Final of 1955 D.C. Point Pedro 4323. I shall file my application for leave to appeal on or before 19th February, 1958. 30

Veeragathipillai Rajaratnam.”

4. The plaintiff-appellant sent the said notices by registered post on 25th January, 1958, and obtained a receipt from the Jaffna Post Office which is attached to the affidavit filed herewith marked “ A<sup>1</sup> ”. 40

5. The plaintiff-appellant also sent the said notices by telegram to the aforesaid five addresses on 25th January, 1958, from the

Chundikuli Post Office and obtained certified copies of the said five telegrams. The certified copy of the telegram sent to the defendant-respondent's address at Thondamannar is attached to the affidavit filed herewith marked "A<sup>2</sup>". The text of the other four telegrams was the same as in "A<sup>2</sup>". The receipt for the five telegrams is annexed to the affidavit filed herewith marked "A<sup>3</sup>".

No. 38.  
Application for  
Conditional  
Leave to Appeal  
to the Privy  
Council  
14.2.58—  
*Continued*

6. On 27th January, 1958, the plaintiff-appellant sent to the defendant respondent additional notices containing the same message by ordinary post and obtained a certificate of posting from the  
10 Jaffna Bazaar Post Office. The certificate of posting is attached to the affidavit filed herewith marked "A<sup>4</sup>".

7. Of the several notices sent by the plaintiff-appellant and referred to in paragraphs 3 to 6 above only the telegram addressed to the defendant-respondent Care Segaram & Sons, 271, Sea Street, Colombo—11, has been returned as not delivered.

8. The defendant-respondent's usual place of residence is at Thondamannar.

Wherefore the plaintiff-appellant prays:—

- 20 (a) for conditional leave to appeal against the said judgment of this Court delivered on 20th January, 1958, to Her Majesty the Queen in Council ;  
(b) for costs and for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) S. SIVASUBRAMANIAM,  
*Proctor for Plaintiff-Appellant.*

**No. 39.**

**Decree of the Supreme Court Granting Conditional Leave to Appeal to the Privy Council**

No. 39.  
Decree of the  
Supreme Court  
granting  
Conditional  
Leave to Appeal  
to the Privy  
Council  
21.2.58

S.C. Application No. 50. 21.2.58

30 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 plaintiff dated 14.2.1958 for Conditional Leave to Appeal to Her Majesty the Queen in Council against the decree of this Court dated 20.1.1958.

Veeragathipillai Rajaratnam of Thondamannar.....  
.....*Plaintiff-Appellant*  
*against*

Veeragathipillai Rajasegaram of Thondamannar.....  
.....*Defendant-Respondent.*

No. 39.  
Decree of the  
Supreme Court  
granting  
Conditional  
Leave to Appeal  
to the Privy  
Council  
21.2.58—  
*Continued*

Action No. 4323 (S.C. (F) 515/'55.

District Court of Point Pedro.

This cause coming on for hearing and determination on the 21st 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 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 10 Rs. 3,000/- and hypothecate the same by bond or such other security as the Court in terms of Section 7(1) of the Appellate Procedure (Privy Council) Order shall on application made after due notice to the other side approve.

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

Provided that the applicant may apply in writing to the said Registrar stating whether he intends to print the record or any part 20 thereof in Ceylon, for an estimate of such amounts and fees and thereafter deposit the estimated sum with the said Registrar.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice, at Colombo, the 6th 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.*

No. 40.  
Petition of  
R. Sivakumaran  
for substitution  
in place of  
Plaintiff-  
Appellant  
Deceased and  
for an extension  
of time to  
comply with  
the Order of  
Supreme Court  
imposing the  
Conditions on  
the Appellant.

No. 40.

**Petition of R. Sivakumaran for Substitution in Place of Plaintiff-Appellant Deceased and for an Extension of Time to Comply with the Order of Supreme Court Imposing the Conditions on the Appellant** 30

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of an application for leave to appeal to the Privy Council under the Appeals (Privy Council) Ordinance, Chapter 85.

D.C. Point Pedro  
No. 4323.  
S.C. 515 Final  
of 1955.  
Application  
No. 50 of 1958.

Rajaratnam Sivakumaran of Thondamannar.....  
.....*Petitioner*  
Veeragathipillai Rajaratnam of Thondamannar...  
.....*Plaintiff-Appellant* 40  
.....*(Deceased)*  
*vs.*  
Veeragathipillai Rajasegaram of Thondamannar..  
.....*Defendant-Respondent.*



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

On this 10th day of March, 1958.

The petition of Rajaratnam Sivakumaran of Thondamannar, the petitioner abovenamed, appearing by his Proctor, Subramaniam Sivasubramaniam, states as follows :—

No. 40.  
Petition of  
R. Sivakumaran  
for substitution  
in place of  
Plaintiff.  
Appellant  
Deceased and  
for an extension  
of time to  
comply with  
the Order of  
Supreme Court  
imposing the  
Conditions on  
the Appellant—  
*Continued*

1. The plaintiff-appellant abovenamed was granted Conditional Leave to appeal to the Privy Council on 21st February, 1958, on the usual conditions in Case No. 4323 of the District Court of Point  
10 Pedro S.C. 515 Final of 1955.

2. The plaintiff-appellant however died on 27th February, 1958, in the presence of the petitioner abovenamed, without having complied with the conditions on which Conditional Leave to appeal to the Privy Council was granted to him.

3. The plaintiff-appellant had left a Last Will No. 11905 of 30th July, 1951, attested by V. Senathirajasegaram, Notary Public, by which he had appointed the petitioner, abovenamed, his son, the executor of his Last Will.

4. The petitioner abovenamed applied to the District Court of  
20 Point Pedro and obtained on 7th March, 1958, an Order absolute in the first instance granting him probate of the said Last Will. Certified copies of the application of the petitioner for an Order absolute in the first instance and the Last Will of the plaintiff-appellant together with a translation thereof and the Order absolute in the first instance issued by the District Court of Point Pedro are attached to the affidavit filed herewith marked P1, P2, P3 and P4 respectively.

5. It has thus become necessary for the petitioner abovenamed to be substituted in this case in place of the plaintiff-appellant,  
30 deceased and for an extension of the period of one month specified under Rule 3(a) of the Schedule to the Appeals (Privy Council) Ordinance Chapter 85 to be granted on the ground of the special cause set out above.

Wherefore the petitioner prays :—

(a) for an Order of this Court directing the District Court of Point Pedro to substitute the petitioner abovenamed in place of the plaintiff-appellant deceased on the record of this case.

No. 40.  
Petition of  
R. Sivakumaran  
for Substitution  
in place of  
Plaintiff-  
Appellant  
Deceased and  
for an extension  
of time to  
comply with  
the Order of  
the Supreme  
Court imposing  
the Conditions  
on the  
Appellant—  
*Continued*

- (b) for an extension of the period of one month specified under Rule 3(a) of the Schedule to the Appeals (Privy Council) Ordinance for such further period as may expire one month after the date of substitution of the petitioner abovenamed in place of the plaintiff-appellant on the record of this case by the District Court of Point Pedro.
- (c) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) S. SIVASUBRAMANIAM,  
*Proctor for Petitioner.*

10

P1

IN THE DISTRICT COURT OF POINT PEDRO

No. 604 Testamentary.

In the matter of the Last Will and Testament of the  
late Veeragathipillai Rajaratnam of Thondamannar  
..... *Deceased*  
Rajaratnam Sivakumaran of Thondamannar.....  
..... *Petitioner.*

This 7th day of March, 1958.

The Petition of the abovenamed petitioner appearing by 20 S. Nagalingamudaly, his Proctor, states as follows :—

1. The petitioner's father Veeragathipillai Rajaratnam lived at Thondamannar and died there within the jurisdiction of this Court on the 27th day of February, 1958. The petitioner was present at his death.

2. The said Veeragathipillai Rajaratnam executed a Last Will on the 30th day of July, 1951, attested by V. Senathirajasegaram, Notary Public, under No. 11905. By the said Last Will the said V. Rajaratnam had appointed the petitioner as the executor of the said Last Will. The said Last Will is herewith produced marked A. 30

3. Full and true particulars of the property left behind by the deceased so far as the petitioner is able to ascertain the same are contained in the schedule hereto.

4. The said Rajaratnam left behind his widow Eladchumipillai and his children : (1) Thirugnanasambanthar, (2) Sandarasegaram, (3) Sivakumaran the petitioner, (4) Sivathas, (5) Shanmugalingam, (6) Sivasubramaniam, (7) Balendra, and (8) Sadarchara Devi as heirs to his estate.

5. The petitioner has no reason to apprehend that any person will oppose the petitioner's application for Probate of the said Last Will.

6. The petitioner claims Probate of the said Last Will of the late Veeragathipillai Rajaratnam as the executor of the said Last Will.

7. The petitioner applies for an order absolute in the first instance as the deceased's application for conditional leave to appeal to the Privy Council was granted in case No. 4323 of this Court on the 21st day of January, 1958, and it has become necessary to tender security 10 and file necessary papers in due time.

The petitioner therefore prays :—

- (i) for an order absolute in the first instance granting Probate to the petitioner ;
- (ii) for costs incurred in this behalf and for such other and further relief as to this Court shall seem meet.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for Petitioner.*

*Schedule*

1. Land situated at Thondamannar in Udupidy Parish 20 Vadamarachy Division in the District of Jaffna, Northern Province, called "Nayanichikollai" in extent 10 lms. v.c. and 2, 3/32 kls. described by lots marked 1, 2, 3, 4, 5, 6 and 7 in survey plan No. 2625 dated the 10th day of January, 1949, and prepared by K. Valemurugu, Licensed Surveyor. Of this lot marked 1 in extent 3 lms. v.c. and 4 kls. with its appurtenances is bounded on the East by lots 6 and 7, North by lot 7, West by the property of Sinnathamby Balasingam and others and on the South by the property of the deceased. The whole of this together with share of well and lane represented by lot marked 7 in extent 8, 3/32 kls. worth Rs. 1,500/-.

30 2. Land situated at Thondamannar called "Vannakollai" Veedu 2 in extent 5, 3/8 lms. v.c. Do. in extent 2 lms. v.c. of these 1/2 share in extent 6 lms. v.c. and 8 3/4 kls. for which the extent in possession is 2 lms. v.c. and 6 kls. and bounded on the East and South by the property of the children of Sithamparapillai Kanagaratnam and others, North by the property of the deceased and West by the property of Soranammah wife of Selliah and others. The whole of this and 1/2 share of well worth Rs. 800/-.

40 3. Land situated at Thondamannar called "Vadakuvalavekkuvadakkumadaththualavu" in extent 2 lms. v.c. Do. Manalpardu in extent 1/2 lms. v.c. form a total extent of 2 1/2 lms. v.c. which and an extent of 10 lms. v.c. and 16, 7/80 kls. being 3/4 share out of 3 1/2 share on the South of the parcels of

No. 40.  
Petition of  
R. Sivakumaran  
for Substitution  
in place of  
Plaintiff.  
Appellant  
Deceased and  
for an extension  
of time to  
comply with  
the Order of  
the Supreme  
Court imposing  
the conditions  
on the  
Appellant—  
*Continued*

No. 40.  
 Petition of  
 R. Sivakumaran  
 for Substitution  
 in place of  
 Plaintiff-  
 Appellant  
 Deceased and  
 for an extension  
 of time to  
 comply with the  
 Order of the  
 Supreme Court  
 imposing the  
 Conditions on  
 the Appellant—  
*Continued*

land situated at Kerudavikurichi called Pidariathidal in extent 10, 3/8 lms. v.c. Do. Kommarnngnevitkolvilan Pidarithidal in extent 10 3/8 lms. v.c. forming a total extent of 20 3/4 lms. v.c. form at present one land in extent 13 lms. v.c. and 7, 7/80 kls. bounded on the East by the property of Sinnappillai Vallipuram and others north by the property of Sinnathamby Arunasalam and others, West by road and by the property of Josuph Podiar Sabapathipillai and South by the property of Joseph Podiar Sabapathipillai. In whole of the ground coconut trees and buildings within these boundaries Rs. 10,000/-.

4. Land situated at Valvettiturai called "Pidariaththidal-10 thetku" in extent 10 1/8 lms. v.c. of this the Southern half share in extent 5 lms. v.c. and 1, 1/8 kls. of this the extent for lot No. 2 in plan No. 584 dated 11th June, 1943, prepared by Mr. Seevaratnam licensed Surveyor and filed with the final decree in case No. 2100/P of the District Court of Point Pedro is 1 lms. v.c. and 2, 6/32 kls. and bounded on the East by lot No. 3 in the said plan belonging to Ponnusamy Narayanasamy, North by the property of Kadirgamar Sittampalam and others, West by lot No.1 in the said plan belonging to Arumugam Tharmalingam and South by the property of the deceased. The whole of this worth Rs. 1,000/-.

20

5. Land situated at Kerudavil Kurichy in the Parish of Udupiddy in Vadamarachy Division in the District of Jaffna in the Northern Province called "Pidariyaththidal" in extent 14, 1/4 lms. v.c. Kommangnevitkolvilaipidariyathidal, 6, 5/8 lms. v.c. Do Ayilninrakadu 9 1/2 lms. v.c. These parcels and an extent of 24 lms. v.c. out of 29 lms. v.c. lying in the East after excluding 5 lms. v.c. on the south of the lands Pidariyathidal in extent 30 lms. v.c. Ailninrakadu 17 lms. v.c. form one land in extent 54 3/8 lms. v.c. according to possess and bounded in the East by the property of Thangaponu wife of Murugesu, North by lane, West by the property of Ponnusamy 30 Narayanasamy and the property of Veeragaliyman Temple and others and South by the property belonging to the Thondamanar English School and other properties of this 2/3rd share worth Rs. 2,000/-.

6. Land situated at Thanakkarakurichi called Ponthukkinathidi in extent 13 1/4 lms. v.c. which extent of 8 lms. v.c. on the North out of the land situated at Kerudevilkurichi called Ayilninrakadu and Uthamankaddu in extent 82 lms. v.c. and the land called Thachanbalakaladdy in extent of 11 lms. v.c. and an extent of 5 lms. v.c. on the South of the land called Pidariyathidal and Ayilninrakadu an 40 extent of 29 lms. v.c. forming a total extent of 37 1/4 lms. v.c. and bounded on the East by the property of Veeragathiar Thambimuttu and of the property of Nagappiar Vethavanam and others West by the Court Yard of Pillayar Temple and by street and the property of Annammah wife of Vettivelu and others and South by the street the whole of which the school stands Rs. 1,000/-.

7. Business under the name and style of S. Veeragathipillai & Sons of this 2/3rd share worth (now in dispute case No. 4323 D.C. Point Pedro S.C. 515).

8. Business under the name and style of V. Rajaratnam worth Rs. 50,000/-.

9. Thondamanar Hindu English School and Tamil School premises Rs. 5,000.00.

10. Household furnitures Rs. 500/-.

Total Rs. 71,800/-.

10 Liabilities—

Funeral expenses including 3rd day's and Anthiyaddy ceremonies Rs. 1,500/-.

Nett value of the estate Rs. 70,300/-.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for Petitioner.*

Date : 7th March, 1958.

True copy of the Petition filed in D.C. Point Pedro Testamentary Case No. 604.

(Sgd.) Illegibly.  
*Secretary, District Court,*  
Point Pedro.

20

P3

IN THE DISTRICT COURT OF POINT PEDRO

No. 604 Testamentary.

In the matter of the Last Will and testament of the late Veeragathipillai Rajaratnam of Thondamanar ..... *Deceased.*

*between*

Rajaratnam Sivakumaran of Thondamanar.....  
.....*Petitioner.*

30

\* \* \* \* \*

“ A ”

Translation

V. Senathirajasegaram,  
Notary Public.  
Puloly East, Point Pedro.

No. 11905 of 30.7.1951

LAST WILL

We, Veeragathipillai Rajaratnam and wife Eladchumippillai of Thondamanar feeling the uncertainty of our body and the certainty of death do with our clear understanding perfect mind and sound memory execute joint Lst Will to wit :—

40

No. 40.  
Petition of R. Sivakumaran for Substitution in place of Plaintiff. Appellant Deceased and for an extension of time to comply with the Order of the Supreme Court imposing the Conditions on the Appellant—  
*Continued*

No. 40.  
 Petition of  
 R. Sivakumaran  
 for Substitution  
 in place of  
 Plaintiff-  
 Appellant  
 Deceased and  
 for an extension  
 of time to  
 comply with the  
 Order of the  
 Supreme Court  
 imposing the  
 Conditions on  
 the Appellant—  
*Continued*

1. To the best of our knowledge we have not executed any other Last Will or Instrument beside the Last Will executed lastly on the 14th July, 1945, and attested by this Notary under No. 9131 and even if there be any executed we do hereby revoke the same and the said Last Will No. 9131 and make the same null and void.

2. If the 2nd named person of us happens to die first all the properties immovable and movable belonging to her should devolve on the 1st named person of us.

3. If the 1st named person of us happens to die first all the properties immovable and movable belonging to us both should devolve as follows, that is, 10

(1) A sum of Rs. 10,000/- should be paid to the second named of us.

(2) The land called Nayanichchikollai and Vannankollai forming one land belonging to us should devolve on our daughter Sadadcharathevy and all the properties belonging to the 2nd named person of us by right of dowry should devolve on the said Sadadcharathevy. Our executor will have to erect a stone built house in the land, said land called Nayanichchikollai and Vannankollai to the value of Rs. 5,000/- and give her and further a sum of Rs. 25,000/- should be paid to her when she attains majority or at the time of her marriage. 20

(3) The 2/3rd share belonging to the 1st named person of us the trade business carried on by the 1st named person and his brother Veeragathipillai Rajasekaram under the name and style of S. Veeragathipillai & Sons should devolve on our son Rajaratnam Sivakumaran subject to the following conditions and he will have to carry on the said trade and get the same improved and will have to spend for the expenses of the study, maintenance and other reasonable and urgent expenses that would be found necessary of our five children namely (1) Sandrasegarm, (2) Sivathas, (3) Shanmugalingam, (4) Siva- 30 subramaniam, and (5) Balendra and for the expenses that would be found reasonable and necessary for the 2nd named of us and the said Sadadchcharathevy.

(4) That when the said five children attain majority each of them should be paid a sum of Rs. 25,000/-.

(5) The English and Tamil Schools at Thondaimanar built by the 1st named person of us and by the late Sinnathamby Veeragathipillai the father of the 1st named person and managed, should be managed by the said Sivakumaran himself in the same way as it is managed at present and that all the rights of the said school and the 40 buildings should belong to the said Sivakumaran himself.

(6) The land called Madaththuvalavukkuvadakkumadaththuvalavu and other parcels in extent 13 lms. v.c. and 7, 7/80 kls. belonging to the 1st named person of us on deed No. 17103 dated

the 28th day of March, 1917, and attested by V. Sinnethamby, Notary where we reside should devolve on our son Balendra subject to life interest in favour of the 2nd named person of us during her lifetime.

(7) The 2nd named person of us should be the guardian of our children.

(8) All the properties immovable and movable in our own charge free of any connection with the trade (including vessels and Boats) should devolve in equal shares on our sons Sivakumaran and Siva-subramaniam.

10 (9) That as our son Thirugnanasambanther is at present studying in England our executor should from time to time pay a sum not exceeding Rs. 15,000/- if any money required by him till the close of his study.

4. That as we have already disposed lands and monies to our eldest son Sunderamoorthy we have not hereby disposed any property to him.

5. That if the 2nd named person of us happens to die first we do hereby appoint the first named person as the executor and if the 1st named person happens to die first we appoint Rajaratnam Siva-  
20 kumaran as the executor of this Last Will.

In witness hereof we set our signatures to this and to another of the same tenor at Thondaimanar on the Thirtieth day of July, One thousand nine hundred and fifty-one.

We the undersigned witnesses do hereby }  
truly declare that we know perfectly } V. RASARATNAM,  
well the said executants and their proper } EENA ELED CUMILLAI,  
names, residence and occupation. }  
Signatures.

(Sgd.) T. MUTTUTAMBY,

(Sgd.) K. NARAYANASAMY NAIUDU.

30

(Sgd.) V. SENATHIRAJASEGARAM,  
*Notary Public.*

I, Vinasithamby Senathirajasegaram Notary Public of the Judicial Division of Point Pedro do hereby certify and attest that I have read over and explained the foregoing instrument of the said Veeragathippillai Rajaratnam and his wife Eledchumippillai in the presence of Thambiah Muttuthamby of Thondaimanar and Kuru-samy Naiudu Narayanasamy Naiudu of the same place the sub-  
40 scribing witnesses hereto that I know the executants and witnesses and that the Executants and Witnesses set their signatures in my presence and in the presence of one another all being present at the same time at Thondaimanar on the 30th July, 1951, and that before

No. 40.  
Petition of  
R. Sivakumaran  
for Substitution  
in place of  
Plaintiff.  
Appellant  
Deceased and  
for an extension  
of time to  
comply with the  
Order of the  
Supreme Court  
imposing the  
Conditions on  
the Appellant—  
*Continued*

No. 40.  
Petition of  
R. Sivakumaran  
for Substitution  
in place of  
Plaintiff-  
Appellant  
Deceased and  
for an extension  
of time to  
comply with the  
Order of the  
Supreme Court  
imposing the  
Conditions on  
the Appellant—  
*Continued*

this instrument was read over and explained the word “(in Tamil)” in line 12 of page 3 in the original has been deleted and the “in Tamil” has been interpolated.

Date of attestation : 30th July, 1951.

(Sgd.) A. SUBRAMANIAM, Seal  
S.T., D.C. V. SENATHIRAJASEGARAM,  
(Sgd.) V. SENATHIRAJASEGARAM,  
Notary Public.

True copy of Last Will filed in Case No. 604 D.C. Testy.

(Sgd.) Illegibly. 10  
Secretary, D.C.,  
Point Pedro.

P4

Order Absolute in the First Instance

IN THE DISTRICT COURT OF POINT PEDRO

No. 604 Testamentary.

In the matter of the Last Will and Testament of the  
late Veeragathipillai Rajaratnam of Thondaimanar  
..... *Deceased.*

Rajaratnam Sivakumaran of Thondamannar..... 20  
.....*Petitioner.*

This matter coming on for disposal before S. Thambydurai, Esquire, District Judge of Point Pedro on the 7th day of March, 1958, in the presence of Mr. S. Nagalingamudaly, Proctor on the part of the petitioner ; and the affidavit of the petitioner dated 7th day of March, 1958, and the affidavit of the Notary and subscribing witnesses dated 7th day of March, 1958, having been read.

It is ordered that the Last Will and Testament No. 11905 made by the deceased abovenamed on the 30th day of July, 1951, and attested by V. Senathirajasegaram, Notary Public, the original of 30 which has been produced and is now deposited in this Court be and the same is hereby declared proved and that the petitioner is the executor named therein and he is hereby entitled to have probate thereof issued to him accordingly.

(Sgd.) S. THAMBYDURAI,  
D.J.

This 7th day of March, 1958.

True copy of Order Absolute in the first instance filed in D.C. Point Pedro Testamentary Case No. 604.

(Sgd.) Illegibly. 40  
Secretary, District Court,  
Point Pedro.



**No. 41.****Order of the Supreme Court**

No. 41.  
Order of the  
Supreme Court  
11.3.58

Application to substitute the petitioner in place of the plaintiff-appellant (deceased) and for an extension of the period of one month after the date of substitution in D.C. Point Pedro No. 4323 (86).

*Present* : Weerasooriya, J. and Sansoni, J.

*Listed on* : 11th March, 1958.

*Counsel* : H. W. Jayawardene, Q.C., with C. Shanmuganayagam for the petitioner.

**10 WEERASOORIYA, J. :**

With regard to the extension of time applied for under Rule 3(a) of the Rules in the Schedule to the Appeals (Privy Council) Ordinance (Chapter 85), Mr. Jayawardene brings it to our notice that the extension of time should be granted before the expiration of the original period of one month specified in that rule. We therefore make order now granting by way of extension further time up to one month specified in that rule. We therefore make order now granting by way of extension further time up to one month from the date of the substitution of the petitioner or any other person in place of the  
20 deceased plaintiff-appellant. This order extending the time will be subject to review after hearing such objections, if any, as the respondent may take against it on receiving notice of this application.

Let the notice issue immediately, made returnable on the 17th of March, 1958, and let the application be listed for hearing before the Final Court on the 18th March, 1958.

(Sgd.) H. W. R. WEERASOORIYA,  
*Puisne Justice.*

SANSONI, J. :  
I agree.

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

30

**No. 42.****Order of the Supreme Court**

No. 42.  
Order of the  
Supreme  
Court  
18.3.58

Application to substitute the petitioner in place of the plaintiff-appellant (deceased) in D.C. Point Pedro No. 4323 and for an extension of the period of one month specified in Rule 3(a) of the Rules in the Schedule to the Appeals (Privy Council) Ordinance.

No. 42.  
Order of the  
Supreme Court  
18.3.58—  
Continued

## Application No. 86.

*Present* : Basnayake, C.J., and de Silva, J.

*Counsel* : H. W. Jayawardene, Q.C., with C. Shanmuganayagam for petitioner.

No appearance for respondent.

*Argued and decided on* : March 18, 1958.

BASNAYAKE, C.J. :

The petitioner's prayer for an order directing the District Court of Point Pedro to substitute a suitable person in place of the plaintiff-appellant, who is now dead, is granted. 10

We also extend the time for compliance with the requirements of Rule 3(a) of the Rules in the Schedule to the Appeals (Privy Council) Ordinance, till the date of the substitution of a person in place of the plaintiff-appellant, and for a month thereafter.

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

De SILVA, J. :

I agree.

(Sgd.) K. D. de SILVA,  
*Puisne Justice*

20

No. 43.  
Probate  
13.3.59

**No. 43.****Probate**

Nett Value of Estate, Rs. 128,400/-.  
Estate Duty, Rs. 13,872/-.

## PROBATE

## IN THE DISTRICT COURT OF POINT PEDRO

Testamentary }  
Jurisdiction } No. 604 T.

In the matter of the Estate of the late Veeragathipillai Raj- 30  
ratnam deceased, of Thondamanar.

Be it known to all men that on the 13th day of March, 1959, the Last Will and Testament of Veeragathipillai Rajaratnam of Thondamannar 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 Rajaratnam Sivakumaran of Thonda-

manner the Executor in the said Last Will and Testament named ; the said Rajaratnam Sivakumaran being first affirmed faithfully to execute the said Will by paying the debts and legacies of the deceased Testator as far as the property will extend and the law will bind, and also to exhibit into this Court a true, full, and perfect Inventory of the said property on or before the day fixed by Court, and to file a true and just account of my executorship on or before the day fixed by Court.

No. 43.  
Probate  
13.3.59.—  
*Continued*

And it is hereby certified that the Declaration and Statement of  
10 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. 128,400/-.

And it is further certified that it appears by a certificate granted by the Commissioner of Stamps, and dated the 24th day of February, 1959, that Rs. 13,872/- on account of Estate Duty (and interest on such duty) has been paid.

Given under my hand and the Seal of the Court this 13th day of March, 1959.

(Sgd.) S. THAMBY DURAI,  
*District Judge.*

20

Drawn by :

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for Petitioner.*

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**No. 44.**

**Application for Substitution**

No. 44.  
Application for  
Substitution  
16.3.59

IN THE DISTRICT COURT OF POINT PEDRO

Veeragathipillai Rajaratnam of Thondamanar.....  
.....*Plaintiff*

No. 4323.

*vs.*

Veeragathipillai Rajasegaram of Thondamannar.....  
.....*Defendant.*

30

In the matter of an application for substitution.

Rajaratnam Sivakumaran of Thondamanar, Executor  
of the Last Will of Veeragathipillai Rajaratnam of  
Thondamanar in Case No. 614 Testamentary D.C.  
Point Pedro.....*Petitioner*

*vs.*

Veeragathipillai Rajasekaram of Thondamannar.....  
.....*Defendant-Respondent.*

40 This 16th day of March, 1959.

No. 44.  
Application for  
substitution  
16.3.59—  
Continued

The petition of the petitioner abovenamed, appearing by Mr. S. Nagalingamudaly, his Proctor, states as follows :—

1. The plaintiff sued the defendant for a declaration that he was entitled to a 2/3rd share of the business, the assets and good-will of "S. Veeragathipillai & Sons" and for an accounting or in the alternative for the recovery of the sum of Rs. 600,000/-.

2. The Supreme Court by its Judgment dated the 20th day of January, 1958, dismissed the plaintiff's action with Costs.

3. Thereafter the plaintiff obtained conditional leave to appeal to the Privy Council on the usual conditions. 10

4. The plaintiff died on the 27th day of February, 1958, leaving behind a Last Will by which the plaintiff devised and bequeathed the business, which forms the subject matter of this action, to the petitioner and appointed him executor of the said Last Will.

5. The said Last Will has been proved in Testamentary Case No. 604 of the District Court of Point Pedro and Probate has been issued to the petitioner, which is hereto annexed.

6. For the purpose of proceeding with the appeal to the Privy Council and to take all the necessary steps in that behalf it is necessary that the Legal Representative of the deceased plaintiff should be 20 entered on the record in place of the deceased plaintiff.

7. The petitioner is the Legal Representative of the deceased plaintiff and the right to proceed with the action has survived to the petitioner and it is therefore necessary that the petitioner as such Legal Representative be substituted in place of the deceased plaintiff.

8. An affidavit verifying the above facts is filed herewith.

Wherefore the petitioner prays :—

(i) that the petitioner be substituted in place of the deceased plaintiff ;

(ii) for costs ; 30  
and for such other and further relief as to this Court shall seem meet.

(Sgd.) S. NAGALNIGAMUDALY,  
*Proctor for Petitioner.*

No. 45.  
Applicatiin for  
Final Leave to  
appeal to the  
Privy Council  
21.4.59

**No. 45.**

**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  
under the Appeals (Privy Council) Ordinance. 40

D.C. Point Pedro. Case No. 4323. S.C. 515 (F) of 1955.	Veeragathipillai Rajaratnam of Thondamanar.... ..... <i>Deceased Plaintiff-Appellant</i> Rajaratnam Sivakumaran of Thondamanar Executor of the Estate of Veeragathipillai Rajaratnam..... <i>Substituted Plaintiff-Appellant</i>	No. 45. Application for Final Leave to appeal to the Privy Council 21.4.59— <i>Continued</i>
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*vs.*

Veeragathipillai Rajasegaram of Thondamanar....  
.....*Defendant-Respondent.*

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

On this 21st day of April, 1959.

The petition of the substituted plaintiff-appellant abovenamed  
appearing by S. Nagalingamudaly, his Proctor, states as follows :—

1. The deceased plaintiff-appellant abovenamed on the 21st  
day of February, 1958, obtained Conditional Leave from this  
Honourable Court to appeal to Her Majesty the Queen in Council  
against the judgment of this Court pronounced on the 20th day of  
January, 1958.
2. The deceased plaintiff-appellant thereafter died on the 27th  
20 day of February, 1958, without having complied with the conditions  
on which leave was granted.
3. Thereupon on application being made in this behalf this  
Honourable Court made order on 18th March, 1958, in S.C.  
Application No. 86 of 1958, directing the District Court of Point  
Pedro to substitute a suitable person in place of the deceased appellant  
and extending the time for compliance of the requirements of Rule 3(a)  
of the Rules of the Schedule to the Appeal (Privy Council) Ordinance  
till the date of such substitution and for a month thereafter.
4. Accordingly the District Court of Point Pedro on the 26th  
30 day of March, 1959, substituted Rajaratnam Sivakumaran who is  
the Executor of the estate of the said deceased and is the substituted  
plaintiff-appellant, in place of the deceased plaintiff-appellant.
5. The substituted plaintiff-appellant has in compliance with  
the conditions on which such leave was granted :
  - (a) given security by the deposit of the sum of Rupees three  
thousand (Rs. 3,000/-) with the Registrar of the Supreme Court  
and hypothecation thereof by Bond dated 20th April, 1959, and at  
the same time has duly lodged stamps for the duty payable in respect  
of the Registrar's Certificate in Appeal to Her Majesty the Queen in  
40 Council, and

No. 45.  
Application for  
Final Leave to  
Appeal to the  
Privy Council  
21.4.59—  
*Continued*

(b) deposited with the Registrar a sum of Rupees three hundred (Rs. 300/-) in respect of the amounts and fees mentioned in section 4 (2) (b) and (c) of the Appeals (Privy Council) Ordinance No. 31 of 1909 (Chapter 85) of the Legislative Enactment of Ceylon.

6. The substituted plaintiff-appellant has given notice of this application for Final Leave to the defendant-respondent by registered post on the 20th day of April, 1959.

Wherefore the substituted plaintiff-respondent prays :—

- (a) that he be granted Final Leave to appeal against the judgment of this Court dated the 20th day of January, 1958, to Her Majesty the Queen in Council ;
- (b) for costs ; and
- (c) for such other and further relief as to Your Lordships' Court shall seem meet.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for Substituted Plaintiff-Appellant.*

No. 46.  
Decree of the  
Supreme Court  
granting Final  
Leave to Appeal  
to the Privy  
Council  
28.4.59

**No. 46.**

**Decree of the Supreme Court Granting Final Leave to  
Appeal to the Privy Council**

S.C. Application No. 191.

20

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 dated 21st April, 1959,  
for Final Leave to Appeal to Her Majesty the Queen  
in Council by the substituted plaintiff-appellant  
against the decree dated 20th January, 1958.

Veeragathipillai Rajaratnam of Thondamanar.....  
.....*Deceased Plaintiff-Appellant*

Rajaratnam Sivakumaran of Thondamanar, Executor 30  
of the Estate of Veeragathipillai Rajaratnam.....  
.....*Substituted Plaintiff-Appellant*  
*Appellant*

*against*

Veeragathipillai Rajasegaram of Thondamanar.....  
.....*Defendant-Respondent*  
*Respondent.*

Action No. 4323 S.C. 515(F) of 1955.

District Court of Point Pedro.

This cause coming on for hearing and determination on the 28th day of April, 1959, before the Hon. H. H. Basnayake, Q.C., Chief Justice and the Hon. M. C. Sansoni, Puisne Justice of this Court, in the presence of Counsel for the substituted plaintiff-appellant and no appearance for the defendant-respondent.

It is considered and adjudged that the application for Final Leave to appeal to Her Majesty the Queen in Council be and the same is  
10 hereby allowed.

Witness the Hon. Hema Henry Basnayake, Q.C., Chief Justice at Colombo, the 4th day of May, in the year One thousand Nine hundred and Fifty-nine and of Our Reign the Eighth.

(Sgd.) B. F. PERERA,  
*Deputy Registrar, S.C.*

No. 46.  
Decree of the  
Supreme Court  
granting Final  
Leave to Appeal  
to the Privy  
Council  
28.4.59—  
*Continued*

**PART II**

**EXHIBITS**



**PART II.****D33.****Day Book**

Translation.

Invocation to Pillaiyar. Shivamayam.

Day Book of S. V. Shop, Jaffna

D33.

Day Book  
1.3.29 to  
2.3.29

1929		Payment	Receipts
March 1		Rs. c.	Rs. c.
As per previous page .. .. .		2,170 16	4,358 38
To Amount paid to Ena Kana Seena Kandiah by ten bags of cotton seed .. .. .		77 50	
633. By Amount received by sales of 10 bags of cotton .. .. .			77 50
548. ,, Amount received by way of sales of one half of the sown teak sown previously and sold to S.S.K. from this place .. .. .			46 48
594. To Wages paid for packing 69 bales of Malayalam tobacco .. .. .		12 94	
,, Amount paid for 500 packing mats Rs. 95/- and 20 cut mats Rs. 10/- .. .. .		105 00	
628. By Amount received by sales of 1 bag of paddy .. .. .			8 50
617. ,, Amount received on account of pawn receipt No. 5950 .. .. .			88 50
617. ,, Amount received on account of pawn receipt No. 6280 .. .. .			81 65
637. ,, Amount received on account of pawn receipt No. 7284 .. .. .			86 50
637. ,, Amount received on account of pawn receipt No. 7232 .. .. .			11 40
,, ,, Amount received on account of pawn receipt No. 8059 .. .. .			16 23
,, ,, Amount received on account of pawn receipt No. 8395 .. .. .			26 12
,, To Amount paid as per pawn No. 9090 .. .. .		41 00	
,, ,, Amount paid as per pawn No. 9091 .. .. .		30 00	
,, ,, Amount paid as per pawn No. 9092 .. .. .		65 00	
,, ,, Amount paid as per pawn No. 9093 .. .. .		75 00	
581. By Amount received from N. P. M. Ponnambalam B Mise. .. .. .			300 00
101. By Amount received from M. Thambimuttu .. .. .			35 00
	Total .. .. .	2,576 60	5,136 26
	By balance .. .. .		2,559 66
March 2			
623. By Amount received by sales of tiles 1,650. Ridges 30 tiles .. .. .			210 00
588. ,, Amount received by sales of half tiles 30 .. .. .			2 10
639. ,, Amount received by sales of Teak. C253, 141, B32, C133 for 4 logs .. .. .			273 76
640. ,, Amount received by way of sale of one Saddah .. .. .			1 15
641. To Amount paid for shop expenses for stamp Re. 1/- Undiyal 10 cts. .. .. .		1 10	
598. ,, Amount paid to S. Ramasanipillai of Thondamannar for 1 ton of firewood Rs. 11/- .. .. .		2,577 70	5,623 27

Translated by me :

(Sgd.) Illegibly.

Sworn Translator.

District Court, Jaffna.

17.5.1955.

**P1.**  
**Certificate of Business Names Registration**  
**Form R.B.N. 2.—Application for Registration by a Firm**

Rs. 5  
 Stamp  
 (Uncancelled)

(See Section 2(a) and (c))

No. of Certificate  
 668

1. The Business Name ..	S. V.	4. The Date of the commencement of the Business, if the Business was commenced after November 7, 1918 .. ..	
2. The General Nature of the Business .. ..	Paddy, Tiles, Teak and other Articles.	2nd March, 1929.	
3. The Principal Place of Business .. ..	Jaffna.	5. Any other Business Name or Names under which the Business is carried on ..	—
6. The present Name, in full of every Individual who is, and the corporate Name of every Corporation which is, a Partner in the Firm	7. Any former Name, in full, of every Individual Partner in the Firm	8. The Nationality* of every Individual Partner in the Firm	9. The Nationality of Origin (if other than the present Nationality) of every Individual Partner in the Firm
			10. The usual Residence of every Individual who is, and the registered or principal office of every Corporation which is, a partner in the Firm
			11. The other Business Occupation (if any) of every Individual Partner in the Firm
1. Sinnattamby Veeragathipillai	—	British	—
2. Veeragathipillai Rajaratnam	—	British	—
3. Veeragathipillai Rajasegaram	—	British	—

Dated this sixth day of March, 1929.

To The Registrar of Business Names for the Northern Province.

The above statement of the particulars required for the purpose of registration is hereby furnished by me/us.

*Signatures* (Signed) (In Tamil).

\*The nationality of all British subjects is "British."

Here insert name of Province.

The statement should be signed by all the partners in their individual names : otherwise, it may be signed by one of them who should furnish an affidavit verifying the particulars.

If uncanceled stamps are sent by post it is very desirable that they should be sent under registered cover as in the event of any loss in the ordinary post, no claim for compensation is entertained by the Postmaster-General.

#### AFFIDAVIT

I, Sinnattamby Veeragathipillai do affirm that to the best of my belief all the particulars contained in the above statement are true.

Affirmed at Thondamannar this sixth day of March, 1929.

Before me : (Sgd.) S. SUBRAMANIAM,

*Justice of the Peace.*

*Signature* : (Sgd.) (In Tamil)

True Copy.

(Sgd.) Illegibly,

*Asst. Registrar of Business Names, N.P.*

Re. 1 Stamp  
to be  
cancelled  
by the  
deponent

p1.  
Certificate of  
Business Names  
Registration  
6.3.29—  
Continued

## Certificate of Registration of Business Names

### BUSINESS NAMES ORDINANCE (CAP. 120).

#### CERTIFICATE OF REGISTRATION OF AN *INDIVIDUAL*.

**Pursuant to a Change on 31.10.52**

Certificate No. 668.

I Hereby Certify that the following Statement, made in pursuance of the Business Names Ordinance (Cap. 120) was registered in the Office of the Registrar of Business Names for the Northern Province, under number 668 on the twelfth day of March, 1929.

1.	The Business Name .. .. .	S. Veeragathipillai & Sons.
2.	The General Nature of the Business ..	Paddy, Rice, Teak and other articles.
3.	The Principal Place of the Business ..	Jaffna with branches at Thondaimannar and Point Pedro.
4.	The Date of the Commencement of the Business, if the Business was commenced after November 7, 1918 .. .. .	2nd March, 1929.
5.	Any other Business Name or Names under which the Business is carried on .. .. .	Nil.
6.	The present Name (in full) of the Individual .. .. .	Veeragathipillai Rajasegaram.
7.	Any former Name (in full) of the Individual .. .. .	Nil.
8.	The Nationality of the Individual ..	British.
9.	The Nationality of Origin of the Individual, if not the same as the present Nationality .. .. .	Nil.
10.	The usual Residence of the Individual	Thondamannar.
11.	The other Business Occupation (if any) of the Individual .. .. .	Nil.

Office of the Registrar of Business Names for the Northern Province.

Dated at Jaffna.

this 10th day of April, 1953.

(Intld.) .....

For Registrar of Business Names for the  
Northern Province.

*N.B.*—Any change in the above particulars must be notified within 14 days : the penalty for default is Rs. 100/- for each day's delay.

## D32.

## Signature Book Pages 113, 117, 119, 120 and 121

D32.  
Signature Book  
Pages 113, 117,  
119, 120 and  
121  
29.5.28 to  
12.3.29

Signature Book.

113.

Translation

## Account of Swany Pavilu at the Shop of S.V., Jaffna

	Payment Rs. c.	Receipt Rs. c.	Signature
1928 May, 29			
To Amount paid on a/c. of Vadams 28 lbs. 448 of 6 nods and 28 vadams of 4 nods lbs. 336. Total 56 vadams mortgaged and money paid.. .. .	300 00		(Sgd.) S. Pavilu
June 11			
To Amount paid on a/c. 11 vadams of 4 nods 130 lbs. mortgaged and money paid ..	50 00		(Sgd.) S. Pavilu
Total ..	350 00		
1929 April 25			
By Amount received on 24th January for 16 reddus 187 lbs. @ 75 cts. per lb. ..		140 50	
To Balance .. .. .	209 50		
1930 May 16			
To Amount paid as per interest chit on 16.5.30..	68 57		
By Amount received on a/c. of A.E. Rs. 209.50 and interest Rs. 68.57 .. .. .		278 07	
Total ..	278 07	278 07	

Translated by me.

(Sgd.) Illegibly.

S.T., D.C., Jaffna.

2.3.1955.

D32.  
Signature Book  
Pages 113, 117,  
119, 120 and  
121  
29.5.28 to  
12.3.29  
Continued—

**Signature Book.**

117

**Translation****Invocation to Pillaiyar. Shiva'mayam****Account of Sinniah Mailvaganam of Siruppiddy with the Shop of S.V.****Jaffna**

Particulars	Payments Rs. c.	Receipts Rs. c.	Signature
1928 December, 28			
To Value of 60 candies of tobacco mortgaged @ Rs. 1.50 per hundred at the godown of Velupillai Western room .. .. .	3,025 00		(Sgd.) S. Mail- vaganam
December 30			
To Cash paid .. .. .	725 00		(Sgd.) S. Mail- vaganam
1929 January 1			
To Cash paid .. .. .	1,500 00		do.
4. To Cash paid .. .. .	250 00		do.
6. ,, Cash paid .. .. .	1,750 00		do.
12. ,, Cash paid .. .. .	250 00		do.
22. ,, Cash paid .. .. .	500 00		do.
Total ..	8,000 00		
February 17			
By Amount received on a/c. of Madras undiyal from V.S.K. (one) .. .. .	1,000 00		
24			
By Amount received on a/c. of Madras undiyal one .. .. .		2,000 00	
	8,000 00	3,000 00	
To Balance .. .. .	5,000 00		
March 22			
By Amount received from V.S.K. on a/c. of one Madras undiyal .. .. .		2,000 00	
24			
By Amount received from V.S.K. on a/c. of Madras undiyals Nos. 277 and 279 ..		3,000 00	
25			
To Cash paid .. .. .	1,000 00		
,, Balance .. .. .	1,000 00		
April 3			
By Amount received from V.S.K. for one Madras undiyal .. .. .		1,500 00	

Particulars	Payments Rs. c.	Receipt Rs. c.	Signature
5 By Amount received on a/c. of Madras undiyal one from do. . . . .		1,000 00	
10. To Cash paid .. .. .	300 00		
11. ,, Cash paid .. .. .	200 00		
15. ,, Cash paid .. .. .	500 00		
17. ,, Cash paid .. .. .	500 00		
	2,500 00	2,500 00	
June 19 To Amount paid as per interest chit .. .. .	316 40		
29 By Amount received .. .. .		316 40	
December 28 To Amount of tobacco mortgaged .. .. .	3,000 00		(Sgd.) do. on stamp
January 4 To Cash paid .. .. .	250 00		(Sgd.) do.
21 To Cash paid .. .. .	150 00		(Sgd.) do.

D32.

Signature Book  
Pages 113, 117,  
119, 120 and  
121  
22.5.28 to  
12.3.29—  
*Continued*

D32.  
Signature Book  
Pages 113, 117,  
119, 120 and  
121  
29.5.28 to  
12.3.29—  
Continued

## Signature Book

119

## Translation

## Account of T. A. Stanislaus of Chunnakam at the Shop of S.V., Jaffna

Particulars	Payments Rs. c.	Receipts Rs. c.	Signature
1929 January 11			
As per previous page 112 .. .. .	600 79	65 00	
By Amount received on a/c. of sale cloth 4. Rs. 16/- and cash Rs. 4/- .. .. .		25 00	
To Balance .. .. .	515 79		
April 10			
To Amount paid .. .. .	50 00		(Sgd.) A. Stanislaus
25			
By Amount received on 24th January on a/c. of sail cloth 22. @ 75 cts. per lb. for 224 lbs.		175 00	
Total ..	565 79	175 00	
To Balance .. .. .	390 29		
June 26			
To Amount of sail cloths 7 .. .. .	35 00		(Sgd.) A. Stanislaus.
July 17			
To Amount of sail cloths 23 of 4 nods.. ..	100 00		(Sgd.) A. Stanislaus
„ Balance .. .. .	525 29		
August 10			
To Amount of vadam 24 .. .. .	110 00		
„ Balance .. .. .	635 29		(Sgd.) A. Stanislaus
September 5			
To Amount of vadams 24 .. .. .	100 00		
Total ..	735 29		(Sgd.) A. Stanislaus
October 15			
By Amount received on a/c. 20 reddus ..		100 00	
21			
By Amount received on a/c. of 12 reddus supplied on 22nd September .. .. .		130 00	
Total ..	735 29	230 50	
To Balance .. .. .	504 79		
November 16			
By Amount received on a/c. of 20 reddus ..		120 00	
To Balance .. .. .	384 79		
1930 January 11			
By Amount received on a/c. of redden supplied on 18.11.29 7 reddus 76 lbs. .. .. .		57 00	
12			
By Amount received on a/c. of 35 reddus ..		300 00	



Particulars	Payments Rs. c.	Receipts Rs. c.	Signature
18 By Amount received on a/c. of 11 reddus supplied to P.M.S.M. .. .. .		120 00	
22 To Amount paid .. .. .	20 00		
Total ..	404 79	477 00	
By Balance .. .. .		72 21	
1930 February 12 By Amount received on a/c. of reddu supplied to the vessel Deivanayagi on 10.1.30 (4) Rs. 30·80 and on a/c. of reddu supplied to the vessel Vallinayaga on 27.1.30 (18) Rs. 173·25. Total .. .. .		204 05	
15 By Amount received on a/c. of 6 reddus supplied to Thambu .. .. .		60 55	
„ Balance .. .. .		336 81	

D32.

Signature Book  
Pages 113, 117,  
119, 120 and  
121  
29.5.28 to  
12.3.29—  
*Continued*

D32.  
Signature Book  
Pages 113, 117,  
119, 120 and  
121  
29.5.28 to  
12.3.29—  
Continued

**Signature Book**  
**120**

**Translation**

**Account of T. Thambiah of Point Pedro at the Shop of S.V., Jaffna**

	Payments Rs. c.	Receipts Rs. c.	Signature
1929 January 22			
To Amount paid on a/c. of tobacco mortgaged ..	1,000 00		
March 31			
To Cash paid to Mukanthar A.K. .. .. .	25 00		
Total ..	1,025 00		
April 3			
To Cash paid to Mukanthar, A.K. .. .. .	75 00		
June 13			
By Amount received from S.V. on 2nd June ..		400 00	
July 19			
By Amount received from S.V. on 24th January		300 00	
Total ..	1,100 00	700 00	
To Balance .. .. .	400 00		
August 27			
By Amount received from S.V. Drawn ..		400 00	

**Signature Book**  
**121**

**Translation.**

**Account of S. S. K. Kandiah Chettiar with the Shop of S.V. Jaffna**

	Payments Rs. c.	Receipts Rs. c.	Signature
1929 February			
Brought forward as per page No. 115 ..	20,000 00	3,000 00	
4. By Amount received from Vengidda Subra		2,000 00	
7. ,, Amount received from Andythamby ..		2,000 00	
8. ,, Amount received from Kanapathipillai Rs. 1,000/-, from Vairakannu Rs. 1,000/- .. .. .		2,000 00	
9. ,, Amount received from Vairam .. .. .		1,000 00	
14. ,, Amount received from do. .. .. .		3,000 00	
15. ,, Amount received from Somu .. .. .		2,000 00	
18. ,, Amount received from do. .. .. .		3,000 00	
Total ..	20,000 00	18,000 00	
To Balance .. .. .	2,000 00		
March 4			
By Amount received from Vairakannu ..		1,000 00	
12. By Amount received from Somu ..		1,000 00	
Drawn ..	Nil	Nil	

P21.

Last Will No. 22277 attested by S. Subramaniam

P21.  
Last Will  
No. 22277  
attested by  
S. Subra-  
maniam  
14.10.33

*Translation*

## LAST WILL

This was produced before me.

(Sgd.) M. S. Kandaiya.

This is the Last Will referred to in our Affidavit.

1. (Sgd.) V. Rajaratnam.
2. (Sgd.) S. Subramaniam.
- 10 3. (Sgd.) M. Karthigesu.
4. (Sgd.) V. Kanapathipillai.

No. 22277

This is the joint Last Will made by us Sinnathamby Veeragathipillai and wife Walliammai of Thondaimannar with sound mind memory and understanding taking into our consideration the shortness of life and certainty of death.

1. To our perfect recollection we have not made any Last Will Testament or codicil after the execution of the Last Will dated 6th March, 1929, and attested by this Notary under No. 21294. If any  
20 instrument of such a nature was executed we do, hereby, revoke and annul the same together with the aforesaid Last Will.

2. We do hereby desire that if the second named of us happens to die first, the whole immovable and movable property belonging to her should absolutely devolve on the first named of us.

3. We do hereby desire that if the first named of us happens to die first the whole immovable and movable property belonging to both of us should devolve in the manner as stated hereinbelow.

4. Out of the money and articles in the business carried on under the names and style of "S.V., S. Veeragathipillai & Sons". One  
30 third share belonging to the said Veeragathipillai and the whole of our lands, mortgage amounts, Promissory Note amounts, sailing vessels, and boats "Nadai Vaththai" and other movables should devolve on our son Veeragathipillai Rajaratnam.

5. If the First named of us happens to die first the said Veeragathipillai Rajaratnam should pay to the second named of us a sum of Rupees Five Thousand out of the share hereby devised to him.

6. If the first named of us happens to die first the said Rajaratnam further should pay the following amounts out of the share hereby devised to him :—

P21.  
Last Will  
No. 22277  
attested by S.  
Subramaniam  
14.10.33—  
*Continued*

(a) The said Rajaratnam should pay Amirthanathan and Vivekanathan the sons of the first marriage of our son (Doctor) Veeragathipillai Durasamy Rupees Ten Thousand each.

(b) If Eliyathamby Kunaratnam the son of our late daughter Muththachchipillai marries with the consent of our sons Doctor Duraisamy and Rajaratnam, the said Rajaratnam should pay to the said Gunaratnam a sum of Rupees Fifteen Thousand out of the share hereby devised to him.

(c) After the marriage of Ratnambal daughter of our son Veeragathipillai Suppiah, the said Rajaratnam should put up a stone built 10 house worth about Rupees Five Thousand for her out of the share hereby devised to him or in the alternative he should pay Rupees Five Thousand in Cash.

(d) If our grand-son Mailvaganam Rajaendram is willing to continue his study the said Rajaratnam should pay him for his Educational expenses an amount not exceeding Rupees Three Thousand out of the share hereby devised to him.

7. As our elder daughter Sellamuttu was dowried, we do not devise her anything by this Last Will.

8. As our son Navaratnarajah alias Ratnasamy is a convert 20 to Roman Catholic Religion and has become a Rev. Father, we do not devise him anything by this Last Will.

9. Whereas Duraisamy among other children is employed and earns money and whereas Suppiah was employed before and earned money and whereas they were donated with lands and moneys before and whereas the said Duraisamy's children are devised with money by this Last Will and whereas we gave by way of donation some lands to two female children of the said Suppiah previous to this and whereas a part was devised to one of the daughters by this Last Will, we do not devise anything to the said Duraisamy and Suppiah by this 30 Last Will. Whereas our son Rajasegaram was donated with lands and moneys previously we do not devise to him anything by this Last Will.

10. Whereas the First named of us established an English School and Tamil school at Thondamannar and is Managing the same, the same should devolve on the said Rajaratnam. The said Rajaratnam should manage the said Schools in his charge in the manner the first named of us is managing the said schools at present.

11. I, the said Second named Walliammai, do hereby desire to have the whole of my property together with my husband's property 40 devolved in the manner as stated in paragraphs 3 and 4.

12. If the first named of us happens to die first, we desire that the second named of us should have life interest over the whole immovable property belonging to me the first named of us and over the whole property of the second named in addition to the money hereby devised.

P21.  
Last Will  
No. 22277  
attested by S.  
Subramaniam  
14.10.33—  
*Continued*

13. We both do appoint our son Rajaratnam as the executor of this Last Will.

In witness whereof we set out hands to this and to another of the same tenor in the presence of Sinnathamby Subramaniam, Notary, and in the presence of the undersigned witnesses at Thondaimannar on the Fourteenth day of October, One Thousand Nine Hundred and Thirty-Three.

(Sgd.) S. VEERAGATHIPILLAI,  
Mark of WALLIAMMAI.

Witnesses :

1. (Sgd.) M. KARTHIGESU.
2. (Sgd.) V. KANAPATHIPILLAI.

(Sgd.) S. SUBRAMANIAM.

(Sgd.) S. SUBRAMANIAM.  
*Notary Public.*

20

I, Sinnathamby Subramaniam, Notary Public of Jaffna, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said Sinnathamby Veeragathipillai who signed as "S. Veeragathipillai" in Tamil and wife Walliammai who set her mark in the presence of the subscribing witnesses Murugesu Karthigesu of Paththaimeny and Veeragathipillai Kanapathipillai of Point Pedro that I know the executants and the witnesses and that the said executants and the witnesses have in my presence and in the presence of one another set their hands at the same time at Thondamannar on the 14th day of October, 1933 and that before the foregoing instrument was read over and explained by me as aforesaid in line 5 of page 2 of the original the word "Veeragathipillai (Tamil)" was interpolated.

The 14th day of October, 1933.

(Sgd.) S. SUBRAMANIAM,

(Sgd.) S. SUBRAMANIAM,  
*Notary Public.*

(SEAL)

P21.  
Last Will  
No. 22277  
attested by S.  
Subramaniam  
14.10.33—  
*Continued*

True copy of the Last Will filed in Testamentary Case No. 58,  
D.C., Jaffna.

(Sgd.) M. CULANTHAIVELU,  
*Secretary, D.C., Jaffna.*

Jaffna, 23rd May, 1938.

*Translated by :*

(Sgd.) A. ARUMUGAM.  
*Sworn Translator, District Court,  
Jaffna.*

P36.  
Deed of  
Declaration  
No. 22276  
attested by S.  
Subramaniam  
14.10.33

**P36.**

10

**Deed of Declaration, No. 22276 attested by S. Subramaniam**

*Translation*

Declaration.

No. 22276.

Know all men by these presents that we, Sinnathamby Veeragathipillai and sons, Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram all of Thondamannar declare as follows :—

Whereas we the said three of us are carrying on joint business in paddy, rice, tiles, teakwood, tobacco and other articles and as Pawn Brokers under the Vilasams "S.V." and "S. Veeragathipillai & Sons" and whereas the said business name "S.V." was registered 20 on the 8th day of March, 1929, under No. 755 and whereas the three of us are entitled to equal shares in the said business and whereas it appears to be necessary that we should make a declaration to that effect.

Now know ye and these presents witness that we the said Sinnathamby Veeragathipillai, Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram declare that we are entitled to equal shares in the joint business carried on by us under the business names "S.V." and "S. Veeragathipillai & Sons".

In witness whereof we do hereby set our hands to this and to 30 two others of the same tenor and date as these presents at Thondamannar on the Fourteenth day of October, One Thousand Nine

Hundred and Thirty-three in the presence of Sinnathamby Subramaniam, Notary Public, and in the presence of the undersigned witnesses : —

P36.  
Deed of  
Declaration  
No. 22276  
attested by S.  
Subramaniam  
14.10.33—  
*Continued*

We, the witnesses, do hereby }  
declare that we are well acquaint- }  
ed with the said executants and } (Sgd.) S. VEERAGATHIPILLAI.  
know their proper names resi- }  
dences and occupations. }

V. RAJARATNAM,

10

V. RAJASEGARAM.

(Sgd.) M. KARTHIGESU,

(Sgd.) V. KANAPATHIPILLAI.

(Sgd.) S. SUBRAMANIAM,

*Notary.*

I, Sinnathamby Subramaniam, Notary Public of Jaffna, do hereby certify and attest that the foregoing instrument read over and explained by me to the said Sinnathamby Veeragathipillai, who has signed as "S. Veeragathipillai" (In Tamil), Veeragathipillai Rajaratnam and Veeragathipillai Rajasegeram "who has signed as  
20 "S. V. Rajasegeram" (in Tamil) in the presence of the subscribing witnesses Murugesu Karthigesu of Pathaimeny and Veeragathipillai Kanapathipillai of Point Pedro who are all known to me the same was signed by the said executants and also by the said witnesses in my presence and in the presence of one another all being present at the same time at Thondamannar on this 14th day of October, 1933, that the duplicate of this instrument bears two stamps to the value of Rs. 15/- and the original one of Re. 1/- and the said stamps were supplied by me.

14th day of October, 1933.

30

(SEAL)

(Sgd.) S. SUBRAMANIAM,

*Notary Public.*

*Translated by :*

(Sgd.) A. ARUMUGAM,

*Sworn Translator,*

*D.C., Jaffna.*

D3.  
Deed of  
Declaration  
No. 22276  
attested  
by S. Subra-  
maniam  
14.10.33.

D3.

**Deed of Declaration, No. 22276 attested by S. Subramaniam**

Declaration.

*True copy*

No. 22276.

Know all men by these presents that that we, Sinnathamby Veeragathipillai and sons, Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram, all of Thondamannar, declare as follows : —

Whereas we are carrying on business in partnership under the name, firm and style of "Veeragathipillai & Sons" in paddy, rice, tiles, teakwood (timber) and tobacco and various other goods and also pawn-broking, and whereas we have registered the said business on 8th day of March, 1929, under No. in the Vilasam of "S.V." and whereas we the three persons are entitled to equal shares in the said Business and whereas it appears to us that it is necessary that we should make a declaration of the same.

Know all men by these presents that we the said Sinnathamby Veeragathipillai, Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram, declare that we the three persons have equal shares in the partnership business carried on by us under name, firm and and style of "S.V." and "S. Veeragathipillai & Sons." 20

In witness whereof we set our signatures to this and to two others of the same tenor and date as these presents in the presence of Sinnathamby Subramaniam, Notary Public, and in the presence of the undersigned witnesses at Thondamannar on the Fourteenth day of October, One Thousand Nine Hundred and Thirty-three.

We the said witnesses declare that we are well acquainted with the said executants and know their proper names, residences and occupations . . .

(Sgd.) S. VEERAGATHIPILLAI.
(Sgd.) V. RAJARATNAM.
(Sgd.) V. RAJASEGARAM.

(Sgd.) M. KARTHIGESU,

(Sgd.) V. KANAPATHIPILLAI.

30

(Sgd.) S. SUBRAMANIAM.

I, Sinnathamby Subramaniam, Notary Public, Jaffna, do hereby certify and attest that the foregoing Instrument was read over and explained by me to the said Sinnathamby Veeragathipillai who signed as "S. Veeragathipillai", Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram who signed as "S. V. Rajasegaram" in the



presence of Murugesu Karthigesu of Paththaimany and Veeragaththipillai Kanapathipillai of Point Pedro, the subscribing witnesses hereto, that I know the executants and the witnesses, that the said executants and the witnesses set their signatures hereto in my presence and in the presence of one another all being present at the same time at Thondamannar on the 14th day of October, 1933, that 2 stamps to the value of Rs. 15/- are affixed to the Duplicate and a stamp of Re. 1/- to the Original and that the said stamps were supplied by me.  
Date of Attestation :

10 14th October, 1933.

(Sgd.) S. SUBRAMANIAM,

(SEAL)

(Sgd.) S. SUBRAMANIAM.

*Notary Public.*

*Translated by me,*

(Sgd.) Illegibly,

*Sworn Translator, D.C., Jaffna.*

D3.  
Deed of  
Declaration  
No. 22276  
attested by S.  
Subramaniam  
14.10.33—  
*Continued*

### D3A.

#### Translation of The Deed of Declaration, No. 22276 produced in D.C. Jaffna 58T.

20 Declaration.

R—1

22276.

14.10.33.

No. 22276.

Know all men by these presents that we Sinnathamby Veeragathipillai and sons, Veeragathipillai Rajaretnam and Veeragathipillai Rajasekaram of Thondamannar, declare as follows:—

30 Whereas we the three of us are carrying on business in partnership under the Vilasam S.V. and, Veeragathipillai & Sons in paddy, rice, tiles, teak timber, tobacco and several other goods and in pawnbroking and whereas the said business has been registered under the Vilasam S.V. on the 8th day of March, 1929, under No. 755 and whereas we three of us are entitled to the said business in equal shares and whereas it appears necessary for us to make a declaration.

Know all men by these presents that we the said Sinnathamby Veeragathipillai, Veeragathipillai Rajaratnam and Veeragathipillai Rajasekaram, declare that we are entitled in equal shares to the business carried on by us in partnership under the Vilasam S.V. and S. Veeragathipillai & Sons.

40 In witness whereof we have hereunto and to two others of the same tenor as these presents set our hands in the presence of the

### D3A.

Translation of  
the Deed of  
Declaration  
No. 22276  
produced in  
D.C. Jaffna  
58T  
14.10.33.

A.4.

D3A.  
Translation of  
the Deed of  
Declaration  
No. 22276  
produced  
in D.C. Jaffna  
58T  
14.10.33—  
*Continued*

Notary, Sinnathamby Subramaniam and in the presence of the subscribing witnesses hereto on the 14th day of October, One Thousand Nine Hundred and Thirty-three at Thondamannar.

We the said witnesses hereby declare that we know well the said executants, their proper names, residences and occupations.

(Sgd.) S. VEERAGATHIPILLAI  
(in Tamil)  
(Sgd.) V. RAJARATNAM.  
(in Tamil)  
(Sgd.) V. RAJASEGARAM.  
(in Tamil)

(Sgd.) M. KARTHIGESU (in Tamil). 10

(Sgd.) V. KANAPATHIPILLAI (in Tamil).

(Sgd.) S. SUBRAMANIAM,  
(Sgd.) S. SUBRAMANIAM,

*Notary.*

I, Sinnathamby Subramaniam of Jaffna, Notary Public, hereby certify and attest that I read over and explained the foregoing instrument to the said Sinnathamby Veeragathipillai who has signed as (S. Veeragathi—in Tamil) and Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram who has signed as (See Veeanna Rajasegaram—in Tamil) in the presence of Murugesu Karthigesu of Paththa- 20  
veny and Veeragathipillai Kanapathipillai of Point Pedro the subscribing witnesses hereto that I know the executants and witnesses that the said executants and the witnesses signed the said instrument in my presence and in the presence of one another and at the same time at Thondamannar on the 14th day of October, 1933, that the Duplicate of this instrument bears two stamps of the value of Rs. 15/- and the Original bears one stamp of the value Re. 1/- and the said stamps were supplied by me.

(Sgd.) S. SUBRAMANIAM,

(Sgd.) S. SUBRAMANIAM, 30

(SEAL)

*Notary.*

Date of attestation :

14th October, 1933.

*Translated by me,*

(Sgd.) S. ASIRVATHAM,

*Sworn Translator, Jaffna.*

27.3.37.

True copy of the translation of the Deed of Declaration of 14.10.33 produced in D.C. Testamentary Case No. 58 marked A4 and issued on application made by Mr. V. Rajaratnam. 40

(Sgd.) Illegibly.

*Chief Clerk.*

6.6.53.

(Sgd.) T. SIVASUBRAMANIAM,

*Secretary, D.C., Jaffna.*

## D30.

## Pawn Ledger No. 2, page 132

Translation.  
Page 132.

D30.  
Pawn Ledger  
No. 2 page 132  
2.12.33 to  
7.12.33

Pawn Ledger, No. 2, page 132  
A/c. of Pawn capital

page 132.

Translation

Pawn Ledger No. 2 page 132.

Account of Pawn Capital

	Payments Rs. c.	Receipts Rs. c.
1933 December, 2 .. .. .	127,187 00	831 00
By Amount received as per receipt No. 3407 .. .. .		40 00
3510 .. .. .		175 00
3646 .. .. .		100 00
3763 .. .. .		50 00
8769 .. .. .		36 00
8491 .. .. .		60 00
8127 .. .. .		55 00
8082 .. .. .		30 00
3726 .. .. .		15 00
Total .. .. .	127,187 00	1,392 00
To Balance .. .. .	125,795 00	
7. To Amount paid—		
C3805 .. .. .	1 25	
C3806 .. .. .	0 12	
C3807 .. .. .	0 70	
C3808 .. .. .	0 30	
C3809 .. .. .	0 45	
C3810 .. .. .	0 45	
C3811 .. .. .	0 50	
C3812 .. .. .	0 50	
C3813 .. .. .	0 18	
C3814 .. .. .	0 08	
C3815 .. .. .	0 90	
C3816 .. .. .	0 26	
C3817 .. .. .	0 40	
C3818 .. .. .	0 60	
C3819 .. .. .	0 35	
C3820 .. .. .	0 50	
C3821 .. .. .	0 65	
C3822 .. .. .	1 00	
By Amount received—		
153 .. .. .	0 30	
509 .. .. .	0 50	
1835 .. .. .	0 20	

Translated by me,

(Sgd.) Illegibly,

Sworn Translator, District Court, Jaffna.

23.3.1955.

D31.  
Ledger Book  
"F"  
2.12.33 to  
18.1.34

**D31.**  
**Ledger Book "F"**

Ledger Book F. page 199

Translation.

**Account of Paddy Purchased and Sold**

	Payments Rs. c.	Receipts Rs. c.
Stock and Sales		
1933, December 2		
To Value of paddy bags in stock as per previous a/c. 170		
@ Rs. 4-62½ .. .. .	786 25	
11. By Sales account 1 .. .. .		5 31
17. ,, Sales 56 .. .. .		270 12
23. ,, Sales 1 .. .. .		5 12
24. ,, Sales 35 .. .. .		172 50
25. ,, Sales 22 .. .. .		107 25
28. ,, Sales 4 .. .. .		20 50
29. ,, Sales 28 .. .. .		143 50
30. ,, Sales 6 .. .. .		30 38
Total 170, 153 .. .. .	786 25	754 68
To Balance .. .. .	31 57	
1934 January 3		
By Sales 4 .. .. .		19 50
7. By Sales 6 .. .. .		29 63
8. ,, Sales 1 .. .. .		4 88
10. ,, Sales 2 .. .. .		9 75
11. To Amount paid on a/c. of rebagging .. .. .	1 20	
12. By Sales 3 .. .. .		14 87
13. To Cart hire paid for 1,101 bags taken to Main Street, Godown .. .. .	60 55	
15. By Sales 6 .. .. .		28 50
16. ,, Sales 6 .. .. .		32 37
16. To Cart hire paid for 300 bags taken to Main St. Godown at 5½ cts. .. .. .	16 50	
17. By Sales 13 .. .. .		60 00
17. To Amount paid for stacking bags of paddy 1,820 bags .. .. .	19 14	
18. By Sales 175 .. .. .		787 50
To Amount of duty paid for bags brought by the vessel called Subramania Puravi 3,000 bags .. .. .	2,922 04	
,, Amount paid for unloading wages 3,000 bags @ 2 cts. per each bag .. .. .	60 00	
,, Amount paid for stacking 180 bags @ 1 cts. per bag .. .. .	1 80	
,, Amount of weighing charges 96 cts. and miscel- laneous expenses Rs. 1-04. Total .. .. .	2 00	
Carried to page 223 Total .. .. .	3,114 80	987 00

*Translated by me.*

(Sgd). Illegibly.

*Sworn Translator, D.C., Jaffna.*

3.8.55.

**P30.**  
**Receipt of Walliammai**

P30.  
Receipt of  
Walliammai  
26.2.34

Translation.

*Thondamannar.*

26th February, 1934.

I, Walliammai widow of Veeragathipillai of Thondamannar do execute and grant receipt to Veeragathipillai Rajaratnam of the same place to wit :—

I have received the sum of Rupees One Thousand for granting 10 him the life interest in my favour mentioned in Last Will dated 14th October, 1933, and attested by S. Subramaniam, Notary Public, under No. 22277.

This is the hand mark of Walliammai.

This is the left thumb impression of Walliammai in Five Cents stamp.

26.2.34.

*Witnesses :*

1. (Sgd.) V. RAJASEGARAM.
2. (Sgd.) M. KARTHIGESU.

20 *Translated by :*

(Sgd.) A. ARUMUGAM,  
*Sworn Translator, D.C., Jaffna.*

D28.  
Ledge A/c of  
Profit and  
Expenses  
2.12.33 to  
31.3.34

D28.

## Ledge A/c. of Profit and Expenses

Translation.

Ledge D28, page 250

Account of profit receipt and expenses from 2nd December, 1933,  
till the end of March, 1934.

1934	Payments		Receipts	
	Rs.	Cts.	Rs.	Cts.
197.. To Value of cotton .. .. .	5	62		
200.. By Amount received on a/c. of flower pots .. .. .			3	30
201.. To Value of ridges tiles .. .. .	1	75		
203.. By Amount of ventilating tiles .. .. .			33	50
204.. By Amount received on a/c. of glass .. .. .			93	00
208.. To Value of Teak .. .. .	64	59		
210.. By Amount received a/c. of broken tiles .. .. .			114	85
213.. By Amount received for profit money .. .. .			2,016	13
214.. To Amount paid for shop expenses .. .. .	136	77		
215.. ,, Amount of commission paid .. .. .	67	20		
216.. ,, Value of Stamps and Telegrams .. .. .	152	35		
217.. ,, Amount paid for meals expenses .. .. .	214	91		
220.. ,, Amount paid for shop rent .. .. .	752	17		
224.. ,, Amount paid for printing and stationery .. .. .	129	30		
227.. By Amount paid for bran .. .. .			64	81
229.. ,, Amount received on a/c. half tiles .. .. .			184	98
233.. ,, Amount received on a/c. rafters .. .. .			2,095	24
235.. ,, Amount received on a/c. statues .. .. .			119	25
236.. To Amount paid for Flat .. .. .	253	51		
237.. ,, Amount paid for lorry .. .. .	944	28		
238.. ,, Amount paid for paddy .. .. .	160	86		
240.. By Amount received on a/c. of tats .. .. .			69	70
244.. To Amount paid for teak .. .. .	8,304	56		
245.. By Amount received on a/c. of ridge tiles .. .. .			2,662	04
246.. ,, Amount received on a/c. rice .. .. .			396	69
247.. To Amount of salary .. .. .	691	25		
248.. ,, Amount paid for travelling expenses .. .. .	1	12		
By Amount received on a/c. of Pawn interest.. .. .			4,830	79
Total .. .. .	11,880	24	12,382	28
By Balance .. .. .			504	04
To Amount paid as per LF. 163.				
On a/c. of S. V. Rasaratnam .. .. .	336	02, 2/3		
On a/c. of S. V. Rajasekaram .. .. .	168	01, 1/3		
	504	04		

Translated by me :

(Sgd.) Illegibly,  
Sworn Translator, D.C., Jaffna.  
3.3.1955.

## P25.

## Petition of Plaintiff in D.C. Kandy 58 Testy.

P25.  
Petition of  
Plaintiff in  
D.C., Kandy 58  
Testy.  
19.4.34

## IN THE DISTRICT COURT OF KANDY

In the matter of the Last Will and Testament of  
the late Sinnathamby Veeragathipillai of  
Thondaimannar.....*Deceased*  
Veeragathipillai Rajaratnam of Thondai-  
mannar.....*Petitioner*

No. 58/T.

*and*

10

1. Veeragathipillai Rajasekeram of Thondai-  
mannar

*and*

2. Illiathamby Kunaratnam of Thondai-  
mannar.....*Respondents.*

On this 19th day of April, 1934.

The Petition of the abovenamed Petitioner appearing by his proctors Manikkam Chelvathamby and Manikam Eliathamby practising in partnership under the name and style of Chelvathamby and Eliathamby states as follows :—

20

1. That the Petitioner's father Sinnathamby Veeragathipillai resided at Thondaimannar. He died at Teldeniya within the jurisdiction of this Court on the 3rd day of December, 1933. After his death his body was removed to Thondaimannar and cremated at Thondaimannar. The Petitioner took part in the funeral ceremonies at Thondaimannar and had the body cremated at Thondaimannar.

30

2. The said Sinnathamby Veeragathipillai and his wife Valliamma executed a Joint Last Will on the 14th day of October, 1933. It was attested by S. Subramaniam, Notary Public, under No. 22277. The said Sinnathamby Veeragathipillai appointed the petitioner, executor of his Last Will.

3. Particulars of the property left behind by the said Sinnathamby Veeragathipillai are mentioned in the schedule hereunder written.

4. The heirs of the said Sinnathamby Veeragathipillai if had died intestate are his sons :—

40

- (1) Veeragathipillai Suppiah,
- (2) Veeragathipillai Duraiswamy,
- (3) The petitioner,
- (4) Rev. Father V. R. Tarcisus,
- (5) Veeragathipillai Rajasekeram, and his grandson,
- (6) Eliathamby Kunaratnam.

P25.  
Petition of  
Plaintiff in  
D.C. Kandy 58  
Testy.  
19.4.34—  
Continued

He left behind also his widow, Walliammai.

The said Eliyathamby Kunaratnam who is the above-named 2nd respondent is a minor of about 19 years of age under the care and guardianship of his uncle Veeragathipillai Rajasekeram the 1st Respondent who has no interest adverse that of the said minor and who is a person of sound mind and full age and who is a fit and proper person to be appointed guardian-*ad-litem* over the said minor.

6. The Petitioner is not aware of any other person interested in the said minor who is likely to oppose the Petitioner's application that the 1st Respondent be appointed guardian-*ad-litem* over the 10 2nd Respondent.

7. The Petitioner claims probate as the executor appointed by the said Last Will.

8. The Petitioner therefore prays that the 1st Respondent be appointed guardian-*ad-litem* over the 2nd Respondent to represent the 2nd Respondent in these Testamentary proceedings.

For costs incurred in this behalf and for such other and further relief as to this Court shall seem meet.

(Sgd.) CHELVATHAMBY and ELIATHAMBY,  
*Proctors for Petitioner.* 20

*Schedule*

	Rs. Cts.
<i>Immovable property :—</i>	
Lands situated in the District of Jaffna.	
(1) Land situated at Kerudavil called "Navalady" of this $\frac{1}{2}$ of lms. v.c. $4\frac{1}{2}$ , 4 $\frac{3}{4}$ kls. of 2/5th share on the West .. .. .	100 00
(2) Lands situated at do. called "Milavilvayal" 33 lms. p.c. of this $\frac{1}{2}$ of 1/5th share on the West .. .. .	60 00
(3) Land situated at Vallalai called "Alankanthu" and other parcels 65 $\frac{1}{2}$ lms. v.c. of this $\frac{1}{2}$ share. . . . .	200 00
(4) Land situated at do. called "Venai" 37 $\frac{1}{2}$ lms. v.c. of this $\frac{1}{2}$ of 2/3rd share .. .. .	30 00
(5) Land situated at do. called "Vaddancheema" 4 lms. v.c. of this $\frac{1}{2}$ of 1/3rd share .. .. .	20 00
(6) Land situated at do. called "Saththiranthai" 10 $\frac{3}{4}$ lms. v.c. of this $\frac{1}{2}$ of 1/3rd share and $\frac{1}{2}$ of stone built house .. .. .	60 00
(7) Land situated at Thanakarakurichy called "Surunthy" 47 $\frac{1}{2}$ lms. v.c. of this $\frac{1}{2}$ of $\frac{1}{2}$ of 1/6th share .. .. .	7 50
(8) Land situated at do. called "Thadaikkumanaianpanthy" 39 lms. v.c. 30 $\frac{3}{8}$ lms. v.c. of this $\frac{1}{2}$ of $\frac{1}{2}$ of 1/10th share. . . . .	7 50
(9) Land situated at do. called "Koddalaivayal" and other parcels 20 lms. p.c. 1 $\frac{7}{8}$ kls. of this $\frac{1}{2}$ share .. .. .	20 00
Lands situated at Batticaloa District :—	
(10) Land situated at Oddaimavady called "Mavadyvalavilkilakkorkkanthu" of this $\frac{1}{2}$ share .. .. .	100 00
(11) Land situated at Koralaippattu called "Miluvodaivayal" 12 acres 3 roods 28 perches of this $\frac{1}{2}$ share .. .. .	100 00



## Schedule

	Rs.	Cts.	P25. Petition of Plaintiff in D.C. Kandy 58 Testy. 19.4.34— <i>Continued</i>
<i>Movable property :—</i>			
On partnership account..			
(1) Cash at house .. .. .	484	22	
(2) Cash in bank on account of Point Pedro Branch .. .. .	15,679	72	
(3) Amounts due on Mortgage Promissory notes and for goods sold in Point Pedro branch .. .. .	10,278	46	
(4) On partnership account goods in the Point Pedro boutique .. .. .	14,114	30	
(5) Goods in Jaffna boutique .. .. .	2,351	14	
(6) Amount due on pledges in Jaffna boutique .. .. .	20,970	33	
(7) Amount due on mortgages promissory notes and for goods sold in Jaffna branch .. .. .	18,670	13	
(8) Cash in bank on account of Jaffna branch .. .. .	13,380	92	
(9) Cash in Jaffna boutique .. .. .	533	63	
(10) Motor car $\frac{1}{2}$ of $\frac{1}{3}$ rd share .. .. .	125	00	
(11) Lorry $\frac{1}{3}$ of $\frac{1}{2}$ share .. .. .	125	00	
(12) Iron safe and household furniture at Thondaimannar $\frac{1}{2}$ of $\frac{1}{3}$ rd share .. .. .	50	00	
(13) Iron safe and furniture in Jaffna boutique .. .. .	100	00	
(14) Money due from Co-operative Stores .. .. .	333	33	
<i>Separate Account :—</i>			
(1) Sailing Vessel called " Athipoorany " $\frac{1}{2}$ share .. .. .	1,000	00	
(2) Sailing vessel called " Theivanayathi " $\frac{1}{2}$ share .. .. .	1,250	00	
(3) Cargo boat No. 59 $\frac{1}{2}$ share .. .. .	100	00	
(4) Cargo boat No. 6 $\frac{1}{2}$ share .. .. .	125	00	
(5) $\frac{1}{2}$ of cargo boat of this $\frac{1}{2}$ share .. .. .	50	00	
(6) $\frac{1}{2}$ of cargo boat of this $\frac{1}{2}$ share .. .. .	50	00	
(7) Amount due in case No. 203 D.C. Jaffna $\frac{1}{2}$ of Rs. 570/- .. .. .	285	00	
(8) Amount which is expected to be recovered from the insolvent of estate of A.R.A.R. Son $\frac{1}{2}$ of Rs. 4,000/- .. .. .	2,000	00	
(9) Amount due in two cases above Rs. 400/- $\frac{1}{2}$ of this .. .. .	200	00	
(10) Amount due from K. Ponnusamy on Promissory Note $\frac{1}{2}$ of Rs. 360/- .. .. .	180	00	
(11) Amount due from Murukesu Sittampalam on Promissory Note $\frac{1}{2}$ of Rs. 100/- .. .. .	50	00	
(12) Amount due from Kanapathipillai Kandiah on Promissory Note $\frac{1}{2}$ of Rs. 72/- .. .. .	36	00	
(13) Amount due from Muttusamykurukkal on Mortgage bond date 7.8.31 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 1,750/- and interest .. .. .	559	42	
(14) Amount due from Vallipuram Kandiah and wife on mortgage bond date 9.2.32 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 1,000/- and interest .. .. .	274	50	
(15) Amount due from Sittampalam Kumarasamy and wife dated 30.12.31 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 6,000/- and interest .. .. .	855	00	
(16) Amount due from W. Chinniah and wife on Mortgage bond dated 25.2.32 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 800/- and interest .. .. .	242	53	
(17) Amount due from Ana Chinniah of Urumpiray on Promissory Note $\frac{1}{2}$ of Rs. 432.50 .. .. .	216	25	
(18) Amount due from Hanbox Jagatheese on Promissory Note $\frac{1}{2}$ of Rs. 2,003.84 .. .. .	1,001	92	
Total assets .. .. .	106,376	80	

P25.  
Petition of  
Plaintiff in  
D.C. Kandy 58  
Testy.  
19.4.34—  
*Continued*

	Rs.	Cts.
<b>LIABILITIES</b>		
(1) Partnership account		
(1) Amount payable on account of rent, wages, temple mahamai and advance received on account of Point Pedro branch $\frac{1}{2}$ of $\frac{1}{3}$ .. ..	2,863	64
(2) Amount payable on account of Jaffna branch for rent wages and advances received $\frac{1}{2}$ of $\frac{1}{3}$ .. ..	962	97
<b>SEPARATE ACCOUNT</b>		
(3) Funeral expenses on day of funeral including hire of two cars for bringing the corpse from Teldeniya to Thondamannar and amount paid for coffin .. ..	535	00
Total liabilities .. ..	4,361	61
Nett value of Estate .. ..	Rs. 102,015·19	

(Sgd.) CHELVATHAMBY & ELIATHAMBY,  
*Proctors for Petitioner.*

P24.  
Minute of  
Consent by  
Defendant in  
D.C. Kandy  
5241 Testy.  
19.5.34

### P24.

### Minute of Consent by Defendant in D.C. Kandy 5241 Testy.

#### IN THE DISTRICT COURT OF KANDY

Testamentary. Case No. 5241.	<p style="text-align: center;">In the matter of the Last Will and Testament of the late Sinnathamby Veeragathipillai of Thondaimannar.....<i>Deceased.</i></p> <p style="text-align: center;">Veeragathipillai Rajaratnam of Thondai- mannar.....<i>Petitioner</i></p>
---------------------------------	--

*vs.*

1. Veeragathipillai Rajasekeram of Thondaimannar.
2. Illiathamby Kunaratnam of Thondaimannar.....*Respondent.*

*Before :*

R. F. DIAS, Esquire,  
*District Judge, Kandy.*

I, Veeragathipillai Rajasekeram, the 1st respondent in the above case, consent to be appointed guardian-*ad-litem* over the minor respondent, Illiathamby Kunaratnam, and

(b) I the said Illiathamby Kunaratnam the 2nd respondent consent to the said Veeragathipillai Rajarasekeram the 1st respondent being appointed my guardian-*ad-litem* for the purpose of the above Testamentary proceedings and,

(c) that we the said 1st and 2nd respondents consent to the petitioner being granted probate.

Signed by the said petitioner and the respondents in my presence, the contents of the above motion having been read and explained by me to the petitioner and respondents all of whom appeared to understand the content thereof.

(Sgd.) V. RAJARATNAM,  
Petitioner.  
(Sgd.) V. RAJASEKERAM,  
1st Respondent.  
(Sgd.) E. KUNARATNAM,  
2nd Respondent.

(Sgd.) S. SUBRAMANIAM,  
J.P.U.M.,  
Proctor, S.C. and N.P.  
19th May, 1934.

P24.  
Minute of  
Consent by  
Defendant in  
D.C. Kandy  
5241 Testy.  
19.5.34—  
Continued

**P43.**

**Ledger "B2" pages 72 and 135**

**Debit and Credit Account of S.V.**

B.2.72.

		Rs.	Cts.	Rs.	Cts.
1934	October, Brought forward page 18..	..	..	4,000	00
	20..To .. .. .	..	..	500	00
	25..,, .. .. .	..	..	2,500	00
	31..,, .. .. .	..	..	3,500	00
	Total Rs. ..	10,500	00	289,485	36½
				<hr/>	
Nov.	5..By .. .. .	..	..	278,985	36½
	10..To .. .. .	..	..	3,200	00
	15..,, .. .. .	..	..	1,000	00
	20..,, .. .. .	..	..	1,000	00
	25..,, .. .. .	..	..	2,500	00
	30..,, .. .. .	..	..	2,000	00
	Total Rs. ..	7,900	00	282,185	36½

P43.  
Ledger "B2"  
pages 72 and  
135  
20.10.34 to  
25.10.35

P43.  
Ledge " B2 "  
pages 72 and  
135  
20.10.34 to  
25.10.35—  
Continued

		Rs.	Cts.	Rs.	Cts.
	By Balance ..			274,285	36½
Dec. 5..	By .. ..			1,300	00
10..	To .. ..	3,500	00		
15..	By .. ..			1,000	00
20..	To .. ..	1,000	00		
25..	By .. ..	2,600	00		
31..	By .. ..			4,000	00
Total Rs. ..		7,100	00	280,585	36½
				<hr/>	
	By Balance ..			273,485	36½
1935					
Mar. 31..	By Malayalam Tobacco Purchase account ..			19,996	50
	And by do. account .. ..			1,284	75
	And by ship account .. ..			20,796	51
	Total balance..			315,563	12½
	By Without entry in the day book, the amount credited to the account of S.V. from the profit and loss account from April, 1933 to December 2nd, in page 148 of Book No. A.2. . .			1,785	66
	And by do. account for the share of S. V. Rajaratnam ..			1,785	65
Rs. ..				319,134	43½

#### Debit and Credit Account of S.V.

		Rs.	Cts.	Rs.	Cts.
				B.2. 135.	
1935					
1935 March	Brought forward page 72 ..	319,134	43½		
	By Do. account for the share of S. V. Rajasegaram..			1,785	65
	„ Without entry in the day book for the share of S.V. from the Profit and Loss Account from December 3rd, 1933 to March, 31st, 1934 .. ..			971	34½
	„ Do. account for the share of S. V. Rajaratnam..			971	34
	„ Do. account for the share of S. V. Rajasegaram..			971	34
Total Rs. ..		323,834	11		
				<hr/>	
April					
	By Without entry in the day book No. 6 Boat's account in page 26 of Book K. .. ..			265	77
	„ Without entry in the day book Nos. 18 and 70 boats' account in page 28 of Book K... ..			246	82
	To Without entry in the day book No. 59 boats' account in page 29 of Book K. .. ..	126	90		
Total Rs. ..		126	90	324,346	70
				<hr/>	
	By Balance..			324,219	80
May 31..	To .. ..	15,000	00		
Total Rs. ..		15,000	00	324,219	80

		Rs.	Cts.	Rs.	Cts.	P43.
	By Balance ..			309,219	80	Ledger "B2"
June 10..	By .. ..			5,000	00	pages 72 and 135
				<hr/>		20.10.34 to 25.10.35—
	By Balance ..			314,219	80	<i>Continued</i>
July 15..	.. ..			5,000	00	
30..	To Account of S.V.K. of Kollam Price of goods as per account of Bill No. 36 .. ..			17	25	
	Total Rs. ..			17 25	319,219 80	
				<hr/> <hr/>		
	By Balance ..			319,202	55	
Oct. 10..	By .. ..			2,000	00	
25..	.. ..			2,000	00	
	Total Balance Rs. ..			323,202	55	
				<hr/> <hr/>		

Translated :

(Sgd.) Illegibly.

P2.

### Statement Change of Business Names Registration

P2.  
Statement of  
change of  
Business names  
Registration  
19.11.34.

True Copy.

Sgd) Illegibly.

for Registrar of Business Names, N.P.

Jaffna, 3.6.53.

#### Business Names Ordinance (Cap. 120)

Form R.B.N. 6.

(To be accompanied by the Certificate of  
Registration)

Stamps of Rs. 2.50 (Uncancelled) § affixed.
--

Note :—This form should not be used when a business changes hands.

#### Statement of Change Under Section 7

In pursuance of the provisions of Section 7 of the Business Names Ordinance (Cap. 120), the following statement of a change which was made or occurred in the particulars registered in the Office of the Registrar of Business Names for the† Northern Province under number 668 on the 12th day of March, 1929, in respect of† S.V. is made by us the undersigned.

P2.  
Statement of  
Change of  
Business Names  
Registration  
19.11.34—  
*Continued*

<p>1. Nature of Change . . . . .</p> <p><i>N.B.</i>—If a new partner is admitted, his full name, residence, nationality, and occupation should be stated.</p>	<p>Change under Head 1—S.V. be altered into "S. Veeragathipillai &amp; Sons"</p> <p>Change under Head 6. Delete first partner S. Veeragathipillai who died on 3rd December, 1933.</p> <p>The other two partners are :</p> <ol style="list-style-type: none"> <li>1. Veeragathipillai Rajaratnam.</li> <li>2. Veeragathipillai Rajasegaram.</li> </ol>
<p>2. Date of Change . . . . .</p>	<p>3rd December, 1933.</p>

Dated this Nineteenth day of November, 1934.

To The Registrar of Business Names for the\* Northern Province.

*Signature or Signatures : ‡*  
(Sgd.) V. RAJARATNAM.  
(Sgd.) V. RAJASEGARAM.

\* Here insert the name of Province.

† Here state the Business Name.

‡ The statement must in the case of an Individual be signed by him. In the case of a Firm it should be signed by all the partners in their individual names : otherwise, it may be signed by one of them, who should furnish an affidavit<sup>1</sup> verifying the particulars.

§ If uncanceled stamps are sent by post it is very desirable that they should be sent under registered cover as in the event of any loss in the ordinary post, no claim for compensation is entertained by the Postmaster-General.

#### 1AFFIDAVIT

I, V. Rajasegaram of Thondamannar affirm that to the best of my belief all the particulars contained in the above statement are true.

Affirmed at Jaffna, this 19th day of November, 1934.

Before me.

(Sgd.) Illegibly  
*Justice of the Peace.*  
19.11.34.

*Signature :*  
(Sgd.) V. RAJASEGARAM.  
(On 1 Re. stamp)

D4.  
Statement of  
Change of the  
Business Name  
19.11.34

### D4. Statement of Change of the Business Name

Business Names Ordinance (Cap. 120)

Form R.B.N. 6.

(To be accompanied by the Certificate of  
Registration)

Stamp of Rs. 2-50 (Uncancelled) §
--

*Note.*—This form should not be used when a business changes hands.

#### Statement of Change Under Section 7

In pursuance of the provisions of Section 7 of the Business Names Ordinance (Cap. 120), the following statement of a change which was made or occurred in the particulars registered in the Office of the Registrar of Business Names for the\* Northern Province under Number 668 on the 12th day of March, 1929, in respect of † S.V. is made by us/me the undersigned.

<p>1. Nature of Change .. .. .</p> <p><i>N.B.</i>—If a new partner is admitted, his full name, residence, nationality, and occupation should be stated.</p>	<p>Change under Head 1—S.V. altered into S. Veeragathipillai &amp; Sons.</p> <p>Change under Head 6. Delete first partner S. Veeragathipillai who died on 3.12.33.</p> <p>The other two partners are :</p> <p>1. Veeragathipillai Rajaratnam.</p> <p>2. Veeragathipillai Rajasegaram.</p>
<p>2. Date of Change .. .. .</p>	<p>3.12.33.</p>

D4.  
Statement of  
Change of the  
Business Name  
19.11.34—  
*Continued*

Dated this Nineteenth day of November, 1934.

To The Registrar of Business Names for the\* Northern Province.

*Signature or Signatures : ‡*

(Sgd.) V. RAJARATNAM.

(Sgd.) V. RAJASEGARAM.

\*Here insert name of Province.

‡Here state the Business Name.

‡The statement must in the case of an Individual be signed by him. In the case of a Firm it should be signed by all the partners in their individual names; otherwise it may be signed by one of them, who should furnish an affidavit<sup>1</sup> verifying the particulars.

§If uncanceled stamps are sent by post it is very desirable that they should be sent under registered cover as in the event of any loss in the ordinary post, no claim for compensation is entertained by the Postmaster-General.

#### <sup>1</sup>AFFIDAVIT

I, V. Rajasegaram of Thondamannar do swear (or) affirm that to the best of my belief all the particulars contained in the above statement are true.

Sworn (or) affirmed at Jaffna this 19th day of November, 1934.

Before me.

(Sgd.) Illegible.

*Justice of the Peace.*

19.11.34.

*Signature :*

<p>Cancelled Re. 1 Stamp (to be cancelled by the deponent).</p>
---

#### P 29.

#### Receipt of Walliammai

P 29.

Receipt of  
Walliammai  
4.2.35

Translation.

Instrument—Receipt  
Worth—Rs. 5,000/-

No. 13754.

I, Walliammai, widow of Sinnathamby Veeragathipillai of Thondamannar, do hereby execute and grant receipt to Veeragathipillai Rajaratnam of the same place to wit :—

P29.  
 Receipt of  
 Walliammai  
 4.2.35—  
 Continued

I do hereby grant this receipt, having received from him in full satisfaction the sum of Rupees Five Thousand mentioned as payable by him to me in Last Will dated 14th October, 1933, attested by S. Subramaniam, Notary, Under No. 22277.

In witness whereof I set my hand to this and to two others of the same tenor in the presence of the Notary Vairavanather Sabaratnam and in the presence of the undersigned witnesses at my house on this fourth day of February, One Thousand Nine Hundred and Thirty-five.

This is the hand mark of Wallaiammai. 10  
 This is the left thumb impression of Walliammai.

*Witnesses :*

(Sgd.) V. DORAISAMY,  
 (Sg.) V. RAJASEGARAM.

(Sgd.) V. SABARATNAM,  
*Notary.*

I, Vairavanathar Sabaratnam, Notary Public of Vadamaradchy in the District of Jaffna, do hereby certify and attest that the foregoing instrument was read over and explained by me to the said Wallaiammai widow of Sinnathamby Veeragathipillai who has set her hand mark 20 and left thumb impression in the presence of Veeragathipillai Duraisamy of Thondamannar and Veeragathipillai Rajasegaram both of Thondamannar who have signed in English, I know the said executant and the witness, the same was signed by the said executant and also by the said witnesses in my presence and in the presence of one another all being present at the same time at the house of the executant on this 4th day of February, 1935, that the whole amount mentioned in this instrument was acknowledged to have received by the said executant and that the original of this instrument bears a stamp to the value of cents five and the said stamp was supplied by 30 me.

Date of attestation :

4th May, 1935.

(SEAL) (Sgd.) V. SABARATNAM,  
*Notary Public.*

*Translated by :*

(Sgd.) A. ARUMUGAM,  
*Sworn Translator, District Court,*  
*Jaffna.*





D2.  
 Evidence of the  
 Plaintiff in D.C.  
 Jaffna 58T  
 21.5.37—  
 Continued

(A3). From that date the business was carried on in partnership between my father and myself and my brother. Besides myself and my brother Rajasekaram, my father had other sons. He had other sons. He had three sons, Suppiah, Dr. Duraisamy and Retnasamy who is now Rev. Father Tarcus. I have one sister and she had been dowried off. In October, 1933, my father, my brother and myself executed a deed by which it was declared that the business was to be carried on in equal shares. I produce that document (A4).

(A4 read) :

All three of us have signed this deed while my father was alive, 10 my father was paying an Income Tax. My brother and I also were assessed with Income Tax. I produce the assessment sent to my father for the period ending 31st March, 1933, showing the profit of trade as Rs. 17,000/- (A5). I also produce the assessment of my brother and myself for the same year showing the same amount of profits for the year (A6 and A7). That tax was paid accordingly. All three of us were assessed on the footing of partnership business and Rs. 17,000/- is the share of each of the partners. This took place in January, 1933. My father died on December, 1933. After my father's death, I as executor applied for Probate. Then the Income 20 Tax Commissioner purports to reassess my father's income for the same year through me in which the Income Tax Commissioner brings in the amounts of profits allocated to me and my brother to my father's assessment. I produce the additional assessment (A8). When the notice was served upon me, I protested and appealed to the Commissioner of Income Tax and he dismissed the appeal. As against that I preferred an appeal to the Board of Review and before the Board of Review, I contended that my father was only a partner and that this additional assessment was wrong. The Board of Review held with me and held that there was a partnership business. I 30 produce the order of the Board of Review.

(Mr. Obeyesekera objects to this and says that the decision of the Board of Review is irrelevant in this case. Allowed subject to objection.) I produce the judgment of the Board of Review (A9).

I have received communications from Mr. Speldewinde before and I knew his signature. I have received letters from Mr. Speldewinde purporting to have been signed by him. My Auditor for the purpose of income tax return is Mr. Sambamoorthy. (Shown signature of document A9.) This is the signature of Mr. Speldewinde. After the order by the board of Review, the additional assessment has 40 been cancelled and the old assessment stood.

In connection with the business which we carried on, we had Bank accounts both in the Imperial Bank and the Chartered Bank.

The Imperial Bank Account was in my name and the Chartered Bank account was in the name of my brother Rajasekaram. They were separate accounts. Moneys went in were the moneys of the business. The deceased had no Bank account.

D2.  
Evidence of the  
Plaintiff in D.C.  
Jaffna 58T  
21.5.37—  
Continued

Some of the debtors of my Firm gave security. These securities were obtained sometime in my name and sometime in the name of my brother Rajasekaram. I produce deed No. 101 of 17th August, 1931, in my favour (A10). I know V. Subramaniam and wife Rasamah and S. Kanapathipillai and wife Visaladchy. These people had  
10 business with my Firm and they were indebted to my Firm and they gave us mortgage in my name. These accounts are shown in the partnership Account Books.

I know S. Kandavanam, T. Sellathurai and wife Savundala. They were customers of my partnership business and they were indebted to my Firm and they gave us security in my name. I produce that Bond No. 3402 of 11th October, 1932 (A11). This is also entered in my partnership Account Books. Apart from A10 and A11, we have got other bonds for similar debts. I produce another bond in favour of my brother Rajasekaram. I know Muthusamy Kurukal.  
20 He was a customer of my Firm and he gave us security in favour of my brother Rajasekaram by bond No. 22021 of 1932 (A12).

Before the operation of the Income Tax Ordinance in this country, my Firm did not maintain account books in double entry and single entry.

Even after that we did not maintain such account books. My Firm had the main business in Jaffna and a branch business at Point Pedro. I produce my Ledger for 1933. On Folio 474 it shows the allocation of profits between three of us. I produce the Ledger and translation (A13) and (A14). In the Point Pedro branch there was  
30 a loss in that year and there was a distribution of losses between three of us. I produce my Ledger of the Point Pedro Branch (A15) folio 277 and translation (A16) showing the allocation of losses of Rs. 2,492/51 to each partner. Prior to the introduction of the Income Tax Ordinance, I did not maintain books of this nature, nor was there any division of profits between father and sons on strict law. All the partners drew moneys from the Firm from time to time whenever they wanted money and all the accounts were shown in one folio. All the profits were kept in the business and not drawn out. While my father was alive, my father had the largest voice in the matter.  
40 In the course of partnership business, I have myself drawn large amount of money and bought properties and my brother also had done the same thing.

I know the land called Seethary. That land once belonged to my father and it was donated in 1921 to my brother Rajasekaram

D2.  
Evidence of the  
Plaintiff in D.C.  
Jaffna 58T  
21.5.37—  
Continued

by deed No. 18251 of 1st June, 1921 (A17). There was a building on this land and tobacco and tiles were stored in this building. My brother Rajasekaram had shown the rent he recovered from this building in the Income Tax Return. The income from that building is Rs. 300/- per annum. In the statement furnished by us to the Income Tax office, this amount would have been shown. By the deed A17, number of the other properties were donated to him—about 4 lands. The respondent is trying to recover tax for the land Seethary. From 1921, my brother was possessing this land and not by my father. My brother Rajasekaram can get back the property 10 from the Firm on one month's notice.

No estate duty is being charged on the other lands.

I say that this business was carried on by my father and myself and my brother Rajasekaram. My father was only entitled to 1/3rd share of the business. Out of this 1/3rd share, my mother, the wife of the deceased, is entitled to half share. My father and mother are Jaffna Tamils subject to Thesawalamai. I sent in my declaration for the purpose of assessment of the estate duty on the 18th of July, 1934. Provisional assessment was made on the 16th of March, 1936.

*Cross-examined.*

20

With regard to the property Seethary, from 1921, the date of donation till my father's death, this property was used solely for the pupose of storing tiles and other stocks-in-trade. After the regular account books were started, the books show the payments of rent to Rajasekaram—that is from April, 1932. Up to April, 1932, Rajasekaram used to get the rent money. Before April, 1932, there were no regular account books. The rent is shown in the books after April, 1932. I swear and say that my father paid rent to Rajasekaram up to April, 1932. As it was matter between father and son no receipt was obtained. 30

*To Court :*

As rent a portion of money was paid to Rajasekaram but no rent was fixed.

A certain sum has been paid to him as rent. For the year 1931 a sum between Rs. 250/- and Rs. 300/- was paid to him as rent. I say that from April, 1932, there were regular account books. I also say that the books show the payments of rent to Rajasekaram for the building on Seethary. The rent was credited to the account of Rajasekaram in a separate account. On some occasion he has been paid and on other occasions he has not been paid. The books have 40 separate rent account for Rajasekaram. Since April, 1932, the profit and loss of the business is shown against the name of each partner and there is a separate Ledger account for rents in Rajasekaram's name and in my name.

This business was originally started by my father. It grew out of capital supplied by him. All the capital that ever went to the business was contributed by him. I join the business in 1907 when I was a boy of 17 or 18 years of age. I was educated in English and I passed the 7th Std. in English. I can carry on correspondence in English. My father was highly educated in Tamil and he had a very good knowledge of Tamil. He could not write or read English. When I joined the business I was 17 or 18 years of age. I was an apprentice under my father. There was no necessity for me to learn  
 10 business as my father was carrying on business. I know the business from my 4th or 5th year. I brought no capital to the business. I was not given a salary. When I joined my father no definite share of profit was given to me. The business continued to be the business of my father at the start. As a son I drew what money I required for my needs. That was the only source of income and that state of things continued all along. That state of things continued right up to my father's death. But my father at one time promised to give a share of the business. Rajasekaram is very much younger to me. He began to assist my father in the business in 1925 or 1926.  
 20 I stated before that it was 1928. It must be 1925 or 1926. He was also too young when he joined my father. He was also 18 years of age when he joined my father. My brother Rajasekaram was also educated in English like myself. English knowledge is not essential for certain portion of the business. For the management of the business, knowledge of English is not necessary. We write letters to the Bank in English. If we employ clerks who knew English, correspondence can be carried on and signature can be put in Tamil. Although we were working with our father, there were clerks also working in the Firm. The clerks wrote letters. My father had  
 30 more confidence in his sons than in his clerks.

My father had no bank accounts at any time. The first bank account was opened in my name in 1923. That account was opened with my father's money. At that time what went into the bank account was my father's money and I operated on that account. Even in 1923, I had shares in the business though there was no registration. I did not operate on that account as my father's agent. I operated on it as my own account. I was mainly carrying on the business. At that time when my father was carrying on the business, the business was carried on the understanding that I would be given  
 40 half share of the business. My father told me that I would be given half share. I now get more than half. Even before my father's death, whatever money I needed, I drew. There was no necessity for me to get my father's consent to draw the money. My father knew that I had been drawing money. Rajasekaram joined the business in 1926. There was no terms when he joined the business. We joined the business and looked after the business. When Raja-

D2.  
 Evidence of the  
 Plaintiff in D.C.  
 Jaffna 58T  
 21.5.37—  
 Continued

D2.  
 Evidence of the  
 Plaintiff in D.C.  
 Jaffna 58T  
 21.5.37—  
 Continued

sekaram joined the business, my father did not tell me what share I would get. In 1929, he told me that he was going to give me 1/3rd share, to Rajasekaram 1/3rd share and the other 1/3rd to himself. At that time he told us this and allowed us to carry on the business on these lines. Rajasekaram also did not bring any capital into this business. Regular account books were kept from April, 1932—that was because the income tax has been introduced. Otherwise even then I would not have kept regular accounts because there was no necessity. The regular account books do not contain separate accounts, showing my account, my brother's account and my father's 10 account. In the Ledger and Journal there is only one account Veeragathipillai & Sons. In the accounts, the moneys drawn by us are shown. The books do not show any distribution of capital for each partner. Neither the capital of each partner nor the distribution of profit and loss is shown against the each partner. A13 and A14 show the real distribution of profits. It show the total profit of Rs. 20,385.92. We divided this amount into three and the figure Rs. 6,795.92 is entered against my name on folio 474 (14) and it was not carried to my personal account. There is no personal account. Even my drawings and the drawings of others are shown in this account. 20 This sum is carried forward Veeragathipillai & Sons with a distribution against each partner. It was carried forward to one common account.

My father did business under the Vilasam of S.V. as well as under the Vilasam of S. Veeragathipillai & Sons. The S. V. Vilasam was registered in March, 1929. That was the only business name registered during the life time of my father. After my father's death on the third of December, 1933, the Vilasam Veeragathipillai & Sons was registered, the names of partners being myself and my brother 30 Rajasegaram. In the year 1929 registrations my father, my brother Rajasegaram and myself were the partners. After the registration we have signed papers on behalf of S.V. Before that I used to sign for S. Veeragathipillai & Sons. I did not receive any power of attorney from my father. When I received Cheques in my favour I signed. Before 1929, if we received Cheques in favour of S. Veeragathipillai, my father used to endorse it. Before 1929, there were no cheques received in favour of Veeragathipillai & Sons. After 1929, if any cheque was received as Veeragathipillai & Sons, either my father or my brother signed it. If any cheque was received in his personal name he signed it. He could not have signed the cheques, but if 40 cheques were received in the name of Veeragathipillai & Sons, we signed them. I used to send cheques to the Banks signing as Veeragathipillai & Sons and below that I used to write V. Rajaratnam, partner. When we applied for cheques showing the signature as Veeragathipillai & Sons and below that V. Rajaratnam, partner, the bank refused to give such cheques as the cheques were issued by

others. We did not take out summons on them. If a date is given I can produce letters written by the Bank refusing to send such documents.

D2.  
Evidence of the  
Plaintiff in D.C.  
Jaffna 58T  
21.5.37—  
*Continued*

My father registered the business under the Vilasam of S.V. making us partners. He made us partners not to facilitate the management of the business but he has allowed the business with us. As members of one family, all the profits emerged into the business and it belongs to us. My father was 78 or 80 years old when he died. In 1929 my father must have been 75 years old. My father died on 10 3rd December, 1933. My father was ill for two or three months before his death. In September and October, 1933, he was slightly ill. He was seriously ill only in November, 1933. He died on the 3rd of December. In June or July, 1933, he was seriously ill and he recovered within 15 days. My father was attending to his business in October, 1933. We ceased to attend to his business in October, 1933. He died of some intestinal trouble. In September and October, he was slightly ill and he used to go to Point Pedro. He became serious in November. The Last Will was made on the 14th October, 1933. Even before that he had executed 5 or 6 Last Wills. On the 4th of 20 March, 1929, either my father or mother or both of them must have executed a Last Will. For the registration of the Vilasam S.V., the 1st Application was made on the 6th of March, 1929. My father must have been slightly ill in March, 1929. He was not subject to any serious illness. It was not in anticipation of his death that my father executed the Will and got the business registered. The next Will was made in October, 1933, and the deed of declaration (A4) was made on the same date. In 1924, my father had given us shares of the business but when it was registered the shares were not mentioned and that is why (A4) was written. By the Last Will of my 30 father had given me 1/3rd share of the business subject to certain payments to the other members of the family. Then my father goes to provide for each of the other children that is to my brothers.

(Last Will read) :

The other children had been provided earlier. My father had no bank accounts any time. Even before 1929 all the moneys of the business went into my account only. No bank account was opened in the name of Rajasekaram before the business was registered. His bank account was opened in 1930. All the moneys that went into the banks were moneys belonging to Veeragathipillai & Sons. It 40 is not true that we brothers joined the business with the expectation that we would get shares in the business when our father retired or died. At the time I joined the business my father had told me that he would give me a major share of the business. In the course of the business it was necessary for my father to sue people. He had sued people even after 1929. If a promissory note was in favour

D2.  
Evidence of the  
Plaintiff in D.C.  
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21.5.37—  
Continued

of my father, my father would have been the plaintiff in the case. If a note was in my favour, the suit would have been in my favour. If there had been institutions after the registration of the business, the names of the partners would have been mentioned. There must be cases in which all the three partners would have been joined as plaintiffs.

I do not remember my father giving evidence before Mr. Balfour in connection with the evasion of estate duty in P.K.N. Firm. Between 1929 and the date of death of my father, we did not look into accounts to find out how much each partner had drawn. We did not look 10 into accounts up to date to find out how much was drawn by each partner. Up to the date of my father's death, my father would have drawn the money he wanted from his own account. He could have drawn the balance amount from the common account and given to the other children if he wanted to, but he did not do so. When we had shares in the business he could not have drawn the full amount. He could have drawn his money out of his share. We and our father controlled the business. I had the control of the business more than my father.

(Mr. Obeyesekera produces certified copy of the Plaint (R1)(a) 20 and the amended plaint in case No. 2348, D.C., Jaffna (R1)(b).)

(Amended plaint shown.) This is a plaint filed by my father for goods supplied to the defendant. When this plaint was filed the Proctor for the plaintiff said that if the other partners consented, one partner could sue and that is how this plaint was filed like this. Within about 7 or 8 days of the filing of the plaint, amount Rs. 700/- or Rs. 800/- was paid and the balance was paid after that. After the action the defendant paid Rs. 1,000/- and later the balance sum of Rs. 350/- was paid and the case settled.

(Read):

30

As regards the land called Seethary, I produce the Ledger( 18) folio 94 in which there is a debt of Rs. 800/- on account of the boutique rent account in favour of Rajasekaram for one year. This rent is for the building on the land Seethary. The amount on A11 is shown in favour of Rajasekaram on page 203 of A12. The debt on A10 is shown on page 165 of A22. In the books no capital is shown in favour of anybody. When I joined the business in 1907 my father said that I would be given half share of the business. I never joined this Firm as a paid servant. There was no question of salary at any time. From 1907 onwards I was the acting Manager of this business. In 40 1907 after sometime he made me to understand that I was entitled to half share of the business. In 1930 my brother and myself drew



Rs. 25,000/- from the business and bought property. In 1929, before the Registration there was an agreement that my brother Rajasekaram and my father would be entitled to equal shares of the business. It was in pursuance of that agreement that this business was registered. As far as myself, Rajasekaram and my father were concerned, my father had no legal right to draw the whole amount. Physically he could have drawn the amount. Similarly I could have drawn the amount and my brother Rajasegaram too could have drawn his money. Strictly speaking, we are not entitled to draw  
 10 the whole money. Even now there are Chetty Firms who run their business without the knowledge of English. I know Chetties having Bank Accounts and they sign their cheques in Tamil.

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S.V. Kadai account is shown in the books and a sum of Rs. 20,000/- is credited as profit. When profits are looked into, we look into all the accounts and find out the assets and liabilities of the business and then arrive at the profit. It was on the basis this sum of Rs. 20,000/- was arrived at and in that account the distribution of profits are shown. After the Registration the cheques sent to the Firm are sent out by me and by my brother. My father too could  
 20 have sent them out but in fact he did not do so. The amount of money that I and my father and brother took entered in one folio, but if any separate personal account is required, it could be shown. By going through the common account I can say who drew the particular amount. On page 45 of A18 there is a folio showing the wages of all employees. On this page our names do not appear. In the Last Will reference is made to all the children of my father, My father, from time to time has been giving properties to his other children. In the Last Will nothing is left to the other children. In October, 1933, Rajasekaram wanted a declaration in writing with regard to  
 30 shares. All what my father promised was verbal. There was nothing in writing. So my brother Rajasekaram wanted a declaration showing the shares of each partner. He wanted his share defined.

(Sgd.) C. COOMARASAMY,

*D.J., Jaffna.*

21.5.37.

True copy of evidence of Mr. V. Rajaretnam in D.C. Testamentary Case No. 58 issued on application made by Mr. V. Rajaretnam.

(Sgd.) Illegibly,  
*Chief Clerk.*

(Sgd.) T. SIVASUBRAMANIAM,  
*Secretary, D.C., Jaffna.*

D8.

Petition of  
Appeal filed in  
respect of  
Estate Duty to  
the Board of  
Review  
produced and  
filed of record  
in D.C. Jaffna  
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D8.

**Petition of Appeal filed in respect of Estate Duty to the  
Board of Review produced and filed of record in  
D.C. Jaffna 58T**

In the matter of an appeal under section  
71 Ordinance No. 2 of 1932 —V. Rajaratnam  
Executor of the Last Will and Testament of  
S. Veeragathipillai.....*Deceased...*

No. 58/T.

*vs.*

The Commissioner of Income Tax.

10

To.

The Board of Review, constituted in terms of Section 70 of  
Ordinance No. 2 of 1932.

The petition of appeal of the appellant abovenamed states as  
follows :—

1. The appellant is the executor of the Last Will and Testament  
of his father S. Veeragathipillai who died on 3.12.33.

2. The said S. Veeragathipillai was carrying on business in  
partnership with his two sons the appellant and one V. Rajasekaram  
under the firm name of S.V. & Sons or Vilasam of S.V. 20

3. The respondent assessed the income of the said S. Veeragathi-  
pillai during his lifetime on the basis of a partnership, and the tax  
has been paid for year 1932-33.

4. Subsequently the respondent has re-assessed the income  
of the deceased S. Veeragathipillai for 1932-33 on the footing that the  
business of S. V. & Sons was the sole concern of the deceased and that  
the appellant and V. Rajasekaram were no partners.

5. The appellant appealed against the said re-assessment to  
the respondent who has, however, confirmed the assessment of his  
assessor on the 11th February, 1935. 30

6. The appellant annexes herewith a true copy of the order of  
the respondent confirming the re-assessment.

7. Feeling greatly dissatisfied with the said order, the appellant  
begs to appeal therefrom to your Board for the following among other

reasons that will be urged at the hearing of this appeal and the further evidence that will be led at the hearing.

D8.

Petition of Appeal filed in respect of Estate Duty of the Board of Review produced and filed of record in D.C. Jaffna 58T. 17.5.37.—  
*Continued*

- (A) The said order is contrary to law and the weight of evidence adduced.
- (B) The appellant submits that a partnership did in fact exist between the deceased S. Veeragathipillai and his two sons the appellant and V. Rajasekaram.
- 10 (C) The deceased himself has proclaimed the fact to the Registrar of Business names in the year 1929 in the form of an affidavit already produced before the respondent.
- (D) In October, 1933, the deceased and the said two sons executed deed No. 22276 attested by S. Subramaniam whereby the contract of partnership, which subsisted between them from 1929 was reduced to writing.
- (E) The said two sons were not paid servants, but have signed as partner on behalf of the firm of S.V. & Sons.
- (F) The securities obtained in the course of business transactions were obtained in the name of the said two sons or one of them.
- 20 (G) The Bank accounts were in the name of the appellant and V. Rajasekaram.
- (H) It is respectfully submitted that the respondent has erred in sacrificing reality to rituality.
- (I) It is not competent for the respondent to make a re-assessment after the death of S. Veeragathipillai.

Wherefore the appellant prays that your Board be pleased to set aside the re-assessment made by the respondent and direct that the assessment should remain as already effected on the footing of a partnership.

30

(Sgd.) V. RAJARATNAM,

*Appellant.*

N.G. 17.8.1937.

True copy of the copy of petition of appeal filed with Commissioner of Estate Duty by Mr. V. Rajaratnam and produced in D.C. Jaffna 58/T and issued on the application of Mr. V. Rajaratnam.

(Sgd.) T. SIVASUBRAMANIAM,

(Sgd.) Illegibly,  
*Chief Clerk.*

*Secretary, D.C., Jaffna.*

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(39 N.L.R. 481)

GEORGE THE SIXTH by the Grace of God of Great  
Britian, Ireland and the British Dominions  
beyond the seas, King, Defender of  
the Faith, Emperor of India.

IN THE SUPREME COURT OF THE  
ISLAND OF CEYLON

10

D.C. (Tnty.) No. 192

1937

Veeragathipillai Rajaratnam of Thondamannar  
Executor of the Last Will and Testament of  
Sinnathamby Veeragathipillai . . . . . *Deceased*  
..... *Appellant-Appellant*

*Against*

The Commissioner of Stamps . . . . .  
..... *Respondent-Respondent*.

Action No. 58 Testamentary.

20

## IN THE DISTRICT COURT OF JAFFNA

This cause coming on for hearing and determination on the  
9th, 10th and 19th days of March, 1938 and on this day, upon an  
appeal preferred by the appellant before the Hon. Mr. F. J. Soertz,  
K.C. and the Hon. Mr. O. L. de Kretser, Puisne Justice of this  
Court, in the presence of Counsel for the appellant and respondent.

It is considered and adjudged that the order made in this action  
by the District Court of Jaffna and dated the 13th day of September,  
1937, be and the same is hereby set aside by declaring that estate  
duty will be paid so far as the matters that were taken on appeal 30  
before the District Judge are concerned on the basis:—

- (1) that land No. 1 on deed No. 18251 is not liable to duty ;
- (2) that a one-sixth and not a one-half of the business must be  
deemed to have passed on the death of the deceased ;
- (3) that the executor is liable to pay interest as charged by the  
Commissioner of Stamps on the Estate Duty.

And it is further ordered and decreed that the respondent do pay  
to the appellant his taxed costs of this action in the said District  
Court and of this appeal.

Witness the Hon. Sir Sydney Solomon Abrahams, Kt., Chief Justice, at Colombo, the 18th day of March, in the year of Our Lord, One Thousand Nine Hundred and Thirty-Eight and of Our Reign the Second.

(Sgd.) C. STORK,  
*Deputy Registrar, S.C.*

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*S.C. No. 192.*

*D.C. Jaffna No. 58.*

*Present : Soertsz, J. and De Kretser, A.J.*

*Counsel : H. V. Perera, K.C., with Nadaraja and Kumarasingham for the appellants.*

10 Obeyesekera, C.C., for the Commissioner of Stamps.

*Argued on : 9th and 10th March, 1938.*

*Delivered on : 18.3.38.*

SOERTSZ, J. :

This appeal is brought under Section 33 of the Estate Duties Ordinance, against an order made by the District Judge of Jaffna on an appeal taken to him under Section 22(3) of that Ordinance. The learned Judge upheld the assessment made by the Commissioner of Stamps, on two or three matters in dispute between him and the appellants, and found for the appellants on the third point. There is no cross-appeal by the Commissioner from the finding against him, and so far as the appellants are concerned their appeal was not pressed in regard to the decision given on the liability of the executor to pay interest on the estate duty from the expiration of one year from the date of the death of the deceased. The one and only question debated on the appeal before us concerned the extent of the share that passed in the business in paddy, tiles, teak and other articles carried on under the business name S.V. and registered as from the 2nd of March, 1929, in the names of the deceased and the two appellants as partners.

30 The case for the appellants is that only a one-sixth passed on the basis that this business must be regarded as "thediatam" and, therefore, belonged equally to the deceased and his wife, and that on his death, only a one-third of his half passed because the business belonged to the three of them. The Commissioner of Stamps, on the other hand, contends that the whole business was carried on by the deceased and that the appellants did nothing more than assist him, and that on that footing, when a half share is excluded, for the wife of the deceased, the whole of the other half must be deemed to have passed at his death.

40 The appellants based their claim on the ground that from March, 1929, a partnership had subsisted between them and their father ;

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alternatively, on the ground that by virtue of what occurred in March, 1929, when the business was registered in the names of the three of them, there was at least, a gift of a one-third of the father's share to each of them, and that they took *bona fide* possession and enjoyment of it immediately and thenceforward retained it to the exclusion of the donor. They also set up a plea of *res judicata*, relying on the decision of the Board of Review when this question arose between them and the Income Tax Commissioner. Now, with regard to this question of partnership, the point is whether the appellants can rely on it in the absence of such an agreement as is required by Section 10 21(4) of Ordinance No. 7 of 1840. The plea put forward on behalf of the appellants sounds like a voice from beyond the grave in which *Pate v. Pate*, 18 N.L.R. 289 buried the earlier decisions of this Court on the meaning of that section. The opinion of the judicial Committee of the Privy Council delivered by Lord Summer was that the words for "establishing a partnership 'meant' establishing by proof *coram Judice*"; that they constituted "a binding rule of evidence in Courts of law; and whenever issue was joined on the question of partnership or no partnership, an agreement in writing duly signed was necessary to establish it whether the partnership alleged to be 20 agreed is or was, or is to be." Mr. Perera's contention that the *proviso* to Section 21(4) is merely illustrative, and that the section applies to cases in which partners are suing one another to enforce an agreement of partnership, and not to case like the present, cannot, I fear, be sustained in view of the opinion clearly expressed by the board that the *proviso* is strictly "Exceptive" and that the words for establishing a partnership refer to proof of a partnership generally. In this case, admittedly, there is no written agreement, unless documents A2, A3 and A4 can be said to constitute such an agreement. But here again authority confronts us. This Court held, if I may 30 say so, quite rightly, that Documents such as these, prove that the parties were carrying on business in partnership and nothing more. They do not prove what Section 21(4) requires, namely that the agreement for carrying on the business in partnership was in writing. *Idroos v. Sherriff*, 27 N.L.R. 321. Consequently the position that results from the evidence in this case is that there was a business conducted by these parties which cannot, however, be adduced to a Court of law as a partnership "of force or avail" because a rule of evidence stands in the way and prevents it from being so adduced.

But we were pressed with Section 109 of the evidence Ordinance 40 and that section enacts that "When the question is whether persons or partners . . ." and it has been shown that they have been acting as such, the burden of proving that they do not stand to each other in "that relationship . . ." is on the person who affirm it. Mr. Perera submits that apart from the oral evidence in the case, the documents A2, A3, and A4 show that the appellants and the deceased

has been acting as partners, and that therefore, the burden is on the Commissioner of Stamps to show that they were not partners or had ceased to stand in that relationship. Now this Section of the Evidence Act is in substance a re-enactment of Section 27 of the partnership Act of 1890 which says (27) (2) "a continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership". Ordinance No. 22 of 1866 introduced the English Law of partnership into Ceylon, and provided that in regard to that matter "the law to be administered shall be the same as would be administered in England, in the like case, at the corresponding period". In view of this provision the same argument was addressed to the Judge in the case of *Ramen Chetty v. Vyravan Chetty* 2. C.W.R. 81 although on that occasion there does not appear to have been any reference made to section 109 of our Evidence Act. Ennis, J. met it by stating that "in view of the decision of the Privy Council in *Pate v. Pate* I am of opinion that this contention is not good". The Privy Council held that the Ordinance No. 22 of 1866—"in no way enlarged or diminished" the prior Ordinance No. 7 of 1840. The Ordinance No. 7 of 1840 provided that no agreement should be of force or avail in law for establishing a partnership, where the capital exceed One Hundred pounds, unless in writing and signed by the parties to be bound. The Privy Council interpreted this provision as an "evidentiary" one and Section 27 of the Partnership Act or Section 109 of the Evidence Act "would if followed enlarge this provision by allowing a presumption in place of documentary proof". I would adopt this view and hold that Section 109 of the Evidence Act when examined in the light of Section 21 of the Ordinance 7 of 1840, means that the presumption created thereby operates only when the existence of a partnership has been duly proved, that is to say, when it has been proved according to law. It occurred to me at one stage of the argument that perhaps, as between the taxing authority and the subject, liability on a question of this kind should be examined without the embarrassment occasioned by technical rules of evidence in order that the real position might be ascertained. But then it was at once obvious that if ultimately the question comes before a Judicial Tribunal, it is involved in the rules of procedure and of evidence, by which Courts are required to guide themselves. The inevitable although artificial result therefore is that a partnership appears to have subsisted between these parties, but that the appellants are unable to establish according to law. In this predicament, the appellants sought adroitly to turn the tables on the Commissioner of Stamps by contending that there was nothing to show that the capital of this partnership exceeded £100 at the time it came into being, for it is only partnerships of that magnitude that require to be attested by a written agreement. But the answer to that is, I think, twofold. Firstly, although there is no definite

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evidence to that effect although it is not stated in so many words all the facts and circumstances disclosed in the course of this case inevitably lead us to the conclusion that this capital was over one hundred pounds. Section 3 of the evidence Act says that "a fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable, that a prudent man, ought under the circumstances of the particular case, to act upon the supposition that it exists". Applying that principle, I have no difficulty in this case in saying that the capital was over one hundred pounds. Secondly, it seems to me that 10 this is an instance for the application of section 106 of the Evidence Act which says that "when any fact is specially within the knowledge of any person, the burden of proving that fact is upon him". If therefore, the matter rested entirely on this question of a partnership, it would appear that a half share of the business must be deemed to have passed for the purpose of Estate Duty.

But, as I have already observed, there were other grounds on which it was claimed that only a sixth passed.

There was the alternative claim that when in March, 1929, the deceased admitted his two sons into the business on an equal footing 20 with himself as evidenced by A4, there was, in effect, a gift of a third of the business to each of his sons, and that that gift satisfied the condition necessary to ensure that their shares did not pass on his death. Counsel for the Commissioner of Stamps, however, strongly questioned these propositions. He maintained in the first place that there were no gifts made by the deceased, or that if these transactions amounted to gifts, that they were gifts, which were caught up by Section 8(1) of the Ordinance, because *bona fide* possession and enjoyment of the subject matter of the gifts was not immediately assumed by the donees and thenceforward, retained to the exclusion of the 30 donor or of any benefit to him by contract or otherwise."

The finding of fact on this point was recorded by the District Judge in these words: "there can be no doubt that the deceased wanted to gift to the two sons a one third share of the business, but the date when the gift was to take effect was not fixed." I am unable to agree with the latter part of this finding. The District Judge appears to have reached it because "No proper accounts were kept even after 1929". He probably means no separate accounts were kept to show their individual dealings. I will deal with the matter presently, but I wish to say at once that, in my view, the fact that 40 there were no such accounts, does not in the circumstances of this case, negative an immediate gift. The District Judge appears also to have been influenced by the fact that "there was no effective transfer of any share of the business to the two sons". If by this he means that there was no document, then although the absence of a



document such as is required by Section 21(4) of Ordinance 7 of 1840 affects the question whether there was a partnership or not, it does not affect the question of a gift, for in the view of the nature of the gift set up in this case, a writing was not necessary for its creation. If the father declared the gift, or delivered its subject matter to his sons, there was an effective gift. The evidence in the case shows that he did both. The rulings in *Att. Gen. v. Worrall*, 1895 I.K.B. 99, *Crossman v. The Queen*, 18 Q.B.D. 256. *In re Clark* 40 I.N.L., T.R. 11 ; Ld. Adv. V. Wilson, 21 S.C.C. 4th Ser. 997 (the two latter cases have been

10 available to me only to the extent of the summaries of them contained on page 84 of Hanson's *Death Duties*, 1931, Ed.) as I understand them, are clear authority for holding that in this case there were gifts of a one-third share to each of the two sons. The next question is whether *bona fide* possession and enjoyment of the gifts was taken immediately by the donees and retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise. Mr. Obeyesekera's contention was that the District Judge had rightly found that " on the evidence it is clear that the donees had not assumed

20 *bona fide* possession and enjoyment of all that had been gifted to them and retained it to the entire exclusion of the donor ". It is unfortunate that the District Judge does not state his reasons for this view. But from the trend of the cross-examination of Rajaratnam and from Mr. Obeyesekera's argument this contention appears to be based on the facts —

- (1) that Rajaratnam (that is one of the appellants) stated in cross-examination that " the regular account books do not contain separate accounts showing my account, my brother's account and my father's account. In the ledger and Journal there is only one account Veeragathipillai & Sons . . . . Neither the capital of each partner nor the distribution of profit and loss is shown against each partner "
- 30
- (2) that he stated " between 1929 and the date of the death of my father, we did not look into accounts to find out how much each partner had drawn. Up to the date of my father's death, my father would have drawn the money he wanted from his own account. *He could have drawn the balance amount from the common account and given to the other children if he wanted to but he did not do so.*"

In regard to (1), I think it is easy to over emphasise the fact that

40 the accounts of this business were not kept in accordance with approved methods of Western book keeping. It is common experience in our Courts that firms of this kind have different methods of keeping their accounts, all of them more or less crude. No doubt labour is often multiplied by these methods, but it is always possible to ascertain from them the position of the partners at any point of time. The

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evidence of the accountant Sambamoorthy shows that although drawings by these three persons were debited to the general account S. Veeragathipillai & Sons, they were debited "on the individual names of the drawers". It is of great significance that when Income Tax was introduced into this Island in the year 1932, "proper account books were kept". The accountant says so, he adds, "so far as the partnership accounts was concerned, there was only one account book. There was no capital account book. The drawings by the partners went into this common account. All the three could easily have drawn the money from common account. The credits were also entered in the same folio. The profits up to March, 1933, were distributed among the three partners . . . A return was made for 33 - 34 on the same basis allocating the profits to each of the three partners."

In regard to (2), namely the statement "he (*i.e.* the father) could have drawn the balance amount from the common account and given to the other children if he wanted to" when regarded by itself it does appear to militate against the donees having taken *bona fide* possession and enjoyment of their shares to the exclusion of the donor, but it must be examined in the light of other statements and of the circumstances of the case in order to attach to it the weight due to it. The witness after making the statement I have quoted qualified it at once by saying "when we had shares in the business, he could not have drawn the full amount". Then there is evidence of Dr. Duraisamy, another son of the deceased. He says "the arrangement between my father and my two brothers was that they should carry on the business in equal shares. This arrangement was come to in 1929. My father told me that this business had been registered in pursuance of this arrangement and that he was entitled to one-third share of the business."

This statement of the deceased is an admissible statement under Section 32 of the Evidence Ordinance, it was a statement against the pecuniary interest of the deceased, and it gains additional force from the fact that it is against the interest of the witness making it. None of the other children of the deceased appear to claim any interest in the business from him on the footing that a half passed. The position might perhaps have been different if the Commissioner of Stamps had shown that the comparative drawings of the three persons were such that the father had consistently drawn the lion's share and thus negatived a *bona fide* possession and enjoyment immediately by the donees of their shares, my own view is that even if the Commissioner had established that fact, it would by no means have been conclusive in the circumstances of this case. But he has not even sought to establish it. In the case of *Munro v. Commissioner of Stamp Duties*, 1934 — 150 Law Times, P 145, Lord Tomlin in delivering the opinion of the board said "It is not always sufficiently appreciated that it is for the

taxing authority to bring each case within the taxing act” and in the case of *Att. Gen. v. Seccombe* 1911 2K.B., 68 Lord Sumner, then Hamilton, J., said “in construing a taxing act the presumption is that that the Legislature has granted precisely that tax to the Crown which it has described and no more.” In the expressive phrase employed by Lord Shaw of Dumfermline in *Thomson V.C.S.D.*, 1929 A.C. 450 at P155 the Act must fit the facts “like hand and glove” before it can be enforced against the subject. In the case before us, the evidence shows that each of the appellants had drawn large sums  
 10 of money out of the business. It seems possible, if not probable, that if an account is taken they may be found to have drawn during the relevant period larger shares than their father. It is therefore impossible, in my opinion, to say that they did not have *bona fide* possession and enjoyment of their shares from the date of the gift to the exclusion of the donor. It is also significant that the money was banked in the names of the two sons. Nothing in the nature of a benefit accruing to the donor out of these shares has been shown to have been brought about by “contract or otherwise”. For these reasons I would hold that only a sixth, and not a half, passed on the  
 20 death of the deceased for the purpose of Estate Duty. In this connection it is noteworthy that it was not the case for the Commissioner of Stamps that what occurred in 1929 when the business was registered in the name of all three, was a sham or a blind. At any rate the District Judge did not so find. He says “In 1929, the deceased appears to have decided to make his two sons partners in the business. There can be no doubt about his intention but no partnership deed was executed.” As Lord Tomlin pointed out in *Munro v. Commissioner of Stamp Duties*, “It is the substance of the transactions which must be ascertained, and if when so ascertained the substance does  
 30 not fall within the words of the statute it cannot be brought within them merely because the forms employed did not give true effect to the substance.”

In view of the conclusion which I have reached on this point it is not necessary for me to address myself to the interesting question of *res Judicata* discussed before us. I would allow the appeal with costs here and below. The result is that estate duty will be paid so far as the matters that were taken on appeal before the District Judge are concerned, on the basis—

- (1) that land No. 1 on Deed No. 18251 is not liable to duty ;
- 40 (2) that a one-sixth and not a one-half of the business must be deemed to have passed on the death of the deceased ;
- (3) that the executor is liable to pay interest as charged by the Commissioner of Stamps on the estate duty.

(Sgd.) F. J. SOERTSZ,  
*Puisne Justice.*

P31.  
 Decree and  
 Supreme Court  
 Order in D.C.  
 Jaffna 58  
 Testy.  
 18.3.38—  
*Continued*

P31.  
Decree and  
Supreme Court  
Order in D.C.  
Jaffna 58  
Testy.  
18.3.38—  
Continued

I agree.

“ True Copy.”

“ True Copy ” of S.C. Decree in appeal and of reasons filed of record in D.C. Jaffna Testamentary Case No. 58T, issued to Mr. S. Nagalingamudaly, Proctor, S.C. on his application dated 31st October, 1953, (Pages 1-15). 10

*Typed by* : T. Selva Retnam.

*Compared by* : C.C.

(Sgd.) O. L. De KRETZER,  
*Acting Puisne Justice.*

(Sgd.) C. STORK,  
*Deputy Registrar, S.C.*

Correct.

(Intld.) V. S.,  
*Chief Clerk,*  
3.11.53.

(Sgd.) Illegibly.  
*Secretary, District Court,*  
*Jaffna.*

District Court, Jaffna,  
3rd November, 1953.

P22.  
Probate issued  
in D.C. Jaffna  
58 Testy.  
23.5.38

**P22.**

20

**Probate Issued in D.C. Jaffna 58 Testy.**

Nett Value of Estate, Rs. 138, 182/-  
Estate Duty, Rs. 5,493/03.

### **Probate**

#### **IN THE DISTRICT COURT OF JAFFNA**

Testamentary  
Jurisdiction } No. 58.

In the matter of the Estate of the late Sinnathamby Veeragathipillai, deceased, of Thondamannar.

Be it known to all men that on the 26th day of July, 1935, the Last Will and Testament of Sinnathamby Veeragathipillai, deceased, **30** 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 Veeragathipillai Rajaratnam of Thondaimannar the Executor in the said Last Will and Testament named; the said Veeragathipillai Rajaratnam being first affirmed faithfully to execute the said Will by paying the debts and legacies of the deceased Testator as far as the property will extend and the law will bind, and also to exhibit

into this Court a true, full, and perfect Inventory of the said property on or before the 31st day of August, 1938, and to file a true and just account of his executorship on or before the 25th day of October, 1938.

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. —

And it is further certified that it appears by a certificate granted by the Commissioner of Stamps, and dated the 7th day of May, 1938, that Rs. 5,493/03 on account of Estate Duty (and interest on such duty) has been paid.

Given under my hand and the Seal of this Court this 23rd day of May, 1938.

(Sgd.) Illegibly.  
District Judge.

P22.  
Probate issued  
in D.C. Jaffna  
58 Testy.  
23.5.38—  
Continued

**D11.**

**Plaint Filed in C.R. Jaffna 12916**

**IN THE COURT OF REQUESTS OF JAFFNA**

(1) Veeragathipillai Rajaratnam,  
(2) Veeragathipillai Rajasekaram, both of Jaffna  
carrying on business under the name,  
firm and style of S. Veeragathipillai &  
Sons.....*Plaintiffs*

No. 12916.

*vs.*

M. Ponnu, Contractor, Karaiyur.....  
.....*Defendant.*

This 17th day of June, 1938.

The plaint of the plaintiffs appearing by Mr. V. S. Somasunderam, their Proctor, states as follows :—

1. The defendant abovenamed at Jaffna, within the Jurisdiction of this Court, bought and received from the plaintiffs on or about the 28th day of July, 1937, and the plaintiffs sold and delivered to the defendant timber to the value of Rs. 357·00.

2. The defendant paid Rs. 130/- and Rs. 75/- on the 23rd October and 8th December, 1937, respectively, leaving a balance sum of Rs.152/- still due and owing from the defendant to the plaintiffs.

3. The plaintiffs sent a letter of Demand to the defendant on the 9th day of May, 1938, incurring an expense of Rs. 1·75 but the defendant has failed and neglected to pay the plaintiffs. The plaintiffs claim the said sum of Rs. 1·75 in addition to Rs. 152/-.

Wherefore the plaintiffs pray that the defendant be adjudged and decreed to pay the plaintiffs the said sum of Rs. 153·75 including

D11.  
Plaint filed in  
C.R. Jaffna  
12916  
17.6.38

D11.  
Plaint filed in  
C.R. Jaffna  
12916  
17.6.38—  
Continued

the cost of the letter of Demand together with legal interest from date hereof till payment in full, for costs and for such other and further relief as to this Court shall seem meet.

True copy of Proxy and Plaint in case No. 12916/A of 1938, C.R., Jaffna, issued on the application of Mr. V. S. Somasunderam.

(Sgd.) A. SIVASAMPOE,  
Chief Clerk, C.R., Jaffna, 24.6.53.  
(Sgd.) V. S. SOMASUNDERAM,  
Proctor for Plaintiffs.

D29.  
Ledger Book  
"J" Page 93  
7.2.39 to  
28.3.39.

**D29.**  
**Ledger Book "J" Page 93**

Translation.

Ledger Book "J" Page 93.

Account of S. V. & Sons.

	Payments		Receipts	
	Rs.	Cts.	Rs.	Cts.
1939				
Feb. 7. Brought forward from Ledger F page 444 ..			307,328	31
By Amount received on 16th July, 1937, on a/c. of money paid to Dr. V. Thuraisamy as per account entered .. .. .			10,000	00
Mar. .. ,, Amount transferred to Profit and Loss a/c. ..			317,328	31
.. ,, Amount entered in account in F ledger page 387 1934 for 5% 27,128·07 .. ..				
In G61 as per page 1935 for 6% 28,803·81 ..				
G 381 as per page 1937 for 8% 28,698·79 ..			109,732	17
.. ,, Amount received as per Ledger 237 entered in estate duty a/c. .. .. .			1,328	25
.. ,, Amount received as per H. Ledger 370 transferred on a/c. of V. Rasaratnam ..			4,000	00
.. ,, Amount received as per Ledger Misc. D128 transferred in a/c. of V. Rajasegaram ..			4,000	00
.. ,, Amount received as per Ledger H page 344 on a/c. of Thondamannar Hindu English School entered on a/c. of S.C. .. ..			20,063	56
To Amount paid as per page 107 on shop account entered .. .. .	456,452	29		
28.. ,, Amount paid as per Bill of S. Sulamankandu from April, 1938, on account of sundries purchased .. .. .		84 82		
By Amount received .. .. .			84	82
Rs. ..	456,537	11	456,537	11

Translated by me.

(Sgd.) Illegibly.  
S.T., D.C., Jaffna.  
3.3.1955.

## P26.

## Inventory in D.C. Jaffna 58 Testy.

P26.

Inventory in  
D.C. Jaffna 58  
Testy.  
13.5.39

## IN THE DISTRICT COURT OF JAFFNA

Testamentary  
Jurisdiction.  
No. 58.

In the matter of the Last Will and Testament  
of the late Sinnathamby Veeragathipillai of  
Thondamannar.....*Deceased*  
Veeragathipillai Rajaratnam of Thondamannar  
.....*Petitioner*

*vs.*

- (1) Valliamma, widow of Veeragathipillai.
- (2) Veeragathipillai Suppiah, both of Thondamannar.
- (3) Dr. Veeragathipillai Duraisamy, presently of Chavakachcheri.
- (4) Veeragathipillai Rajasegeram of Thondamannar.....*Respondents.*

## INVENTORY

*Immovable property :—*

Lands situated in the District of Jaffna

	Rs.	Cts.
1. An undivided $\frac{1}{2}$ share of 2 lms. $4\frac{1}{4}$ kls. of the land called Navalady of 2 lms. $4\frac{1}{2}$ kls. v.c. situate at Kerudavil .. .. .	100	00
2. An undivided $\frac{1}{2}$ of $\frac{1}{5}$ th share on the West out of the land called Nilavil of 33 lms. p.c. situate at Kerudavil .. .. .	60	00
3. An undivided $\frac{1}{2}$ share of the land called Alankanthu and other aprecls of 65 lms. v.c. situate at Valalai .. .. .	200	00
4. An undivided $\frac{1}{2}$ of $\frac{2}{3}$ rd share of the land called Veran of $37\frac{1}{2}$ lms. v.c. situate at Valali .. .. .	30	00
5. An undivided $\frac{1}{2}$ of a $\frac{1}{3}$ rd share of the land called Vaddanseema of 4 lms. v.c. situate at Vallalai .. .. .	20	00
6. An undivided $\frac{1}{2}$ of $\frac{1}{3}$ rd share of the land called Sattirantai of $10\frac{3}{4}$ lms. v.c. and an undivided $\frac{1}{2}$ share of the stone built house .. .. .	60	00
7. An undivided $\frac{1}{2}$ of $\frac{1}{6}$ th share of the land called Surantheny of 7 lms. v.c. situate at Thanakkarakurichy .. .. .	7	50
8. An undivided $\frac{1}{2}$ of $\frac{1}{2}$ of $\frac{1}{10}$ th share of the land called Thadikumani-ampiddy of 39 lms. p.c. and $30\frac{3}{8}$ lms. v.c. situate at Thanakkarakurichy .. .. .	7	50
9. An undivided $\frac{1}{2}$ share of the land called Koddalaivayal and other parcels of 20 lms. p.c. and $1\frac{7}{8}$ kls. situate at Thanakkarakurichy .. .. .	20	00
10. An undivided $\frac{1}{2}$ share of the land called Karaikaladdy and Kusavankalady of 58 lms. v.c. situate at Kerudhivil .. .. .	30	00
11. An undivided $\frac{1}{2}$ share of the land called Vakan of $4\frac{1}{2}$ lms. v.c. situate at Thanakkarakurichy .. .. .	25	00

P26.  
Inventory in  
D.C. Jaffna 58  
Testy.  
13.5.39—  
Continued

	Rs.	Cts,
Lands in Batticaloa District :—		
12. An undivided $\frac{1}{2}$ share of the land called Mavidavalavilakuppurathu-kanthu situated at Oddaimavadi .. .. .	100	00
13. An undivided $\frac{1}{2}$ share of the land called Niluvodaiyayal of 12 acres 3 roods 28 perches situate at Koralaipattu .. .. .	100	00
Increase by official valuation .. .. .	90	00
Ponthikinathaddy of 13 $\frac{1}{2}$ lms. v.c. Ayilnirakadu and Uttamankadu 81 lms. v.c. Thachampulakaladdy 11 lms. v.c. Pidariyatidal and Ayilnirakadu 5 lms. aggregating to 37 $\frac{1}{2}$ lms. situate at Thanakarakurichy and Kerudvil is a trust property of a school.		
14. The share of the deceased as a partner in the firm of S. Veeragathipillai & Sons .. .. .	99,682	32
15. Sailing vessels and cargo boats (half shares) .. .. .	30,688	00
Motor car and motor lorry, and household furniture ( $\frac{1}{2}$ of 1/3rd share) ..	300	00

*Mortgages :—*

From Muttusamy Kurukkal on bond dated 7.8.31 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 1,750/- and interest .. .. .	559	00
From Vallipuram Kandiah and wife on bond dated 9.2.34 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 1,000/- and interest .. .. .	274	50
From V. W. Chinniah and wife on bond dated 25.2.32 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 800/- and interest .. .. .	242	53
From Sittampalam Kurusamy and wife on bond dated 30.12.31 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 3,000/- and interest .. .. .	855	00

*Promissory Notes :—*

From K. Ponnusamy $\frac{1}{2}$ of Rs. 360/- .. .. .	180	00
From M. Sittampalam $\frac{1}{2}$ of Rs. 100/- and interest .. .. .	57	38
From K. Kandiah $\frac{1}{2}$ of Rs. 72/- .. .. .	36	00
From A. Chinniah $\frac{1}{2}$ of Rs. 432.50 .. .. .	216	25
From W. Jegathasan $\frac{1}{2}$ of Rs. 2,003.84 .. .. .	1,001	92
From Valliammai widow of Sinnadurai $\frac{1}{2}$ of 108.70 .. .. .	54	35
From S. J. Thambu in case No. 1606 A.C.R. Jaffna $\frac{1}{2}$ of Rs. 172/- .. .. .	86	00
From S. Paranthampillai in case No. 3463 D.C. Jaffna $\frac{1}{2}$ of Rs. 436/- $\frac{1}{2}$ share of money invested in Jaffna Co-operative Stores .. .. .	218	00
	1,000	00

	Total assets	Rs. ..	136,301	25
Funeral expenses .. .. .			535	00
	Nett assets	Rs. ..	135,766	25

I, Veeragathipillai Rajaratnam of Thondamannar executor of the Last Will of S. Veeragathipillai, deceased, solemnly, sincerely and truly declare and affirm as follows:—

1. To the best of my knowledge, information and belief, the above written inventory contains a full, true and correct account of all the property and rights and credits of the said deceased so far as I have been able to ascertain the same.

2. I have made a careful estimate and valuation of all the property the particulars of which are set forth and contained in the



said inventory and to the best of my knowledge and belief the several sums respectively set opposite the several items in the said inventory fully and fairly represent the values of the items to which they are so respectively set opposite.

P26.  
Inventory in  
D.C. Jaffna 58  
Testy.  
13.5.39—  
Continued

Affirmed to at Pt. Pedro, }  
on the 13th day of May, } (Sgd.) V. RAJARATNAM.  
1939. }

Before me :

(Sgd.).....

10 J.P.

Drawn by :

(Sgd.) S. SUPRAMANIAM,  
Proctor for the Executor.

**D34.**

**Inventory Filed in D.C. Jaffna 58T**

D34.  
Inventory Filed  
in D.C. Jaffna  
58T  
13.5.39

**IN THE DISTRICT COURT OF JAFFNA**

In the matter of the Last Will and Testament  
of the late Sinnathamby Veeragathipillai of  
Thondamannar.....*Deceased.*

20 Testamentary  
Jurisdiction.  
No. 58.

Veeragathipillai Rajaratnam of Thondamannar  
.....*Petitioner*

*vs.*

- (1) Valliammai, widow of Veeragathipillai.
- (2) Veeragathipillai Suppiah both of Thondamannar.
- (3) Dr. Veeragathipillai Duraiswamy, presently of Chavakachcheri.
- (4) Veeragathipillai Rajasegaram of Thondamannar.....*Respondents.*

30

## INVENTORY

D34.  
Inventory filed  
in D.C. Jaffna  
58T  
13.5.39—  
Continued

*Immovable property :—*

## Lands situate in the District of Jaffna

	Rs.	Cts.
1. An undivided $\frac{1}{2}$ share of 2 lms. $4\frac{1}{2}$ kls. of the land called Navalady of 2 lms. $4\frac{1}{2}$ kls. v.c. situate at Kerudavil .. .. .	100	00
2. An undivided $\frac{1}{2}$ of $\frac{1}{5}$ th share of the West out of the land called Nilavil of 33 lms. p.c. situate at Kerudavil .. .. .	60	00
3. An undivided $\frac{1}{2}$ share of the land called Alankanthu and other parcels of 65 lms. v.c. situate at Valalai .. .. .	200	00
4. An undivided $\frac{1}{2}$ of $\frac{2}{3}$ rd share of the land Veran of $37\frac{1}{2}$ lms. v.c. situate at Valalai .. .. .	30	00
5. An undivided $\frac{1}{2}$ of $\frac{1}{3}$ rd share of the land Vaddanseema of 4 lms. v.c. situate at Valalai .. .. .	20	00
6. Undivided $\frac{1}{2}$ of $\frac{1}{3}$ rd share of the land called Sattirantai of 10, $\frac{3}{4}$ lms. v.c. and an undivided $\frac{1}{2}$ share of the stone built house .. .. .	60	00
7. An undivided $\frac{1}{2}$ of $\frac{1}{6}$ th share of the land called Surantheny of 7 lms. v.c. situate at Thanakkarakurichy .. .. .	7	50
8. An undivided $\frac{1}{2}$ of $\frac{1}{2}$ of $\frac{1}{10}$ th share of the land called Thadikumanipiddy of 39 lms. p.c. and 30, $\frac{3}{8}$ lms. v.c. situate at Thanakkarakurichy .. .. .	7	50
9. An undivided $\frac{1}{2}$ share of the land called Keddalaivayal and other parcels of 20 lms. p.c. and 1, $\frac{7}{8}$ kls. situate at Thanakkarakurichy .. .. .	20	00
10. An undivided $\frac{1}{2}$ share of the land called Karaikaladdy and Kusavan-kaladdy of 58 lms. v.c. situate at Kerudavil .. .. .	30	00
11. An undivided $\frac{1}{2}$ share of the land called Vakan of $4\frac{1}{2}$ lms. v.c. situate at Thanakkarakurichy .. .. .	25	00

## Lands in Batticaloa District

12. An undivided $\frac{1}{2}$ share of the land called Mavadiavalavilkilakkuppurathu-kanthu situate at Oddamavady .. .. .	100	00
13. An undivided $\frac{1}{2}$ share of the land called Niluvodaivayal of 12 acres 3 roods 28 perches situate at Koralaipattu .. .. .	100	00
Increase by Official Valuation .. .. .	90	00
Ponthukinattady of $13\frac{1}{4}$ lms. v.c. Ayilnirakadu and Uttamankadu, 8 lms. v.c. Thachampulakaladdy 11 lms. v.c. and Pidariyatidal and Ayilnirakadu 5 lms. aggregating to $37\frac{1}{2}$ lms. situated at Thanakkarakurichy and Kerudavil is trust property for a school.		
14. The share of the deceased as a partner in the firm of S. Veeragathipillai & Sons .. .. .	99,682	32
15. Sailing vessels and cargo boats (half share) .. .. .	30,688	00
Motor car and motor lorry and household furniture ( $\frac{1}{2}$ of $\frac{1}{3}$ rd share) .. .. .	300	00

*Mortgages :—*

From Muttusamy Kurukkal on bond dated 7.8.31 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 1,750/- and interest .. .. .	559	00
From Vallipuram Kandiah and wife on bond dated 9.2.34 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 1,000/- and interest .. .. .	274	50
From V. W. Chinniah and wife on bond dated 25.2.32, $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 800/- and interest .. .. .	242	53
From Sottampalam Kurusamy and wife on bond dated 30.12.31 $\frac{1}{2}$ of $\frac{1}{2}$ of Rs. 3,000/- and interest .. .. .	855	00

	Rs.	Cts.	D34.
<i>Promissory Notes</i> :—			Inventory filed
From K. Ponnusamy $\frac{1}{2}$ of Rs. 360/- .. .. .	180	00	in D.C. Jaffna
From M. Sittampalam $\frac{1}{2}$ of Rs. 100/- and interest .. .. .	57	38	58T.
From K. Kandiah $\frac{1}{2}$ of Rs. 72/- .. .. .	36	00	13.5.39—
From A. Chinniah $\frac{1}{2}$ of Rs. 432·50 .. .. .	216	25	<i>Continued</i>
From U. Jagathesen $\frac{1}{2}$ of Rs. 2,003·84 .. .. .	1,001	92	
From Valliammai widow of Sinnadurai $\frac{1}{2}$ of Rs. 108·70 .. .. .	54	35	
From S. J. Thambu in case No. 1606/A C.R. Jaffna $\frac{1}{2}$ of Rs. 172/- .. .. .	86	00	
From S. Paranthampillai in case No. 3462 D.C. Jaffna $\frac{1}{2}$ of Rs. 436/- .. .. .	218	00	
$\frac{1}{2}$ share of money invested in Jaffna Co-operative Stores .. .. .	1,000	00	
Total Assets	136,301	25	
Funeral Expenses .. .. .	535	00	
Nett Assets	135,766	25	

I, Veeragathipillai Rajaratnam of Thondamannar, executor of the Last Will of S. Veeragathipillai, deceased, solemnly, sincerely, and truly declare and affirm as follows:—

1. To the best of my knowledge, information and belief the above written Inventory contains a full, true and correct account of all the property and rights and credits of the said deceased so far as I have been able with due diligence to ascertain the same.

2. I have made a careful estimate and valuation of all the property, the particulars of which are set forth and contained in the Inventory, and to the best of my knowledge and belief the several sums respectively set opposite the several items in the said Inventory fully and fairly represent the values of the items to which they are so respectively set opposite.

(Sgd.) V. RAJARATNAM.

Affirmed to at Point Pedro on the 13th day of May, 1939.

*Before me* :

(Sgd.) Illegibly,  
J.P.

*Drawn by* :

(Sgd.) S. SUPPRAMANIAM,  
*Proctor for Executor.*

True copy of Inventory in D.C. Jaffna Testamentary case No. 58 issued on the application of Mr. V. S. Somasunderam, Proctor.

(Intld.).....  
C.C.,  
20.9.52.

(Sgd.) T. SUBRAMANIAM,  
*The Secretary, District Court,*  
*Jaffna.*  
25th September, 1952.

D17.

Pawn Broker's  
Licence issued  
to V. Raja-  
sekeram on  
behalf of S.  
Veeragathipillai  
& Sons  
12.7.39

D17.

**Pawn Broker's Licence Issued to V. Rajasekeram  
on Behalf of S. Veeragathipillai & Sons**

Licence to Pawn Broker.

A/62933/12.

Under the provisions of the Ordinance No. 8 of 1893, Cl. 24, I Richard Bryant Naish, Government Agent of the Northern Province, do hereby license V. Rajasekeram on behalf of S. Veeragathipillai & Sons of Jaffna to carry on the business of a Pawn Broker at 3rd Cross Street, Jaffna.

This licence will remain in force until 31st July, 1940.

(Sgd.) V. VISVALINGAM,  
for R. B. NAISH,

Government Agent, N.P.

Government Agent's Office.  
12th July, 1939.

(Stamped)

True copy.

(Sgd.) N. VELUPILLAI,  
for Government Agent, N.P.  
22.10.53.

P44.

Ledger "J"  
page 309  
9.12.39 to  
26.8.41

P44.

**Ledger "J" page 309**

**Ledger J. page 309. V. Rajasegaram**

		Rs.	Cts.	Rs.	Cts.
1939					
Dec. 9.	To Amount paid to Ana. Navana accounts written off from S.V. & Sons accounts for the purchase of the land of Thiyagarajah .. ..	6,465	00		
30.	By Amount received on account of rent of Periakadai Godown for 9 months from April till the end of December, 1939 .. ..				600 00
	To Amount paid on 4 instalments for 16 shares in Bank of Ceylon Accounts written off from S.V. & Sons accounts .. ..	400	00		
	To balance payments Rs. ..	6,265	00		600 00
	To balance payments Rs. ..	6,265	00		
1940					
Dec. 29.	By Amount paid to Proctor S. Subramaniam on accounts of costs of getting a transfer of Marimuttu's land .. ..			50	00
30.	By Amount received on account of rent of the Paranakitheru godown for 12 months from January till the end of December, 1940 .. ..				800 00
	Total Rs. ..	6,315	00		800 00

	To balance of payments ..	5,515 00		
1941	April 30..By Amount received as District Court Batta ..		Rs. Cts.	13 13
	Total	Rs. ..	5,501 00	13 13

P44.  
Ledger "J"  
page 309  
26.8.41—  
Continued

	To balance payments ..	5,501 87		
Aug. 26..	To Amount paid for purchase of 1/9th share of Periyakadai Godown from K. Thurarajah ..	6,675 00		
				12,176 87

Carried to Ledger K. page 355

Translated :  
(Sgd.) Illegibly.

#### P40.

#### Ledger "B4" pages 61, 69, 227 and 376

#### Account Particulars of Payments and Receipts of "S.V."

		Rs. Cts.	Rs. Cts.
1939	Dec. ..Brought forward from B3 page 330 ..	1,638 12	800,563 25
	By Amounts of profits from the Jaffna shop from April, 1938, till March, 1939 ..		37,496 90
	„ Accounts of Jaffna shop S.V. & Sons ..		2,544 86
	„ Amount of Pallai Estate ..		1,270 84
	„ Amount of value of articles as per chit of Muna. Una & Sons as per accounts of Jaffna shop S.V. & Sons ..		130 15
	To Amount paid as per accounts of the Tondal of Theivanayagy ..	1,349 30	
	Tondal of Athipoorany ..	1,463 88	
	To Amount paid as per accounts of the Tondal of Subramania Puravy ..	6,406 00	13,723 03
	Total Rs. ..	15,361 15	842,006 00
	By Amount of balance ..		826,644 85
	„ Amount received accounts of Subramania ship without entry in K. 86th page ..		3,793 52
	To Amount paid as per accounts of Book No. 2 without entry in K. 88th page ..	188 65	
	By Amount received as per accounts boat No. 6 without entry in K 88th page ..		73 59
	„ Amount received as per accounts of Schooner Peranthavalli without entry K. 92nd page ..		2,018 94
	To Amount paid as per accounts of ship Theivanayagy without entry in K. 92nd page ..	16 90	
	By Amount received as per accounts of scooner Athipoorany without entry in K. 93rd page ..		762 88
	Rs. ..	205 55	833,293 78

B4. 61.

P40.  
Ledger "B4"  
pages 61, 69,  
227 and 376  
—12.39 to  
—1.43

P40.  
Lodger "B4"  
pages 61, 69,  
227 and 376  
—12.39 to  
—1.43—  
Continued

### Account Particulars of Payments and Receipts of "S.V."

		Rs. Cts.		Rs. Cts.		B4. 69.
1940	Jan.	Brought forward from page 61 .. ..	205 55	833,293	78	
		By Amount received as per accounts of boat No. 59 without entry in K 94th page .. ..			82 51	
		Total Rs. ..	205 55	833,376	29	
<hr/>						
		By amount of balance .. ..		833,170	74	
Mar.	5..	.. Amount received .. ..		5,000	00	
June	30..	To Amount paid .. ..	5,000 00			
		Total Rs. ..	5,000 00	838,170	74	
<hr/>						
		By amount of balance .. ..		833,170	74	
Sept.	17..	By Amount of profit received as per account particulars of profit and expenses of Jaffna shop from April to December, 1939 .. ..		23,278	49	
		.. Amount received as per account particulars of profit and expenses without entry in A4, 192 page .. ..		13,956	27	
		By amount of total balance .. ..		870,405	50	
Dec.	31..	To Amount of money paid as per accounts of Jaffna shop S.V. & Sons .. ..	8,005 99			
		By Amount of money received as per accounts of Pallai Estate .. ..		1,696	07	
		To Amounts paid as per income tax account without entry on B3, 349th page .. ..	3,943 89			
		Total Rs. ..	11,949 88	872,101	57	
<hr/>						
		By amount of balance .. ..		860,151	69	
1941	Jan.	.. By Amounts received as per accounts of boat No. 6 without entry in K. 99th page .. ..		129	03	
		.. Amount received as per accounts of ship Subramaniapuravy without entry on K. 101st page..		16,749	29	
		.. Amount received as per accounts of boat No. 2 without entry in K.K. 2nd page .. ..		146	18	
		.. Amount received as per accounts of boat No. 59 without entry in K. 105th page .. ..		57	78	
		.. Amount received as per accounts of Schooner Athipoorany without entry in K. 106th page ..		1,396	77	
		Rs. ..		878,630	73	



P40.  
Ledger "B4"  
pages 61, 69,  
227 and 376  
—12.39 to  
—1.43—  
*Continued*

	Rs.	Cts.	Rs.	Cts.
			931,063	82
By amount of balance .. ..				
By Amount received as per accounts of profit and expense without entry in A5. 174th page .. ..			2,861	45
To Amount paid as per income tax accounts without entry in B5. 47th page .. ..	4,811	94		
Total Rs. ..	<u>4,811</u>	<u>94</u>	<u>933,925</u>	<u>27</u>
			929,113	33
Dec. 31. By amount of balance .. ..				
By Amount received as per accounts of Pallai Estate .. ..			557	61
„ Amount received as profit in 1941, as per accounts of profit and expenses of Jaffna shop .. ..			61,399	92
To Amount paid as per accounts of do. shop S.V. & Sons .. ..	9,643	45		
Total Rs. ..	<u>9,643</u>	<u>45</u>	<u>991,070</u>	<u>86</u>
			981,427	41
1943				
Jan. By Amount received as per accounts of S. V. Subra- maniapuravy without entry in K. 127th page.. ..			7,041	75
„ Amount received as per accounts of boat No. 2 without entry in K. 140th page .. ..			333	29
			Rs. ..	<u>988,802</u>
				<u>45</u>

B5 103rd page

Translated :  
(Sgd.) Illegibly.

P27.  
Final Accounts  
in D.C. Jaffna  
58 Testy.  
S.5.40

## P27.

### Final Accounts in D.C. Jaffna 58 Testy.

#### IN THE DISTRICT COURT OF JAFFNA

Testament.  
Jurisdiction.  
No. 58.

In the matter of the Last Will and Testament  
of Sinnathamby Veeragathipillai of Thonda-  
mannar.....*Deceased*

I, Veeragathipillai Rajaratnam of Thonda-  
mannar.....*Petitioner*

*vs.*

1. Valliammai, widow of Veeragathipillai.
2. Veeragathipillai Suppiah, both of Thonda-  
mannar.
3. Dr. Veeragathipilali Duraisamy, presently  
of Chavakachcheri, and
4. Veeragathipillai Rajasekaram of Thonda-  
mannar.....*Respondents.*





P27.  
Final Accounts  
in D.C. Jaffna  
58 Testy.  
8.5.40—  
Continued

I, Veeragathipillai Rajaratnam of Thondamannar, the petitioner abovenamed and Executor of the Last Will of the deceased abovenamed, solemnly, sincerely and truly declare and affirm as follows:—

I state that the moneys stated in the above account as collected were all that were collected according to the best of my knowledge, information and belief, and that I do not know of any error in the said account which may in any wise prejudice the rights of any party interested in the said estate.

The foregoing affidavit having been interpreted to the affirmant abovenamed, he was affirmed thereto and signed the same in my presence at Point Pedro on the 8th day of May, 1940. } (Sgd.) V. RAJARATNAM. 10

*Before me :*

(Sgd.) K. MUTTUKUMARU,  
*Commissioner for Oaths.*

*Drawn by :*

(Sgd.) S. SUPPRAMANIAM,  
*Proctor for Executor.*

True copy of the Final Account entered and filed of record in D.C. 20 Jaffna Case No. 58/T.

(Sgd.) S. SUBRAMANIAM,  
*Secretary, D.C., Jaffna.*  
22.12.53.

P28.  
Minute of  
Consent by  
Defendant re  
Final A/c.  
23.8.40

**P28.**

**Minute of Consent by Defendant re Final Account**

**IN THE DISTRICT COURT OF JAFFNA**

Testy.  
No. 58.

We, the respondents in the above case consent to the final account 30 being passed.

X These are the marks and left thumb impression of Walliammai widow of S. Veeragathipillai.

P28.  
Minute of Consent by Defendant re Final A/c 23.8.40—  
*Continued*

Witnesses to identify and Signature :

(Sgd.) V. RAJASEKERAM.  
(Sgd.) V. DORAISAMY.

(Sgd.) K. RATNASINGHAM,  
*Proctor, S.C.*

10 Witness to identify and Signature :

(Sgd.) L. B. KADIRGAMAR,  
*Proctor, S.C.*  
23.8.40.

True copy of the Petition dated 19.4.34, (D.C. Kandy) and Inventory and consent paper of 19.4.34 and consent to pass Final Accounts in D.C. Jaffna Case No. 58/Testy. of 1934, issued on the application of Mr. Nagalingamudaly.

(Sgd.) Illegibly,  
*Secretary, D.C., Jaffna.*

20 3.11.53.

**P23.**

**Journal Entries in D.C. Jaffna 58 Testy.**

P23.  
Journal Entries in D.C. Jaffna 58 Testy. 28.2.41 to 14.7.41

IN THE DISTRICT COURT OF JAFFNA

In the matter of the Last Will and Testament of the late Sinnathamby Veeragathipillai of Thondaimannar.....*Deceased*  
Veeragathipillai Rajaratnam of Thondaimannar.  
.....*Petitioner*

No. 58/T.

*and*

30

1. Veeragathipillai Rajasekaram of Thondaimannar and
2. Illiathamby Kunaratnam of Thondaimannar  
.....*Respondents.*

28.2.41.

Proctor for Executor files consent paper of the respondents Walliammai, V. Duraisamy and V. Rajasegaram and moves for a date to issue notice on V. Suppiah.

(Intld.).....  
*D.J.*

P23.  
Journal Entries  
in D.C. Jaffna  
58 Testy.  
28.2.41 to  
14.7.41—  
*Continued*

28.3.41.

Mr. S. Subramaniam for Executor.

Notice on V. Supiah not issued.

The Proctor for Executor moves for further time to issue notice.

For 16.5.

....(Intld.) C. C.,  
*D.J.*

1.5.41.

Notice of F.A. issued on 2nd respondent.

(Intld.) C. C., 10  
*D.J.*

13.5.41.

Return to notice of Final Account received and filed.

14.5.41.

The Attorney General by his No. F. 8/41 of 8.5.41 requests that the record in this case be sent to him for reference and return.

Forward on 16.5.41.

(Intld.) C. C.,  
*D.J.*

16.5.41.

Notice of F/A. on 2nd respondent served.

Absent.

Close estate.

(Intld.) C. C.,  
*D.J.*

14.7.41.

The Deputy-Registrar, S.C. by his No. P10, KI. of 10.7.41 requests that this record be sent for reference and return.

Send.

(Intld.) C. C., 30  
*D.J.*

True copy of the journal entries from 28.2.41 to 14.7.41 entered of record in D.C. Jaffna case No. 58 Testamentary.

(Sgd.) S. SIVASUBRAMANIAM,  
*Secretary, D.C., Jaffna.*  
22.12.53.

## P45.

## Ledger "K" page 355.

## Ledger K. page 355. V. Rajasegaram

P45.  
Ledger "K"  
page 355  
30.9.41 to  
29.12.42

	Rs.	Cts.	Rs.	Cts.
Brought forward from J. page 309 .. ..	12,176	87		
1941				
Sept. 30..To Amount paid at Point Pedro shop to Proctor K. Ratnasingham for stamps and writing fees for the execution of deed of Periyakadai godown .. .. .		124		50
Total payments Rs. ..	12,301	37		
1941				
Dec. 29..By Amount received on account of rent of the Periyakadai godown for 12 months from January to the end of December, 1941 ..			800	00
30..,, Amount received as rent of Periyakadai go- down for 7 months from June to the end of December, 1941, for 1/3rd of 1/3rd share ..			77	78
Total Rs. ..	12,301	37	877	78
To amount of balance payment ..	11,423	59		
1942				
April 30..To Amount paid for the share of the godown pur- chased from T. Muttham by Rs. 3,366/-. Stamps and writing fees .. Rs. 66/-		3,432		00
,, Amount paid to S. Sinnathurai Iyer for the land written in favour of Rajasegaram Rs. 100/- out of the value of the land, ex- penses Rs. 5/- .. .. .		105		00
Total Rs. ..	14,960	59		
Dec. 29..By Amount received on account of rent for Paran- kitheru godown for 12 months from January to the end of December, 1942 .. ..			800	00
,, Amount received on account of rent of Periya- kadai godown for 12 months from January to the end of December, 1942, share $\frac{1}{2}$ of $\frac{1}{3}$ rd i.e. 1/6th share .. .. .			200	00
Total Rs. ...	14,960	59	1,000	00
To balance payment .. ..	13,960	59		
Carried to Ledger M. page 194 ..				

Translated :

(Sgd.) Illegibly.

P41.  
Ledger "B5"  
pages 103, 145,  
207, 247, 265,  
278, 279, 284,  
290, 291, 292,  
295, 303, 311,  
312 and 316  
—1.43 to  
31.10.49

## P41.

Ledger "B5", pages 103, 145, 207, 247, 265, 278, 279,  
284, 290, 291, 292, 295, 303, 311, 312, and 316

B5. 103.

		Accounts of Payments and Receipts of S.V.	
		Rs.	Cts.
1943			
Jan.	.. Brought forward from B4 page 376 ..		988,802 45
	.. By Amount received as per accounts of boat No. 6 without entry in K. 142 .. ..		293 97
	.. Amount received as per accounts of boat No. 59 without entry in K. 143 .. ..		301 20
	.. Amount received as per accounts of Athipoorany without entry in K. 145 .. ..		4,147 45
	.. Amount received as per accounts of Theiva- nayagy without entry in K. 146.. ..		1,604 68
			<hr/>
	.. Total receipt .. ..		995,149 75
	.. Amount of profit in the year 1942, received as per accounts of profit and expenses without entry in A6 page 17 .. ..		61,797 41
	To Amount paid for Income Tax without entry in page 47 .. ..	3,734	70
Dec. 31..	.. Amount paid for expenses as per accounts of Jaffna shop .. ..	2,756	48
	.. By Amount of profit received as per accounts of profit and expenses of the year 1942 .. ..		97,196 36
	.. Amount received as per accounts of Pallai Estate .. ..		2,034 64
			<hr/>
	Rs. ..	6,491 18	1,156,178 16
			<hr/>
	.. By amount of balance .. ..		1,149,686 98
	To Amount paid as per accounts of boat No. 6 without entry in K. 149 .. ..	109	81
	.. Amount paid as per accounts of boat No. 59 without entry in K. 150 .. ..	103	93
	.. Amount paid as per accounts of boat No. 2 without entry in K 153 .. ..	98	68
	.. By Amount received as per accounts of ship Theivanayagy, without entry in K. 157 .. ..		1,798 18
			<hr/>
	Rs. ..	312 42	1,151,485 16
			<hr/>

B5. 145.

		Accounts of Payments and Receipts of S.V.	
1943			
Dec.	.. Brought forward from page 103 ..	312 42	1,151,485 16
	.. By Amount received as per accounts of Schooner Athipoorany, without entry in K. 155th page ..		6,524 15
	To Amount paid as per accounts of schooner Athi- poorany, without entry in K. 156th page ..	7,721	22
			<hr/>
	Total Rs. ..	8,033 64	1,158,009 31
			<hr/>

	Rs.	Cts.	Rs.	Cts.	P41.
By amount of balance .. .. .			1,149,975	67	Lodger "B5"
By Amount received as per account of profits and expenses without entry in A6 7th page .. .. .			17,948	22	pages 103, 145, 207, 247, 265, 278, 279, 284, 290, 291, 292, 295, 303, 311, 312 and 316
To Amount paid as per Income Tax accounts, without entry, 47th page .. .. .			20,281	80	—1.43 to 31.10.49—
1944					<i>Continued</i>
Dec. 30. . . , Amount paid as per accounts of Jaffna shop .. .. .			1,784	30	
„ Amount paid as per accounts of V. Suppiah .. .. .			1,040	63	
By Amount of profit received as per accounts of profit and loss of the year 1943, of Jaffna shop .. .. .					
31. . . , Amount received as per accounts of Pallai Estate .. .. .					
„ Amount received as per accounts of boat No. 6 .. .. .					
„ Amount received as per accounts of boat No. 2 .. .. .					
„ Amount received as per accounts of boat No. 59 .. .. .					
„ Amount received as per accounts of schooner Thivanayagy .. .. .					
„ Amount received as per accounts of Schooner Athipoorany .. .. .					
Total Rs. .. .. .			23,106	73	1,217,913 01
By amount balance .. .. .			1,194,806	28	
„ Amount received as per accounts of profits and loss without entry in A6. 108th page .. .. .			15,735	63	
To Amount paid for Income Tax without entry 203rd page .. .. .			5,067	70	1,210,541 91
207th page .. .. .					B5. 207.
1945					
Dec. 30. . . , Brought forward from page 145 .. .. .			5,067	70	1,210,541 91
To Amount paid as per accounts of expenses of Jaffna shop S.V. & Sons .. .. .			8,196	96	
By Amount received as per accounts of profit and expenses of the year 1944 of Jaffna shop .. .. .					33,752 74
„ Amount received as per accounts of Pallai Estate .. .. .					4,675 46
31. . . To Amount paid as per accounts of boat No. 6 .. .. .			95	00	
„ Amount paid as per accounts of boat No. 2 .. .. .			557	49	
By Amount received as per accounts of Schooner Thivanayagy .. .. .					15,824 16
„ Amount received as per accounts of Schooner Athipoorany .. .. .					1,658 81
Total Rs. .. .. .			13,917	15	1,266,453 08
By amount of balance .. .. .			1,252,535	93	
By Amount received as per accounts of profit and loss without entry in A6. 128th page .. .. .			8,969	46	
Total Receipts .. .. . Rs. .. .			1,261,505	39	

P41.  
Ledger "B5"  
pages 103, 145,  
207, 247, 265,  
278, 279, 284,  
290, 291, 292,  
312 and 316  
—1.43 to  
31.10.49—  
Continued

		Rs.	Cts.	Rs.	Cts.
	1946				
Dec. 28..	By Amount received as per accounts of Bankshall Street shop .. .. .			11,892	86
31..	,, Amount of profits received as per accounts of profit and loss of the year 1945, as per accounts of Jaffna shop .. .. .			24,708	62
	To Amount paid out of S.V. & Sons account, as per above said account .. .. .	20,490	92		
	By Amount received as per accounts of Pallai Estate .. .. .			351	97
	,, Amount received as per accounts of boat No. 2..			427	21
	,, Amount received as per accounts of Schooner of Athipoorany .. .. .			2,435	84
	Total Rs. ..	20,490	92	1,301,321	89
	By amount of balance .. .. .			1,280,830	97
	1947				
May 31..	To Amount paid for expenses of cycle as per account of Jaffna shop .. .. .			60	00
				60	00
				1,280,830	97
247th page	<b>Accounts of Payments and Receipts of S.V.</b>			B5. 247	
1947	Brought forward from page 207 .. .. .	66	00	1,280,830	97
June 30..	By Amount received on account of the sale of boat No. 59 to S. Mugugupillai of Point Pedro .. .. .			1,000	00
	Total Rs. ..	66	00	1,281,764	97
	,, Amount received as per accounts of profit and loss without entry in A6. 150th page .. .. .			5,871	94
	To Amount paid for Income Tax without entry 203rd page .. .. .	38,378	13		
Dec. 21..	By Amount of profit received as per accounts of profit and loss of Jaffna shop for the year 1946 .. .. .			14,326	14
31..	To Amount paid as per accounts of Jaffna shop .. .. .	7,378	65		
	,, Amount paid as per accounts written for the arrears due as per above said accounts .. .. .	17,278	20		
	,, Amount paid as per accounts of Schooner Subramaniapuravy, written off .. .. .	47,643	52		
	,, Amount paid as salary to N. Raman for 5½ months from 15th July, 1947, till the 1st month .. .. .			165	00
	,, Amount paid to V. Suppiah as accounts written off .. .. .	4,938	26		
	,, Amount paid on account of loss .. .. .	7,400	29		
	,, Amount paid to S. V. Rajaratnam's share as accounts written off .. .. .	6,000	00		
	,, Amount paid as per accounts written off .. .. .	1,858	54		
	,, Amount paid for S. V. Rajasegaram's share capital as per accounts written off .. .. .	3,000	00		
	,, Amount paid as per running accounts of do. written off .. .. .			929	27
	Total Rs. ..	1,301,963	05	1,301,963	05

Translated :  
(Sgd.) Illegibly.



		B5. 265.		P41.
<b>Accounts of Payments and Receipts of Jaffna Shop</b>		Rs.	Cts.	Rs. Cts.
1947	Brought forward from page 262	1,119,685	87	178,838 77
Dec. 31..	By Amount of dues unrecoverable as accounts written off			17,278 20
	„ Amount received as per accounts of Suppiah written off			4,938 26
	Total Rs.	1,119,685	87	101,055 23
	To balance of payment			1,018,630 64
1948				
Jan. 12..	By Amount received as per car CY 4699			10,355 00
13..	„ Amount received as per chit given to be paid to Balasubramaniam			1,000 00
Feb. 11..	To Amount paid to Tindal Sanmugam	200	00	
17..	By Amount received			1,000 00
Mar. 8..	„ Amount received			1,000 00
April 7..	„ Amount received			3,000 00
9..	„ Amount received as per Draft of E.B. in favour of Tindal of boat No. 82—Rs. 1,301/- Commission—Rs. 1.75			1,301 75
14..	„ Amount received			1,500 00
15..	„ Amount received			5,000 00
24..	„ Amount received			3,000 00
	Total Rs.	1,018,830	64	27,156 75
	To balance payment	991,673	89	
May 25..	„ Amount received as per V.T.'s account			1,300 00
31..	„ Amount received from driver Sellathamby			30 00
	„ Amount received on account of 143 ft. sawed for making benches for school			
	Wages Rs. 27/-			
	Nails Cts. -/80 and for the cost of repairing cycle on do. 19			18 00
	„ Amount received from driver Sellathamby			40 00
	„ Amount received for washing car			1 50
	Rs.	991,673	89	1,417 30

		B5. 278.	
<b>Accounts Particulars of Payments and Receipts of Jaffna Shop</b>		Rs.	Cts.
	Brought forward from page 265	981,673	89
1948			
May 31..	By Amount received on 6th February for plug and bulb for car		9 00
	„ Amount received for the 54 feet of 2 iron rods of ½ inch purchased on do. 23rd for boat		21 60
	„ Amount received for Letter Pad from Catholic Press on do. 24th		20 00

Ledger "B5"  
pages 103, 145,  
207, 247, 265,  
278, 279, 284,  
290, 291, 292,  
295, 303, 311,  
312 and 316  
—1.43 to  
31.10.49—  
*Continued*

P41.  
Ledger "B5"  
pages 103, 145,  
207, 247, 265,  
278, 279, 284,  
290, 291, 292,  
295, 303, 311,  
312 and 316  
—1.43 to  
31.10.49—  
Continued

	Rs.	Cts.	Rs.	Cts.
By Amount received from driver Sellathamby on 9th March .. .. .			70	00
„ Amount received from do. on do. 26th .. .. .			35	00
„ Amount received for the wages for washing car .. .. .			3	00
„ Amount received for the value of petrol purchased on 7th April for the car .. .. .			49	00
„ Amount received from Sellathamby on do. 9th .. .. .			35	00
„ Amount received on do. 15th as per cheque on account of Walkers & Co. Rs. 5.30 and Commission -/20 cts... .. .			5	50
„ Amount received on the 27th as per value of petrol purchased at Chunnakam shed for the car .. .. .			14	70
„ Amount received on do. 30th for washing and applying grease .. .. .			12	00
„ Amount received on 4th May from Sellathamby .. .. .			35	00
„ Amount received on do. 7th for petrol and articles, for the car .. .. .			44	85
„ Amount received on do. 18th from Sellathamby .. .. .			35	00
To Amount paid on 11th February for the freight of 65,000 flat tiles and 1,500 ridges received by Athipoorany at the rate of 80 .. .. .	5,320	00		
	Rs. ..	996,993 89	1,806	95

B5. 279.

## Accounts of Payments and Receipts of Jaffna Shop

1948	Brought forward page 278 .. .. .	996,992 89	1,806 95
May 31..	To Amount paid on the 22nd March for duty of bamboo mats in ship Subramaniapuravy .. .. .	170 00	
	„ Amount paid on 21st April for the freight of tiles 65,050 at the rate of 70 received by ship Athipoorany 2nd trip .. .. .	4,553 50	
June 1..	„ Amount paid as per one cheque .. .. .	300 00	
	By Amount received from N. Thamotheeram of Iddakadu .. .. .		200 00
8..	„ Amount received on account of 8 gals. of petrol for car .. .. .		19 60
19..	„ Amount received as per bill dated 20.3.48 of Standard Company for 47,000 flat tiles and 1,000 ridges brought by boat No. 82 .. .. .		9,381 98
	„ Amount received as per commission deposited there in Bank for the tiles brought do. boat .. .. .		17 64
	„ Amount received as per bill of Standard Co. dated 30.3.48 for the flat tiles 50,000 and ridges 1,000 brought by boat No. 22 .. .. .		9,397 81
	„ Amount received as per running accounts of S. V. Rajasegaram .. .. .		10,291 46
	„ Amount received as per expenses to rings attached to Ponniah's caldron .. .. .		31 00

	Rs.	Cts.	Rs.	Cts.	P41.
By Amount received from Sellathamby ..			35	00	Ledger "B5"
To Amount paid as profit for 1947 ..	19,083	69			pages 103, 145,
By Amount received as accounts of grease applied to car on 12th in Mutturajah's garage ..			6	00	207, 247, 265,
„ Amount received from Sellathamby ..			35	00	278, 279, 284,
21.. „ Amount received on account of money paid to Sivakollunthu widow of Kandiah of Pathai- mani .. .. .			7,000	00	290, 291, 292, 295, 303, 311, 312 and 316 —1.43 to 31.10.49— <i>Continued</i>
	Rs. ..	1,021,101 08	130,832	44	

B5. 284.

**Accounts Particulars of Payments and Receipts of Jaffna Shop**

1948	Brought forward from page 279 ..	1,021,101 08	120,832 44	
July	5.. By Amount received as per chit granted for the payment of money to V. Ramaswamy of Valvettiturai .. .. .		15,000 00	
	22.. To Amount paid for 1,800 flat tiles and 35 ridges given to S. Kulasingham .. .. .	736	00	
	26.. „ Amount paid for 2,500 flat tiles and 100 ridges given to Samuel & Sons .. .. .	1,125	00	
Aug.	6.. „ Amount paid as per 2 cheques .. .. .	1,000	00	
Sept.	1.. „ Amount paid on account of Kumaran's tiles .. .. .	300	00	
	4.. By Amount received .. .. .		200 00	
	8.. To Amount paid as per one Mercantile Bank cheque .. .. .	250	00	
	19.. „ Amount paid for the expenses of loading and piling flat tiles 8,400 and 2,400 ridges re- moved by lorry at the rate of 2.50 .. .. .		27 00	
	21.. „ Amount paid for 1,500 flat tiles .. .. .	525	00	
	„ Amount paid for loading wages for tiles .. .. .	4	50	
	Total Rs. ..	1,025,068 58	146,032 44	

	To balance of payments .. .. .	879,036	14	
Oct.	6.. „ Amount paid for 1,300 flat tiles and 50 head broken tiles .. .. .	581	00	
	7.. „ Amount paid as per one cheque .. .. .	15	00	
	„ Amount paid for 1,400 flat tiles .. .. .	518	00	
	„ Amount paid for 1,200 flat tiles and 25 tail broken tiles .. .. .	628	50	
	8.. „ Amount paid for loading 2,600 flat tiles 90 ridges and 25 tail broken tiles .. .. .	8	00	
	9.. „ Amount paid for 1,400 flat tiles .. .. .	518	00	
	„ Amount paid for 1,500 flat tiles and 105 ridges .. .. .	765	00	
	11.. „ Amount paid for 1,500 flat tiles .. .. .	555	00	
	„ Amount paid for loading 2,900 tiles .. .. .	10	00	
	13.. „ Amount paid for 1,500 flat tiles .. .. .	555	00	
	14.. „ Amount paid for 2,500 flats tiles and 250 ridges .. .. .	1,425	00	
	„ Amount paid as per chit for 800 flat tiles and 5 ridges to V. Anthonimuthu .. .. .	306	00	
	Rs. ..	884,920	64	

P41.  
Ledge "B5"  
pages 103, 145,  
207, 247, 265,  
278, 279, 284,  
290, 291, 292,  
295, 303, 311,  
312 and 316  
—1.43 to  
31.10.49—  
Continued

B5. 290.

## Accounts of Payments and Receipts of Jaffna Shop

		Rs.	Cts.	Rs.	Cts.
1948	Brought forward from page 284	884,920	64		
Oct.	15..To Amount paid for 2,000 flat tiles and 60 ridges..		860	00	
	16..,, Amount paid for 1,500 flat tiles ..		555	00	
	21..,, Amount paid for 1,400 flat tiles and 100 ridges..		718	00	
	,, Amount paid for 8,900 flat tiles and 410 ridges loaded in lorry .. .. .		32	50	
	30..,, Amount paid for the 1,500 flat tiles given to Appukkuddy .. .. .		555	00	
	31..By Amount received from Kulasingham as per 205 flat tiles repurchased .. .. .				75 85
Nov.	6..,, Amount received as per Madras Indian Bank cheque one .. .. .				13 00
	10..To Amount paid for 1,500 flat tiles to S. Vaithi- lingam of Urumpirai.. .. .		555	00	
	14..,, Amount paid for 1,000 tiles and 20 ridges to A. Sivasambo .. .. .		410	00	
	19..,, Amount paid for 1,500 tiles and 50 ridges by lorry .. .. .		655	00	
	,, Amount for loading charges for 3,000 tiles ..		10	50	
	28..By Amount received 19 gals. of petrol to car on 26th June .. .. .				46 55
	,, Amount received on account of Casket to car on do. 29th .. .. .				10 60
	,, Amount received as per 5 gallons of petrol on 6th July .. .. .				12 25
	,, Amount received as per value of barbed wire ,, Rs. 35/- and 15 bags of bran Rs. 81.42 on do. 9th .. .. .				116 42
	,, Amount received for washing car and applying grease .. .. .				10 50
	,, Amount received on do. 16th on account of Sellathamby .. .. .				35 00
	,, Amount received on do. 21st as per petrol gallons 30 .. .. .				73 50
	By Amount received on do. 22nd on accounts of brake-oil from Lingam & Sons .. .. .				15 50
	Rs. ..	889,271	64	409	17

B5. 291.

## Accounts Particulars of Payments and Receipts of Jaffna Shop

1948	Brought forward from page 290	889,271	64	409	17
Nov.	28..By Amount received on do. 31st on account of repairs of engine in Muthurajah's garrage ..			28	80
	,, Amount received on account on petrol and engine oil .. .. .			15	00
	,, Amount received on 1st September from Sellathamby .. .. .			35	00

	Rs.	Cts.	Rs.	Cts.	P41. Ledger "B5" pages 103, 145, 207, 247, 265, 278, 279, 284, 290, 291, 292, 295, 303, 311, 312 and 316 —1.43 to 31.10.49— <i>Continued</i>
By Amount received on do. 6th as per repairs of the car door, and washing .. ..			9	50	
„ Amount received on do. 7th as per 26 gallons of petrol .. ..			63	70	
„ Amount received on do. 9th on account of 7 gallons of petrol and distilled water ..			17	90	
„ Amount received on do. 15 from Sellathamby..			35	00	
„ Amount received on 4th October from do. ..			35	00	
„ Amount received as per value of black board paint for school .. ..			5	50	
„ Amount received on do. 16 from Sellathamby..			35	00	
„ Amount received on do. 18 on account 10 bags of bran .. ..			108	75	
„ Amount received on do. 19th on account of the value of 30 gallons of petrol and distilled water .. ..			75	50	
„ Amount received on do. 30th on account of doing service for the car .. ..			6	00	
„ Amount received on 4th November from Sellathamby .. ..			35	00	
„ Amount received on do. 4th on account of the value of oil .. ..			7	00	
„ Amount received on do. 8th on account of 11 gallons of petrol .. ..			29	98	
„ Amount received on do. 10 from Rajendran for having the school accounts audited ..			15	00	
„ Amount received as per plug for car ..			2	50	
„ Amount received as per railway charges for the bran .. ..			16	06	
„ Amount received on do. 15th from Chelliah ..			35	00	
„ Amount received on do. 18th as per one bag of cotton seed .. ..			13	00	
	Rs. ..	889,271 64	1,033	46	

B5. 292.

**Accounts of Payments and Receipts of Jaffna Shop**

1948	Brought forward from page 291 ..	889,271 64	1,033 46
Nov. 28.	By Amount received on do. 19th as per value of line for school .. ..		12 50
	„ Amount received from Chelliah of Uddupiddy..		10 00
	To Amount paid on 15th October to V. Sinnappu Udaiayar of Atchuvely .. ..	477 00	
	„ Amount paid for the 8,400 flat tiles at the rate of 300 Rs. 2,520/- and 2,400 ridges at 1.50 Rs. 3,000/- .. ..	5,520 00	
30.	By Amount received on account of the works done to the ship—Rs. 20/- Senna Kana Avana Rs. 550/-.. ..		570 00
Dec. 7.	To Amount paid to Thangarajah on account of 2,000 flat tiles and ridges 26 .. ..	992 00	

P41.  
Ledger "B5"  
pages 103, 145,  
207, 247, 265,  
278, 279, 284,  
290, 291, 292,  
295, 303, 311,  
312 and 316  
—1.43 to  
31.10.49—  
Continued

	Rs.	Cts.	Rs.	Cts.
To Amount for 1,300 flat tiles and 50 ridges loaded in the lorry .. .. .	581	00		
11.. ,, Amount paid on account of 1,500 flat tiles ..	555	00		
20.. ,, Amount for 3,000 tiles and 110 ridges and 50 tail broken tiles sent by lorry .. .. .	1,339	00		
22.. ,, Amount for loading 5,910 tiles .. .. .	20	65		
23.. ,, Amount for 4 gallons of petrol for the car ..	9	80		
29.. ,, Amount for 10 gallons of petrol .. .. .	24	50		
31.. By Amount received on 1st for two mammotties ..			11	00
,, Amount from Sellathabmy on 4th .. .. .			35	00
,, Amount received on 8th as per chit to Ramanaatha Iyer .. .. .			50	00
,, Amount received for 33 gallons of petrol .. ..			80	85
,, Amount received on 11th as per bill of Mutturajah for washing and repairs to the car ..			20	00
,, Amount received as per gun licence .. .. .			2	50
,, Amount received on 15th from Sellathamby ..			35	00
Rs. ..	898,590	59	1,860	31

B5. 295.

**Accounts Particulars of Payments and Receipts of Jaffna Shop**

1948	Brought forward from page 292 .. .. .	898,590	59	1,860	31
Dec. 31.. By	Amount received on 22nd for 10 bags of bran ..			110	50
	,, Amount received on 27th on account of wages of carpenters for 10 benches made for the school from Rasiah .. .. .			125	00
	,, Amount received on account of money paid to Abdul Esin Jafegee for tiles .. .. .			33,297	50
	,, Amount received as per accounts of Sundramoorthy .. .. .			3,249	23
	,, Amount received as per accounts of Schooner Athipoorany .. .. .			2,533	06
	,, Amount received as per accounts of Tindal Shanmugam .. .. .			3,664	00
	,, Amount received as per Sivadas's accounts ..			270	00
	,, Amount received as per Shanmugalingam's account .. .. .			266	00
	To Amount paid as per accounts of Pallai Estate ..	7,144	47		
	By Amount received as per accounts of S. V. Rajaratnam .. .. .			39,856	56
	,, Amount received as per accounts of S. V. Rajasegaram .. .. .			3,779	11
	Total Rs. ..	905,735	06	89,011	27

	To balance of payments .. .. .	816,723	79		
1949	Jan. 4.. To	Amount paid for 1,500 flat tiles and 35 ridges ..	625	00	
	5.. ,,	Amount paid for 1,500 flat tiles and 31 ridges ..	617	00	
	6.. ,,	Amount paid for loading tiles .. .. .	10	50	
	25.. ,,	Amount paid .. .. .	5,000	00	

		Rs.	Cts.	Rs.	Cts.	P41.
	To Amount paid to S. T. S. Sivagurunathar for					Ledger "B5"
	1,000 flat tiles and 25 ridges .. ..	420	00			pages 103, 145,
	28.. .. Amount paid .. ..	6,000	00			207, 247, 265,
Feb.	7.. .. Amount paid on account of 800 flat tiles and					278, 279, 284,
	50 ridges to S. Kanthaiyah of Sunnakam .. ..	396	00			290, 291, 292,
	16.. .. Amount paid for loading 850 tiles .. ..		3 00			295, 303, 311,
Mar.	1.. .. Amount paid on account of money received from					312, and 316,
	Ponniah .. ..	391	50			—1.43 to
						31.10.49—
						<i>Continued</i>
		Rs. ..	830,486	79		

B5. 303.

#### Accounts of Payments and Receipts of Jaffna Shop

1949	Brought forward from page 295 .. ..	830,486	79		
Mar.	21.. To Amount for 8 gallons of petrol for the lorry .. ..		19 60		
April	21.. By Amount received .. ..			3,000	00
	23.. .. Amount received .. ..			5,000	00
	25.. To Amount for 6 gallons of petrol for the lorry .. ..		14 70		
	.. Amount for 45 bags of Kodiapuram paddy .. ..	1,415	85		
	.. Amount paid for loading .. ..		1 80		
	26.. By Amount received .. ..			5,000	00
	28.. To Amount paid for 40 bags of Kodiapuram				
	paddy .. ..	1,324	20		
	.. Amount paid for loading .. ..		1 60		
May	1.. .. Value of articles purchased by Shanmugam				
	Tindal for S. Mailvaganam .. ..	48	00		
	2.. By Amount received as per one Indian Bank cheque			15	00
	6.. To Amount paid on account of 1,000 tiles and 50				
	ridges to Vyavillan Subramaniam as per				
	chit .. ..	452	50		
	.. Amount paid for loading charges .. ..		7 70		
	7.. By Amount received from K. Arumugasamy .. ..			70	00
	8.. To Amount paid on account of tiles 1,000 and				
	ridges 75, 50 head broken tiles 50 tail broken				
	tiles to Subramaniam of Vyavilan .. ..	519	25		
	23.. By Amount received as per 3 Bank of Ceylon Draft				
	for the freight of the Tuticorin boats that				
	brought tiles to Point Pedro .. ..			2,955	00
	29.. .. Amount received on 3rd January from Sella-				
	thamby .. ..			35	00
	.. Amount on 10th for 15 gallons of petrol .. ..			36	75
	.. Amount on the 12th Service to the car .. ..			7	50
	.. Amount received on 17th from Sellathamby .. ..			35	00
June	15.. .. Amount received on account of chit given for				
	the payment to be made to K. Sinnathamby.. ..			3,400	00
Aug.	9.. To Amount for 580 tiles, 50 ridges and 25 half				
	tiles to Gopal of Valvetty .. ..	256	55		
		Rs. ..	834,617	69	19,554 25

P41.  
Lodger "B5"  
pages 103, 145,  
207, 247, 265,  
278, 279, 284,  
290, 291, 292,  
295, 303, 311,  
312 and 316  
—1.43 to  
31.10.49—  
Continued

### Accounts Particulars of Payments and Receipts of Jaffna Shop

B5. 311.

	Rs.	Cts.	Rs.	Cts.
Brought forward from page 303 ..	834,617	69	19,554	25
1949				
Aug. 31..By Amount received on 31st January on account of 10 bags of bran. Rs. 111.25, one bag of cotton seed Rs. 13.51 and wages -/55 cts. .. .. .			125	31
„ Amount received from Sellathamby on April 3rd			35	00
„ Amount received on account of petrol on 8th ..			28	45
„ Amount received on account of washing car on 12th .. .. .			10	50
„ Amount received on account of 10 bags of bran..			95	50
„ Amount received on account of 19 gallons of petrol on 24th March .. .. .			46	55
„ Amount received on account of petrol ..			24	05
„ Amount received on account of repairs and washing car in Muthurajah's carriage ..			59	50
„ Amount received on account of engine oil on 20th .. .. .			7	50
„ Amount received on account of expenses of money sent for the tiles brought by boat No. 94 on 25th .. .. .			34	58
„ Amount received on account of the expenses for sending money for the tiles brought by boat No. 60 .. .. .			31	16
„ Amount received on 27th on account of one bag of cotton seed .. .. .			12	60
„ Amount received on account of battery for car from Samuel & Sons on 29th .. .. .			200	00
„ Amount received on account of 40 gallons of petrol on 2nd June .. .. .			98	00
„ Amount received on account of 5 bags of bran and one cotton seed .. .. .			65	63
„ Amount received on account of oil for car ..			7	50
„ Amount received on 2nd July on account of washing the car and applying grease in Mnthuraha's garage .. .. .			13	50
	Rs. ..	834,617 69	20,498	58

B5. 312.

### Accounts of Payments and Receipts of the Jaffna Shop

1949				
Brought forward from page 311 ..	834,617	69	20,498	58
Aug. 31..By Amount as per accounts dated 5.4.49 of the Standard Co. including half the freight Rs. 1,215/- .. .. .			7,548	77
„ Amount on account of 47,000 flat tiles, 1,000 ridges $\frac{1}{2}$ the freight Rs. 1,455/- as per accounts dated 5.4.49 .. .. .			9,014	33



	Rs.	Cts.	Rs.	Cts.	P41.
By Amount on account of 35,000 flat tiles 3,000 ridges 500 half tiles brought by boat No. 60 and $\frac{1}{2}$ freight Rs. 1,113 as per accounts of do. dated 11.4.49 .. .. .			7,779	52	Ledger "B5" pages 103, 145, 207, 247, 265, 278, 279, 284, 290, 291, 292, 295, 303, 311, 312 and 316
„ Amounts received on account of 23 gallons of petrol on do. 8th .. .. .			56	35	—1.43 to
„ Amount received on account of bulb on 18th .. .. .			1	00	31.10.49—
„ Amount received on repairing tyre on 26th .. .. .			3	00	Continued
„ Amount received for 5 bags of bran on 2nd August .. .. .			46	50	
„ Amount received on 4th on account of 4 bags of bran .. .. .			35	25	
„ Amount for petrol on 9th .. .. .			46	90	
„ Amount received as per 1 cheque for tyre and tube for car .. .. .			126	00	
„ Amount received for railway charge for tyre and tube .. .. .			7	35	
„ Amount received for engine oil on 26th .. .. .			7	50	
To Amount paid for freight for 625,000 tiles at the rate 75 by Schooner Athipoorany on 26th by her 1st trip .. .. .			468	50	
„ Amount paid as freight for the 64,000 tiles at the rate of 65/- by her in her 2nd trip .. .. .			4,160	00	
	Total Rs. ..		843,465	19	45,171 05
	To balance of payment .. .. .		798,294	14	
Sept. 5..By Amount received .. .. .				100	00
17.. „ Amount received on account of 23 gallons of petrol .. .. .				69	35
	Rs. ..		798,294	14	169 35

B5. 316.

**Accounts of Payments and Receipts of the Jaffna Shop**

1949	Brought forward from page 312 .. .. .	798,294	14	169	35
Oct. 7..	By Amount received .. .. .			3,000	00
8..	To Amount for 6 gallons of petrol for lorry .. .. .	14	70		
	By Amount on account of one gallon petrol for lorry .. .. .	2	45		
	By Amount received on account of plug and oil for car .. .. .			10	00
12..	„ Amount on account of 12 gallons of petrol for car .. .. .			30	15
19..	To Amount on account of 1,250 tiles to M. Sittampalam of Karavaddy .. .. .	450	00		
	By Amount to repairs in Mutturajah's Garage .. .. .			22	50
31..	„ Amount received on account of 1 bag punac in Kuna Navana .. .. .			27	12

Translated :  
(Sgd.) Illegibly.

P20.  
Ledger "M"  
pages 194, 277,  
368, 470 and  
361  
15.2.43 to  
31.12.43

## P20.

## Ledger "M" pages 194, 277, 368, 470 and 361

M. 194.

V. RAJASEGARAM

	Rs.	Cts.	Rs.	Cts.
1943				
			Brought forward from K. page 355	..
	13,960	59		
Feb. 15..	To	Amount paid for the purchase of Keniaddythodam in Siviatheru from Kathiravellu Subramaniam Cash Rs. 2,000/-, Mercantile Bank Cheque No. 150938, Rs. 3,500/-		
			Do. No. 150939, Rs. 2,000/-	..
				7,500 00
27..	..	Amount paid to Proctor Somasuntharam for the expenses for the execution of deeds for the Keniaddythodam purchased from Kathiravellu Subramaniam.		
			Stamps Rs. 123/-	
			Fees Rs. 52/-	.. ..
				175 00
			Total payments	..
			21,635	59
April 14..	By	Amount received from K. Subramaniam being rent for Keniyaddythodam		
				10 00
			To balance of payments	.. ..
			21,625	59
Nov. 10..	To	Amount paid on 29th October by P. Shop for the War Savings Certificate got in favour of do. person		
				850 00
			Total payments	Rs. ..
			22,475	59
Dec. 21..	By	Amount received from the Ceylon Bank as profit from 1942 to the end of September, 1943 No. 2073		
				20 40
28..	..	Amount received on account of rent of shop, Parankitheru godown for 12 months from January 15th to the end of December, 1943..		800 00
	..	Amount received on account of rent of Periakadai godown for 12 months from January to the end of December, 1943, 1/3rd of $\frac{1}{2}$ (i.e. 1/6th share)		
				200 00
31..	To	Amount paid for the field called "Nanchuthinny" purchased at Pallai		
			Rs. ..	22,475 59
				1,020 40

## Ledger M. page 277

## V. Rajasegaram

		Rs.	Cts.	Rs.	Cts.
1943	Brought forward .. ..	22,475	59	1,020	40
Dec. 31..	To Amount paid for do's share out of Rs. 840 being writing fees .. ..		420		00
	Total Rs. ..	22,895	59	1,020	40
	To amount of balance .. ..	21,875	19		
1944					
May 15..	., Amount paid as per Chartered Bank cheque bearing No. 655738 as application fees for 16 shares of Bank of Ceylon .. ..		160		00
	Total payments ..	22,035	19		
June 15..	., Amount of money for one Chartered Bank cheque No. 655748 sent to Bank of Ceylon ..		640		00
	Total payments Rs. ..	22,035	19		
June 18..	., Amount of money sent to Bank of Ceylon for 4 shares as per one cheque .. ..		200		00
	Total payments Rs. ..	22,875	19		
Nov. 14..	., Amount paid as per one Chartered Bank cheque to Postmaster-General, Colombo (for 5 shares of Rs. 1,000/-) of Ceylon Savings Certificate..	4,250	00		
25..	., Amount paid for 4 shares of Saving Certificate of Rs. 1,000/- each in the name of do., by P. Shop on 16th November .. ..			200	00
	Total payments Rs. ..	30,525	19	1,061	20
Dec. 15..	By Amount received as per cheque Warrant No. 2027 out of dividend money from the Ceylon Bank .. ..			61	20
29..	., Amount received as rent of Parangi Theru godown from January to December 12 of 1944 .. ..			800	00
	., Amount received from Periakadai godown from January till the end of December, 1944 for 12 months for $\frac{1}{2}$ of $\frac{1}{3}$ rd that is $\frac{1}{6}$ th share..			200	00
	Rs. ..	30,525	19	1,061	20

P20.  
Ledger "M"  
pages 194, 277,  
368, 470 and  
361  
15.2.43 to  
31.12.43—  
Continued

P20.  
Ledger "M"  
pages 194, 277,  
368, 470 and  
361  
15.2.43 to  
31.12.43—  
Continued

Ledger M. Page 368.

## V. Rajasegaram

		Rs.	Cts.	Rs.	Cts.
1944					
Dec.	Brought forward from page 277	..	30,525 19	1,061	20
<hr/>					
1945	To amount of balance	..	29,463 99		
Dec.	2..By Amount received on account of interest of 1944 from the Ceylon Government 3% national Loan 62.50	..		38	75
	22..,, Amount received as per sale of Kerniyadiththoddam at Siviyaitheru	..		7,600	00
<hr/>					
	Total Rs.	..	29,463 99		
	To amount of balance payment	..	21,825 24		
June	8..To Amount paid for the purchase of 50 shares of Vadamaradchy Co-operative Motor Service Society Ltd. 250.00..	..			
	Entrance fees 2.00..	..	252	00	
<hr/>					
	Total payments	Rs.	22,077 24		
Aug.	2..By Amount received out of interest as per warrant No. 39/50 out of the account of the Ceylon Government 3% National Loan, for the year 1954	..		51	61
	6..,, Amount received as per one warrant No. 49/50 out of National Loan 1954 account	..		112	50
<hr/>					
	Total Rs.	..	22,077 24	164	11
<hr/> <hr/>					
	To amount of balance payment	..	21,913 13		
Dec.	17..,, Amount received as per one Warrant No. D.W. 196 of the Ceylon Bank	..			
	29..,, Amount received as rent of Parangitheru godown for 12 months from January to the end of December, 1945	..		800	00
	,, Amount received on account of Periyakadai godown for the months from January till the end of December, 1945, 1/2 of 1/3rd that is 1/6th share	..		200	00
<hr/>					
	Total Rs.	..	219,131 13	1,059	76
	To amount of Balance payment	..	20,853 37		
1946					
Jan.	21..To Amount of money deposited in the Kachcheri out of Ceylon Savings Bank account	..	3,000	00	
<hr/>					
	Total payments	..	23,853 37		
<hr/> <hr/>					



P20.  
Ledger "M"  
pages 194, 277,  
368, 470 and  
461  
15.2.43 to  
31.12.43—  
Continued

		V. Rajaratnam		M. 361.	
		Rs.	Cts.	Rs.	Cts.
1944	Brought forward from Ledger T. page 323 ..			1,740	00
Dec. 29..	By Amount received on account of the rent of Periakadai godown for 12 months from January till the end of December, 1944, for 1/3rd share .. .. .				400 00
	Total receipts .. .. .			2,140	00
1945	Dec. 29..	By	Amount received on account of the rent of Periakadai godown for 12 months from January to the end of December, 1945, for 1/3rd share .. .. .		400 00
	Total receipts .. .. .			2,140	00
1946	Dec. 30..	..	Amount received on account of the rent of Periakadai godown for 12 months from January to the end of December, 1946, for 1/3rd share .. .. .		400 00
	31..	..	Amount received on advanced rate, the rent of Periakadai godown for 12 months from January to the end of December, 1946 .. .. .		200 00
	Total receipts .. .. .			3,140	00
1947	Sept. 30..	To	Amount of rent of do. godown, paid as written off out of the P. Shop's account .. .. .	3,140	00
O. 222				3,140 00	3,140 00
	Translated :				
	(Sgd.) Illegibly.				

D26.  
Application to  
the Bank of  
Ceylon signed  
by Plaintiff  
and Defendant  
as Partners  
2.2.45

**D26.**  
**Application to The Bank of Ceylon, signed by Plaintiff  
and Defendant as Partners**

To Bank of Ceylon,  
Jaffna.

Jaffna,  
2nd February, 1945.

We, the undersigned Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram being the individual partners in the Firm of S. Veeragathipillai & Sons, Jaffna, hereby request and authorise you to honour our respective signatures on behalf of our said Firm as shown below.

We also request and authorise you until anyone of us shall give you notice in writing to the contrary, to honour all cheques or other orders which may be drawn, or bills accepted, or notes made, or receipts

for moneys owing by you to us, signed by any one of us, either in the name of the Firm or in his own name, on behalf of the Firm or otherwise and to debit such cheques, orders, bills, notes, and receipts to our said Firm's account or accounts with you, whether such account or accounts be for the time being in credit or overdrawn.

We also request and authorise you, until one of us shall give you notice in writing to the contrary, to accept the signature of any one of us either in the name of the Firm or in his own name on behalf of the Firm or otherwise on all other documents of every kind, and we 10 agree that every such document so signed in which the Bank is or may become interested, shall have the same effect as if signed by each of us individually.

We also request you to accept the endorsement of any one of us either in the name of the Firm or in his own name on behalf of the Firm or otherwise to cheques or other orders, bills and notes.

The above authorities are continuing notwithstanding the admission of any additional partner or partners to the Firm, or any other change in the Firm.

We agree that we shall be jointly and severally, liable for any 20 liability created by any individual partner under these authorities to you.

This authority shall in all respect be interpreted in accordance with the Law of Ceylon.

(Sgd.) V. RAJARATNAM.

(Sgd.) V. RAJASEGARAM

On a Fifty Cents Stamp.

Veeragathipillai Rajaratnam will sign : V. Rajaratnam.

Veeragathipillai Rajasegaram will sign : V. Rajasegaram.

D26.  
Application to  
the Bank of  
Ceylon signed  
by Plaintiff and  
Defendant as  
Partners  
2.2.45---  
Continued

**D39.**

30 **Plaint, Proxy, Evidence of V. Rajaratnam, filed in D.C.  
Jaffna 2355.**

D39.  
Plaint, Proxy,  
Evidence of V.  
Rajaratnam  
filed in D.C.  
Jaffna 2355  
17.3.45

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

Veeragathipillai Rajaratnam of Thondamannar.  
.....*Plaintiff*

No. 2355/P.

*vs.*

1. Kanagaratnam Kurukularatnam.
2. Thangammah, widow of Kanagaratnam  
both of Thondamannar.....  
.....*Defendants.*

D39.

Plaint, Proxy,  
Evidence of V.  
Rajaratnam  
filed in D.C.  
Jaffna 2355  
17.3.45—  
*Continued*

This 17th day of March, 1945.

The Plaintiff of the abovenamed plaintiff appearing by M. Esurapadham, his Proctor, states as follows :—

1. By a writing obligatory dated the 9th day of April, 1935, the defendants at Thondamannar, within the Jurisdiction of this Court bound themselves jointly and severally to pay the plaintiff Principal sum of rupees One Thousand Five Hundred (Rs. 1,500/-) together with interest thereon at the rate of 9 per cent per annum from the aforesaid date of the said writing.

2. For securing the payment of the said principal and interest 10 the defendants mortgaged with the plaintiff the property described in the schedule hereto.

3. Subsequently the defendants paid the plaintiff the sum of Rs. 405/- out of the interest due on the said writing obligatory in three instalments of Rs. 135/- on 24th day of April, 1935 ; Rs. 135/- on 3rd March, 1940 and Rs. 135/- on 24th June, 1941.

4. There is now due from the defendants to the plaintiff the sum of Rs. 2,433/75 for principal and balance interest on the said writing.

5. The plaintiff demanded payment of the same but the defend- 20 ants failed to pay.

6. The land No. 4 described in the schedule I hereto was subsequently partitioned in case No. 1262/P of this Court and the divided shares described in schedule II hereto were allotted to the 1st defendant in lieu of the undivided share originally held by him.

Wherefore the plaintiff prays :—

- (a) that the defendants be ordered to pay the plaintiff the sum of the Rupees Two Thousand Four Hundred and Thirty-Three and cents seventy-five (Rs. 2,433/75) with interest on Rs. 1,500/- at 9 per cent per annum from the date of this action till date of decree and thereafter on the aggre- 30 gate amount at 9 per cent per annum till payment in full and also the costs of this action on some date to be named by the Court.
- (b) that in default of payment the lands Nos. 1, 2, 3 and 5 described in the schedule thereto and the lands in schedule I be declared specially and primarily bound and executable against all the defendants for the payment of the said sum of Rs. 2,433/75 interest and costs ;
- (c) that in default of payment of the said amount interest and costs on the day named by the Court , the 1-3, and 5 lands 40 in the schedule thereto and the lands described in schedule 11, hereto fully described be sold by public auction by a



Commissioner at the spot or at any other place named by the Court after due advertisement as set out in the scheme of advertisement and upon the Conditions of Sale both hereto annexed marked respectively " B " and " C ".

D39.  
Plaint, Proxy,  
Evidence of V.  
Rajaratnam  
filed in D.C.  
Jaffna 2355  
17.3.45—  
*Continued*

(d) that the said Commissioner be directed—

(1) to put up the said lands for sale first at the amount of his valuation and if there be no bidders at such amount then at the aggregate amount of the plaintiff's claim, interest and costs and in the event of there being no bidders at such sale then immediately thereafter to the highest bidder.

10

(2) to allow the plaintiff or anyone else on his behalf to bid for and purchase the said land or any of them at such sale upon such terms as to credit or otherwise as the Court may impose.

(e) that the Secretary for the time being of this Court or the clerk of this Court be authorised and directed to execute a conveyance or conveyances in favour of the purchaser or purchasers on such purchaser or purchasers complying with the conditions of sale and producing an order of this Court confirming the sale or sales ;

20

(f) that the proceeds of sale be applied in and towards the payment of the plaintiff's claim interest and costs and if such proceeds be insufficient for the payment of the said claim interest and costs that the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at 9% per annum till payment in full ;

(g) that the Court do reserve to itself in the Decree to be entered in this action power to give such other directions as may be necessary and proper as to the person to conduct the sale, the place, conditions and advertisement of the said sale the form of the conveyance in favour of the purchaser or purchasers, the delivery of possession to the purchaser or purchasers and the removal of any person bound by the decree from the said lands ;

30

(h) for such other and further relief in the premises as to this Court shall seem meet.

(Sgd.) M. ESURAPADHAM,  
*Proctor for Plaintiff.*

Memorandum of document annexed hereto.

40 1. A writing obligatory dated the 9th day of April, 1935, and attested by V. Sabaratnam, N.P., under No. 13839. Marked " A ".

D39.

Plaint, Proxy,  
Evidence of V.  
Rajaratnam  
filed in D.C.  
Jaffna 2355  
17.3.45—  
*Continued*

2. Conditions of sale " B ".
3. Scheme of Advertisement " C ".

(Sgd.) M. ESURAPADHAM,  
*Proctor for Plaintiff.*

Know all men by these presents that I, Veeragathipillai Rajaratnam of Thondaimannar, have nominated, constituted and appointed and do hereby nominate, constitute and appoint Mr. M. Esurapadham, Proctor of th Hon'ble 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 Court of Jaffna to appear and therein to sue Kanagaratnam Kurukularatnam and Thangammah, widow of Kanagaratnam both of Thondaimannar, for the recovery of the amount due on a mortgage bond No. 13839, dated 9th, April, 1935, and attested by V. Sabaratnam, Notary Public, for Rs. 1,500/- with interest thereon at the rate of 9 per cent per annum to recover further interest to carry on the necessary proceedings thereon to recover costs and generally to do all things needful and necessary in the premises. And to receive and take all moneys that may be recovered, deposited or paid in the suit 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 10 Court for payment of any sum or sums of money that may be so recovered paid or deposited therein and to give all necessary receipts, releases and discharges therefore and if need be to refer the said claim and all or any matter 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 seem necessary. And generally and otherwise to take all such lawful ways and means 20 and to do and perform all such acts, matters and things as may be useful 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 or order, or a definitive sentence, or final decree to be made and interpose therein, 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 proceedings for prosecution of appeal or for appearance or for the performance of any order or judgment of the said Court for me and in my name and as my act and deed to sign and 30 deliver and appoint, if necessary, one or more substitute or substitutes, Advocate or Advocates both in the District Court and in the Supreme Court, and sign at pleasure to revoke such appointment and appoint anew, and also if the said Proctor or Proctors shall see cause the said action or suit to discontinue, compromise settle or refer to arbitra-

tion and every such compromise settlement or reference in my name and on my behalf to settle and sign. I hereby promising to release all kinds of irregularities and to ratify, allow and confirm all and whatsoever the said Proctor or Proctors, his or their substitute or substitutes or the said Advocate or Advocates shall do herein.

In witness whereof I hereunto set my hand at Point Pedro this 12th day of March, 1945. The address of the said Proctor for the service of Process under the Provisions of the Civil Procedure Code is at his office at Point Pedro.

10 Witnesses.

(Sgd.) V. RAJARATNAM.

24.11.48.

(Mortgage Bond) Ex parte Trial.

Mr. M. Esurapadham for plaintiff.

Veeragathipillai Rajaratnam. Affirmed. Age 57. Trader, Thondamannar. I am the plaintiff in this case. By mortgage bond No. 13838 of 9.4.1935, the defendants mortgaged the property described in the schedule to the plaint for the sum of Rs. 1,500/- and interest at 9% per annum. Subsequently the defendant paid me a  
20 sum of Rs. 405/- out of the interest in three instalments of Rs. 135/- each. Then I instituted this action. After the institution of this action the defendants have paid me Rs. 400/- on 2.10.1946 Rs. 250/- on 30.12.1946 and Rs. 600/- on 11.8.1948. The balance amount is still due. In all he has paid me Rs. 1,655/-.

(Sgd.) S. R. WIJAYATILAKE,

24-11-48

*D. J.*

Statement showing amount due on 1.12.48.

(Intld.) S. R. W.

*D. J.*

30 24.11.48.

*Order*

On the evidence before me which I accept, I enter Judgment for plaintiff in a sum of Rs. 1,686/79 cents with legal interest from this date till payment. The plaintiff will be entitled to costs of this action. Enter decree accordingly.

(Sgd.) S. R. WIJAYATILAKE,

*District Judge.*

*Journal*

× × × × × ×

31.7.46.

40 Mr. M. Esurapadham for plaintiff files affidavit of the plaintiff's attorney together with a certified copy of the Power of Attorney and

D39.  
 Plaint, Proxy,  
 Evidence of V.  
 Rajaratnam  
 filed in D.C.  
 Jaffna 2355  
 17.3.45—  
*Continued*

moves for substituted service of summons on the 1st defendant by delivering the summons to his mother the 2nd defendant in terms of Section 66 of the C.P.C.

Allowed.

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

D39A.  
 Power of Attor-  
 ney of V. Raja-  
 ratnam and  
 affidavit of V.  
 Rajasingham  
 22.7.45

**D39A.**

**Power of Attorney of V. Rajaratnam and Affidavit of  
 V. Rajasingham filed in D.C. Jaffna 2355**

No. 647/22.7.45.

10

To all to whom these presents shall come I, Veeragathipillai Rajaratnam of Thondamannar in Jaffna in the Island of Ceylon, send greeting :—

Whereas I am about to leave the said Island and to remain for some time in parts beyond the seas. And whereas I am desirous of appointing some fit and proper person as my attorney to manage and transact all my business and affairs in the said Island during my absence therefrom.

Now know ye and these presents witness that I the said Veeragathipillai Rajaratnam, do hereby nominate, constitute and appoint my brother Vederagathipillai Rajasegaram of Thondamannar my true and lawful attorney in Ceylon during my absence therefrom to act for me and on my behalf and in my name or otherwise for all and each and every or any of the following purposes.

To superintend, manage, and control the houses, lands, estate and other landed property which I now am or hereafter may be possessed of or entitled to.

To sell and dispose of or to mortgage and hypothecate or to demise and lease or to convey by way or exchange or otherwise the houses, lands, estates and other landed property which I now am or hereafter may be possessed of or entitled to or any part or parts thereof divided or undivided.

To sell and dispose of or to ship and consign for sale elsewhere the crops and produce of the estate which I now am or hereafter may be possessed of or entitled to.

To mortgage the crops and produce of my estates together with the buildings, tools, implements, machinery, live and dead stock on the said estates or thereunto belonging as security for advances against crops or otherwise.

To call for or to give and consent to a partition of the same or any of them or any portion of them or any of them between me and the other proprietor or proprietors thereof and to enter into any deed or deeds of partnership between me and the other proprietor or proprietors thereof.

D39A.  
Power of Attorney of V. Rajaratnam and affidavit of V. Rajasingham  
22.7.45--  
*Continued*

To purchase for me, to take on lease for me, any estates, lands, tenements or hereditaments my said Attorney shall think fit and proper.

In the event of any sale, mortgage, lease, exchange, purchase, partition or partnership for me and in my name and as my act and deed to sign, seal, execute and deliver all deeds, cash, credit, bonds, instruments and other writings necessary for giving effect and validity to the same respectively or to any contract, agreement, bargain or promise for effecting the same.

To ask, demand, sue for, recover and receive of and from all persons liable to pay and deliver the same respectively all and every sums and sum of money, debts, dues, legacies, goods, chattels, effects and things now owing or payable coming or belonging to me or which shall or may at any time hereafter be owing, coming or belonging to me and on payment or delivery thereof to give, sign and execute receipts, releases and other discharges for the same respectively and thereupon to manage, employ and deal with the same as I myself could or might lawfully do if personally present and on non-payment or non delivery thereof or any part thereof to commence carry on and prosecute any action, suit or other proceedings whatsoever for receiving and compelling the payment or delivery thereof.

To transpose or transfer and in due form of law to assign, mortgage bonds, decrees or other securities for money belonging to me and to sign all necessary deeds in that behalf.

To consent to any mortgage or mortgages in my favour standing postponed to and ranking after any mortgage or mortgages to be granted subsequent to the dates of the said mortgage or mortgages in my favour and to sign all deeds necessary in that behalf.

To state finally, settle and adjust all accounts, reckoning and demands whatsoever between me and any person or persons whomsoever.

To compromise disputes and differences and to refer and submit matters to arbitration and to sign and execute all necessary bonds, submissions and references therefor and to enforce any award.

To sell and convert into moneys any goods, effects or things which now belong or at any time hereafter shall belong to me.

D39A.  
 Power of Attorney of V. Rajaratnam and affidavit of V. Rajasingham 22.7.45—  
*Continued*

To invest the moneys which now belong or at any time hereafter may belong to me upon such security as my said Attorney shall consider good and sufficient and from time to time to vary the said investment or to release such security.

To appear for me before any Court or Courts of Justice either as plaintiff, defendant, added party, petitioner for respondent and to sign and grant all necessary appointment or appointments to any 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 brought by or against me and to proceed to judgment 10 thereon or to suffer judgment by default to be entered against me and against any order or decree of any of the said Courts to appeal and to prosecute such appeal before the Supreme Court of the said Island and from any judgment order or decree of the said Supreme Court to appeal to His Majesty the King in Council and to give all necessary securities and to sign all necessary bonds upon such appeals.

To prove any debts due to me by any person or persons who shall or may be adjudged insolvent and to vote in the appointment of assignees and accept any offer of composition and to represent and act for me in insolvency proceedings. 20

To sign, make, endorse and accept any bill or bills of exchange, promissory note or notes, bills of lading, drafts or orders for money and to sign or endorse cheques for the purpose of drawing money out of any of the banks in this Island.

To become security to any person for the purpose of raising money for any purpose whatsoever.

To enter into and execute any covenants, bonds, assignments of bonds, mortgages or other securities and warrants and powers of Attorney for confessing judgment in any of the Courts in the said Island. 30

To endorse all orders of payment whether Kachcheri Orders, Fiscal's Orders, Post Office or Postal Orders.

To attend any meeting of any company or companies wherein I am or hereafter may be a shareholder and vote for me on any subject matter or question that may be brought forward at any such meeting at which by the rules and regulations of any company I could or might vote if personally present and to grant any proxy or proxies to any other person or persons to vote on my behalf for any of the said purposes and generally to act for me and do and execute any and every act, matter or things in respect of the assignment or transfer 40 of my shares in any company or in respect of the liquidation or winding up of any such company or otherwise as shall or may be found necessary or expedient. Generally to do execute and perform all such further

and other acts, deeds, matters and things whatsoever which my said Attorney shall or may think necessary or proper to be done in about or concerning my business, estates, lands, houses, debts or affairs as fully and effectually to all intents and purposes as I myself might or could do if I were personally present and did the same in my proper person it being by my intent and desire that all matters and things respecting the same and every of them shall be under the full management, control and direction of my said attorney.

D39A.  
Power of Attorney of V. Rajaratnam and affidavit of V. Rajasingham  
22.7.45—  
*Continued*

10 And for more effectually doing, effecting, executing and performing the several matters and things aforesaid I give and grant unto my said Attorney full power and authority from time to time to appoint one or more substitute or substitutes to do, execute and perform all or any of the matters and things aforesaid and such substitute or substitutes at pleasure to remove and to appoint another or others in his or their place or places, hereby promising and agreeing to ratify, allow and confirm all and whatsoever my said Attorney or his substitute or substitutes shall lawfully do or cause to be done in the premises by virtue hereof.

20 And I do hereby direct that all acts which shall be had made or done by my said Attorney or his substitute or substitutes and any other person or persons before he or they shall have received notice of my death or the revocation of the authority contained in these presents shall be as binding and valid to all intents and purposes as if the same had taken place previous to my death or before such revocation any rule of law or equity to the contrary notwithstanding.

In witness whereof I, the said Veeragathipillai Rajaratnam have hereunto and to two others of the same tenor and date as these presents set my hand at Thondamannar this twenty-second day of July in the year One Thousand Nine Hundred and Forty-five.

30 (Sgd.) V. RAJARATNAM.

*Witnesses :*

(Sgd.) T. MUTTUTHAMBY.

(Sgd.) R. SUNDARAMOORTHY.

(SEAL) (Sgd.) K. RATNASINGHAM,  
*Notary Public.*

I, Kulandaivel Ratnasingham, within the Judicial Division of Point Pedro, Ceylon, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained unto the said Veeragathipillai Rajaratnam who is known to  
40 me in the presence of Thambiah Muthutamby and Rajaratnam Sundaramoorthy both of Thondamannar the subscribing witnesses thereto who are also known to me the same was signed by the said executant and also by the said witnesses in my presence and in the presence of one another all being present at the same time at Thonda-

D39A.  
Power of Attor-  
ney of V. Raja-  
ratnam and  
affidavit of V.  
Rajasingham  
22.7.45—  
*Continued*

mannar on the 22nd day of July in the year of Our Lord One Thousand Nine Hundred and Forty-five.

I further certify that the duplicate bears one stamp of the value of Rs. 5/-.

Date of attestation.  
22nd July, 1945.

(SEAL) (Sgd.) K. RATNASINGHAM,  
*Notary Public.*

*True Copy*

(Sgd.) K. RATNASINGHAM, 10  
*Notary Public.*  
25.6.46.

IN THE DISTRICT COURT OF JAFFNA  
HELD AT POINT PEDRO

No. 2355/P.

I, Veeragathipillai Rajasingham of Thondamannar, do hereby solemnly, sincerely and truly affirm and declare as follows:—

1. I am the Attorney of the plaintiff in this case.
2. Summons was issued and re-issued for service on the 1st defendant but the Fiscal has been unable to effect personal service 20 thereof as the defendant could not be found.
3. The 1st defendant was residing in Malaya before the out-break of the war but his present whereabouts are not known to anybody nor has he been heard of anywhere.
4. The said 1st defendant has not appointed any agent or Attorney to accept service of Process on his behalf.
5. It is therefore not practicable to effect service of summons on the said 1st defendant.
6. The said 1st defendant's mother Thangammah, widow of Kanagaratnam of Thondamannar is as agent of the said 1st defendant 30 in occupation of the mortgage property.
7. It is therefore necessary that substituted service of summons should be effected on the said 1st defendant by delivering the summons to the said Thangammah who is the 2nd defendant in this case.

Affirmed at Point Pedro

This 25th day of July, 1946.

(Sgd.) V. RAJASEGARAN.

*Drawn by :*

(Sgd.) M. ESURAPADHAM,  
*Proctor for plaintiff.*

*Before me :*

(Sgd.) G . . . . .  
J. P.



True copy of the plaint without schedule, Proxy granted by Mr. Mr. V. Rajaratnam to Mr. M. Esurapadham, Proctor, S.C., Proceedings of 24.11.48, J.E. of 3.7.46, Power of Attorney, and affidavit of Mr. V. Rajasekeram in Case No. D.C. 2355, Jaffna (held at Pt. Pedro).

(Sgd.) A. SIVA SANMUGAM,  
*for Secretary.*

District Court,  
Point Pedro.  
6th January, 1954.

D39A.  
Power of Attor-  
ney of V. Raja-  
ratnam and  
affidavit of V.  
Rajasingham  
22.7.45—  
*Continued*

10

P32.

**Power of Attorney No. 647**

Application No. 1194/1.7.52.

The duplicate bears 1 stamp to the value of Rs. 5/-.

No. 647.

To all to whom these presents shall come I, Veeragathipillai Rajaratnam of Thondamannar in Jaffna in the Island of Ceylon, send greetings.

Whereas I am about to leave the said Island and to remain for some time in parts beyond the seas.

20 And whereas I am desirous of appointing some fit and proper person as my attorney to manage and transact all my business and affairs in the said Island during my absence therefrom.

Now know ye and these presents witness that I the said Veeragathipillai Rajaratnam do hereby nominate, constitute and appoint my brother Veeragathipillai Rajasegaram of Thondamannar my true and lawful Attorney in Ceylon during my absence therefrom to Act for me and on my behalf and in my name or otherwise for all and every or any of the following purposes :—

30 To superintend, manage and control the houses, lands, estates and other landed property which I now am or hereafter may be possessed of or entitled to.

To sell and dispose of or to mortgage and hypothecate or to demise and lease or to convey by way of exchange or otherwise the houses, lands, estates and other landed property which I now am or hereafter may be possessed of or entitled to or any part or parts thereof divided or undivided.

To sell and dispose of or to ship and consign for sale elsewhere the crops and produce of the estates which I now am or hereafter may be possessed of or entitled to.

P32.  
Power of  
Attorney  
No. 647  
22.7.45

P32.  
Power of  
Attorney  
No. 647  
22.7.45—  
*Continued*

To mortgage the crops and produce of my estates together with the buildings, tools, implements, machinery, live and dead stock on the said estates or thereunto belonging as security for advances against crops or otherwise.

To call for or to give and consent to a partition of the same or any of them or any portion of them or any of them between me and the other proprietor or proprietors thereof and to enter into any deed or deeds of partnership between me and the other proprietor or proprietors thereof.

To purchase for me or to take on lease for me any estates, lands, 10  
tenements or hereditaments my said Attorney shall think fit and proper.

In the event of any sale, mortgage, lease, exchange, purchase, partition or partnership for me and in my name and as my act and deed to sign, seal, execute and deliver all deeds, cash, credit, bonds, instruments and other writings necessary for giving effect and validity to the same respectively or to any contract, agreement, bargain or promise for effecting the same.

To ask, demand, sue for recover and receive of and from all persons liable to pay and deliver the same respectively all and every 20  
sums and sum of money, debts, dues, legacies, goods, chattels, effects and things now owing or payable, coming or belonging to me or which shall or may at any time hereafter be owing, coming or belonging to me and on payment or delivery thereof to give, sign and execute receipts, releases and other discharges for the same respectively and thereupon to manage, employ and deal with the same as I myself could or might lawfully do if personally present and on non-payment or non-delivery thereof or any part thereof to commence, carry on and prosecute any action, suit or other proceeding whatsoever for receiving and compelling the payment or delivery thereof. 30

To transpose or transfer and in due form of law to assign, mortgage bonds, decrees or other securities for money belonging to me and to assign all necessary deeds in that behalf.

To consent to any mortgage or mortgages in my favour standing, postponed to and ranking after any mortgage or mortgages to be granted subsequent to the dates of the said mortgage or mortgages in my favour and to assign all deeds necessary in that behalf.

To state finally, settle and adjust all accounts, reckonings and demands whatsoever between me and any person or persons whomsoever. 40

To compromise disputes and differences and to refer and submit matters to arbitration and to sign and execute all necessary bonds, submissions and references therefor and to enforce any award.

To sell and to convert into moneys any goods, effects or things which now belong or at any time hereafter shall belong to me.

P32-  
Power of  
Attorney  
No. 647  
22.7.45—  
*Continued*

To invest the moneys which now belong or at any time hereafter may belong to me upon such security as my Attorney shall consider good and sufficient and from time to time to vary the said investment or to release such security.

To appear for me before any Courts of Justice either as plaintiff, defendant, added party, petitioner or respondent and to sign and grant all necessary appointment or appointments to any proctor or  
10 proctors of the Courts and the same from time to time to recall and revoke and to prosecute or defend any suit or suits or other proceedings brought by or against me and to proceed to judgment thereon or to suffer judgment by default to be entered against me and against any order or decree of any of the said Courts to appeal and to prosecute such appeal before the Supreme Court to appeal to His Majesty the King in Council and to give all necessary securities and to sign all necessary bonds upon such appeals.

To prove any debts due to me by any person or persons who shall or may be adjudged insolvent and to vote in the appointment of  
20 Assignees and accept any offer of composition and to represent and act for me in insolvency proceedings.

To sign, make, endorse and accept any bill or bills of exchange, promissory note or notes, bills of lading, drafts or orders for money and to sign or endorse cheques for the purpose of drawing money out of any of the banks in this Island.

To become security to any person for the purpose of raising money for any purpose whatsoever.

To enter into and execute any covenants, bonds, assignments of bonds, mortgages or other securities and warrants and powers of  
30 Attorney for confessing judgment in any of the Courts in this Island.

To endorse all orders of payment whether Kachcheri orders, Fiscal's orders, Post office or Postal orders.

To attend any meeting of any company or companies wherein I am or hereafter may be a shareholder and vote for me on any subject matter or question that may be brought forward at any such meeting at which by the rules and regulations of any company I could or might vote if personally present and to grant any proxy or proxies to any other person or persons to vote on my behalf for any of the said purposes and generally to act for me and do and execute any and every  
40 act, matter or thing in respect of the assignment or transfer of my shares in any company or in respect of the liquidation or winding up of any such company or otherwise as shall or may be found necessary or expedient.

P32.  
Power of  
Attorney  
No. 647  
22.7.45—  
*Continued*

Generally to do, execute and perform all such further and other acts, deeds, matters and things whatsoever which my said Attorney — shall or may think necessary or proper to be done in about or concerning any business, estates, lands, houses, debts or affairs as fully and effectually to all intents and purposes, as I myself might or could do if I were personally present and did the same in my proper person it being my intent and desire that all matters and things respecting the same and every of them shall be under the full management, control and direction of my said Attorney.

And for more effectually doing, effecting, executing and performing 10 the several matters and things aforesaid I give and grant unto my said Attorney full power and authority from time to time to appoint one or more substitute or substitutes, to do, execute and perform all or any of the matters and things aforesaid and such substitute or substitutes at pleasure to remove and to appoint another or others in his or their place or places hereby promising and agreeing to ratify, allow and confirm all and whatsoever my said Attorney or his substitute or substitutes shall lawfully do or cause to be done in the premises by virtue hereof.

And I do hereby direct that all acts which shall be had made or 20 done by my said Attorney or his substitute or substitutes and any other person or persons before he or they shall have received notice of my death or the revocation of the authority contained in these presents shall be as binding and valid to all intents 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.

In witness whereof I the said Veeragathipillai Rajaratnam have hereunto and to two others of the same tenor and date as these presents set my hand at Thondamannar this Twenty-second day of July in the year One Thousand Nine Hundred and Fifty-five signed in the 30 presence of:—

*Witnesses :*

1. (Sgd.) T. MUTTUTAMBY.
2. (Sgd.) Illegibly.

(Sgd.) V. RAJARATNAM.

I, Kulandaivel Ratnasingham within the judicial division of Point Pedro, Notary Public, do hereby certify and attest that the foregoing instrument having been duly read over and explained unto the said Veeragathipillai Rajaratnam who is known to me in the presence of Thambiah Muttutamby and Rajaratnam Sundaramoorthy, 40 both of Thondammannar subscribing witnesses thereto who are also known to me the same was signed by the said executant and also by

the witnesses in my presence and in the presence of one another all being present at the same time at Thondamannar on this 22nd day of July, in the year of Our Lord One Thousand Nine Hundred and Forty-five.

I further certify that the duplicate bears one stamp of the value of Rs. 5/-.

(Sgd.) K. RATNASINGHAM,  
*Notary Public.*

(SEAL)

10 Date of Attestation  
22nd July, 1945.

I, K. Duraiappah, Registrar of Lands of Jaffna, do hereby certify that the foregoing is a true copy of a deed of power of attorney made from the duplicate filed of record in this office and the same is granted on the application of Mr. S. Nagalingamudaly of Point Pedro.

(Sgd.) K. DURAIAPPAH,  
*Registrar of Lands.*

Land Registry, Jaffna.  
3.7.1952.

P32.  
Power of  
Attorney  
No. 647  
22.7.45—  
*Continued*

20

P42.

**Letter by Chartered Bank**

Registered.

THE CHARTERED BANK OF INDIA, AUSTRALIA  
AND CHINA

Incorporated in England by Royal Charter, 1853, the liability of Members being Limited with which is affiliated the Allahabad Bank, Ltd.

P.O. Box No. 27.  
Colombo.

22nd January, 1946.

P42.  
Letter by  
Chartered Bank  
22.1.46

30

Tele { Grams : "CINCHONA."  
Phone : Nos. 4271 and 4272.

No. A/5671.

V. Rajasegaram, Esqr.,  
C/o Messrs. S. Veeragathipillai & Sons,  
Grand Bazaar,  
Jaffna.

Dear Sir,

Fixed Deposit No. 53/24 of 31st, January, 1945  
for Rs. 50,000

40

With reference to your letter of 18th inst., we have to request you to endorse the above deposit receipt over a six cents stamp as

P42.  
Letter by  
Chartered Bank  
22.1.46—  
Continued

Attorney of V. Rajaratnam with instructions to send cheque for the above amount plus accrued interest.

We enclose P/A duly Registered in our books.

Yours faithfully,  
(Sgd.) Illegibly,  
*Agent.*

D40.  
Lease Bond  
No. 2851  
attested by M.  
Ehampora-  
nathan  
18.2.46.

**D40.**

**Lease Bond No. 2851 Attested by M. Ehamporanathan**  
*Translation*

Appln. No. 1 10  
2nd Jan., 1954.

The duplicate bears one stamp to the value of Rs. 10/-.

Prior Registration Jaffna.  
K136/375.

Lease :  
Months : 20.  
Rupees : 1,000.  
Land : 1.

No. 2851.

The Indenture of Lease entered into between Veeragathipillai 20  
Rarajaratnam of Thondamannar, Jaffna, as Lessor of the first part  
and Alvan Nagan of Valalon as Lessee of the second part is as follows : —

Land in my possession as bequeathed to me by Last Will  
which was proved in case No. 58T of the District Court of Jaffna  
and which was belonging to my father the late Sinnathemby Veera-  
gathipillai by right of purchase as per transfer deed in his favour  
bearing No. 13040 dated the 9th December, 1907, and attested by  
V. Sinnathamby Notary.

I the said first part do hereby let and lease to the second part,  
the said property for twenty months, for the sum of Rupees 1,000/- 30  
One thousand at the rate of Rupees fifty per month commencing  
from the 1st day of this month, that the second part will have to keep  
the said property in good condition and possess and enjoy the same,  
that no undried leaves should be cut from the coconut trees in the  
said land and no coconuts should be plucked before the same get  
ripened, that no damage whatever should be caused to the said property  
in anyway that the rent should be paid to me the first part, monthly  
before the 15th of each month and in default of doing so, or in default  
of doing any of the above said things, he will have to lose the lease  
and quit possession of the said property.

I, Alvan Nagan, the said second part, do accept the lease subject to the aforesaid conditions.

D40.  
Lease Bond  
No. 2851  
attested by M.  
Ehampora-  
nathan  
18.2.46—  
*Continued*

*Schedule of property*

Land situated at Valalai in the Parish of Achchuvely in Waligamam, East Division in the District of Jaffna in Northern Province called, Alangkandhu and Mariolai in extent  $37\frac{1}{2}$  lms. V.C. Mareavalai and Nalakkanthamkadu " in extent  $22\frac{1}{2}$  lms. V.C. The total extent is 60 lms. V.C. with coconut trees well and Vadalees which extent of 60 lms. is bounded on the East by burial ground North by Sea-beach West by lane and South by Road. In whole of this —

10

In witness whereof I set my signature at Achchuvely in the presence of the undersigned witnesses on the Eighteenth day of February One Thousand Nine Hundred and Forty-Six.

We the witnesses hereof know well the executants hereof who set their signatures in our presence and whose residence, name and occupation.

*Witness :*

1. (Sgd.) T. RAJARATNAM.
2. (Sgd.) P. ABEL PILLAI.

20

V. RAJARATNAM

*by his Attorney,*

(Sgd.) V. RAJASEGARAM,

A. NAGAN (Signature).

(Sgd.) M. EHAMPORANATHAM,

(MANA EHAMPORANATHAN (Signature).

*Notary Public.*

30

I, Mailvaganam Ehamporanathan, Notary Public of Jaffna, do hereby certify and attest that I have read over and explained the foregoing instrument to Veeragathipillai Rajasegaram who has signed herein as the Attorney of Veeragathipillai Rajaratnam and Abram Nagan in the presence of Thambimuttu Rajaratnam of Pattameny and Periatamby Abel Pillai of the same place the subscribing witnesses hereto that I know them and the witnesses that the executant's and witnesses set their signatures in my presence and in the presence of one another all being present at the same time at Achchuvely on the 18th day of February, 1946, that the amount entered herein was not paid in my presence and that by me this instrument was read over and explained the letters "(Tamil letters)" in line 11 of paragraph 3 of page 1 of this tenor have been interpolated that the duplicate

D40.  
Lease Bond  
No. 2851  
attested by M.  
Ehampora-  
nathan  
18.2.46—  
*Continued*

hereof bears one stamp of the value of Rupees Ten and the original one of Rupee one.

Date of attestation :  
18 February, 1946.

(SEAL)

(Sgd.) M. EHAMPORANATHAN,  
MANA EHAMPORANATHAN (signature),  
*Notary Public.*

I, K. Duraiappah, Registrar of Lands of Jaffna, do hereby certify that the foregoing is a true copy of a deed of lease made from 10 the duplicate filed of record in this office and the same is granted on the application of Mr. V. S. Somasuntheram of Jaffna.

(Sgd.) K. DURIAPPAH,  
*Registrar of Lands.*

Land Registry,  
Jaffna,  
4.1.1954.

*Translated by :*  
(Sgd.) Illegibly.

P46.  
Ledger " O " pages 125, 166, 212, 243, 253, 260, 282, 293, 305, 330, 372, 424, 471, 222, 261, 306, 340 and 399  
31.12.46 to 13.7.50

P46.

20

**Ledger " O " pages 125, 166, 212, 243, 253, 260, 282, 293, 305, 330, 372, 424, 471, 222, 261, 306, 340 and 399.**

**Ledger O page 125.  
V. Rajasegaram**

	Rs.	Cts.	Rs.	Cts.
Brought forward from Ledger M. page 470 ..	40,828	37	1,671	85
1946				
Dec. 31..By Amount received with excess of rent of Periakadai godown for 12 months from January till the end of December, 1946 .. ..			100	00
Total Rs. ..	40,828	17	1,771	85
To amount of balance payment ..	39,056	52		
1947				
Feb. 4.., Amount received out of interest as per I.W. No. 46/50 of Ceylon Government 3% N.L. 1954 account .. ..			262	50
27..To Amount paid for 1 land purchases close by Kachecheri from V. Somasunderam, Proctor, Nallur Cash 100.00 No. 040017 of Exchange Bank 9,300.00 ..	9,400	00		
Total Rs. ..	48,456	52	262	50



		Rs.	Cts.	Rs.	Cts.	P46.
	To amount of balance payment ..	48,194	02			Ledger "O"
Mar. 6.	By Amount received from Muthuvolu Chettiar on 4.12.46 on account of discharge of a mortgage account principal 10,000.00 out of interest 150.00.					pages 125, 166, 212, 243, 253, 260, 282, 293, 305, 330, 372, 424, 471, 222, 261, 306, 340 and 399
	Total (1 cheque No. 025092 of—					31.12.46 to 13.7.50—
	C.B. .. 10,125.00					
	Cash .. 25.00) .. ..			10,150	00	<i>Continued</i>
	To Amount paid for the balance money sent for 36 shares of Bank of Ceylon as per 1 cheque No. 450703 N.B. .. ..			900	00	
7. . .	Amount paid for the money deposited in the Exchange Bank of Savings account as per No. 040019 of do. Bank .. ..			3,000	00	
	Total Rs. ..	62,094	02	10,150	00	
	To amount of balance payment ..	51,944	02			
April 29.	By Amount received on account of the rent of the house at Parange Theru .. ..				60	00
	Total Rs. ..	51,944	02		60	00
	To Amount of balance payment .. ..	51,884	02			
	,, Amount paid for the house at Paranchy Theru. .					
	<b>Ledger O. page 166</b>					
	<b>V. Rajasegaram</b>					
	Brought forward from page 125 .. ..	51,884	02			
1947	May 19. . To Amount of money deposited in advance in W.C. for light as per receipt 19713 .. ..			20	00	
	30. . By Amount received from Exchange Bank rent for 1 .. ..				60	00
	Total Rs. ..	51,904	02		60	00
	Amount of balance payment .. ..	51,844	02			
June 19. .	To Amount of money paid for the deposit of light money for the house at Parankitheru .. ..			5	16	
	30. . By Amount recovered out of Parankitheru .. ..				60	00
	Total Rs. ..	51,849	18		60	00
	To amount of balance payment .. ..	51,789	18			
July 19. . .	Amount paid for mortgage .. ..	1,000	00			
	25. . By Amount received as Batta etc. for being in the Jury in the Supreme Court. . .				115	20
	29. . . Amount received as per 1 cheque of C.B. Principal Rs. 6,000.00. Interest Rs. 114.40 .. ..				6,114	40
	31. . . Amount received as rent from the Exchange Bank .. ..				60	00
	Total Rs. ..	52,789	18		6,289	60

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 Ledger "O"  
 pages 125, 166,  
 212, 243, 253,  
 260, 282, 293,  
 305, 330, 372,  
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 261, 306, 340  
 and 399  
 31.12.46 to  
 13.7.50—  
*Continued*

		Rs.	Cts.	Rs.	Cts.
	To amount of balance payment ..	46,499	58		
Aug. 4.	By Amount received on account of interest as per I.W. No. 45/50 of Ceylon Government 3% N.L. of 1944 accounts ..			262	50
19.	By Amount received out of V.R.S. account as per refund voucher No. 66/76 A of 31 March, 1945, sent by Commissioner of Income Tax ..			531	54
	Total Rs. ..	46,499	58	794	04
	By amount of balance payment ..	45,705	54		
Sept. 1.	By Amount received out of rent ..			60	00
3.	To Amount paid for light money for the house at Parankitheru ..	14	56		
30.	By Amount received out of Point Pedro shop's account ..				
	Total Rs. ..	45,720	10	60	00
<b>Ledger O. page 212</b>					
<b>V. Rajasegaram</b>					
	Brought forward from page 166 ..	45,720	10	60	00
1947					
Sept. 30.	By Amount received on account of rent of the Point Pedro godown ..			4,125	00
	To Amount paid as T. Ratnalingam's accounts written off ..	1,183	80		
	By Amount received on account of rent as per Exchange Bank 169028 ..			60	00
	Total Rs. ..	46,903	90	4,245	00
	To amount of balance payment ..	42,658	90		
Oct. 20.	To Amount paid to S. Paramasamy Chettiar on mortgage as per Exchange Bank cheque No. 000136—Rs. 5,000·00				
	National Bank No. V. 450725—Rs. 2,500·00 ..	7,500	00		
31.	By Amount received out of rent of the new house for the Exchange Bank as per cheque of do. Bank bearing No. 169041 ..			100	00
	Total Rs. ..	50,158	90	100	00
	To Amount of balance payment ..	50,058	90		
Nov. 25.	By Amount paid to cement, mason carpenter and cooly as per account chit for effecting repairs of the house at Parankitheru ..	372	70		
27.	By Amount received from the Exchange Bank as rent of the house as per cheque No. 7690 ..			100	00
	Total Rs. ..	50,431	60	100	00



P46.  
 Ledger "O"  
 pages 125, 166,  
 212, 243, 253,  
 260, 282, 293,  
 305, 330, 372,  
 424, 471, 222,  
 261, 306, 340  
 and 399  
 31.12.46 to  
 13.7.50—  
 Continued

## Ledger O. page 253

## V. Rajasegaram

		Rs.	Cts.	Rs.	Cts.
Brought forward from page 243 ..		99,369	23		
1948	Jan. 9..	By Amount received from V. Rajaratnam for the <i>pro-rata</i> share as the Periyakadai godown land has been partitioned .. ..			17,376 12
		To Amount paid to R. Sundaramoorthy for the <i>pro-rata</i> share as the Periyakadai godown land has been partitioned .. ..	1,250	00	
	13..	,, Amount paid for the costs on account of the Periyakadai land .. ..	50	00	
		,, Amount paid to Mr. V. S. Somasuntheram, Proctor for the costs of stamps for getting the land written out—Rs. 292/- and Fees—Rs. 176/-... ..	467	00	
	28..	,, Amount paid for the tax of 4th quarter of the 2 co-operative shops .. ..	30	00	
		,, Amount paid for tax of the 4th quarter of the house .. ..	37	50	
	30..	,, Amount paid for taking in his charge the lorry Z 4910 .. ..	369	70	
		,, Amount paid for the lorry CE 4332 for removing sand and stones .. ..	162	00	
		Total Rs. ..	101,735	43	17,376 12
		To amount of balance payment ..	84,359	31	
Feb.	3..	,, Amount paid for 11 gallons of petrol in shed No. 2 .. ..	28	95	
		,, Amount deposited in the Kacheheri for removing timbers .. ..	223	43	
	6..	,, Amount paid to Eena Novana Rs. 800/- Cash Rs. 200/- .. ..	1,000	00	
		By Amount received from Co-operative Stores Union out of rent M.V.C. No. 22931 ..			100 00
	14..	To Amount paid to Mutturajah's Garage on account of repairs to lorry Z 4910 ..	100	00	
		By Amount received for 2 trips of do. lorry to Kondavil.. ..			16 00
	23..	To Amount paid as per bill of Mutturajah's garage for the repairs of Z 4910 .. ..	50	00	
		To amount paid for printing, etc. ..	50	00	
		Total Rs. ..	85,811	69	116 00
		To amount of balance of payment ..	85,695	69	

## Ledger O. page 260

## V. Rajasegaram

		Rs.	Cts.	Rs.	Cts.
Brought forward from page 253 ..		85,695	69		
1948					
Mar.	1..To Amount paid for the lorry No. 4332 for removing stone and sand ..		42 00		
	2.. ,, Amount of money deposited in U.C. for the licence fees of 1948 for Z 4910 ..		70 00		
	,, Amount paid for the 24 gallons of petrol obtained in shed No. 1 for Z 4910 ..		60 80		
	18.. ,, Amount paid for fixing glass to Z 4910 ..		10 00		
	22.. ,, Amount paid for washing Z 4910 in Muthurajah's garage ..		3 00		
	24.. ,, Amount paid for Railway freight for Muthurajah's garage for Z 4910 ..		764 70		
	,, Amount paid in cash as per chit of 4.3.48 ..	1,000	00		
	By Amount received as per lorry Z 4910 Thinnavelly ..			10	00
	26.. ,, Amount received as per Z 4910 Annikkodai ..			15	00
	29..To Amount paid in cash ..	7,500	00		
	31.. ,, Amount paid for 1 bag of bran ..		13 00		
	,, Amount paid as per lorry account 55.50 Arrears due (22 × 13) 35.00 ..		90 00		
	Total Rs. ..	95,250	19	25	00
	To balance of payments ..	95,225	19		
April	1.. ,, Amount paid to himself ..		2,176 34		
	6.. ,, Amount paid for 15 gallons of petrol and distilled water purchased in shed No. 2 for Z 4910 ..		37 50		
	7.. ,, Amount paid for 5 gallons of petrol purchased in shed No. 1 for Z 4910 ..		12 25		
	8..By Amount received for 1 trip of lorry Z 4910 ..			12	00
	10.. ,, Amount received for 1 trip of Z 4910 to Vaddukkodai ..			16	00
	Total Rs. ..	974,551	28	28	00
	To amount of balance payment ..	97,423	28		
May	5.. ,, Amount received for 1 trip of Z 4910 to Vaddukkodai ..			16	00
	To Amount paid for 16 gallons of petrol in shed No. 2 ..		39 20		
	,, Amount paid for 5 gallons of petrol in shed No. 2 for Z 4910 ..		16 85		
	,, Amount paid for the purchase of Radiator for do. ..		80 00		
	Total Rs. ..	97,559	33	16	00

P46.

Ledger "O"  
pages 125, 166,  
212, 243, 253,  
260, 282, 293,  
305, 330, 372,  
424, 471, 222,  
261, 306, 340  
and 399  
31.12.46 to  
13.7.50—  
Continued

P46.

Ledger "O"  
pages 125, 166,  
212, 243, 253,  
260, 282, 293,  
305, 330, 372,  
424, 471, 222,  
261, 306, 340  
and 399  
31.12.46 to  
13.7.50—  
Continued

## Ledger O. page 282

## V. Rajasegaram

		Rs.	Cts.	Rs.	Cts.
1948	Brought forward from page 260 ..	97,559	33	16	00
May 22	..By Amount received as per lorry Z 4910 to Kurum-paddi ..			15	00
25	..To Amount paid to Proctor V. S. Somasunderam for the deed and stamp expenses on account of the partition of the Periyakadai godown share 1/3..	27	78		
28	.. ,, Amount paid as per cheque of the Exchange Bank sent to the Commissioner of Income Tax ..	826	51		
29	.. ,, Amount paid for the repairs of the radiator of Z 1910 at Mutturajah's garage ..	42	00		
	Total Rs. ..	98,455	62	31	00

	To amount of balance of payment ..	98,424	62		
June 4	.. ,, Amount paid for CE 4332 for removing sand and stones for two months April and May ..	30	00		
	By Amount received as per Z 4910 for removing tiles Rs. 98/- and sand Rs. 2/- ..			100	00
8	..To Amount paid for 15 gallons of petrol and gear oil, etc. in shed 1 for Z 4910 ..	37	85		
19	..By Amount received from Point Pedro shop on account of profit of 1947 for 1/2 share out of the accounts of Pallai Estate ..			1,905	69
	.. ,, Amount received on 31st December, 1947, from Point Pedro shop on account of the rent of the Point Pedro godown from January to the end of December, 1947 ..			300	00
	.. ,, Amount received from Point Pedro shop out of S.V. & Sons accounts written off (on 31st December, 1947) Point Pedro shop ..			92,927	00
	To Amount paid after deducting the sum of Rs. 5/- paid previously out of Rs. 8.75 for putting up Well Sweep to Killian Chempadu ..	3	75		
	By Amount received from Point Pedro shop out of the accounts of profit and expenses of the year 1947 for 1/3rd share ..			7,772	52
	Rs. ..	98,496	22	103,005	21

## Ledger O. page 293

## V. Rajasegaram

1948	Brought forward from page 282 ..	98,496	22	103,005	21
June 26	..To Amount paid for 23 gallons of petrol for Z 4910 in shed No. 2 ..	80	85		
	.. ,, Amount paid as per Exchange Bank No. 051353 4,500.00				
	Cash .. 500.00 ..	5,000	00		
28	.. ,, Amount paid in cash ..	2,000	00		
	Total Rs. ..	105,577	07	103,005	21

		Rs.	Cts.	Rs.	Cts.	P46.
	To amount of balance of payment ..	2,571	86			Ledger "O"
July 2..	To Amount paid for brake washer for Z 4910 ..		15 00			pages 125, 166,
3..	,, Amount paid for the expenses of the repairs of Z 4910 as per bill of Muthurajah's garage ..		40 00			212, 243, 253,
20..	,, Amount paid as per C.B. cheque No. 307767 sent as application fees for 50 shares got from the Bombay National Newsprint of paper mills .. .. .		125 00			260, 282, 293,
21..	,, Amount paid for 65 gallons and D.W. for Z 4910 in shed No. 2 from June till the end of 19th July .. .. .		160 00			305, 330, 372,
26..	,, Amount paid for thatching the fence of the compound in road .. .. .		9 25			424, 471, 222,
28..	By Amount received Z 4910 Karaithivu for 1 ..			17	50	261, 306, 340
31..	To Amount paid for Insurance to Sherubim and brothers .. .. .		124 25			and 399
	,, Amount paid for 6 gallons of petrol in do. shed No. 2 .. .. .		14 70			31.12.46 to
	Total Rs. ..	6,034	79	17	50	13.7.50—
						<i>Continued</i>
	,, Amount of balance of payment .. .. .	6,017	29			
Aug. 6..	,, Amount paid for 2 gallons of petrol in shed in No. 1 for Z 4910 .. .. .		4 90			
10..	,, Amount paid as per Exchange Bank No. 051360 to the Commissioner of Income Tax for the year 1945 Income Tax .. .. .		810 52			
13..	,, Amount paid for the U.C. tax of the 2nd Quarter for the house and 2 shops .. .. .		67 50			
31..	,, Amount paid for lorry 4332 to Periakadai ..	6,900	21			
<b>Ledger O. page 305</b>						
<b>V. Rajasegaram</b>						
	Brought forward from page 293 ..	6,900	21			
1948						
Aug. 31..	To Amount paid for removing stones in June and July .. .. .		36 00			
	By Amount received for removing sand and tiles by Z 4910 .. .. .			8	00	
	Total Rs. ..	6,936	21			
	To balance of payment .. .. .	6,928	21			
Sept. 2..	By Amount received from the Co-operative Society as per profit for 12 months from July, 1947, till the end of June, 1948, for 1/3rd share ..			133	33	
7..	To Amount paid for 40 gallons of petrol purchased in shed No. 2 for Z 4910 .. .. .		98 00			
	,, Amount paid as per C.B. cheque No. 307769 sent to the Bombay National Newsprint & Paper Mills .. .. .		125 50			
17..	,, Amount paid for 8 gallons of petrol purchased in shed No. 2 for Z 4910 .. .. .		19 60			
22..	By Amount received as per 2 trips of lorry Z 4910 .. .. .			12	00	
	Total Rs. ..	7,171	31	145	33	

P46.  
Ledge " O "  
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212, 243, 253,  
260, 282, 293,  
305, 330, 372,  
424, 471, 222,  
261, 306, 340,  
and 399  
31.12.46 to  
13.7.50—  
Continued

		Rs. Cts.	Rs. Cts.
	To amount of balance payment .. ..	7,025 98	
Oct. 2.	By Amount received as per 2 trips of lorry No. Z 4910 .. ..		12 00
	To Amount paid for the repairs of Z 4910 in Mutturajah's garage .. ..	30 00	
8.	Amount paid for 7 gallons of petrol in shed No. 1 for Z 4910 .. ..	19 05	
26.	Amount paid for 6 gallons of petrol in shed No. 2 for Z 4910 .. ..	14 70	
	Total Rs. ..	7,089 73	
	To balance of payment .. ..	7,077 73	
Nov. 8.	Amount paid for 5 gallons of petrol in shed No. 1 for 4910 .. ..	12 25	
20.	Amount paid as per cheque No. 117069 N.B. sent to Chartered Bank .. ..	110 00	
	Total Rs. ..	22,089 98	
Dec. 1.	Amount paid as per 1 cheque No. 117071 N.B. ..	50 00	
8.	Amount paid for 4 gallons of petrol in shed 1 for Z 4910 .. ..	9 80	
	Rs. ..	27,099 78	

**Ledger O. page 330**

**V. Rajasegaram**

1948	Brought forward from page 305 .. ..	27,099 78	
Dec. 9.	To Amount paid for 23 gallons of petrol purchased in shed No. 2 for Z 4910 .. ..	56 35	
11.	Amount paid for repairs and service for Z 4910 as per bill of Muthurajah .. ..	17 50	
15.	Amount paid for the purchase of flap for Z 4910 .. ..	6 50	
27.	Amount paid to Rasiah being wages for the carpentry works, etc. for the erecting of the 3rd shop given to Co-operative Stores Union ..	1,143 40	
	Amount paid to Perumal for being mason cooly for the erecting of do. shop .. ..	599 25	
	Amount paid as per bill for the timbers purchased, sawing same and other articles for do. shop .. ..	1,709 06	
30.	Amount paid for lorry No. 4332 removing paddy .. ..	4 00	
	By Amount received as per lorry No. 4910 removing paddy .. ..		4 00
	Amount received out of the account of Parangitheru godown .. ..		293 10
31.	To Amount paid as per N.B. cheque No. 117082 ..	100 00	
	By Amount of reduced rate of rents for 2 years for the Parangitheru godown for the years 1946, 47 .. ..		400 00
	Amount received out of P. shop accounts written off .. ..		3,779 11
	Total Rs. ..	40,635 84	4,476 21
	Total payments .. ..	36,159 63	



		Rs.	Cts.	Rs.	Cts.	P46.
1949						
Feb.	26..To Amount of money sent to M. M. Seg. Abdul Cader of Mandapam on account of Subramaniapuravy .. .. .		100	00		Ledger "O" pages 125, 166, 212, 243, 253, 260, 282, 293, 305, 330, 372, 424, 471, 222, 261, 306, 340 and 399
	Total payments .. .. .		36,259	63		31.12.46 to
May	9.. , Amount of money as per one cheque sent to Bombay National News Print Paper Mills .. .. .			125	25	13.7.50—
			36,384	88		Continued

## Ledger O. page 372

## V. Rajasegaram

1949	Brought forward from page 330 .. .. .		36,384	88		
June	16..To Amount paid for 2 National Bank cheques Nos. 455 and 456 .. .. .		6,436	75		
	30.. , Amount paid on cash .. .. .			1,000	00	
	Total payments .. .. .	Rs. ..	43,821	63		
July	11.. , Amount paid on account of M. Bank .. .. .		2,278	13		
	14.. , Amount paid to himself .. .. .			625	00	
	Total Payments .. .. .	Rs. ..	46,724	76		
Aug.	9.. , Amount paid to A. Velupillai on account of rent of timbers for 12 months from May, 1948, till the end of April, 1949 .. .. .			30	00	
	31.. , Amount paid to H.A. for 200 packets of cement .. .. .			1,400	00	
	Total payments .. .. .	Rs. ..	48,154	76		
Sept.	6.. , Amount paid for black sugar for watering at Sannathy 1.2.12 .. .. .			59	83	
	8..By Amount received as per entry .. .. .				59	83
	,, Amount received from Co-operative Stores Union out of profit from July, 1948, till the end of June, 1949 .. .. .				123	00
	20..To Amount as per cheque No. 160405.. .. .		5,000	00		
	Total Rs. .. .. .		53,154	76	123	00
Oct.	3..To Amount paid as per 1 cheque No. 30774 of Madras Indian Bank sent to Bombay National News Print Mills .. .. .			125	50	
	7.. , Amount paid to himself .. .. .			1,200	00	
	Total payments .. .. .	Rs. ..	54,357	26		
Dec.	24..By Amount received on account of removing tiles by lorry Z 4910 .. .. .				150	00
	To Amount paid on account of lorry for removing sand, ground stones, etc. for Periakadai buildings .. .. .			294	00	
		Rs. ..	54,650	00		

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 212, 243, 253,  
 260, 282, 293,  
 305, 330, 372,  
 424, 471, 222,  
 261, 306, 340  
 and 399  
 31.12.46 to  
 13.7.50—  
*Continued*

Ledger O. page 424

V. Rajasegaram

		Rs.	Cts.	Rs.	Cts.
1949	Brought forward from page 372 ..	54,650	26	150	00
Dec. 29.	By Amount received on account of rent Oddarai Go-down at Parankitheru for 12 months from January till the end of December, 1949 ..			387	00
31.	To Amount paid as per accounts of Point Pedro shop .. .. .				
	By Amount received as per accounts of profit and expenses of Point Pedro shop for the year 1948, Rs. 37080.66 of this one-third share of profit .. .. .			12,360	22
	„ Amount received from V. shop out of the accounts of profit of Pallai Estate for the year 1949, Rs. 6,163.54 of this $\frac{1}{3}$ share ..			3,081	77
	Total Rs. ..	55,016	51	15,978	99
1950	To balance of payment ..	39,037	52		
Jan. 30.	„ Amount paid as per 1 cheque No. 160428 ..	15,000	00		
31.	„ Amount paid as per removing stone and sand by lorry .. .. .			77	00
	Total payments .. Rs. ..	54,114	52		
Mar. 20.	„ Amount paid new accounts .. .. .			101	00
	Total Rs. ..	54,215	52		
April 3.	„ Amount paid on 30.3.50 .. .. .				
	By Killinochi Kaka Rs. 1,900.00 .. .. .				
	Arriamuttu „ 2,000.00 .. .. .				
	No. 160437 „ 1,900.00 .. .. .				
	Paramasivam „ 100.00 .. .. .			5,900	00
4.	To Amount paid to self .. .. .			1,500	00
10	„ Amount paid to do. .. .. .			1,000	00
17.	„ Amount paid to M. M. & Co. .. .. .			2,000	00
19.	„ Amount paid .. .. .			3,000	00
22.	„ Amount paid as per N.B. No. 296491 .. .. .			10,000	00
				77,615	52

Ledger O. page 471

V. Rajasegaram

1950	Brought forward from page 424 ..	77,615	52		
May 15.	To Amount paid in cash 1,500.00 .. .. .				
	For cheque 2 1,675.00 .. .. .				
	To Arunasalam 1,000.00 .. .. .			4,175	00
17.	„ Amount paid as per 1 No. 160446 of C.B. .. .. .			2,000	00
18.	„ Amount paid as per 1 No. 16047 .. .. .			4,000	00
24.	„ Amount paid as per one N.B. .. .. .			10,000	00
27.	„ Amount paid to Proctor V. S. Somasunderam .. .. .			2,000	00
				99,790	52

	Rs.	Cts.	Rs.	Cts.	P46.
June 23..To Amount paid as per 1 cheque No. 818604 of N.B. .. .. .	10,000	00			Ledger "O" pages 125, 166, 212, 243, 253, 260, 282, 293, 305, 330, 372, 424, 471, 222, 261, 306, 340, and 399
28.. ,, Amount paid as per No. 160449—Rs. 8,000·00 Cash .. .. .	8,000	00	10,000	00	31.12.46 to 13.7.50— <i>Continued</i>
Total payments .. Rs. ..	119,790	52			
July 13.. ,, Amount paid to A. Velupillai on account of rent for 12 months from May, 1949, till the end of April, 1950 .. .. .		30	119,820	52	
Aug. 9.. ,, Amount paid for 76 bags of paddy.. .. .		2,356	119,820	52	
By Amount received of transport Rs. 269·80 .. .. .			2,356	00	
Cash 86·20.. .. .. .				356	00
Total Rs. ..	122,176	52	122,176	52	356
Total balance of payments ..	121,820	52			
Sept. 21..By Amount received as profit as per accounts of profit and loss of V. shop for the year 1949 Rs. 43,773·97½ of this 1/3rd share .. .. .			14,591	32½	
23..To Amount paid for removing stone sand, timber etc. by lorry for do. shop from February till the 20th September .. .. .		95	121,915	52	
Rs. ..	121,915	52			
To balance of payments ..	107,324	19			
Carried to Ledger P, page 59					

Translated by :  
(Sgd.) Illegibly.

**Ledger O. page 222**

**V. Rajaratnam**

1947					
Oct. 14..To Amount paid for 25 packets of cements—206·25 Hire for lorry and transporting expenses—10·50 .. .. .	216	75			
Total Rs. ..	216	75			
Nov. 17.. ,, Amount paid for 4 iron rod .. .. .		11	216	75	
20.. ,, Amount paid for 16 iron rods of 1/4, 3/8 .. .. .		46	216	75	
Total Rs. ..	274	25			
Dec. 30..By Amount received on account of rent of Periyakadai godown for 12 months from January to the end December, 1947, for 1/3rd share .. .. .			600	00	
,, Amount received on account of rent of the 2 shops and one garage at Koddady Road for 12 months from January to the end of December, 1947, for 1/3rd share.. .. .			800	00	
,, Amount received on account of rent of 2 shops of the Exchange Bank for 12 months from January to the end of December, 1947, for 1/3rd share .. .. .			250	00	
Total Rs. ..	274	25	1,650	00	



	Rs.	Cts.	Rs.	Cts.	P46.
June 16..To	Amount paid as per Madras C.B. cheque one	..	15	00	Ledger "O"
			21,185	50	pages 125, 166,
July 26..,	Amount paid for N.V. and coil pipe 2 Rs. 61/-	..			212, 243, 253,
	Valve 1 Rs. 25/-	.. ..	86	00	260, 282, 293,
28..,	Amount paid for	.. ..	20	00	305, 330, 372,
	Total Rs.	..	21,292	00	424, 471, 222,
					261, 306, 340
					and 399
Aug. 16..,	Amount paid for the 2,000 lime fruits bought	..			31.12.46 to
	for Sannathy	.. ..	22	00	13.7.50—
20..,	Amount paid for coconut oil and flower	.. ..	19	07	Continued
26..,	Amount paid for black sugar for Sannathy	.. ..			
	watering shed 1.10	.. ..	25	00	
	Rs.	..	21,358	07	

## Ledger O. page 306

## V. Rajaratnam

1948	Brought forward from page 261	..	21,358	07	
Aug. 31..To	Amount paid to lorry No. 4332 for removing	..			
	stones and sand to Periyakadai in July and	..			
	August	.. ..	131	00	
			21,489	07	
Setp. 1..,	Amount paid for removing stone	.. ..	22	00	
2..By	Amount received as profit from Co-operative	.. ..			
	Stores for 12 months from July, 1947, to the	.. ..			266 67
	end of June, 1948, of this 2/3rd	.. ..			
6..To	Amount paid as per 1 cheque sent to Arrokiapuran	.. ..	15	00	
16..,	Amount paid for purchase of nails..	.. ..	25	25	
	Total Rs.	..	21,551	32	266 67
	To balance payment	.. ..	21,284	65	
Oct. 1..,	Amount paid for 1 bag of cotton	.. ..	14	16	
	Total payments	.. ..	21,298	81	
Nov. 1..,	Amount paid as per 1 N.B. cheque No. 117066	.. ..			
	sent to Imperial Bank	.. ..	10,000	00	
12..,	Amount paid for this value of tin and that nails	.. ..			
	purchased from Samuel & Sons..	.. ..	505	88	
16..,	Amount paid for a pair of sandals..	.. ..	2	50	
	Total payments	.. ..	31,807	19	
Dec. 29..,	Amount paid to Suntharamoorthy..	.. ..	5,000	00	
30..By	Amount received as payment made to Blacksmith	.. ..			1,500 00
	Thuraisamy for fixing iron net	.. ..			
	Amount received on account of rent of Periakadai	.. ..			321 87
	godown	.. ..			
31..To	Amount paid to Suntharamoorthy..	.. ..	5,000	00	
	By Amount received on account of Point Pedro	.. ..			
	shop accounts written off	.. ..			39,985 35
			41,807	19	41,807 19

Translated :  
(Sgd.) Illegibly.

P46.  
 Ledger "O"  
 pages 125, 166,  
 212, 243, 253,  
 260, 282, 293,  
 305, 330, 372,  
 424, 471, 222,  
 261, 306, 340  
 and 399  
 31.12.46 to  
 13.7.50—  
*Continued*

## Ledger O. page 340

## V. Rajaratnam 306

		Rs.	Cts.	Rs.	Cts.
1949					
Jan.	31.. To	Amount paid for 4 bags of bean sent by Selva-			
		nayagam .. .. .	29	22	
		,, Amount paid to carpenter Rasiah .. .. .	20	00	
Total payments Rs. ..			49	22	
Feb.	1.. ,,	Amount paid for white paint .. .. .	6	00	
	5.. ,,	Amount paid for 2 tins of paints .. .. .	3	40	
	15.. ,,	Amount paid to Malayan Company for 5 iron rods .. .. .	16	91	
	26.. ,,	Amount remitted to N. M. Sethu Abdul Cader of Mandapam on account of the ship Subramaniapuravy .. .. .	100	00	
Total payments Rs. ..			175	53	
Mar.	28.. ,,	Amount paid for 5 pieces of Verty .. .. .	53	50	
Total payment Rs. ..			229	03	
April	19.. ,,	Amount remitted to Mana Muna of Mandapam $\frac{1}{2}$ of 396.36 .. .. .	198	18	
Total payments Rs. ..			427	21	
May	18.. ,,	Amount paid for stitching coat .. .. .	5	50	
Total payments Rs. ..			432	71	
July	7.. ,,	Amount paid for A. Raman for 1,000 cubits of timber bars .. .. .	90	00	
Total payments Rs. ..			522	71	
Aug.	9.. ,,	Amount paid to A. Velupillai for the rent for timbers from 1948 to the end of April, 1949 .. .. .	30	00	
	16.. ,,	Amount paid for 30/8 kampy 0.2.8. .. .. .	19	43	
	18.. ,,	Amount paid to Singapore Company for $\frac{1}{4}$ inch wire .. .. .	11	04	
Total payments Rs. ..			583	18	
Sept.	5.. ,,	Amount paid for black sugar for watering shed in Sannathy at 1.2.12 .. .. .	59	83	
	8.. By	Amount received as profit from the Co-operative Stores from July, 1948, to the end of June, 1949 .. .. .			246 00
	15.. To	Amount paid for 2 bags of cotton seeds .. .. .	29	80	
Rs. ..			672	81	246 00

## Ledger O. page 399

## V. Rajaratnam

		Rs.	Cts.	Rs.	Cts.
	Brought forward from page 340 ..	672	81	246	00
	To balance of payments ..	426	81		
1949					
Dec. 24..	To Amount paid for removing stone, sand and gravel stones to Periyakadai, house and Eluthumadduval, by lorry No. 4332 ..	160	00		
29..	,, Amount paid for 21 bags of old K. paddy ..	630	00		
31..	,, Amount paid for 5 bags of bran ..	40	25		
	By Amount received on account of P. shop accounts written off .. .. .			1,257	06
	Total Rs. ..	1,257	06	1,257	06
1950					
Jan. 24..	To Amount paid for the purchase of one pair of Bulls from S. Sinnathurai .. ..	470	00		
31..	,, Amount paid for removing sand and stone by lorry .. .. .	64	00		
	Total payments Rs. ..	534	00		
Mar. 21..	,, Amount paid for 1 bag of paddy .. ..	32	50		
	Total payments Rs. ..	566	50		
April 27..	,, Amount paid for 10 bags of bran as per bill of Ramiah Chettiar .. .. .	59	25		
	Total payments Rs. ..	625	75		
May 9..	,, Amount paid for 300 bags of cement A.I.R. ..	2,475	00		
29..	,, Amount paid for 10 bags of bran .. ..	68	00		
	Total Rs. ..	3,168	75		
June 6..	,, Amount paid as per 1 cheque of Imperial Bank .. .. .	750	00		
23..	,, Amount paid for 1 cheque, Imperial Bank ..	1,064	90		
	,, Amount paid for 1 bag of cotton .. ..	17	60		
	Total payments Rs. ..	5,001	25		
July 13..	,, Amount paid to A. Velupillai of Karainagar being rent of keeping old timber for 12 months, from May, 1949, to the end of April, 1950 .. .. .	30	00		
	Rs. ..	5,031	25		

P31

Translated :

(Sgd.) Illegibly.

P46.

Ledger "O"  
pages 125, 166,  
212, 243, 253,  
260, 282, 293,  
305, 330, 372,  
424, 471, 222,  
261, 306, 340  
and 399  
31.12.46 to  
13.7.50—  
Continued

D38.  
Ledger " M " pages 368, 470  
2.2.45 to  
30.12.46.

## D38.

## Ledger " M " pages 368, 470

## Translation.

## Ledger M. page 368

## V. Rajasegaram

		Payments		Receipts	
		Rs.	Cts.	Rs.	Cts.
1944					
Dec.	.. Total as per page 277 ..	30,525	19	1,061	20
	To balance ..	29,463	99		
1945					
Feb.	2.. By Amount received for interest on a/c. of Ceylon Government National Loan 1954 3@ 62.50..			38	75
	22.. ,, Amount received by sale of Keliyadithoddam at Chiviaterru ..			7,600	00
	Total Rs. ..	29,463	99	7,638	75
	To balance ..	21,825	24		
June	8.. To Amount paid on a/c. of shares purchased by Vadamaradchchy Co-operative Service Society for 50 @ .. Rs. 250.00 Entrance fees .. ,, 2.00..		252	00	
	To balance ..	22,077	24		
June	2.. By Amount received for interest as per loan warrant of 1954 for Rs. 39.50 ..			51	61
	6.. ,, Amount received for interest on a/c. National Loan 1954 for 49.50 ..			112	50
	Total Rs. ..	22,077	24	164	11
	To balance ..	21,913	13		
Dec.	17.. By Amount received from Ceylon Bank D.W. 1996			59	76
	29.. ,, Amount received for shop rent for Main Street godown from 1945 till end of December, for 12 months ..			800	00
	.. ,, Amount received for rent for Grand Bazaar godown from 1945 January till end of December for 12 months $\frac{1}{2}$ of 1/3rd share, 1/6th share ..			200	00
	Total Rs. ..	21,913	13	1,059	76
	To balance ..	20,853	37		
1946					
Jan.	2.. To Amount paid at Kachcheri on a/c. of Ceylon Savings Bank ..		3,000	00	
	To balance ..	23,853	37		



## Ledger M. page 470

## V. Rajasegeram

		Rs.	Cts.	Rs.	Cts.
1946	As per page 368.. ..	23,853	37		
Feb.	..By Amount received for interest on account Ceylon Government 3% National Loan for 1954 a/c. 1W. 49·0 .. ..			262	50
	Total Rs. ..	23,853	37	262	50
	To balance .. ..	23,590	87		
June	5..By Amount received for interest on a/c. of Ceylon Government 3% National Loan for 1954 a/c. I.W. 47·50 .. ..			262	50
	Total Rs. ..	23,590	87	262	50
	To balance .. ..	23,382	37		
Oct.	2..To Amount paid to P. Thangavelautham of Val- vettiturai on a/c. of mortgage. Mercantile Bank cheque 301206 Rs. 4,500/-.. .. Cash Rs. 3,000/- .. ..			7,500	00
	Total balance .. ..	30,828	37		
Dec.	11..By Amount received for Ceylon Bank profit pney No. D.W. 1961 .. ..			57	60
	12..To Amount paid to S. A. Muttuvelu Cheddiar for mortgage a/c. ,, Proctor V. S. Somasunderam on 27.11.46 for cheque 125230 .. Rs. 1,000/- ,, Exchange Bank— Cheque 040002 .. ,, 8,000/- do. 040003 .. ,, 1,000/- ..			10,000	00
	30..By Amount received on a/c. of shop rent for Grand Bazaar godown from January, 1946, till end of December 12 months, $\frac{1}{2}$ of 1/3rd share i.e. 1/6th share .. ..			2,000	00
	.. ,, Amount of rent for Main Street godown from January, 1946, till the end of December for 12 months .. ..			800	00
	.. ,, Amount received for shop rent for Main Street godown from November, 1945, to the end of December, 1946, for 14 months, on a/c. of V. K. Arumugam .. ..			614	25
	Carried to Ledger O, page 125 Rs. ..	40,828	37	1,671	85

D38.  
Ledger "M"  
pages 368, 470  
2.2.45 to  
30.12.46—  
Continued

Translated by me,

(Sgd.) Illegibly.

S.T. D.C. Jaffna, 24.3.55.

**P11B.**  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons,  
Jaffna  
31.12.46

**P11B.**  
**Financial Statement of Messrs. S. Veeragathipillai & Sons,**  
**Jaffna.**

FINANCIAL STATEMENTS OF  
MESSRS. S. VEERAGATHIPILLAI & SONS, JAFFNA,  
FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER, 1946.

Assessment :

File No. :

OUR Ref. :

M. N. SAMBAMURTI & CO.,  
INCORPORATED ACCOUNTANTS (London),  
Imperial Bank Buildings,  
P.O. Box 210, Fort, Colombo.

## Messrs. S. VEERAGATHIPILLAI &amp; SONS, JAFFNA.

## Trading Account for the Year Ended 31st December, 1946

	Opening Stock		Purchases		Freight duty, etc.		Cooly cart hire		Balance		Total		Sales		Closing Stock		Gross Loss	
	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.
Tiles .. ..	3,827	00	72,716	25	76,938	75	8,870	60	34,568	03	196,920	63	126,606	03	70,314	60		
Teak wood and sundry Woods	1,513	74	—		—		—		1,303	37	2,817	11	2,713	01	104	10		
Cotton Seeds ..	300	00	—		—		—		82	00	382	00	382	00	—			
Bran .. ..	—		4,750	00	—		1,062	02	146	73	5,958	75	3,339	75	2,619	00		
Gur .. ..	—		5,822	37	1,185	47	151	62	1,868	78	9,028	24	9,028	24	—			
Cement .. ..	—		8,679	66	8,002	85	1,354	00	—		18,036	51	7,268	52	6,435	00	4,332	99
Rs. ..	5,640	74	91,968	28	86,127	07	11,438	24	37,968	91	233,143	24	149,337	55	79,472	70	4,332	99

## Profit and Loss Account for the Year Ended 31st December, 1946

	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.
To Establishment .. ..			4,989	50	By Balance from Trading Account B/D.			
„ Rent Rates and Lighting .. ..			2,942	36	„ Gross Profit .. ..	37,968	91	
„ Printing and Stationery .. ..			95	70	„ Less Gross Loss (Cement) .. ..	4,332	99	33,635 92
„ Postage, Telegrams and Telephones ..			553	42	„ Interest received .. ..			906 41
„ Mess, etc. to staff .. ..			3,665	55	„ Interest from Banks .. ..			3,334 92
„ Travelling .. ..			296	90	„ Interest from Foreign Banks .. ..			1,881 65
„ Licences :					„ Interest from Ceylon Government Bonds .. ..			1,142 67
Pawn Department .. ..			80	00	„ Interest from War Saving Certificates .. ..			165 00
Gun .. ..			5	00	„ Pawn Interest .. ..			9,017 57
Revolver .. ..			10	00	„ Bad Debts recoveries .. ..			50 00
Cycle .. ..			1	00	„ Tarpaulin Hire .. ..			102 00
Dog .. ..			2	50	„ Rent from sub-letting .. ..			510 00
Radio .. ..			10	00	„ Cheque Commissions, etc. .. ..			77 35
„ Bank charges and cheque commis- sions .. ..				132 07	„ Lorry takings .. ..			4,786 59
„ Legal and Audit .. ..				884 00	„ Profit on sale of car .. ..			3,492 53
„ Repairs, Etc.:								
Business Premises .. ..			103	00				
Typewriter .. ..			2	00				
Furniture .. ..			68	70				
Cycle .. ..			11	60				
„ Advertisements .. ..				30 00				
Carried over ..			Rs. ..	13,883 30	Carried over ..		Rs. ..	59,102 61

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Profit and Loss Account—(Contd.)**

	Rs.	c.		Rs.	c.		Rs.	c.
Brought forward .. ..				13,883	30	Brought forward	59,102	61
<b>To Car Maintenance :</b>								
Petrol, oil, etc. .. ..		341	30					
Repairs, etc. .. ..		316	80					
Licence .. ..		70	00					
Insurance .. ..		114	00	842	10			
<hr/>								
<b>„ Lorry Maintenance :</b>								
Petrol, oil, etc. .. ..		3,157	10					
Repairs, etc. .. ..		3,002	19					
Repairs to garage .. ..		63	00					
Licence, etc. .. ..		219	17					
Insurance .. ..		282	10					
Wages, Cooly, etc. .. ..		325	92	7,049	48			
<hr/>								
„ Depreciation of cars and lorries .. ..				3,447	81			
„ Bad debts .. ..				11,647	84			
„ Loss in Jaggery .. ..				10,047	89			
„ Charity, etc. .. ..				7,833	78			
„ Net profit c/d. .. ..				4,350	41			
				<hr/>				
				Rs. ..	59,102		Rs. ..	59,102
								61
								<hr/> <hr/>

**Profit and Loss Appropriation Account**

	Rs.	c.		Rs.	c.		Rs.	c.
To Transfer to Point Pedro Branch S.V. a/c. .. ..				24,708	62	By Balance as per last Balance Sheet .. ..	24,708	62
„ Balance to Balance Sheet .. ..				4,350	41	„ Net profit as per P. & L. Account .. ..	4,350	41
				<hr/>				
				Rs. ..	29,059		Rs. ..	29,059
								03
								<hr/> <hr/>

Examined and found correct (subject to our report of even date).

Colombo,  
18th December, 1947.

*Incorporated Accountants.*



**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Statement of Total Income**

			Rs.	c.
Jaffna	..	..	25,499	16
Point Pedro	..	..	6,207	72
Total Rs.			31,706	88
			31,706	88

	<b>Division</b>			
	<i>Rent</i>	<i>Business</i>	<i>Total</i>	
	Rs.	c.	Rs.	
V. Rajaratnam	600	00	19,804	59
V. Rajasegaram	1,400	00	9,902	29
Rs.	2,000	00	29,706	88
	2,000	00	29,706	88

**AUDIT REPORT**

We do hereby certify that we have examined the books of Messrs. S. Veeragathipillai & Sons, Jaffna, and that this account is in accordance therewith. We have not verified any of the items of expenditure with vouchers. We have received all information and explanations required. Subject to these remarks, and the Notes, Explanations and Reservations furnished elsewhere, we have to report that we are satisfied that the books record all the transactions of the business for the period in question, that all profits and income have been credited and that the above account discloses the full profits of the business to the best of our knowledge, information and belief.

*Incorporated Accountants.*

Colombo,  
 18th December, 1947.

## Messrs. S. VEERAGATHIPILLAI &amp; SONS, JAFFNA

## Notes, Explanations and Reservations

The following are the abstracts of certain ledger account furnished with a view to reconcile the opening and closing balances as on the respective Balance Sheet :—

P11B.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons,  
Jaffna  
31.12.46—  
Continued

## Partner V. Rajaratnam's Rent Account

	Rs.	c.
Balance as per last Balance Sheet .. .. .	2,540	00
Add Year's Rent credited .. .. .	600	00
	<hr/>	<hr/>
Balance to Balance Sheet	Rs. ..	3,140 00
	<hr/> <hr/>	<hr/> <hr/>

## Partners' Sons' Rent Account

	Rs.	c.		Rs.	c.
To Rates paid .. .. .	70	56	By Balance as per last		
„ Balance to Balance Sheet ..	1,822	94	Balance Sheet ..	1,360	90
	<hr/>	<hr/>	„ Rents collected ..	532	60
	Rs. ..	1,893 50		<hr/>	<hr/>
	<hr/> <hr/>	<hr/> <hr/>		Rs. ..	1,893 50
				<hr/> <hr/>	<hr/> <hr/>

## Cars and Lorries

To Balance as per last Balance Sheet .. .. .	9,691	66	By Sale of Car—Z 9562 on		
„ Purchase of car Hillman—			26.12.46 .. .. .	4,200	00
CY 5546 (19.3.46) ..	6,785	00	„ Depreciation .. .. .	3,447	81
„ Transferred to Profit and Loss			„ Balance to Balance Sheet	12,321	38
Account .. .. .	3,492	53		<hr/>	<hr/>
	Rs. ..	19,969 19		Rs. ..	19,969 19
	<hr/> <hr/>	<hr/> <hr/>		<hr/> <hr/>	<hr/> <hr/>

P11B.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons.  
Jaffna  
31.12.46—  
Continued

**Legal Advance**

	Rs.	c.
Balance as per last Balance Sheet .. .. .	1,127	85
<i>Add</i> Year's advances .. .. .	302	80
	<hr/>	
Balance to Balance Sheet Rs. ..	1,430	65
	<hr/> <hr/>	

**Subramaniapuravi**

	Rs.	c.
Balance as per last Balance Sheet .. .. .	26,375	88
<i>Add</i> Year's expenses .. .. .	7,267	53
	<hr/>	
Balance to Balance Sheet Rs. ..	33,643	41
	<hr/> <hr/>	

**Building Suspense**

	Rs.	c.
Balance as per last Balance Sheet .. .. .	1,359	68
<i>Add</i> Year's expenses .. .. .	5,988	37
	<hr/>	
Transferred to Point Pedro S.V. Account Rs. ..	7,348	05
	<hr/> <hr/>	

**V. Rajasekaram's Drawings**

	Rs.	c.		Rs.	c.
To Balance as per last Balance Sheet .. .. .	20,853	37	By Dividends from Bank of Ceylon .. .. .	57	60
<b>Drawings :</b>			<b>Rent :</b>		
Government Ceylon Savings Bank .. .. .	3,000	00	Bus, premises .. .. .	1,100	00
			Other .. .. .	614	25
				<hr/>	
<b>Mortgages :</b>			Interest from Govern-ment Bonds .. .. .	525	00
P. Thangavelayutham .. .. .	7,500	00	Balance to Balance Sheet .. .. .	39,056	52
S. A. Muthuvel .. .. .	10,000	00		<hr/>	
	<hr/>			Rs. ..	41,353
	Rs. ..	41,353		Rs. ..	41,353
	<hr/> <hr/>			<hr/> <hr/>	

*Incorporated Accountants.*



Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA

Schedule of Moneylending Debtors

	Balance on		Interest received	Balance on		Remarks	
	1.1.1945			31.12.46			
	Rs.	c.	Rs.	c.	Rs.	c.	
A. S. Sivagurunathan .. .. .	2,880	12½	—	—	2,880	12½	Interest long overdue
V. Sellathurai .. .. .	192	63	—	—	167	63	Interest on settlement
M. Sivaguru .. .. .	1,090	00	300	00	—	—	Account settled
A. K. Ponnambalam .. .. .	3,000	00	—	—	3,000	00	Interest on settlement
N. S. Sethuraja .. .. .	28,000	00	—	—	40,000	00	Do.
S. Ganapathi .. .. .	400	00	—	—	340	00	Do.
V. Thamby Pillai .. .. .	2,700	00	—	—	1,940	00	Do.
S. Muthammal .. .. .	4,700	00	—	—	4,700	00	Do.
S. S. Nagalingam .. .. .	5,000	00	—	—	5,000	00	Do.
N. Subramaniam .. .. .	17,997	20	—	—	30,217	50	Do.
M. A. M. Assana Lebbe & Brs. .. .. .	6,000	00	72	80	—	—	Account settled
P. Sellathurai .. .. .	5,000	00	—	—	5,000	00	Interest on settlement
Jothi Karala Pillai .. .. .	1,000	00	136	53	—	—	Account settled
S. Shanmugam .. .. .	450	00	51	58	—	—	Do.
S. S. Arumugam .. .. .	—	—	45	50	2,831	70	New advance
K. K. A. Kandiah Pillai .. .. .	—	—	50	00	—	—	Rs. 10,000/- was advanced on 20.11.46 and settled on 22.11.1946
M. A. C. Mohirleen .. .. .	—	—	250	00	—	—	Rs. 20,000/- was advanced on 30.3.46 and settled on 14.6.1946
M. J. Ignatious .. .. .	—	—	—	—	38,000	00	New Advance
T. Ramaratnam Chettiar and Ramiah Chettiar .. .. .	—	—	—	—	80,000	00	Advanced on 7.11.1946
	Rs.	78,409 95½	906 41		214,076 95½		

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Colombo,  
18th December, 194

P.I.B.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons,  
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31.12.46—  
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P11B.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons,  
Jaffna  
31.12.46—  
*Continued*

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Details of Establishment**

	<i>Salary</i>		<i>Bonus</i>		<i>Total</i>		
	Rs.	Cts.	Rs.	Cts.	Rs.	Cts.	
S. Mylavaganm .. .. .	420	00	720	00	1,140	00	
N. Alagasundaram .. .. .	780	00	900	00	1,680	00	
N. Govindan .. .. .	240	00	120	00	360	00	
N. Raman .. .. .	240	00	90	00	330	00	
N. Krishnan .. .. .	224	00	—	..	224	00	
Martin.. .. .	634	00	..	..	634	00	
D. Banda .. .. .	114	00	—	..	114	00	
John .. .. .	87	50	—	..	87	50	
V. Velu Pillai .. .. .	150	00	—	..	150	00	
Dharmasena .. .. .	270	00	—	..	270	00	
	Rs. ..	3,159	50	1,830	00	4,989	50

**Rent, Rates and Lighting**

**Partners :**

V. Rajasekaram for Grand Bazaar and Bankshall Street ..	1,100	00		
V. Rajaratnam for Grand Bazaar .. .. .	600	00	1,700	00

**Others :**

R. Sundaramurthi for Grand Bazaar .. .. .	600	00		
M. Rajendram.. .. .	200	00		
V. Suppiah .. .. .	100	00	900	00

Rates : Main Street Properties .. .. .	91	40		
Grand Bazaar .. .. .	163	00	254	50

Lighting charges .. .. .	..	..	87	96
--------------------------	----	----	----	----

Rs... 2,942 36

## Legal and Audit

350·00	Audit fees
534·00	Legal expenses for recovery of debtors.
<u>884·00</u>	

P11B.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons,  
Jaffna  
31.12.46—  
*Continued*

10,047·89

## Loss in Re-sale of Jaggery

Jaggery was bought from V. K. M. Nataraja Mudaliyar for Rs. 15,000/- on 5.1.46 (whose credit balance as at 1.1.46 was Rs. 149·61) which however could not be brought over due to impossibility of obtaining an export permit from the Indian authorities. This stock was sold on 29.11.46 and 26.12.46 in India for Rs. 4,092·20 and 710·30 respectively and the balance written off.

## Messrs. S. VEERAGATHIPILLAI &amp; SONS, JAFFNA

## Debts Regarded Bad Followed Up

Opening Balance	..	..	..	..	..	Rs. 48,249·82
Less Written off Profit and Loss account and included under Bad Debts :						
S. Mylvaganam	..	..	..	5,367·20		
Abdulla Cassim	..	..	..	6,067·50	Rs. 11,434·70	
Recoveries from V. Rajaratnam (not partner)	..	..	..	50·00		
						Rs. 11,484·70
Closing Balance to follow up	..	..	..			<u>Rs. 36,765·12</u>

## Statement of Depreciation

		Written down value 1.1.1946		Additions		Sold		Depreciation		Profit on sale	
		Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.
Lorry Z 4910	..	422	56	—	—	—	—	105	64	—	—
Car Z 9562	..	507	43	—	—	4,200	00	—	—	3,692	57
Lorry CE 4332	..	8,420	00	—	—	—	—	2,105	00	—	—
CY 5546	..	—	—	6,785	00	—	—	1,217	28	—	—
Cost on 19.3.46	..	—	—	—	—	—	—	—	—	—	—
(Proportionate Depreciation claimed)											
						Rs. ..		3,427	92	3,692	57

Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO

Trading Account for the Year Ended 31st December, 1946

	<i>Bran</i>	<i>Tiles</i>		<i>Bran</i>	<i>Tiles</i>
	Rs. c.	Rs. c.		Rs. c.	Rs. c.
To Opening stock .. .. .		1,675 00	By Sales .. .. .	176 00	20,242 75
„ Purchases .. .. .	851 25	26,205 94	„ Closing stock .. .. .	689 00	47,759 00
„ Freight, duty etc. .. .. .		28,040 95			
„ Cooley, cart hire, etc. .. .. .		3,230 61			
„ Balance C/D. .. .. .	13 75	8,849 25			
	Rs. .. 865 00	68,001 75		Rs. .. 865 00	68,001 75

Profit and Loss Account for the Year Ended 31st December, 1946

	Rs. c.	Rs. c.		Rs. c.	Rs. c.
To Establishment .. .. .		2,220 00	By Balance from Trading Account B/d.		
„ Rent .. .. .		512 00	„ Bran .. .. .	13 75	
„ Postage and telegrams .. .. .		57 75	„ Tiles .. .. .	8,849 25	8,863 00
„ Mess, etc., to staff .. .. .		153 75			
„ Bank charges .. .. .		1 80	„ Interest received .. .. .		284 95
„ Gun Licence .. .. .		2 50	„ Interest from Banks .. .. .		624 94
„ Car Maintenances :					
Petrol, oil, etc. .. .. .		184 80			
Repairs, etc. .. .. .		723 35			
Licence .. .. .		40 00			
Insurance .. .. .		25 00			
„ Nett profit C/D. .. .. .		5,851 94			
	Rs. .. 9,772 89			Rs. .. 9,772 89	

Profit and Loss Appropriation Account

	Rs. c.		Rs. c.
To Transfer to S.V. current .. .. .	8,969 46	By Balance as per last Balance Sheet .. .. .	8,969 46
„ Balance to B/S. .. .. .	5,871 94	„ Net profit as per Profit and Loss Account .. .. .	5,851 94
		„ Dividends from North Ceylon Industrial Company Ltd. .. .. .	20 00
	Rs. .. 14,841 40		Rs. .. 14,841 40

Examined and found correct. Subject to our report of even date.

Colombo,  
18th December, 1946

*Incorporated Accountants.*





**Partner (S. V. Rajaratnam) Drawings Account**

	Rs.	c.
Balance as per last Balance Sheet .. ..	88,459	50
<i>Add</i> Further payments for Ayanangai Estate Eluthu- mattuwal on 15.10.46 including conveyance .. ..	5,122	00
Other drawings .. ..	374	75
	<hr/>	<hr/>
	93,956	25
<i>Less</i> Mortgage realised from V. Sellathurai .. ..	3,000	00
	<hr/>	<hr/>
Balance to Balance Sheet .. ..	Rs. ..	90,956 25
	<hr/> <hr/>	<hr/> <hr/>

**Subramaniapuravi Suspense**

	Rs.	c.
Balance as per last Balance Sheet .. ..	2,963	01
<i>Add</i> Year's expenses .. ..	2,698	81
	<hr/>	<hr/>
Balance to Balance Sheet .. ..	Rs. ..	5,661 82
	<hr/> <hr/>	<hr/> <hr/>

P11B.

Financial  
Statement of  
Messrs S.  
Veeragathi-  
pillai & Sons,  
Jaffna  
31.12.46—  
*Continued*

P17.

**Financial Statement of Messrs. S. Veeragathipillai & Sons  
for the year ended 31.12.47**

P17.

Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.47.

**FINANCIAL STATEMENTS OF  
MESSRS. S. VEERAGATHIPILLAI & SONS  
FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER, 1947**

M. N. SAMBAMURTI & CO.,

*Chartered Accountants*

*Incorporated Accountants,*

IMPERIAL BANK BUILDINGS,

P.O. Box 210,

COLOMBO

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Trading Account for the Year Ended 31st December, 1947**

	Opening Stock		Purchases		Freight Duty, etc.		Cooly cart hire		Balance Grs. Profit		Total		Sales		Closing Stock		Gross Loss	
	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.
Tiles .. ..	70,314	60	39,860	95	23,137	50	2,311	85	38,033	30	173,658	20	171,438	20	2,220	00	—	—
Teak wood and sundry woods .. ..	104	10	—	—	—	—	—	—	125	67	229	77	229	77	—	—	—	—
Bran .. ..	2,619	00	11,945	90	—	—	6	85	—	—	14,571	75	6,049	14	—	—	8,522	61
Cement .. ..	6,435	00	—	—	—	—	—	—	—	—	6,435	00	1,644	50	—	—	4,790	50
<b>Rs. ..</b>	<b>79,472</b>	<b>70</b>	<b>51,806</b>	<b>85</b>	<b>23,137</b>	<b>50</b>	<b>2,318</b>	<b>70</b>	<b>38,158</b>	<b>97</b>	<b>194,894</b>	<b>72</b>	<b>179,361</b>	<b>61</b>	<b>2,220</b>	<b>00</b>	<b>13,313</b>	<b>11</b>

**Profit and Loss Account for the Year Ended 31st December, 1947**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
To Establishment .. ..			5,198	00	By <b>Balance from Trading Accounts :</b>				
„ Rent, rates and lighting .. ..			3,095	48	Profit .. ..	38,158	97		
„ Printing and stationery .. ..			55	68	Less-Loss .. ..	13,313	11	24,845	86
„ Postage, telegrams and telephones .. ..			707	66					
„ Mess, etc. to staff .. ..			4,190	38	„ Interest received .. ..			2,196	98
„ Travelling .. ..			187	82	„ Interest from Banks .. ..			1,966	18
„ <b>Licences :</b>					„ Interest from Foreign banks .. ..			2,410	10
Pawn Dept. .. ..			80	00	„ Interest from Ceylon Government Bonds.. ..			1,225	00
Radio .. ..			10	00	„ Pawn interest .. ..			12,718	99
Gun and revolver .. ..			15	00	„ Rent from sub-letting .. ..			225	00
Dog .. ..			2	50	„ Cheque commissions .. ..			0	25
Cycle .. ..			1	00	„ Lorry takings .. ..			2,149	00
„ Bank charges and cheque commissions			143	63	„ Credit suspense as per last Balance Sheet transferred .. ..			125	00
„ Legal and audit .. ..			554	50					
„ Legal suspense transferred .. ..			415	00					
<b>Carried over ..</b>	<b>Rs. ..</b>	<b>14,656</b>	<b>65</b>		<b>Carried over</b>	<b>Rs. ..</b>	<b>47,862</b>	<b>36</b>	



**Profit and Loss Account—(Contd.)**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
Brought forward.. ..			14,656	65	Brought forward .. ..			47,862	36
<b>To Repairs, Etc. :</b>									
Building premises .. ..			599	00					
Cycle .. ..			32	00					
Furniture .. ..			124	75				755	75
			555	75					
„ Electric fan renewals .. ..				540	00				
„ Weights and measures .. ..				8	00				
<b>„ Car Maintenance :</b>									
Petrol, oil, etc. .. ..			623	85					
Repairs, etc. .. ..			203	46					
Licence .. ..			35	00					
Insurance .. ..			98	01				960	32
			959	32					
<b>„ Lorry Maintenance :</b>									
Extra driver's salary .. ..			22	00					
Petrol, oil, etc. .. ..			4,900	87					
Repairs, etc. .. ..			2,810	32					
Licence .. ..			230	00					
Insurance .. ..			306	60				8,269	79
			8,278	79					
„ Depreciation of cars and lorries .. ..				3,080	35				
„ Bad debts .. ..				542	34				
„ Charity, etc. .. ..				102	00				
„ Net profit .. ..				18,947	16				
				47,862	36			47,862	36
			47,862	36				47,862	36

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**Profit and Loss Appropriation Account**

	Rs.	c.		Rs.	c.
To Transfer to Point Pedro Branch S.V. Account .. ..	4,213	88	By Balance as per last Balance Sheet .. ..	4,350	41
„ Balance to Balance Sheet .. ..	19,083	69	„ Net profit as per Profit and Loss Account .. ..	18,947	16
	23,297	57		23,297	57
	23,297	57		23,297	57

Examined and found correct. (Subject to our report of even date).

Colombo, 10th February, 1949.

(Sgd.) Illegibly.  
Incorporated Accountants.

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Balance Sheet as on 31st December, 1947**

LIABILITIES	Rs.	c.	Rs.	c.	ASSETS	Rs.	c.	Rs.	c.
Point Pedro Branch .. ..			1,018,630	64	Cars and lorries .. ..			9,241	03
Partner's rent account .. ..			1,375	75	Closing stock .. ..			2,220	00
R. Sundaramoorthy Queen Mark Tile Agency .. ..				1,111 83	Pawn outstandings .. ..			307,508	00
<b>Sundry Creditors :</b>					<b>Ceylon Government Loans :</b>				
On open account.. ..	2,914	44			3 % 1954 .. ..	20,000	00		
For Salaries .. ..	372	35			2½% 1955 .. ..	25,000	00	45,000	00
„ Charities .. ..	1	25	3,288	04	<b>Sundry Debtors :</b>				
Credit suspense in debtors account					Loans .. ..	209,199	80½		
P. Sallathurai year's recoveries .. ..			382	84	For goods .. ..	17,994	56		
Profit and Loss Account balance .. ..			19,083	69	Debts regarded bad .. ..	29,599	18	256,793	54½
					<b>Advances :</b>				
					Staff .. ..	3,521	33		
					Legal .. ..	1,104	05		
					Foreign supplies .. ..	6,992	94	11,618	32
					Drawings (V. Rajasekaram) .. ..			98,622	23
					Cash at Ceylon Saving Bank .. ..			9,165	00
					Cash on Foreign Bank .. ..			174,929	53
					Cash at banks.. ..			118,745	81
					Cash on hand .. ..			10,029	32½
			Rs. ..	1,043,872 79				Rs. ..	1,043,872 79

Examined and found correct (Subject to our report of even date).

Colombo, 10th February, 1949.

*Incorporated Accountants.*







**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**  
**Schedule of Money Lending Debtors**

	<i>Balance on</i>		<i>Interest</i>		<i>Balance on</i>		<i>Remarks</i>
	1.1.46		received		31.12.47		
	Rs.	c.	Rs.	c.	Rs.	c.	
A. S. Sivagurunatham .. .. .	2,880	12½	—	—	2,880	12½	Interest long overdue.
V. Sellathurai .. .. .	167	63	—	—	152	63	Interest on settlement
A. K. Ponnambalam .. .. .	3,000	00	—	—	3,000	00	Do.
N. S. Sethuraja .. .. .	40,000	00	1,850	00	46,316	00	Do.
S. Ganapathy .. .. .	340	00	—	—	340	00	Do.
V. Thambipillai .. .. .	1,940	00	—	—	990	00	Do.
S. Muthummal .. .. .	4,700	00	—	—	4,700	00	Do.
S. S. Nagalingam .. .. .	5,000	00	—	—	5,000	00	Do.
N. Subramaniam .. .. .	30,217	50	—	—	30,217	50	Do.
P. Sellathurai .. .. .	5,000	00	—	—	—	—	Account under credit suspenseo.
S. S. Arumugam .. .. .	2,831	70	291	23	—	—	Account settled.
M. J. Ignatius .. .. .	38,000	00	—	—	36,653	55	Interest on settlement
T. Ramaratnam Chettiar and Raniah Chettiar	80,000	00	—	—	78,950	00	Do.
Ratnasingham .. .. .	—	—	55	75	—	—	Interest on goods debtor.
<b>Rs. ..</b>	<b>214,076</b>	<b>95½</b>	<b>2,196</b>	<b>98</b>	<b>209,199</b>	<b>80½</b>	

**Statement of Depreciation**

					Rs.	c.
Lorry Z 4910	W/d. value on 1.1.47	..	..	..	316	92
CE 4332	Do.	..	..	..	6,315	00
Car CY 5546	Do.	..	..	..	5,567	72
					<b>Rs. ..</b>	<b>12,199 64</b>
Depreciation at 25% for one year	..	..	..	..	<b>Rs. ..</b>	<b>3,049 91</b>

*—Continued*

## Details of Debts Regarded Bad Followed Up

	<i>Balance on</i>		<i>Transfer to Point</i>		<i>Balance on</i>	
	1.1.46		<i>Pedro Current</i>		31.12.47	
			<i>Account (W/off</i>			
			<i>as bad)</i>			
	Rs.	c.	Rs.	c.	Rs.	c.
V. Natarajah .. ..	369	00	369	00	—	
V. Vaithilingam .. ..	815	00	—		815	00
K. Thangiah .. ..	932	14	—		932	14
H. I. Ganapathi Pillai .. ..	325	00	325	00	—	
S. Sabapathy .. ..	74	00	74	00	—	
A. Sinnappa .. ..	38	00	38	00	—	
V. Kanagasabai .. ..	920	00	—		920	00
V. Vaithilingam .. ..	139	56	139	56	—	
S. Kanagasabai .. ..	260	00	260	00	—	
K. Kanagasabai .. ..	275	00	275	00	—	
A. Peirathamby .. ..	110	00	110	00	—	
V. Velayudham .. ..	1,500	00	—		1,500	00
V. Kandiah .. ..	146	00	146	00	—	
K. Nagalingam .. ..	592	00	—		592	00
S. Ganapathipillai .. ..	29	00	29	00	—	
K. Thamothearam .. ..	300	00	300	00	—	
Sankarapillai Thambu .. ..	80	00	80	00	—	
C/over .. ..	Rs. 6,904	70	Rs. 2,145	56	Rs. 4,759	14

P17.

Financial Statement of Messrs. S. Veeragathipillai & Sons for the year ended 31.12.47—  
*Continued*

## Details of Establishment

	<i>Salary</i>		<i>Bonus</i>		<i>Total</i>	
	Rs.	c.	Rs.	c.	Rs.	c.
S. Mylvaganam .. ..	420	00	720	00	1,140	00
N. Alagasunderam .. ..	780	00	900	00	1,680	00
Velupillai .. ..	360	00	240	00	600	00
N. Murugesu .. ..	240	00	120	00	360	00
N. Govindan .. ..	347	00	—		347	00
R. Dharmasena .. ..	575	50	—		575	50
K. Thirunavukarasu .. ..	45	00	—		45	00
Ponnuthurai .. ..	157	00	—		157	00
E. Raman .. ..	263	50	—		263	50
Murugesu .. ..	30	00	—		30	00
Rs. ..	3,218	00	1,980	00	5,198	00

P17.  
Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.47—  
*Continued*

### Rent, Rates and Lighting

	Rs. c.	Rs. c.
<b>Partners :</b>		
V. Rajasekaram from Grand Bazaar and Bankshall Street ..	1,000 00	
V. Rajaratnam for Grand Bazaar .. .. .	600 00	1,700 00
<hr/>		
<b>Others :</b>		
R. Sundaramurthi for Grand Bazaar .. .. .	600 00	
M. Rajendram .. .. .	200 00	
V. Suppiah .. .. .	100 00	900 00
<hr/>		
		2,600 00
Rates Paid : Grand Bazaar .. .. .	163 00	
Bankshall Street .. .. .	91 40	
House property near Building premises Grand Bazaar (Added back) .. .. .	120 00	374 40
<hr/>		
Lighting charges .. .. .		121 08
<hr/>		
	Rs. ..	<u>3,095 48</u>

(Partner's rent has not been added back and is being returned by them in their personal returns.)

### Legal and Audit

Rs. c.	
350 00	Audit fees.
204 50	Legal expenses for recovery of debtors.
<hr/>	
Rs. 554 50	
<hr/>	

### Bad Debts

Rs. 542.34 S. Rajaratnam—Regular Customer. Lastly Rs. 203/- worth of tiles was supplied on 29.4.46. Last receipt was Rs. 400/- on 20.4.46. He is heavily involved.



## Details of debts regarded Bad followed up:—Continued

	Balance on 1.1.46		Transfer to Point Pedro current account W/off as bad		Balance on 31.12.47	
	Rs.	c.	Rs.	c.	Rs.	c.
Brought forward..	6,904	70	2,145	56	4,759	14
S. Sinnathambi .. ..	430	00	430	00	—	—
S. Manickam .. ..	100	00	100	00	—	—
K. Kandavanam.. ..	1,026	00	—	—	1,026	00
V. Arumugam .. ..	850	00	—	—	850	00
S. Kandiah .. ..	433	00	433	00	—	—
V. Ganapathi .. ..	300	00	300	00	—	—
S. Kanagasabai .. ..	1,145	00	—	—	1,145	00
A. S. Velupillai .. ..	783	00	—	—	783	00
V. Sinnathambi .. ..	292	00	292	00	—	—
Appakutty .. ..	408	00	—	—	408	00
V. Thambimuttu .. ..	1,910	00	—	—	1,910	00
K. Kandiah .. ..	910	00	—	—	910	00
N.N. Kandiah .. ..	170	00	170	00	—	—
S. Selliah .. ..	335	00	335	00	—	—
A. Elayathamby .. ..	376	38	376	38	—	—
S. Ponnuthurai .. ..	1,600	00	—	—	1,600	00
P. Pararajasingham .. ..	39	00	39	00	—	—
V. Rajaratnam .. ..	37	00	—	—	37	00
V. Kandiah .. ..	250	00	250	00	—	—
M. Karthigesu .. ..	830	00	—	—	830	00
S. Vaithilingam .. ..	740	00	—	—	740	00
S. Velupillai .. ..	275	00	275	00	—	—
S. Kandiah .. ..	370	00	370	00	—	—
V. Subramaniam.. ..	130	00	130	00	—	—
R. Veerabaqu .. ..	1,629	64	—	—	1,629	64
S. Ramasamy .. ..	400	00	400	00	—	—
S. A. Velupillai .. ..	339	00	339	00	—	—
V. Kandiah .. ..	256	00	256	00	—	—
V. Sellappan .. ..	1,805	00	—	—	1,805	00
M. Ganapathy .. ..	225	00	225	00	—	—
K. Naganathan .. ..	1,090	00	—	—	1,090	00
Nagalingam .. ..	300	00	300	00	—	—
N. Saravanamuttu .. ..	2,963	00	—	—	2,963	00
I. Karthigesu .. ..	728	00	—	—	728	00
S. Arumugam .. ..	1,071	00	—	—	1,071	00
S. Kumarasamy .. ..	1,832	40	—	—	1,832	40
V. Ganesa Pillai .. ..	234	00	—	—	234	00
N. Ambalavanar.. ..	1,843	00	—	—	1,843	00
I. Sellathurai .. ..	1,405	00	—	—	1,405	00

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Rs. .. 36,765 12 .. 7,165 94 .. 29,599 18

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P17.  
Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.47—  
Continued

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**  
**Trading Account for the Year Ended 31st December, 1947**

		<i>Bran</i>		<i>Tiles</i>				<i>Bran</i>		<i>Tiles</i>	
		Rs.	c.	Rs.	c.			Rs.	c.	Rs.	c.
To Opening stock	.. ..	689	00	47,759	00	By Sales	.. ..	2,177	50	59,227	72
„ Purchases	.. ..	1,601	50	5,745	70	„ Closing stock	.. ..	—		1,437	50
„ Freight, duty, etc.	.. ..	—		1,209	62	„ Balance C/d.	.. ..	126	75	—	
„ Cooly, cart hire, etc.	.. ..	13	75	1,470	28						
„ Balance C/d.	.. ..	—		4,480	62						
		<hr/>		<hr/>				<hr/>		<hr/>	
		Rs. ..	2,304 25	60,665	22			Rs. ..	2,304 25	60,665	22

**Profit and Loss Account for the Year Ended 31st December, 1947**

		Rs.	c.	Rs.	c.			Rs.	c.	Rs.	c.
To Establishment	.. ..			1,740	00	By <b>Balance from Trading Accounts :</b>					
„ Rent	.. ..			580	00	Profit on tiles	.. ..	4,480	62		
„ Postage and telegrams	.. ..			106	10	Less Loss on bran	.. ..	126	75	4,353	87
„ Stationery	.. ..			5	40						
„ Mess, etc. to staff	.. ..			204	00	„ Interest received	.. ..			5,090	95
„ Bank charges	.. ..			9	92	„ Interest from banks	.. ..			1,249	94
„ Gun Licence	.. ..			2	50	„ Sale of car on 9.11.47 (Z 475)	.. ..			1,000	00
„ Repairs to business premises	.. ..			17	40						
„ <b>Car Maintenance :</b>											
Petrol, oil, etc.	.. ..	305	15								
Repairs, etc.	.. ..	524	32								
Licence	.. ..	45	00								
Insurance	.. ..	25	00	899	47						
		<hr/>		<hr/>				<hr/>		<hr/>	
„ Bad debts	.. ..			786	92						
„ Balance C/D.	.. ..			7,343	05						
		<hr/>		<hr/>				<hr/>		<hr/>	
		Rs. ..	11,694 76					Rs. ..	11,694 76		

Examined and found correct (Subject to our report of even date).

Colombo, 10th February, 1949.



**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Notes, Explanations and Reservations**

The following are the abstracts of certain ledger accounts furnished with a view to reconcile the opening and closing balance as on the respective Balance Sheets :—

**Seena Veeyanna Current Account**

	Rs.	c.	Rs.	c.		Rs.	c.
To Debts regarded bad written off (Jaffna) .. .. .			7,165	94	By Balance as per last Balance Sheet..	1,280,830	97
„ Income Tax and E.P.D. .. .. .			38,378	13	„ Sale of boat No. 59 on 30.6.47 ..	1,000	00
„ Subramaniapuravi suspense transferred .. .. .			47,643	52	„ Profit from Jaffna Branch ..	4,123	88
„ Drawings .. .. .			20,348	20	„ Profit transferred from Profit and Loss Appropriation Account ..	5,871	94
„ <b>Transfer to Capital Account :</b>					„ Dividends from Jaffna Co-operative Society .. .. .	400	00
V. Rajaratnam .. .. .	600,000	00					
V. Rajasegaram .. .. .	300,000	00	900,000	00			
„ <b>Transfer to Partners' Current Accounts :</b>							
V. Rajaratnam .. .. .	185,854	00					
V. Rajasegaram .. .. .	92,927	00	278,781	00			
			Rs. ..	1,292,316		Rs. ..	1,292,316
				79			79

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**Partners' Current Accounts (V. Rajaratnam)**

	Rs.	c.	Rs.	c.		Rs.	c.
To Balance as per last Balance Sheet..			90,956	25	By Partners' rent account as per last Balance Sheet transferred ..	810	00
„ <b>Partners' Sons' Drawings Transferred :</b>					„ Partners rent account transferred from Jaffna Branch .. .. .	3,140	00
R. Thirugnanasambandam .. .. .	20,585	65	23,200	74	„ Profit from Sorampattu Estate ..	1,905	69
R. Chandrasegaram .. .. .	2,615	09			„ Transferred from Seena Veeyanna current account .. .. .	185,854	00
„ Drawings .. .. .			12,261	15			
„ Balance to Balance Sheet .. .. .			65,291	55			
			Rs. ..	191,709		Rs. ..	191,709
				69			69

*Continued.....*

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Partners' Current Accounts—V. Rajasegaram**

	Rs.	c.			Rs.	c.
To Balance to Balance Sheet .. .. .	95,132	69	By Profit from Sorampattu Estate .. .. .	1,905	69	
			„ Rent adjusted to Profit and Loss Account .. .. .	300	00	
			„ Transferred from Seena Veeyanna Current Account.. .. .	92,927	00	
	Rs. ..	95,132 69		Rs. ..	95,132 69	

**Partners' Sons' Drawings**

	<i>Balance as per last B/S</i>	<i>Years' Drawings</i>	<i>Interest on war savings certificate</i>	<i>Dividend from Bank of Ceylon</i>	<i>Transfer to part- ner Rajaratnam's account</i>
	Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.
R. Thirugnanasambandam.. .. .	15,753 15	5,007 50	175 00	—	20,585 65
R. Chandarasegaram .. .. .	28 80	2,714 29	—	128 00	2,615 09
Rs. ..	15,781 95	7,721 79	175 00	128 00	23,200 74

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**Partners' Sons' Interest Accounts**

	<i>Balance as per last Balance Sheet</i>	<i>Year's Interest on War Saving Certificate</i>	<i>Drawings</i>	<i>Balance to Balance Sheet</i>
	Rs. c.	Rs. c.	Rs. c.	Rs. c.
R. Sivakumar .. .. .	45 18	150 00	159 00	36 18
R. Sivadas .. .. .	100 40	150 00	157 00	93 40
R. Shanmugalingam .. .. .	—	175 00	125 00	49 50
Rs. ..	145 58	475 00	441 50	179 08

*Continued.....*

P17.  
Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.47—  
*Continued*

Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO

Notes, Explanations and Reservations—(Contd.)

Mahami Account

	Rs. c.		Rs. c.
To Payment .. .. .	102 49	By Balance as per last Balance Sheet .. .. .	95 81
„ Balance to Balance Sheet .. .. .	1 26	„ Year's collections .. .. .	7 94
	Rs. .. 103 75		Rs. .. 103 75
	Rs. .. 103 75		Rs. .. 103 75

Quillon Properties

	Rs. c.		Rs. c.
To Balance as per last Balance Sheet .. .. .	8,652 85	By Rents collected .. .. .	499 19
„ Transferred to Profit and Loss Account .. .. .	4,346 34	„ Sale of properties on 28.9.47 .. .. .	12,500 00
	Rs. .. 12,999 19		Rs. .. 12,999 19
	Rs. .. 12,999 19		Rs. .. 12,999 19

Subramania Puravi Suspense

	Rs. c.		Rs. c.
To Balance as per last Balance Sheet .. .. .	5,661 82	By Sale of parts .. .. .	550 00
„ Year's expenses .. .. .	2,447 09	„ Transferred to Seena Veeyanna Current Ac-	
„ Transferred to Jaffna Branch.. .. .	40,084 61	count .. .. .	47,643 52
	Rs. .. 48,193 52		Rs. .. 48,193 52
	Rs. .. 48,193 52		Rs. .. 48,193 52

Details of Boat Working Account Transferred to Profit and Loss Account

	Athi- poorani	No. 2 Boat		Athi- poorani	No. 2 Boat
	Rs. c.	Rs. c.		Rs. c.	Rs. c.
To Voyage expenses, etc. .. .. .	9,160 97	—	By Voyage receipts .. .. .	7,962 53	210 00
„ Loading and unloading .. .. .	1,208 25	55 01	„ Loss transferred to Profit and Loss Ac-		
„ Screens and masts .. .. .	1,279 18	—	count .. .. .	7,410 71	44 82
„ Repairs, etc. .. .. .	3,724 84	196 81			
„ Licence .. .. .	—	3 00			
	Rs. .. 15,373 24	254 82		Rs. .. 15,373 24	154 82
	Rs. .. 15,373 24	254 82		Rs. .. 15,373 24	154 82

**Additional Point : Car Z 475.**—No depreciation has been claimed all these years as the renewal value has been claimed. The sum of Rs. 5,000/- being renewal of car Z 8895 is claimed in the Profit and Loss Adjustment Account.

Colombo, 10th February, 1949.

*Incorporated Accountants.*

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Details of Establishment**

				Rs. c.
K. Narayanasamy Naidu	..	..	..	300 00
Sellathambi (Driver)	..	..	..	840 00
S. Karali	..	..	..	600 00
				<hr/>
				Rs. .. 1,740 00
				<hr/> <hr/>

**Rent Payments**

						Rs. c.
Partner : V. Rajasekaram	..	..	..	..	..	300 00
Store rent paid to S. Ponnambalam	Point Pedro	..	..	..	..	186 00
Do.	Muttu Madaliar, Point Pedro	..	..	..	..	60 00
Do.	Ganapathi Pillai, Point Pedro	..	..	..	..	34 00
						<hr/>
						Rs. .. 580 00
						<hr/> <hr/>

**Details of Bad Debts**

		<i>Last Advance on Goods Date</i>	<i>Amount</i>	<i>Last Receipt Date</i>	<i>Amount</i>	<i>Remarks</i>
			Rs. c.		Rs. c.	
197-92	K. Kandappasekara	.. 31.12.42	210 00	30.11.46	50 00	A former paddy merchant at Valvettithurai. Party highly involved.
139 64	V. Kathiripillai	.. 23.10.43	3 50	17. 7.45	15 00	A former paddy merchant at Thondamannar highly involved.
35 40	V. S. Arunasalam	.. 18. 6.42	28 65	9. 5.45	25 00	A former sundry provisions shop owner at Valvettithurai highly involved.
38 40	A. Rajadurai	.. 31. 8.44	25 00	6. 5.45	25 00	Allowed as rebate.
33 00	V. V. Mahalingam	.. 10.12.41	13 75	13.12.44	5 00	A small boutique owner at Valvettithurai allowed as rebate.
39 56	5 small items found irrecoverable written off.					
330 00	Doraisamy Inadmissible.					
						<hr/>
						786 92
						<hr/> <hr/>

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P17.  
Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.47—  
*Continued*

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Schedule of Loans and Mortgages**

	<i>Balance on</i>		<i>Interest</i>		<i>Balance on</i>		<i>Remarks</i>
	31.12.46		<i>Received</i>		31.12.47		
	Rs.	c.	Rs.	c.	Rs.	c.	
Nadaraja .. .. .	321	28	32	00	303	28	—
Duraisamy .. .. .	303	00	—	—	—	—	Written off to Profit and Loss Account.
Manganayagam .. .. .	1,300	00	659	00	1,000	00	—
Kathirathamby Sinnachi .. .. .	900	00	540	00	—	—	Account settled.
V. Ponnamma .. .. .	655	00	—	—	655	00	Interest long overdue.
V. Nagappan .. .. .	15,000	00	2,900	00	15,000	00	Interest due from 18.3.47.
S. Seenvasagam .. .. .	200	00	—	—	200	00	Interest long overdue.
S. Sinnadurai .. .. .	150	00	—	—	150	00	Do.
R. Kulanthavel .. .. .	600	00	437	00	—	—	Account settled.
Nagappan .. .. .	3,000	00	499	00	3,120	50	Interest long overdue.
K. Ponnuthurai .. .. .	2,500	00	—	—	1,700	00	Interest on settlement.
S. Devavikumani .. .. .	5,000	00	—	—	5,000	00	Do.
V. Arunasalam .. .. .	—	—	—	—	2,000	00	New advance.
K. Visalakshi .. .. .	—	—	—	—	3,000	00	Do.
Chinthamani .. .. .	—	—	—	—	2,000	00	Do.
K. Murugupillai .. .. .	—	—	—	—	4,000	00	Do.
Mylvaganam .. .. .	—	—	23	95	—	—	Interest on goods debts.
<b>Rs. ..</b>	<b>29,929</b>	<b>28</b>	<b>5,090</b>	<b>95</b>	<b>38,128</b>	<b>78</b>	



**D1.**  
**Day Book for June, 1948**

D1.  
Day Book for  
June, 1948  
18.6.48 to  
19.6.48

**Translation**

	Payments		Receipts	
	Rs.	Cts.	Rs.	Cts.
1948	33,960	50	58,589	54
June 18..By Amount received on account of interest as				
per 9287 .. .. .			4	37
,, Lorry a/c. Atchuvely .. .. .			13	00
Total Rs. ..	33,960	50	58,606	91
By balance ..			24,646	41
19..To Amount paid for flat tiles came from V. shop				
in boat No. 82, 47,000/- ridge tiles 1,000				
Standard tiles Coy. 20.3.48				
As per a/c. of T. 9381.98				
Do. commission 17.64 .. .. .	9,399	62		
,, Amount paid for flat tiles came from boat				
No. 22,50,000				
Ridge tiles, ridge tiles 1,000/-. As per				
account dated 30.3.48 .. .. .	9,397	81		
By Amount received on a/c. of Ferook std. Tiles				
Company flat tiles came from boat No. 82,				
47,000, ridge tiles 1,000. As per a/c. of				
20.3.48, 9,381.98 and expenses 17.64 ..			9,399	62
,, Amount received on a/c. of 50,000 flat tiles				
sent by boat to do. shop by boat No. 22.				
Ridge tiles 1,000 as per account of do. Com-				
pany dated 30.3.48 .. .. .			9,397	81
,, Amount received from Dr. V. Thuraisamy for				
registration fees for car No. 4699 as per				
account entered .. .. .			10	00
To Amount paid to Dr. V. Thuraisamy for registra-				
tion fee of car No. CY 4699 of shop V. ..	10	00		
,, Amount paid on a/c. of profit, receipts and				
expenses as per a/c. for the year 1947 entered	19,083	69		
By Amount received on a/c. of profit, receipts and				
expenses as per a/c. entered .. .. .			19,083	69
,, Amount received for profit money for V. Raja-				
segaram on a/c. of Pallai Estate for half				
share in March, 1947.. .. .			1,905	69
Rs. ..	37,891	12	64,443	22





P 14.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons  
for the year  
ended 31.12.48

P14.

**Financial Statement of Messrs. S. Veeragathipillai & Sons  
for the year ended 31.12.48**

FINANCIAL STATEMENTS OF  
MESSRS. S. VEERAGATHIPILLAI & SONS, JAFFNA,  
FOR THE YEAR ENDED 31<sup>ST</sup> DECEMBER, 1948

M. N. SAMBAMURTI & CO.,

*Chartered Accountants*

*Incorporated Accountants*

P.O. Box 210

THE IMPERIAL BANK BUILDINGS,  
FORT, COLOMBO.



**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**  
**Profit and Loss Account—(Contd.)**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
Brought forward..			19,369	95	Brought forward .. ..			65,634	63
<b>To Car Maintenance :</b>									
Petrol, oil, etc. .. ..	1,125	25							
Repairs, etc. .. ..	442	41							
Insurance .. ..	92	75							
Battery .. ..	150	00							
Licence .. ..	35	00	1,845	23					
—————									
,, Depreciation on car and lorries .. ..			2,217	83					
,, Bad debts written off .. ..			11,566	09					
,, Charity, etc. .. ..			134	00					
,, E.P.D. (Income tax) .. ..			2,062	50					
,, Net profit C/d. .. ..			28,439	03					
			Rs. ..	65,634 63				Rs. ..	65,634 63
				—————					—————

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**Profit and Loss Appropriation Account**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
<b>To Transfer to Partners' Current Account:</b>									
V. Rajaratnam .. ..	12,722	46			By Balance as per last Balance Sheet ..			19,083	69
V. Rajasekaram .. ..	6,361	23	19,083	69	,, Net profit as per Profit and Loss Account .. ..			28,439	03
—————									
,, Balance to Balance Sheet .. ..			28,439	03					
			Rs. ..	47,522 72				Rs. ..	47,522 72
				—————					—————

Examined and found correct (Subject to our report of even date).

Colombo, 28th April, 1950.

*Chartered Accountants and Incorporated Accountants.*

Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA

Balance Sheet as on 31st December, 1948

LIABILITIES	Rs.	c.	Rs.	c.	ASSETS	Rs.	c.	Rs.	c.
Point Pedro Branch.. ..			816,723	79	Cars and lorries .. ..			6,653	50
<b>Sundry Creditors :</b>					Closing stock .. ..			3,217	00
On open accounts .. ..	3,033	13			Pawn outstandings.. ..			330,285	00
For Charities .. ..		1	25		<b>Ceylon Government Loans :</b>				
,, Salaries .. ..	347	00	3,381	38	3 % 1954 .. ..			20,000	00
Profit and Loss Account balance ..			28,439	03	2½ % 1955 .. ..			25,000	00
					<b>Sundry Debtors :</b>				
					Loans .. ..			191,236	30½
					For goods .. ..			12,437	90
					Debts regarded bad .. ..			17,302	40
								220,976	60½
					<b>Advances :</b>				
					Staff .. ..			8,005	11
					Legal .. ..			1,157	05
					Foreign supplies .. ..			5,064	01
								14,226	17
					Drawings (V. Rajasekaram).. ..			36,159	63
					R. Sundaramoorthy—Queen Mark Tile Agency .. ..			14,796	43
					Cash on foreign banks .. ..			70,895	18
					Cash at banks .. ..			98,283	87
					Cash on hand .. ..			8,050	81½
								848,544	20
								848,544	20

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Examined and found correct (Subject to our report of even date).

(Sgd.) Illegibly.

Colombo, 28th April, 1950.

Chartered Accountants and Incorporated Accountants.

P14.  
 Financial Statement of  
 Messrs. S. Veeragathi-  
 pillai & Sons  
 for the year  
 ended  
 31.12.48—  
 Continued

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**  
**Profit and Loss Adjustment Account for Purposes of Income Tax**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
To Legal suspense year's expenses .. .. .			53	00	By Net profit as per Profit and Loss				
„ Adjusted profit .. .. .			45,553	45	Account .. .. .			28,439	03
					„ Items Inadmissible :				
					Charity, etc. .. .. .			134	00
					Depreciation .. .. .			2,217	83
					E.P.D. .. .. .			2,062	50
					Bad debts .. .. .			11,566	09
					Legal .. .. .			103	00
					„ Doubtful debt recoveries .. .. .				1,084
									00
			Rs. ..	45,606				Rs. ..	45,606
									45

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**AUDIT REPORT**

We do hereby certify that we have examined the books of Messrs. Veeragathipillai & Sons, Jaffna, and that this account is in accordance therewith. We have not further verified any of the items therein.

(Sgd.) Illegibly.  
*Chartered Accountants and Incorporated Accountants.*

Colombo, 28th April, 1950.

Statement of Total Income				Division			
		Rs.	c.			Rs.	c.
Business : Jaffna .. .. .		45,553	45	V. Rajaratnam .. .. .		32,609	17
Point Pedro .. .. .		3,360	31	V. Rajasekaram .. .. .		16,304	59
		Rs. ..	48,913			Rs. ..	48,913
							76



**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA****Notes, Explanations and Reservations**

P14.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons  
for the year  
ended  
31.12.48—  
*Continued*

The following are the abstracts of certain ledger accounts furnished with a view to reconcile the opening and closing balances as on the respective Balance Sheets :—

**Cars and Lorries**

		Rs. c.	
To Balance as per last Balance Sheet .. ..	9,241 03	By Transfer to Rajasekaram's drawings Account (Z4910) .. ..	369 70
		„ Depreciation .. ..	2,217 83
		„ Balance to Balance Sheet .. ..	6,653 50
	Rs. .. 9,241 03		Rs. .. 9,241 03

**Legal Advance**

Balance as per last Balance Sheet .. ..	1,104 05
Add Year's expenses .. ..	53 00
Balance to Balance Sheet .. Rs. ..	1,157 05

**Additional Points**

- Partners' rent account credited balance has been transferred to Point Pedro and credited to their current accounts.
- Partner Rajasekaram's current account is explainable in his own books and no abstract of the account has been furnished.

(Sgd.) Illegibly.

*Chartered Accountants and Incorporated Accountants.*

Colombo, 28th April, 1950.

**Details of Establishment**

	<i>Salary</i>	<i>Bonus</i>	<i>Total</i>
S. Mylvaganam .. ..	480 00	720 00	1,200 00
N. Alagasundaram .. ..	840 00	900 00	1,740 00
Velupillai .. ..	360 00	360 00	720 00
N. Murugesu .. ..	240 00	120 00	360 00
E. Raman (Driver) .. ..	1,200 00	—	1,200 00
Sangaran .. ..	180 00	—	180 00
N. Vadivelu .. ..	55 00	—	55 00
	Rs. .. 3,355 00	.. 2,100 00	.. 5,455 00

P14.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons  
for the year  
ended  
31.12.48—  
Continued

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Rent, Rates and Lighting**

			Rs. c.	Rs. c.
Partners : V. Rajasekaram for Main Street	..	..	787 00	
V. Rajaratnam for B' premises	..	..	221 67	1,008 67
Partner's son R. Sivakumaran (From July, 48)	..	..		158 33
B' premises	..	..		380 00
Others : R. Sundaramoorthy	..	..		
Lighting charges	..	..		119 07
			Rs. ..	<u>1,666 07</u>

**Legal and Audit**

Rs. c.	
325 00	Audit fees.
296 10	Legal expenses for recoveries of debtors.
103 00	Legal expenses in connection with properties.
Rs. 724 10	

**Bad Debts Written Off**

Rs. c.	
11,212 78	Inadmissible—doubtful debts written off.
353 31	Others not claimed.
Rs. 11,566 09	

**Schedule of Money Lending**

		Balance on 1.1.48	Interest received	Balance on 31.12.48	Remarks
		Rs. c.	Rs. c.	Rs. c.	
A. S. Sivagurunathan	..	2,880 12½	—	2,665 12½	Interest on settle- ment paid 215/- part payment.
V. Sellathurai	..	152 63	—	112 63	Paid 40/- part payment.
A. K. Ponnambalam	..	3,000 00	—	3,000 00	Action—taken.
N. S. Sethuraja	..	46,316 00	—	46,316 00	Do.
S. Ganapathy	..	340 00	—	315 00	Interest on settle- ment Rs. 250/- paid part pay- ment.
V. Thambipillai	..	990 00	—	990 00	Do.
S. Muthammal	..	4,700 00	752 00	3,500 00	
S. S. Nagalingam	..	5,000 00	1,087 50	5,000 00	
N. Subramaniam	..	30,217 50	—	30,217 50	Sued.
P. Sellathurai	..	—	382 84	—	
M. J. Ignatius	..	36,653 55	1,200 00	22,300 05	
T. Ramaratnam Chetty and Ramiah Chettiar..	..	78,950 00	—	76,820 00	Interest on settle- ment.
V. Arumugam	..	—	350 00	—	
V. Ganesapillai	..	—	366 00	—	
Various sources	..	—	—	—	
Sundries	..	—	60 00	—	
Rs. ..		<u>209,199 80½</u>	<u>4,198 34</u>	<u>191,236 30½</u>	

## Messrs. S. VEERAGATHIPILLAI &amp; SONS, JAFFNA

P14.

Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons  
for the year  
ended  
31.12.48—  
Continued

## Details of Debts Regarded Bad Followed Up

	<i>Balance on</i>		<i>Written Off</i>		<i>Recovered</i>	<i>Balance on</i>		
	1.1.48		<i>Bad</i>			31.12.48		
	Rs.	c.	Rs.	c.	Rs.	c.	Rs.	c.
V. Vaithilingam .. ..	815	00	—	..	—	..	815	00
K. Thangiah .. ..	932	14	932	14	—	..	920	00
V. Kanagaratnam .. ..	920	00	—	..	—	..	920	00
V. Vellayutham .. ..	1,500	00	—	..	—	..	1,500	00
K. Nagalingam .. ..	592	00	592	00	—	..	—	
K. Kandavanam .. ..	1,026	00	1,026	00	—	..	—	
V. Arumugam .. ..	850	00	—	..	850	00	—	
S. Kanagasabai .. ..	1,145	00	—	..	—	..	1,145	00
A. S. Velupillai .. ..	783	00	783	00	—	..	—	
Appukutti .. ..	408	00	—	..	—	..	408	00
V. Thambimuthu .. ..	1,910	00	—	..	—	..	1,910	00
K. Kandiah .. ..	910	00	910	00	—	..	—	
S. Ponnuthurai .. ..	1,600	00	1,600	00	—	..	—	
V. Rajaratnam .. ..	37	00	37	00	—	..	—	
S. Vaithilingam .. ..	740	00	740	00	—	..	—	
M. Kathigesu .. ..	830	00	830	00	—	..	—	
R. Veerabapu .. ..	1,629	64	1,629	64	—	..	—	
V. Sellappan .. ..	1,805	00	—	..	—	..	1,805	00
K. Naganathan .. ..	1,090	00	—	..	—	..	1,090	00
N. Saravanamuthu .. ..	2,963	00	—	..	—	..	2,963	00
I. Karthigesu .. ..	728	00	728	00	—	..	—	
S. Arumugam .. ..	1,071	00	—	..	—	..	1,071	00
S. Kumarasami .. ..	1,832	40	—	..	—	..	1,832	40
V. Ganesapillai .. ..	234	00	—	..	234	00	—	
N. Ambalavanar .. ..	1,843	00	—	..	—	..	1,843	00
I. Sellathurai .. ..	1,405	00	1,405	00	—	..	—	
Rs. ..	29,599	18	11,212	78	1,084	00	17,302	40

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**  
**Tiles Trading Account for the Year Ended 31st December, 1948**

	Rs.	c.		Rs.	c.
To Opening stock .. .. .	1,437	50	By Sales .. .. .	57,915	38
„ Purchases .. .. .	52,253	24	„ Closing stock .. .. .	17,375	00
„ Freight, duty, etc. .. .. .	7,891	04			
„ Cooly, cart hire, etc. .. .. .	1,705	60			
„ Balance C/d. .. .. .	12,003	00			
	Rs. .. 75,290	38		Rs. .. 75,290	38
	Rs. .. 75,290	38		Rs. .. 75,290	38

**Profit and Loss Account for the Year Ended 31st December, 1948**

	Rs.	c.		Rs.	c.
To Establishment .. .. .	1,860	00	By Balance from Trading Account .. .. .	12,003	00
„ Rent (paid to Rajasekaram) .. .. .	300	00	„ Interest received .. .. .	97	84
„ Printing and stationery .. .. .	21	00	„ Profit on sale of car on 12.1.48 (Z 8895) .. .. .	250	00
„ Postage, telegrams and telephones .. .. .	57	25			
„ Mess, etc. to staff .. .. .	172	80			
„ Travelling .. .. .	4	35			
„ Gun Licence .. .. .	2	50			
„ Bank charges and cheque commissions .. .. .	153	40			
„ <b>Car Maintenance :</b>					
Petrol, oil, etc. .. .. .	751	83			
Repairs, etc. .. .. .	104	90			
Insurance .. .. .	202	50			
	1,059	23			
„ Bad debts written off .. .. .	78	68			
„ Net profit C/d. .. .. .	8,641	63			
	Rs. .. 12,350	84		Rs. .. 12,350	84
	Rs. .. 12,350	84		Rs. .. 12,350	84

Examined and found correct (Subject to our report of even date).

Colombo, 28th April, 1950,

(Sgd.) Illegibly.  
*Chartered Accountants and Incorporated Accountants.*

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Profit and Loss Appropriation Account**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
To Loss Transferred from Boat Working Account :					By Balance as per last Balance Sheet ..			4,233	86
Athipoorani .. .. .	322	60			,, Net profit as per Profit and Loss Account .. .. .			8,641	63
Boat No. 2 .. .. .	25	35	347	95					
	<hr/>								
.. Transferred to Partners' Current Account :									
V. Rajaratnam .. .. .	2,822	57							
V. Rajasegaram .. .. .	1,411	29	4,233	86					
	<hr/>								
.. Balance to Balance Sheet .. .. .			8,293	68					
			Rs. ..	12,875 49				Rs. ..	12,875 49
				<hr/> <hr/>					<hr/> <hr/>

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**Balance Sheet as on 31st December, 1948**

LIABILITIES	Rs.	c.	Rs.	c.	ASSETS	Rs.	c.	Rs.	c.
<b>Capital Account :</b>					Closing stock (tiles) .. .. .			17,375	00
V. Rajaratnam .. .. .	600,000	00			Shares .. .. .			500	00
V. Rajasekaram .. .. .	300,000	00	900,000	00	Car account .. .. .			10,360	00
	<hr/>								
<b>Partner's Current Account :</b>					<b>Sundry Debtors :</b>				
V. Rajaratnam .. .. .			13,022	43	Loans and mortgages .. .. .	62,555	00		
					For goods account .. .. .	6,228	93	68,783	93
<b>Sundry Creditors :</b>					Jaffna Branch .. .. .			816,723	79
On open accounts .. .. .	2,940	14			Cash on hand .. .. .			10,739	52
For salaries .. .. .	189	94							
,, charities .. .. .	36	05	3,166	13					
	<hr/>								
Profit and Loss Account balance .. .. .			8,293	68					
			Rs. ..	924,482 24				Rs. ..	924,482 24
				<hr/> <hr/>					<hr/> <hr/>

Examined and found correct (Subject to our report of even date).

Colombo, 28th April, 1950.

(Sgd.) Illegibly.  
Chartered Accountants and Incorporated Accountants.

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**  
**Profit and Loss Adjustment Account for Purposes of Income Tax**

	Rs.	c.		Rs.	c.
To Renewal of car (Rs. 10,360/-) less 5,000/-	5,360	00	By Net profit as per Profit and Loss Account	8,641	63
„ Adjusted profit	3,360	31	„ <b>Item Inadmissible : Charity</b>	78	68
	<u>8,720</u>	<u>31</u>		<u>8,720</u>	<u>31</u>
Rs. ..			Rs. ..		

Examined and found correct (Subject to our report of even date).

(Sgd.) Illegibly.

Colombo, 28th April, 1950.

*Chartered Accountants and Incorporated Accountants.*

**Notes, Explanations and Reservations.**  
**Partner's Current Account (V. Rajaratnam)**

	Rs.	c.		Rs.	c.
To Income Tax	3,079	16	By Balance as per last Balance Sheet	65,291	55
„ Transferred to Rajasekaram Jaffna Branch Account	17,376	12	„ Dividend from Jaffn Co-operative Stores	266	67
„ R. Sundaramoorthy—Building account	5,000	00	„ <b>Profit Transferred :</b>		
„ Drawings	35,170	58	Jaffna Branch	12,722	46
			Point Pedro Branch	2,822	57
„ <b>Purchase of Land :</b>				<u>15,545</u>	<u>03</u>
R. Sivakumaran	1,016	00	„ Rent received	450	63
R. Sivas	434	50	„ Transferred from Jaffna (partners' rent account)	1,375	75
	<u>1,450</u>	<u>50</u>	„ Advance received from R. Sundaramoorthy	1,500	00
„ R. Sundaramoorthy	1,115	17			
„ R. Shanmugalingam	530	50			
„ V. Rajasekaram	2,485	17			
„ R. Sundaramoorthy	5,000	00			
„ Surveyor	200	00			
„ Balance to Balance Sheet	13,022	43			
	<u>84,429</u>	<u>63</u>		<u>84,429</u>	<u>63</u>
Rs. ..			Rs. ..		

*Continued.*

Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO

Notes, Explanations and Reservations—(Contd.)

Car Account

	Rs.	c.		Rs.	c.
To Balance as per last Balance Sheet Z 8895 ..	5,000	00	By Sale (Z 8895) .. .. .	5,250	00
„ Transferred to Profit and Loss Account ..	250	00	„ Balance to Balance Sheet .. .. .	10,360	00
„ Purchase of a new car .. .. .	10,360	00			
	<u>Rs. ..</u>	<u>15,610</u>		<u>Rs. ..</u>	<u>15,610</u>

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Details of Boat Working Account Transferred to Profit and Loss Account

	<i>Athi-</i>	<i>No. 2</i>		<i>Athi-</i>	<i>No. 2</i>
	<i>poorani</i>	<i>Boat</i>		<i>poorani</i>	<i>Boat</i>
	Rs.	c.		Rs.	c.
To Voyage expenses .. .. .	7,973	29	By Voyage receipts .. .. .	10,835	10
„ Loading and un-loading .. .. .	1,494	96	„ Loss transferred to Profit and Loss		
„ Screens and Masts .. .. .	879	03	„ Appropriation Account .. .. .	322	60
„ Repairs, etc. .. .. .	810	42			
„ Licence .. .. .	—	3			
	<u>Rs. ..</u>	<u>11,157</u>		<u>Rs. ..</u>	<u>11,157</u>
		<u>389</u>			<u>389</u>

Colombo, 28th April, 1950.

(Sgd.) Illegibly.  
Chartered Accountants and Incorporated Accountants.

P14.  
 Financial  
 Statement  
 Messrs. S.  
 Veeragathipillai  
 & Sons for the  
 year ended  
 31.12.48—  
 (Continued)

P14.  
Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.48—  
*Continued*

**MESSRS. S. L. VEERAGATHIPILLAI & SONS, Pt. PEDRO**

				Establishment		Rs. Cts.
	K. Narayanaswamy	..	..	..	..	360 00
	Sellathamby (driver)	..	..	..	..	900 00
	S. Karali	..	..	..	..	600 00
						1,860 00
						1,860 00

				Bad debts w/off		
Rs. c.						
11 40	Kannapullu Pillai and Murugupillai	..	..	..	..	
67 28	S. Nagama	..	..	..	..	
78 68						

				Sundry Creditors		
	R. Sinnakumar, Jaffna	..	..	..	..	36 18
	R. Sivadas	..	..	..	..	1,018 35
	Tamil School	..	..	..	..	105 80
	S. Ponnuchamy	..	..	..	..	143 52
	S. Duraisamy	..	..	..	..	336 32
	Raman	..	..	..	..	53 00
	Murugapillai	..	..	..	..	40 00
	Das	..	..	..	..	1,206 97
						2,940 14
						2,940 14

P11.  
Application by  
Defendant to  
Controller of  
Imports  
28.4.49

**P11.**

**Application by Defendant to Controller of Imports**

*Copy :*

*True Copy :*  
(Sgd.) Illegibly.

Section " B. "  
Application Form.

*Actg. Controller of Imports and Exports.*

Colombo.

21st January, 1953.

*To :* The Controller of Imports.

*From :* (Give full name and address.) S. Veeragathipillai & Sons,  
Grand Bazaar,  
Jaffna.

We hereby apply for entry of our name in the Register of New-comers maintained by you for the issue of Imports licences to New-comers.



We undertake in the event of our application being admitted for registration to notify the Controller of Imports immediately of any change affecting the business which will materially qualify the statements we have made in reply to the questionnaire. In particular we undertake to notify immediately the Controller of Imports of changes affecting our replies to questions 9(i), 9(ii), 9(iii), 9(viii) and 9(ix) and 10(i), (ii), (vi) and (vii). We realize that failure on our part to notify these changes may result in the removal of our name from the Register, and cancellation of our Import Licences.

We are an established importer(s) and we apply for registration to qualify for the concessions of a Newcomer.

We hereby declare that the statements in reply to the attached questionnaire are to the best of our belief true and correct.

We recognise that any import licence granted to us on the basis of the statements is not transferable and is liable to cancellation at any time.

Yours faithfully,

(Sgd.) S. VEERAGATHIPILLAI & SONS.

Date : 28th April, 1949.

#### QUESTIONNAIRE

- |   |   |
|---|---|
| 1. State full name and address of your business in Ceylon   | .. S. Veeragathipillai & Sons<br>Grand Bazaar, Jaffna.  |
| 2. When was your business established in Ceylon   | .. About fifty (50) years ago.  |
| 3. What is the present nature of your business ?  | ..  |
| (i) Wholesale only* ?   | .. Wholesale  |
| (ii) Wholesale or retail ?  | .. and  |
| (iii) Retail only ?   | .. retail   |
| (iv) Indent Agency only ?   | ..  |
| (v) Indent Agency and wholesale only ?  | .. Also importers.  |
| (vi) Indent Agency and retail only ?  | ..  |
| 4. In what merchandise do you deal at present ? (Describe fully the principal lines dealt in)   | .. Roofing-tiles  |
| 5. What experience of the import trade do you have, and how long ? (If you have no experience at all, say so; if you have been an importer off and on, say occasional importer ; if you are a regular importer, say so. In each case state what lines of goods were imported. Give the total value of all imports made by you during each of the last two years | .. Roofing-Tiles, Jaggery, rice and paddy, grain and other grain and bran, cement, teak-wood etc. from Burma and India, for the last fifty (50) years or so 1946 and 1947 Rs. 559,874.18. |

P11.

Application by  
Defendant to  
Controller of  
Imports  
28.4.49—  
Continued

P11.  
Application by  
Defendant to  
Controller of  
Imports  
28.4.49—  
Continued

6. If you have any branches or agencies abroad, give particulars .. No branches. Standard Tile & Cement Works, Ltd. (Sgd.) Illegibly), M. A. M. ASSAM LEBBE, (Sgd.) Illegibly. Boda Ram & Bro . . . ./ (Sgd.) Illegibly. Bombay Burma Trading Co. Rangoon & Moulmein.
- 
7. (i) What is the extent of your office accommodation ? 1,600 Sq. ft.  
(ii) What is the extent of your Store accommodation, if any, apart from your office accommodation ? .. About 5,000 sq. ft.  
(Give answers to (i) and (ii) in square feet and state monthly rental.) .. Rs. 75/-  
(iii) If your stores are situated separately from your office, what is the address of your stores ? .. —
- 
8. When does your accounting year of your business end ? 31st December.
- 
9. If you are trading as an individual in your own name or under a business name, state :—  
(i) Whether you are a Citizen of Ceylon ? ..  
(ii) If not a Citizen of Ceylon what your nationality is, and how long you have been resident in Ceylon ? ..  
(iii) State Business Registration Number, if any, and attach certified copy of Business Registration Certificate. ..  
(iv) What is the amount of capital invested in your business at the end of the last accounting year? ..  
(If you are an Income Tax payer it would facilitate registration if you attach a copy of your statement of accounts furnished to the income Tax Department for the last assessment year, and also the notice of assessment). ..  
(v) What is the amount of capital invested at present in your business ? ..  
(vi) Number of persons employed by you in your business at the end of the last accounting year? ..  
(vii) Of those employed in your business at the end of the last accounting year, how many were in :—  
(1) executive grade ; and ..  
(2) subordinate grade ? ..  
and in each grade how many were citizens of Ceylon ? ..  
(List persons in executive grade by the nature of office they hold) ..  
(viii) Who are your bankers ? ..  
(If you have accounts in more than one bank, give the names of all the banks with whom you maintain current accounts) ..  
(ix) Who are authorised to operate the bank account(s) of your business and to what nationality do they belong ? ..

10. (i) If you are a firm, please state the names of all partners and whether they are citizens of Ceylon. If not citizens of Ceylon what is their nationality and how long have they been resident in Ceylon. (Please attach certified copy of your business Registration Certificate.) ..
- (ii) What is the capital contributed by each partner as at the end of the last accounting year and how the profits shared? (If you are an Income Tax payer, it would facilitate registration if a copy of the statement of accounts of the business for the last accounting year and the notice of assessment are attached.) ..
- (iii) What is the capital contribution of each partner at present? ..
- (iv) Number of persons employed by you in your business at present ..
- (v) Of those employed in your business at the end of last accounting year, how many were in ..
- (1) executive grade, and ..
- (2) subordinate grade and in each grade how many were citizens of Ceylon. (List persons in executive grade by nature of office they hold.) ..
- (vi) Who are your bankers? If you have accounts in more than one bank, give the names of all the banks with whom you maintain current accounts.) ..
- (vii) Who are authorised to operate the bank account(s) of your business and what is their nationality? ..
- V. Rajaratnam.  
V. Rajasegaram.
- P11.  
Application by  
Defendant to  
Controller of  
Imports  
28.4.49—  
Continued
- Income Tax Return for the  
year ending 1946 en-  
closed herewith.
- Rs. 600,000  
Rs. 300,000
- 6 six  
6 six.
- 5 Ceylonese.  
1 Indian.  
The National Bank of  
India.  
The Exchange Bank of  
India, Jaffna.  
Bank of Ceylon, Jaffna  
Both the partners of the  
Firm.
- 
11. If you are an Incorporated Company, state :
- (i) When and where the Company was incorporated? ..
- (ii) If the Company was incorporated outside Ceylon when it was registered in Ceylon? ..
- (iii) Whether it is a public or a private Company? ..
- (iv) What is the paid-up capital of the Company at the end of the last accounting year? ..  
(Please attach a copy of the last Balance Sheet and the Profit and Loss A/c.) ..
- (v) If the business in Ceylon is a branch or an agency of a Company incorporated abroad, it would facilitate registration if a certified copy of the statement of accounts forwarded to the Income Tax Department for the last assessment year is attached. ..
- (vi) Names and addresses of the Directors and their nationality? ..
- (vii) What is the percentage of shares held at the last accounting year by : ..
- (a) citizens of Ceylon, if any, and ..
- (b) others ..
- (viii) Number of persons employed by you in your business at the end of the last accounting year ..

P11.  
Application by  
Defendant to  
Controller of  
Imports  
28.4.49—  
Continued

- (ix) Of those employed in your business at the end of the last accounting year, how many were in :  
 (a) executive grade, and ..  
 (b) subordinate grade and in each grade how many were citizens of Ceylon ? ..  
 (List persons in executive grade by the nature of the office they hold.) ..
- (x) Who are your bankers ? (If you have accounts in more than one bank, give the names of all the banks with whom you maintain current accounts.) ..
- (xi) Who are authorised to operate the bank account(s) of your business and to what nationality do they belong ? ..
- 
12. (i) Have you already established connections to develop the import trade in goods for which you expect to apply for licences as a newcomer, and if so, give particulars of the connections ? ..  
 Standard Tile & Clay Works, Ltd (Illegible)  
 M. A. M. Assam Lebbe Bros., Madras.  
 Boda & Co., Bombay  
 Burma Trading Co., Rangoon, etc.
- (ii) What is the value of imports you expect to transact in a year in those goods for which you expect to apply for licences as a newcomer ? (Your estimate should be made conservatively, and should have regard to the financial resources at your command including the capital invested in your business.) .. Rs. 500,000/-.

P11A.  
Original of P11  
28.4.49

**P11A.**  
**Original of P11.**  
*Section " B "*  
*Application Form*

To : The Controller of Imports.

From : (Give Full name and address) : S. Veeragathipillai & Sons,  
Grand Bazaar, Jaffna.

We hereby apply for entry of our name in the Register of New-comers maintained by you for the issue of import licences to New-comers.

We undertake in the event of our application being admitted for registration to notify the Controller of Imports immediately of any changes affecting the business which will materially qualify the statements we have made in reply to the questionnaire. In particular we undertake to notify immediately the Controller of Imports of changes affecting our replies to questions 9(i), 9(ii), 9(iii), 9(viii) and 9(ix) and 10(i), (ii), (vi) and (vii). We realize that failure on our part to notify these changes may result in the removal of our name from the Register, and cancellation of our Import Licences.

We are an established importer(s) and we apply for registration to qualify for the concessions of a Newcomer.

P11A.  
Original of P11  
28.4.49—  
Continued

We hereby declare that the statements in reply to the attached questionnaire are to the best of our belief true and correct.

We recognise that any import licence granted to us on the basis of the statements is not transferable and is liable to cancellation at any time.

Yours faithfully,  
S. VEERAGATHIPILLAI & SONS  
(Sgd.) V. RAJASEGARAM  
(Signature of Applicant)

Date 28th April, 1949.

#### QUESTIONNAIRE

1. State full name and address of your business in Ceylon ..	S. Veeragathipillai & Sons, Grand Bazaar, Jaffna.
2. When was your business established in Ceylon ? ..	About fifty (50) years ago.
3. What is the present nature of your business ? ..	
(i) Wholesale only ? ..	Wholesale and
(ii) Wholesale or retail ? ..	Retail also Importers
(iii) Retail only ? ..	
(iv) Indent Agency only ? ..	
(v) Indent Agency Wholesale only ? ..	
(vi) Indent Agency and Retail only ? ..	
4. In what merchandise do you deal at present ? (Describe fully the principal lines dealt in.) ..	Roofing tiles.
5. What experience of the import trade do you have, and how long ? (If you have no experience at all, say so ; if you have been an importer off and on, say occasional importer ; if you are a regular importer ; say so. In each case state what lines of goods were imported. Give the total value of all imports made by you during each of the last two years.) ..	Roofing-tiles, jaggery, Rice, Paddy, bran and other grains, and bran cement, teak-wood from Burma and India, for the last fifty (50) years or so. 1946 and 1947 Rs. 559,874.18.
6. If you have any branches or agencies abroad, give particulars :— ..	No Branches. Standard Tile & Clay Work Ltd., Feroke. M. A. M. Assam Lebbe & Bros., (Illegible). Boda Ram & Bro. (Illegible) Bombay, Burma Trading Co., Rangoon and Moulmein.

P11A.  
Original of P11  
28.4.49—  
Continued

7. (i) What is the extent of your office accommodation ? .. 1,600 sq. ft.  
 (ii) What is the extent of your store accommodation, if any, apart from your office accommodation ? .. About 5,000 sq. ft.  
 Give answers to (i) and (ii) in square feet and state monthly rental.) .. Rs. 75/-.  
 (iii) If your stores are situated separately from your office, what is the address of your stores ? ..

8. When does the accounting year of your business end ? .. 31st December.

9. If you are trading as an individual in your own name or under a business name, state :—

- (i) Whether you are a citizen of Ceylon ? ..  
 (ii) If not a citizen of Ceylon, what your nationality is, and how long you have been resident in Ceylon ? ..  
 (iii) State business registration number, if any, and attach certified copy of business Registration Certificate. ..  
 (iv) What is the amount of capital invested in your business at the end of the last accounting year ? (If you are an Income Tax payer it would facilitate registration if you attach a copy of your statement of accounts furnished to the Income Tax Department for the last assessment year, and also the notice of assessment.) ..  
 (v) What is the amount of capital invested at present in your business ? ..  
 (vi) Number of persons employed by you in your business at the end of the last accounting year ? ..  
 (vii) Of those employed in your business at the end of the last accounting year, how many were in—  
 (1) executive grade ? and ..  
 (2) subordinate grade ? ..  
 and in each grade how many were citizens of Ceylon ?  
 (List persons in executive grade by the nature of office they hold.) ..  
 (viii) Who are your bankers ? ..  
 (If you have accounts in more than one bank, give the names of all the banks with whom you maintain current accounts.) ..  
 (ix) Who are authorised to operate the bank account(s) of your business and to what nationality do they belong ? ..

10. If you are a firm, please state :—

- (i) The names of all partners and whether they are Citizens of Ceylon. If not Citizens of Ceylon. What is their nationality and how long have they been resident in Ceylon ? Please attach certified copy of your Business Registration Certificate. ..

V. Rajaratnam.  
V. Rajasegaram.

- |   |   |
|---|---|
| (ii) What is the capital contributed by each partner as as at the end of the last accounting year and how the profits shared ? (If you are an Income Tax payer, it would facilitate registration if a copy of the statement of accounts of the business for the last accounting year and the notice of assessment are attached.) .. | Income Tax Return for the year ending 1946 enclosed herewith.                             |
| (iii) What is the capital contribution of each partner at present ? ..  | Rs. 600,000   |
| (iv) Number of persons employed by you in your business at present ? ..   | Rs. 300,000   |
| (v) Of those employed in your business at the end of last accounting year, how many were in : ..  | 6 (six)   |
| (1) executive grade, and ..   | 6 (six)   |
| (2) subordinate grade, ..   | 5 Ceylonese   |
| and in each grade how many were citizens of Ceylon ? List persons in executive grade by nature of the office they hold.) ..   | 1 Indian  |
| (vi) Who are your bankers ? If you have accounts in more than one bank, give the names of all the banks with whom you maintain current accounts.) ..  | The National Bank of India<br>The Exchange Bank of India, Jaffna. Bank of Ceylon, Jaffna. |
| (vii) Who are authorised to operate the bank account(s) of your business and what is their nationality? ..  | Both the partners of the firm.  |

11. If you are an Incorporated Company state :
- (i) When and where the Company was incorporated ? ..
  - (ii) If the Company was incorporated outside Ceylon when it was registered in Ceylon ? ..
  - (iii) Whether it is a public or private Company ? ..
  - (iv) What is the paid up capital of the Company at the end of the last accounting year ? ..  
(Please attach a copy of the last Balance Sheet and the Profit and Loss A/c.) ..
  - (v) If the business in Ceylon is a branch or an agency of a Company incorporated abroad, it would facilitate registration if a certified copy of the statement of accounts forwarded to the Income Tax Department for the last assessment year is attached. ..
  - (vi) Names and addresses of the Directors and their nationality. ..
  - (vii) What is the percentage of shares held at the last accounting year by (a) citizens of Ceylon, if any, and (b) others? ..
  - (viii) Number of persons employed by you in your business at the end of the last accounting year ..
  - (ix) of those employed in your business at the end of the last accounting year, how many were in : ..
    - (a) executive grade, and ..
    - (b) subordinate grade, ..
    - and in each grade how many were citizens of Ceylon ? (List persons in executive grade by the nature of the office they hold,) ..

P11A.

Original of P11

28.4.49—

Continued

P11A.  
Original of P11,  
28.4.49—  
Continued

- (x) Who are your bankers ? (If you have accounts in more than one bank, give the names of all the banks with whom you maintain current account.)
- (xi) Who are authorised to operate the bank account(s) of your business and to what nationality do they belong ? ..
12. (i) Have you already established connections to develop the import trade in goods for which you expect to apply for licences as a newcomer, and if so, give particulars of the connections ? ..
- Standard Tile and Clay Works Ltd., Feroke.  
M. A. M. Assana Lebbe Brothers, Madras.  
Boda Raya & Co.,  
(..... Illegible)  
Bombay Burma Trading Co., Rangoon etc.
- (ii) What is the value of imports you expect to transact in a year in those goods for which you expect to apply for licences as a newcomer ? Your estimate should be made conservatively, and should have regard to the financial resources at your command including the capital invested in your business.) .. Rs. 50,000/-.

P12.  
Letter by  
Defendant in  
which P11 and  
P11A were sent  
28.4.49

**P12.**

**Letter by Defendant in which P11 and P11A were sent**

Tele— { Grams : " Ruby."  
Phone : No. 93.

S. VEERAGATHIPILLAI & SONS,  
*General Merchants.*  
*Importers and Exporters.*

*Branches at :*  
Thondamannar, Point Pedro.

Grand Bazaar,  
Jaffna, (Ceylon).  
28th April, 1949.

Registered.  
The Controller of Imports, Colombo.

Sir,

We have the honour to enclose herewith our application for Registration as Newcomers.

Our Business was started about fifty years ago and we are doing extensive business. We have considerable experience in the import business.

We are also enclosing our Income Tax Return for the year ending 1946.

Please return this after your perusal.

We are, Sir,  
Your Obedient Servants,  
S. VEERAGATHIPILLAI & SONS,  
(Sgd.) V. RAJASEGARAM.



**D19.****Pawn Broker's Licence issued to S. Veeragathipillai & Sons**

Duplicate.  
(To be issued to licensee).

12452/18.

D19.  
Pawn Broker's  
Licence issued  
to S. Veeragathi-  
pillai & Sons  
10.8.49

10.8.49.

CB 656.

**FORM OF LICENCE**

(Section 24 of Ordinance 8 of 1893)

I, P. J. Hudson, Government Agent of the Northern Province,  
do hereby authorise and licence S. Veeragathipillai & Sons of Jaffna  
to carry on the business of a pawnbroker at Grand Bazaar, Jaffna,  
within the limits of the Jaffna District, under the provisions of "The  
Pawnbrokers' Ordinance, 1893" as amended by Ordinance No. 5  
of 1935.

This licence will expire on July 31st, 1950.

(Sgd) Illegibly,  
for P. J. HUDSON,  
Government Agent.

The Kachcheri,  
Jaffna,  
10.8.1949.

(Stamped)

" True Copy "

(Sgd.) N. VELLUPILLAI,  
for Government Agent, N.P.  
22.10.53.

**P13.****Letter by Defendant to the Hon. the Minister of  
Commerce and Trade**

S. VEERAGATHIPILLAI & SONS,  
General Merchants, Importers and Exporters,  
Dealers in Teakwood, Pound Mark Tiles, Grains, Etc.

Registered. Jaffna, 23rd September, 1949.  
The Hon'ble Minister of Commerce and Trade,  
Colombo.

Dear Sir,

*Newcomers Registration*

Reference the above we beg to bring to your notice the following  
facts :---

We are a firm established about fifty years ago and we declare  
solemnly and truly that we are Jaffna Tamils and Ceylonese.

P13.  
Letter by  
Defendant to  
the Hon. the  
Minister of  
Commerce and  
Trade  
23.9.49

P11.  
Letter by  
Defendant to  
the Hon. the  
Minister of  
Commerce and  
Trade  
23.9.49—  
Continued

Our business connections are of varied type and we have considerable resources and experience in the Import business which is well known and moreover we are recognised as one of the leading and oldest business establishments in the Province.

To our surprise we find that our name has not been included in the Newcomers Registration despite the fact that we are Ceylonese and our application was forwarded to the Controller of Imports on 28.4.49.

In the absence of sufficient facilities we could not develop our imports to the full, though we can count on our large imports of Rice, 10 Paddy, Teak, Tiles, Grains, etc. even during the most difficult period of the war and our services have been appreciated not only by the public but also by the Government.

For your information we state that our resources and (torn) enable us to develop our programme of business and we herewith enclose copies of Certificates from Rt. Rev. Emiliyanuspillai, Co-Adjutor Bishop of Jaffna, Senator C. Coomarasamy which will speak for themselves.

We trust that you will kindly consider our appeal in the light of the above facts and grant us the necessary Registration to enable 20 us to go ahead with our intended programme of our business.

Awaiting to be favoured with your kind and sympathetic consideration and thanking you for your attention.

We are,

Dear Sir,

(Sgd.) V. RAJASEGARAM,  
S. Veeragathipillai & Sons.

P48.  
Ledger "B6"  
pages 39, 47,  
48, 50, 54, 62,  
67, 68 and 71  
Ledger "B7"  
page 2  
30.12.49 to  
31.12.54

P48.

Ledger "B6" pages 39, 47, 48, 50, 54, 62, 67, 68 and 71.  
Ledger "B7" page 2.

30

		B6.		39.	
		Rs.	Cts.	Rs.	Cts.
Jaffna Shop					
	Brought forward from page 34 ..	798,761	29	13,212	20
1949					
Dec. 30.	To Amount of profit and expenses and the amount paid to Tindal Sanmugam for the work of the boat Rs. 702-50 and the amount received by do. from S.K.A. Rs. 1,075/- aggregating to ..	28,439	03		
	By Amount received from S.K.A. do. work ..	1,777	50		
	„ Amount received for parts of car for coil ..			300	00
	„ Amount received for parts of car sent by V.P.P. ..			30	00
	„ Amount received as per accounts of Tindal Sanmugam ..			18	60
				3,865	00

		Rs.	Cts.	Rs.	Cts.
By Amount received as per accounts of Schooner Athipoorany .. .. .				1,396	93
„ Amount received as per accounts of S. V. Rajaratnam .. .. .				1,257	06
To Amount paid for Pallai Soranpattu Estate ..		6,228	76		
By Amount received in cash as per accounts of S. V. Rajaratnam .. .. .				15,075	74
	Total Rs. ..	835,206	58	35,155	53
To Amount in excess .. .. .				800,051	05
1950					
Jan. 5.. „ Amount value of 1,500 flat tiles to M. Ariyakutty and 30, roof tiles .. .. .				592	50
6.. „ Amount value of 2,500 flat tiles to V. Muttiah of Kankesanthurai .. .. .				900	00
Feb. 13.. „ Amount paid by a Ceylon Bank cheque No. 114035 .. .. .				260	95
April 28.. „ Amount value of 4 gallons of petrol at 10.60 and engine oil cts. 60 for the lorry ..				11	20
	Total payments ..	801,815	70		
May 27.. By Amount received as per accounts of S. Sinnathurai of Pallai .. .. .				1,500	00
10.. „ Amount received as per payment made to by S. Krishnasamy of Valvai .. .. .				3,000	00
June 30.. „ Amount paid for 2 tyres purchased for the car on 6th January .. .. .					1 50
„ Amount paid for plugs 16, oil at Rs. 7.75 purchased for the car on the 12th ..					23 75
	Rs. ..	801,815	70	4,525	25

B6. 47.

**Jaffna Shop**

	Brought forward from page 39 ..	801,815	70	4,525	25
1950					
June 30.. By Amount received as per bill No. 4567 for cleaning valve and repairing and steering in Mutturajah's garage on 13th January ..				110	95
„ Amount received for one bag of cotton seeds on the 31st January .. .. .				13	75
„ Amount received for 12 gallons of petrol on 13th February .. .. .				39	95
„ Amount received on the 17th for . . . for the car .. .. .				5	25
„ Amount received for 2 washers .. .. .				6	50
„ Amount received on 10th March for petrol oil for the car .. .. .				43	85
„ Amount received as per bill No. 6670 for the expenses of the repairs effected for the car in Mutturajah's garage on 11th April ..				58	80

P48.  
 Ledger "B6"  
 pages 39, 47, 48,  
 50, 54, 62, 67,  
 68 and 71  
 Ledger "B7"  
 page 2  
 30.12.49 to  
 31.12.54—  
*Continued*

		Rs.	Cts.	Rs.	Cts.
	By Amount received through the Ceylon Bank, on the 12th April for the tiles reached as per Pusparany .. .. .			4,856	66
	„ Amount received as per bill for the expenses of the remittance of money by do. K.S. .. .. .			18	84
	„ Amount received through the Ceylon Bank for the tiles reached on the 26th April as per boat No. 9 .. .. .			7,362	91
	„ Amount received as per bill for the expenses of the money remitted by do. K.S. .. .. .			14	36
	To Amount paid by Sithamparapillai of Viyapari-molai on 10th January .. .. .	600	00		
	„ Amount paid on the 13th January for giving the coil out of the accounts of the car and getting back the same .. .. .		30	00	
July	1.. „ Amount paid for 1,750 flat tiles to Balasubra-maniam Iyer .. .. .		692	50	
31..	By Amount received as per chit granted to deliver 500 flat tiles to Wallianmai of Nelliady .. .. .				170 00
	Rs. ..	803,138	20	17,226	62

B6. 48.

**Jaffna Shop**

	Brought forward from page 47 .. .. .	803,138	20	17,226	62
1950	July 31.. To Amount paid by V. S. Arunasalam .. .. .		35	40	
	Rs. ..	803,173	60	17,226	62

	To amount paid in excess .. .. .	785,946	98		
Sept.	6.. „ Amount value of 2,800 flat tiles and 50 ridges and 12 half tiles sent to Palaly by lorry .. .. .		1,062	40	
	„ Amount paid for loading tiles 1,400 .. .. .		5	60	
	„ Amount value of 1,680 flat tiles and 80 ridges and 20 half tiles to V. Thambiah as per chit.. .. .		720	00	
7..	„ Amount value of 1,000 flat tiles, 60 ridges to S. Vallipuram as per chit .. .. .		446	00	
20..	„ Amount value of 1,400 flat tiles .. .. .		490	00	
	„ Amount paid for loading charges of do. .. .. .		5	60	
	„ Amount of profit as per account particulars of the profit and expenses of the year 1949 .. .. .	36,374	01½		
	By Amount received for 1/3rd share out of Rs. 43,773·97½ being profit as per account particulars of profit and expenses of the year 1949 by S. V. Rajasegaram .. .. .				14,591 32½
21..	„ Amount received on 17th May by way of cost of 18 gallons of petrol and distilled water for months of March and April in shed No. 1 .. .. .				64 05
	„ Amount paid on the 3rd June for one bulb Re. 1/- and for leather Rs. 7·25 aggregating to .. .. .				8 25



P48.  
Ledge " B6 "  
pages 39, 47, 48,  
50, 54, 62, 67,  
68 and 71  
Ledge " B7 "  
page 2  
30.12.49 to  
31.12.54—  
*Continued*

B6. 54.

Rs. Cts. Rs. Cts.

**Jaffna Shop**

	Brought forward from page 50 ..	820,611 42	
1950			
Dec. 2..	By Amount received as per accounts of the Feroke Standard Company .. .. .		2,559 37
30..	To Amount paid as per accounts of T. Sanmugam Athipoorany Tindal .. .. .	2,500 00	
	,, Amount paid as per accounts of Palai Estate ..	13,394 72	
	By Amount received on 15th November for bulb for car .. .. .		2 15
	,, Amount received on the 21st for one Jack and for plug No. 14 at 2.30 for the car ..		16 30
	,, Amount received for 42 gallons of petrol No. 2 from 9th September till 6th November ..		111 30
	,, Amount received on 14th December for 25 gallons of petrol in shed No. 1 for the car ..		66 25
	,, Amount received on 19th for the Gun Licence ..		2 50
	,, Amount received on the 21st from K.M. ..		10 00
	,, Amount received on the 22nd for condenser and hose pipe for the car .. .. .		14 50
	,, Amount received as per accounts of the Schooner Athipoorani .. .. .		1,432 78
	,, Amount received as per accounts of T. Sanmugam Tindal of do. Schooner .. .. .		3,302 93
	,, Amount received as per accounts of V. Rajaratnam .. .. .		16,761 34
31..	,, Amount received as per accounts of S. V. Doraisamy .. .. .		649 50
	,, Amount received as per accounts of S. V. Rajasegaram .. .. .		7,118 45
	Rs. ..	836,506 14	32,047 37

Payment in excess .. 804,458 77

1951			
April 6..	By Amount received as per one National Bank cheque .. .. .		5,482 17
9..	To Amount paid .. .. .	4,000 00	
11..	By Amount received as per one National Bank cheque .. .. .		5,463 13
May 2..	,, Amount received as per one cheque of do. bank .. .. .		11,109 02
15..	,, Amount received as per one cheque of do. bank .. .. .		479 00
	Rs. ..	808,458 77	36,061 08

		<b>Jaffna Shop</b>		B6. 62.	P48.
		Rs.	Cts.	Rs.	Cts.
	Brought forward from page 54 ..	808,458	77	36,061	08
1951					
May	21..By Amount received as per National Bank cheque			10,000	00
	22.. ,, Amount received as per one cheque ..			699	00
June	16.. ,, Amount received as per one cheque ..			1,079	00
	17.. ,, Amount received as per one National Bank cheque .. .. .			1,699	00
		Rs. ..	808,458 77	49,538	08
	Payment in excess ..	759,920	69		
Aug.	13.. ,, Amount value of 2,000 flat tiles to M. M. Abubucker as per chit .. .. .		730	00	
	By Amount received for Pallai Estate.. ..			350	00
	26..To Amount realised by sale of tiles .. ..		300	92	
	30..To Amount of money for 1,400 flat tiles by lorry ..		504	00	
	31..By Amount received as per 20 gallons of petrol in shed No. 2 on 8th January .. ..			53	00
	,, Amount received for repairing tube on the 26th .. .. .			4	50
	,, Amount received on the 7th January for 20 gallons of petrol .. .. .			53	00
	,, Amount received on 6th March for 18 gallons of petrol .. .. .			47	70
	,, Amount received on do. 9th for plug .. ..			5	00
	,, Amount received on 5th April for 24 gallons of petrol in shed No. 2 .. .. .			63	60
	,, Amount received on 10th for carbon seal ring.. ..			5	00
	,, Amount received as per leather bush .. ..			7	80
	,, Amount received on 11th for service and repairs in Mutturajah's garrage .. ..			53	50
	,, Amount received on do. 23rd fan belt and Check oil .. .. .			24	25
	,, Amount received on 23rd May for 22 gallons of petrol .. .. .			59	40
	To Amount value of 67,000 tiles reached by the 1st shipment of the Schooner Athipoorany on 4th May .. .. .	5,025	00		
	By Amount received on 11th May for AC plug .. ..			2	50
	,, Amount received on do. 26th for one plug .. ..			2	50
		Rs. ..	765,480 61	731	75

Ledger " B6 " pages 39, 47, 48, 50, 54, 62, 67, 68 and 71  
 Ledger " B7 " page 2  
 30.12.49 to 31.12.54—  
*Continued*

P48.  
Ledger "B6"  
pages 39, 47, 48,  
50, 54, 62, 67,  
68 and 71  
Ledger "B7"  
page 2  
30.12.49 to  
31.12.54—  
Continued

		<b>Jaffna Shop</b>		B6. 67	
		Rs.	Cts.	Rs.	Cts.
		Brought forward from page 62 ..		765,480	61
1951					
Aug.	31..	By Amount paid on 2nd June for 23 gallons of petrol .. .. .			62 10
		,, Amount received on do. 6 for 2 locks Rs. 7/- and for plug Rs. 5/- .. .. .			12 00
		,, Amount received on do. 15th for 2 rubber sheets .. .. .			20 00
		,, Amount received on do. 20th for 15 gallons of petrol and value of engine oil .. .. .			49 55
		,, Amount received on do. 27th for silencer bush .. .. .			8 00
		To Amount paid for the freight for the second trip tiles 64,000 .. .. .		4,480	00
		By Amount received from K. Narayanasamy Naidu .. .. .			10 00
		,, Amount received for 11 gallons of petrol .. .. .			29 70
		,, Amount received on do. 5th for one daily Note Book .. .. .			2 25
		,, Amount received on do. 20th for 3 plugs .. .. .			7 50
		,, Amount received on do. 24th for one big Note Book .. .. .			4 87
		,, Amount received on do. 25th for 16 gallons of petrol in shed No. 1 .. .. .			43 20
Sept.	1..	To Amount paid on account of tiles .. .. .		493	80
	5..	,, Amount paid on account of tiles .. .. .		639	00
	17..	,, Amount value of 2,000 flat tiles to Balasundera- kurukal of Mavadapuram .. .. .		740	00
	30..	,, Amount value of 3,000 flat tiles and 100 ridges supplied to Sinnathurai .. .. .		1,300	00
		,, Amount value of tiles .. .. .		670	50
		By Amount received on 1st August for 12 gallons of petrol and value of oil .. .. .			42 50
		,, Amount received on do. 22nd for 16 gallons of petrol and value of oil .. .. .			53 18
		,, Amount received on 4th September for 10 gallons of petrol .. .. .			27 00
		Rs. ..	773,803 91	1,103	35

B6. 68.

		<b>Jaffna Shop</b>			
		Rs.	Cts.	Rs.	Cts.
		Brought forward from page 67 ..		773,803	91
1951					
Sept.	30..	By Amount received on do. 28th for 29 gallons of petrol in shed No. 1 and value of oil .. .. .			79 55
Oct.	4..	To Amount value of 1,000 flat tiles and 70 ridges to Iyyathurai per chit .. .. .		499	00
	10..	,, Amount value of 3,000 flat tiles to V. Muttukumar as per bill No. 888 .. .. .		1,140	00
	13..	,, Amount value of 350 flat tiles and 10 ridges to Arunasalam as per chit .. .. .		150	00
		,, Amount value of 800 flat tiles and 20 ridges to S. Selvadurai .. .. .		338	00



		Rs.	Cts.	Rs.	Cts.	P48.
	To Amount value of 900 flat tiles and 10 ridges to V. Murugesu .. .. .		363	50		Ledger "B6" pages 39, 47, 48, 50, 54, 62, 67, 68 and 71
22..	,, Amount paid .. .. .		5,000	00		Ledger "B7" page 2
Nov. 19..	,, Amount paid on 17th for 1,700 flat tiles and 50 ridges .. .. .			756	50	30.12.49 to 31.12.54—
		Rs. ..	782,050	91	1,182	90

Continued

	Payment in excess ..		780,868	01		
30..	By Amount received on 2nd October for 13 gallons of petrol in shed No. 2 .. .. .				35	10
	,, Amount received do. 23rd for switch of the car .. .. .				12	50
	,, Amount received on do. 24th for repair and service for car in Mutturajah's garage .. .. .				52	00
	,, Amount received on 30th November for 11 gallons of petrol in shed No. 2 .. .. .				29	70
	,, Amount received on do. 5th for plug .. .. .				5	00
	,, Amount received on do. 19th for 26 gallons of petrol in shed No. 1 .. .. .				71	08
	,, Amount received on do. 27th for utensils for car .. .. .				32	80
Dec. 4..	To Amount paid for 800 flat tiles and 54 ridges and 40 head broken tiles .. .. .		415	00		
	By Amount received for 12 gallons of petrol in shed No. 2 .. .. .				32	40
	,, Amount received for perforator .. .. .				4	25
6..	To Amount paid for 245 flat tiles .. .. .		95	55		
			781,378	56	274	83

B6. 71.

		<b>Jaffna Shop</b>				
	Brought forward from page 68 ..		781,378	56	274	83
1951						
Dec. 8..	To Amount paid for 980 flat tiles and 70 ridges ..		499	00		
	By Amount received for gun licence at Kachcheri .. .. .				2	50
9..	To Amount paid for 780 flat tiles and 40 ridges and 20 broken tiles .. .. .		379	80		
11..	,, Amount paid for 300 flat tiles and 24 ridges ..		160	80		
	,, Amount paid for 1,000 flat tiles and 35 ridges ..		459	50		
13..	By Amount received for 26½ gallons of petrol in shed No. 1 .. .. .				72	25
14..	To Amount paid for 1,300 flat tiles and 22 ridges ..		556	40		
30..	,, Amount of profit, in the year 1950 .. .. .		41,465	82		
	By Amount received as per accounts of Schooner Athipoorany .. .. .				3,674	56
	,, Amount received as per accounts of T. Sanmugam Tindal of do. Schooner .. .. .				4,917	00
31..	,, Amount received from K.N. .. .. .				10	00
		Rs. ..	824,899	88	8,951	14

P48.  
Ledger "B6"  
pages 39, 47, 48,  
50, 54, 62, 67,  
68 and 71  
Ledger "B7"  
page 2  
30.12.49 to  
31.12.54—  
Continued

		Rs.	Cts.	Rs.	Cts.
		Payment in excess ..		815,948	74
1952					
Jan.	9..To	Amount value of 1,200 flat tiles and 50 ridges..	553	00	
Feb.	7..	„ Amount value of 300 flat tiles sold ..	117	00	
	19..	„ Amount value of 310 flat tiles sold..	130	90	
Mar.	12..	„ Amount of money for tiles from V. Ponniah of Point Pedro Rs. 571-50 and from Sivakurunathar Rs. 250/- ..	821	50	
		By Amount received from Nadarajah teacher ..			410 25
	27..To	Amount paid ..	5,000	00	
April	22..	„ Amount paid at Kodikamam for 5 gallons of petrol 13-50 and distilled water -/70 for lorry ..	14	20	
		„ Amount paid to driver Raman for bus fare ..	1	00	
	29..	„ Amount value of 1,200 flat tiles and 100 ridges to Sethu Naranayapillai of Valvai ..	638	00	
		By Amount received as per one National Bank cheque ..			699 00
		Rs. ..	823,214	34	1,109 25

Payments in excess .. 822,105 09

B7. 2.

#### Accounts of Payments and Receipts of Jaffna Shop

		Brought forward from page B6. 71 ..	822,105	09	
1952					
May	11..To	Amount paid at Kodikamam for 5 gallons of petrol for the lorry Rs. 13-50 and bus fare to driver Raman Rs. 1-00 ..	14	50	
	13..	„ Amount paid for 11 gallons of petrol for the lorry ..	29	70	
	15..By	Amount deposited on the Bank as per Bill of the Standard Company for tiles reached in boat No. 128 ..	5,824	75	
		„ Amount deposited on the Bank as per bill of the Standard Company for the tiles reached in boat No. 19 ..	8,844	54	
	16..To	Amount paid for 6 gallons of petrol for the lorry ..	16	20	
	27..By	Amount received as per 25 flat tiles and 25 ridges returned by Seth Narayanapillai of Valvai ..			26 75
		Rs. ..	822,165	49	14,696 04

		Payment in excess ..	807,469	45	
Oct.	30..To	Amount paid for freights of schooner Athipoorany for the 59,000 flat tiles and 1,000 ridges brought by her in her second trip at 85 ..	5,142	50	

Total payments Rs. .. 812,611 95

	Rs.	Cts.	Rs.	Cts.	P48.
1954					
Dec. 31.. By Amount received from S. Muththamma of Thelipallai for principal and interest on mortgage accounts .. .. .			4,300	00	Ledger " B6 " pages 39, 47, 48, 50, 54, 62, 67, 68 and 71 Ledger " B7 " page 2 30.12.49 to 31.12.54— <i>Continued</i>
	Rs. ..	812,611	95	4,300	00
			808,311	95	
Translated by : (Sgd.) Illegibly.					

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**P15.**

**Financial Statement of Messrs. S. Veeragathipillai & Sons  
for the year ended 31.12.49.**

P15.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons  
for the year  
ended  
31.12.49

FINANCIAL STATEMENTS OF  
MESSRS. S. VEERAGATHIPILLI & SONS, JAFFNA,  
FOR THE YEAR ENDED 31ST DECEMBER, 1949.

M. N. SAMBAMURTI & CO.,  
*Chartered Accountants, Incorporated Accountants,*  
IMPERIAL BANK BUILDINGS,  
P.O. Box 210,  
Colombo.

Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA

Trading Accounts for the Year Ended 31st December, 1949

	<i>Tiles</i>	<i>Paddy</i>	<i>Total</i>		<i>Tiles</i>	<i>Paddy</i>	<i>Total</i>
					Rs. c.	Rs. c.	Rs. c.
To Opening stock ..	3,217 00	—	3,217 00	By Sales ..	207,521 48	15,331 50	222,852 98
„ Purchases ..	90,997 96	24,883 35	115,881 31	„ Closing stock..	1,974 00	10,065 00	12,039 00
„ Freight, duty, etc. ..	72,148 12	92 98	72,241 10				
„ Cooly and cart hire ..	3,387 35	191 41	3,578 76				
„ Licence for tiles store ..	200 00	—	200 00				
„ Balance C/d. . .	39,545 05	228 76	39,773 81				
Rs. ..	209,495 48	25,396 50	234,891 98	Rs. ..	209,495 48	25,396 50	234,891 98

Profit and Loss Account for the Year Ended 31st December, 1949

	Rs. c.	Rs. c.		Rs. c.
To Establishment ..	..	5,280 00	By Balance from Trading Account ..	39,773 81
„ Rent and lighting ..	..	1,328 90	„ Interest received (Mortgage) ..	7,034 87½
„ Printing and Stationery ..	..	208 45	„ Interest from banks ..	2,625 00
„ Postage, Telegrams and Telephones ..	..	632 84	„ Interest from foreign banks ..	9 30
„ Mess, etc. to staff ..	..	5,008 64	„ Interest from Ceylon Bonds ..	1,225 00
„ Travelling ..	..	556 65	„ Pawn interest ..	18,964 54
„ Licences : Gun and revolver ..	15 00		„ Profit from sale of car (Hillman CE 5546) ..	1,149 04
„ Pawn ..	80 00		„ Lorry takings ..	2,021 50
„ Radio ..	10 00		„ Sundries..	18 00
„ Cycle ..	1 00	106 00		
„ Legal and audit fees ..	..	863 10		
„ Bank charges and cheque commis- sions ..	..	403 99		
„ Bank overdraft interest ..	..	120 98		
„ Repairs : Furniture ..	11 00			
„ Cycle ..	6 50			
„ Time piece ..	8 50			
„ Typewriter ..	9 00	35 00		
C/over ..	..	Rs. .. 14,544 55	C/over ..	Rs. .. 72,821 06½







P15.

Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.49—  
*Continued*

**Notes, Explanations and Reservations**

The following are the abstracts of certain ledger accounts furnished with a view to reconcile the opening and closing balance as on the respective Balance Sheets :—

		<b>Cars and Lorries</b>			
		Rs.	c.	Rs.	c.
To Balance as per last Balance Sheet .. .. .	6,653	50	By Sale of Hillman car ..	4,250	00
„ Transfer to Profit and Loss being profit on sale of Hillman car .. .. .	1,149	04	„ <b>Depreciation :</b>		
14.5.49 .. .. .			Lorry .. .. .	888	14
„ Car purchase Vauxhal CL5684 14.5.49 .. .. .	7,425	00	Car Vauxhal 1,160	15	2,048 29
			„ Balance to Balance Sheet	8,929	25
	Rs. ..	15,227	54	Rs. ..	15,227 54

**Partner's Son (R. Sivakumaran)**

		Rs.	c.			Rs.	c.
To Balance as per last Balance Sheet .. .. .	(Included under debtors)	949	56	By Rents from Grand Bazaar property .. .. .	380	00	
				„ Balance to Balance Sheet	569	56	
	Rs. ..	949	56	Rs. ..	949	56	

**Additional Points**

1. **Subramania Puravi.**—The salvage of the vessel is reported not saleable and accordingly the written down value of the vessel has been claimed as a loss as follows :—

Cost on 1.4.32 .. .. .	Rs.	57,520
Less Depreciation for 14 $\frac{3}{4}$ years at 3% up to 31.12.46 .. .. .		25,453
W/d. value .. .. .	Rs. ..	32,067

(Sgd.) Illegibly.

*Chartered and Incorporated Accountants.*

Colombo, 28th August, 1950.

**Details of Establishment**

		Rs.	c.
S. Mylvaganam .. .. .		1,200	00
N. Alagasundaram .. .. .		1,740	00
V. Velluppillai .. .. .		720	00
N. Murugesu .. .. .		360	00
E. Raman (driver) .. .. .		1,200	00
Sangaran .. .. .		30	00
N. Ramasamy .. .. .		30	00
	Rs. ..	5,280	00



**Rent and Lighting**

Rs. c.		Rs. c.	P15. Financial Statement of Messrs. S. Veeragathi- pillai & Sons for the year ended 31.12.49 —Continued
387 00	Partner V. Rajasekaram for Main Street ..		
760 00	Partner's sons R. Sundaramoorthy .. .. .	380 00	
	R. Sivakumaran .. .. .	380 00	
<hr/>			
181 90	Lighting charges.		
<hr/>			
Rs. 1,328 90			

**Legal and Audit**

Rs. c.	
440 00	Audit fees.
138 10	Legal expenses for recovery of debts.
285 00	Legal expenses for case against Exchange Bank of India and Africa.
<hr/>	
Rs. 863 10	

**Loss in Plywood**

Plywood bought in India for Rs. 937·50 was not brought to Ceylon as no permit was obtained. The same was disposed in India for Rs. 834·37 and the balance written off.

**Schedule of Money Lending**

	<i>Balance on</i> 1.1.49	<i>Interest</i> <i>received</i>	<i>Balance on</i> 31.12.49	<i>Remarks</i>
A. S. Sivagurunathan ..	2,665 12½	2,734 87½	—	Settled by sale of land under conditional transfer.
V. Sellathurai ..	112 63	—	112 63	
A. K. Ponnampalam ..	3,000 00	1,300 00	—	Account settled.
N. S. Sethuraja ..	46,316 00	—	46,316 00	Action taken.
S. Ganapathy ..	315 00	—	265 00	Interest on settlement Rs. 50/- paid part payment.
V. Thambipillai ..	990 00	—	890 00	Interest on settlement Rs. 100/- paid part payment.
S. Muthummal ..	3,500 00	—	3,500 00	
S. S. Nagalingam ..	5,000 00	—	5,000 00	
N. Subramaniam ..	30,217 50	—	30,442 50	Rs. 2,250—Legal expenses sued.
M. J. Ignatius ..	22,300 05	3,000 00	24,675 05	
T. Ramanathan Chettiar and Ramiah Chettiar ..	76,820 00	—	75,350 00	Interest on settlement,
<hr/>				
Rs. ..	191,236 30½	7,034 87½	186,551 18	

P15.

Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.49—  
*Continued*

### Details of Debts Regarded Bad Followed Up

	<i>Balance on</i> 1.1.49	<i>Written off</i> <i>Bad</i>	<i>Balance on</i> 31.12.49
	Rs. c.	Rs. c.	Rs. c.
S. Kanagasabai .. .. .	1,145 00	1,145 00	—
V. Vaithilingam .. .. .	815 00	—	815 00
V. Kanagaratnam .. .. .	920 00	920 00	—
V. Vellautham .. .. .	1,500 00	1,500 00	—
Appukutti .. .. .	408 00	480 00	—
V. Thambimuttu .. .. .	1,910 00	1,910 00	—
V. Sellappan .. .. .	1,805 00	1,805 00	—
K. Naganathan .. .. .	1,090 00	1,090 00	—
N. Saravanamuttu .. .. .	2,963 00	—	2,963 00
S. Arumugam .. .. .	1,071 00	—	1,071 00
S. Kumarasami .. .. .	1,832 40	1,832 40	—
N. Ambalavanar .. .. .	1,843 00	—	1,843 00
	<u>Rs. .. 17,302 40</u>	<u>10,610 40</u>	<u>6,692 00</u>

### Statement of Depreciation

<i>W/d. value</i> 1.1.49 <i>Old fleet</i>	<i>Sold</i>	<i>Net</i>	<i>Dep.</i> <i>for year</i>	<i>Claimed for</i> <i>Business</i>	<i>W/d. value</i> 31.12.49
Lorries .. 3,731 .. 369 .. 3,362 .. 840 .. 840 .. 2,522					
<b>Purchases :</b>					
Car CL 5684 (14.5.49) .. 7,425 .. .. .. 1,120 .. 840 .. 6,305					
				<u>Rs. .. 1,680</u>	<u>8,827</u>

### Profit on Sale of Car

Sold for .. .. .	Rs. c.
4,250 00	
W/d. value .. .. .	3,132 00
	<u>Rs. .. 1,118 00</u>
2/3rd thereof	<u>Rs. .. 746 00</u>

Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO

Trading Account for the Year Ended 31st December, 1949

	<i>Tiles</i>			<i>Paddy</i>			<i>Total</i>		
	Rs.	c.		Rs.	c.		Rs.	c.	
To Opening stock ..	17,375	00	—	17,375	00	By Sales ..	47,295	72	
„ Purchases ..	26,220	52	6,235	00	32,455	52	„ Closing stock ..	29,400	
„ Freight, duty, etc. ..	20,666	10	—	20,666	10			1,617	
„ Cooly cart hire, etc. ..	1,689	45	19	70	1,709	15		31,017	
„ Balance C/d. ..	10,744	65	106	00	10,850	65		00	
	Rs. ..	76,695	72	6,360	70	83,056	42	Rs. ..	76,695
									72
									6,360
									70
									83,056
									42

Profit and Loss Account for the Year to 31st December, 1949

	Rs.	c.		Rs.	c.		
To Establishment ..			2,060	00	By Balance from Trading Account ..	10,850	65
„ Rent (paid to V. Rajaratnam) ..			360	00	„ Interest received ..	1,435	00
„ Printing and stationery ..			10	70			
„ Postage, Telegrams and Telephones ..			110	15			
„ Mess etc. to staff ..			243	60			
„ Travelling ..			6	30			
„ Gun licence ..			2	50			
„ Bank charges ..			65	74			
„ <b>Car Maintenance :</b>							
Petrol, oil, etc. ..	847	30					
Spare parts and repairs ..	328	40					
Battery ..	200	00					
Insurance ..	191	25					
Licence ..	50	00	1,616	95			
„ Bad debts written off ..			409	75			
„ Net profit C/d. ..			7,399	96			
	Rs. ..	12,285	65		Rs. ..	12,285	65

Examined and found correct (Subject to our report of even date).

Colombo, 28th August, 1950.

(Sgd.) Illegibly.  
Chartered and Incorporated Accountants.

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Profit and Loss Appropriation Account**

	Rs.	c.	Rs.	c.		Rs.	c.
<b>To Transfer to Partner's Current Account :</b>					<b>By Balance as per last Balance Sheet ..</b>		
V. Rajaratnam .. .. .	5,761	09			,, Net profit as per Profit and Loss	8,293	68
V. Rajasegaram .. .. .	2,880	54	8,641	63	Account .. .. .	7,399	96
,, Balance to Balance Sheet .. .. .				7,399	,, Transfer to partners' boat suspense ..		347
				96			95
	Rs. ..		16,041	59		Rs. ..	16,041
							59

**Balance Sheet as on 31st December, 1949**

LIABILITIES	Rs.	c.	Rs.	c.	ASSETS	Rs.	c.
Capital Account : V. Rajaratnam ..	600,000	00			Closing stock .. .. .		31,017
V. Rajasekaram .. .. .	300,000	00	900,000	00	Shares .. .. .		500
Partners' current account .. .. .				10,226	Car account .. .. .		10,360
<b>Sundry Creditors :</b>							
On open accounts .. .. .	4,079	28			<b>Sundry Debtors :</b>		
For Salaries .. .. .	125	00			Loans and mortgages .. .. .	72,455	00
,, Charities .. .. .	56	57	4,260	85	For goods .. .. .	4,023	52
Profit and Loss Account balance				7,399	N. Alagasunderam (Staff—Jaffna) ..	1,000	00
				96	Partner (V. Rajaratnam) boat working		
					suspence .. .. .		952
					Advances staff .. .. .	127	81
					Foreign supplies .. .. .	640	63
					Jaffna Branch .. .. .		800,051
					Cash on hand .. .. .		759
							70
	Rs. ..		921,887	30		Rs. ..	921,887
							30

**Profit and Loss Adjustment Account for Purposes of Income Tax**

	Rs.	c.			Rs.	c.
To Depreciation of car @ 25% on Rs. 10,000/-	2,500	00		<b>By Net profit as per Profit and Loss Account</b>	7,399	96
,, Adjusted profit .. .. .	5,438	94		<b>Items in Admissible :</b>		
				Car maintenance (1/3rd) .. .. .	538	98
	Rs. ..		7,938		Rs. ..	7,938
						94

Examined and found correct (Subject to our report of even date).

Colombo, 28th August, 1950.

(Sgd.) Illegibly.  
Chartered and Incorporated Accountants.

**Messrs. S. VEERAGATHIPILLAI & SONS, POINT PEDRO****Notes, Explanations and Reservations**

The following are the abstracts of certain ledger accounts furnished with a view to reconcile the opening and closing balances as on the respective Balance Sheets :—

**Partners' Boat Suspense (V. Rajaratnam)**

	Rs.	c.
To Transfer from Profit and Loss Account .. ..	347	95
„ Loss from Athipoorani working during year .. ..	604	64
	Rs. ..	952 59

**Details of Boat Working Account : Athipoorani**

	Rs.	c.		Rs.	c.
To Voyage expenses .. ..	10,358	95	By Voyage receipts .. ..	14,183	45
„ Loading and unloading .. ..	1,401	66	„ Loss .. ..	604	64
„ Screens and masts .. ..	337	50			
„ Repairs, etc. .. ..	2,689	98			
	Rs. ..	14,788 09		Rs. ..	14,788 09

**Additional Points**

1. Depreciation on car has been claimed pending settlement of the renewal claim.
2. Abstract of the partner's (V. Rajaratnam) and Charity accounts will be forwarded shortly.

Colombo, 20th August, 1950.

Sgd.) Illegibly.  
*Chartered and Incorporated Accountants.*

**Establishment**

	Rs.	c.
S. Narayansamy Naidu .. ..	560	00
K. Sellathamby (Driver) .. ..	900	00
S. Karali .. ..	600	00
	Rs. ..	2,060 00

**Bad Debts Written Off**

	Rs.	c.
343·38 M. Visvalingam.		
66 37 C. Ponniah.		
	Rs. 409·75	

**Sundry Creditors**

	Rs.	c.
C. Ponniah .. ..	187	52
Borades & Co. .. ..	1,206	97
S. V. Duraisamy .. ..	291	50
E. Sivadas .. ..	1,581	77
V. Ramasamy .. ..	247	30
T. Shanmugam .. ..	276	80
A. Nesaratnam .. ..	188	22
C. Murugupillai .. ..	99	00

Per Balance Sheet Rs. .. 4,079 28

P15.

Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons, for the  
year ended  
31.12.49—  
*Continued*

P15.  
Financial  
Statement of  
Messrs. S.  
Veeragathi-  
pillai & Sons  
for the year  
ended 31.12.49  
—Continued

		Schedule of Money Lending			
		Balance on 1.1.49	Interest received	Balance on 31.12.49	Remarks
		Rs. c.	Rs. c.	Rs. c.	
N. Manganayagam	..	1,000 00	—	1,000 00	
K. Ponniah	..	655 00	—	655 00	
V. Nayappar	..	15,000 00	—	15,000 00	
S. Seenivasan	..	100 00	—	100 00	
S. Sinnathurai..	..	150 00	120 00	—	Account settled on 8.9.49.
V. Nagappar	..	3,500 00	—	3,000 00	
K. Ponnuthurai	..	1,700 00	—	1,700 00	
S. Devashikamani	..	5,000 00	—	5,000 00	Person has died.
K. Arunachalam	..	2,000 00	—	2,000 00	
K. Visalachi	..	3,000 00	480 00	3,000 00	
S. Chinthamani	..	950 00	210 00	—	Account settled.
K. Murugupillai	..	4,000 00	320 00	4,000 00	
K. Ponnuthurai	..	1,000 00	—	1,000 00	
V. Sivaguru	..	2,500 00	305 00	—	Account settled on 16.10.49
K. Sivakolunthu	..	7,000 00	—	7,000 00	
V. Ramasamy	..	15,000 00	—	15,000 00	
M. Visvalingam	..	—	—	6,000 00	Given on 26.9.49.
S. Renganayaki	..	—	—	3,000 00	Given on 7.10.49.
Rs. ..		62,555 00	1,435 00	67,455 00	
S. Sinnathurai..	..	..	..	5,000 00	New advance.
				Rs. .. 72,455 00	

## D10.

## Plaint and Proxy filed in D.C. Jaffna 6418

## IN THE DISTRICT COURT OF JAFFNA

1. Veeragathipillai Rajaretnam and
2. Veeragathipillai Rajasekaram both of Jaffna carrying on business under the name, firm and style of S. Veeragathipillai & Sons, Jaffna.....*Plaintiffs*

No. 6418

*vs.*

Ponniah Ragupathy of Main Street, Jaffna  
.....*Defendant.*

On this 7th day of March, 1950.

The plaint of the plaintiff abovenamed appearing by Mr. V. S. Somasuntheram, their proctor, states as follows:—

1. The plaintiffs are partners who are carrying on business at Grand Bazaar, Jaffna, within the jurisdiction of this Court in Tiles etc.,

D10.  
Plaint and  
Proxy filed in  
D.C. Jaffna  
6418  
7.3.50

under the name, firm and style of " S. Veeragathipillai & Sons " and the said business is registered at the office of the Registrar of Business Names for the Northern Province.

D10.  
Plaint and  
Proxy filed  
in D.C. Jaffna  
6418  
7.3.50—  
*Continued*

2. Between the 18th day of June, 1949, and 4th July, 1949, the defendant abovenamed bought and received from the plaintiff and the plaintiffs sold and delivered to the defendant tiles as per account particulars given in the schedule hereto annexed and on that account there is a sum of rupees two thousand six hundred and thirty Rs. 2,630/- due and owing from the defendant to the plaintiffs.

10 3. The plaintiffs sent a letter of demand through their proctor on the 2nd day of February, 1950, demanding payment of the aforesaid sum of Rs. 2,630/-. The defendant acknowledged his liability to pay the said amount and asked for time from the Proctor for plaintiffs till the 28th day of February, 1950, to pay the said amount but has since failed and neglected to pay same or any part thereof.

Wherefore the plaintiffs pray that the defendant be adjudged and decreed to pay the said sum of rupees two thousand six hundred and thirty Rs. 2,630/- with legal interest from date hereof till payment in full, for costs and for such other and further relief as to this Court  
20 shall seem meet.

(Sgd.) V. S. SOMASUNDERAM,  
*Proctor for Plaintiffs.*

**Account Particulars Referred to Above**

18th June, 1949.			
To tiles as per bill No. 7320	..	..	.. 1,199 50
20th June.			
To tiles as per bill No. 7331	..	..	.. 758 00
4th July.			
To tiles as per bill No. 7365	..	..	.. 758 00
30 By Cash	..	..	.. 85 50
			Rs. 2,715 50 85 50
			Rs. 2,630 00
			Rs. 2,630 00

(Sgd.) V. S. SOMASUNDERAM,  
*Proctor for Plaintiffs.*

Know All Men by These Presents that we, Veeragathipillai Rajaratnam and Veeragathipillai Rajasegaram carrying on business under the name, firm and style of S. Veeragathipillai & Sons, Jaffna, have nominated, constituted and appointed and do hereby nominate, constitute and appoint V. S. Somasunderam, Proctor of the Honourable  
40 the Supreme Court of the Island of Ceylon, to be our true and lawful proctor and for us and in our name and on behalf before the District Court of Jaffna to appear and this proxy to exhibit and by virtue hereof to sue for and recover from Ponniah Ragupathy of Jaffna the sum of

D10.  
 Plaint and  
 Proxy filed in  
 D.C. Jaffna  
 6418  
 7.3.50—  
 Continued

Rs. 2,630/- due to us on account of tiles bought and recover costs and for the purpose do all things and acts needful and necessary in the said premises. And to draw, receive and take all moneys that may be deposited, paid or recovered in this suit for and in respect of our claim and costs and without notice to us move for and obtain in our 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 herein and to give all necessary receipts, releases and discharges therefor and if need be to refer the said claim and all matters in respect of the action instituted by virtue hereof to the award and decision 10 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 and use all such lawful ways and means to do and perform any such acts, matters and things as may be needful and necessary in and about the premises as our said Proctor or Proctors or his substitute or substitutes may consider necessary towards procuring or carrying into execution any judgment or order or a definite sentence or final 20 decree to be made and interposed herein and for any judgment, order or decree interlocutory or final of the said Court to appeal and every bond or recognizance whatsoever necessary or needful in the course of proceedings for the prosecution of such appeal or for appearance or for the performance of any order or judgment of the said Court for and in our name and as on act and deed to sign and deliver and to appoint if necessary one or more substitute or substitutes or advocate or advocates both in the District Court and in the Supreme Court and again at pleasure to revoke such appointment and appoint anew and also if the said proctor or proctors shall see cause the said action 30 or suit to discontinue, compromise, settle or refer to arbitration and every such compromise, settlement or reference in our name and on behalf to settle, sign and to make a rule of Court, we hereby promising to release all kinds of regularities 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 we have hereunto set our hand at Jaffna on this 1st day of March, 1950.

(Sgd.) V. RAJARATNAM.

(Sgd.) V. RAJASEGARAM. 40

The address for service of process under the provisions of the C.P.C. is at Van East, Jaffna.

*Witnesses :*

True Copy of Plaint and Proxy in D.C. Jaffna case No. 6418.

(Sgd.) Illegibly,  
 Secretary, D.C., Jaffna. 9.1.54.



P35.

## Letter of V. Rajesegaram

P35.  
Letter of V.  
Rajasegaram  
17.3.50*Translation :*

V. RAJASEGARAM,  
General Merchant, Importer, Exporter, Agent and Manufacturers'  
representative.

Colombo,  
Grand Bazaar, Jaffna,  
Ceylon,  
17.3.50.

10

*Phone :* 93.*Telegrams :* " Ruby," Jaffna.

MRRy.

To M. N. Sambamurthy Iyer Avagal Well here. Hope that you would have known the details of the health here as per this letter and that of the letter of the 15th.

I have omitted in writing to you regarding two affairs in the letter written by me yesterday.

1. Brother had a Land case with C. Nagalingam. I hope  
20 that a sum, more than Rs. 1,200 would have been spent for that case, of which a sum of Rs. 1,000, as 1/3rd share should be credited to my account.

2. I myself have sent the whole of your fees. Of which amount also 2/3rd share should be borne by brother. Besides, of what I have written you yesterday, that is regarding the expenses of Father and Mother, I have after consulted the matter with Ramiah, noted down an amount much less though the expenses were too much. Therefore all the amounts should be, without any omission brought to accounts and go through the accounts. Regarding the expenses of the School,  
30 I am sure that expenses should have been incurred more than we wrote. I have noted down each of the items with lower rate, with the idea that these matters should be settled amicably by you, of your own accord without giving you any trouble but I feel sorry that you have the same reduced further more and omitted some items altogether. If any property of Father and mother would have devolved on me, I am ready to bear their medical expenses, funeral expenses and other annual ceremonies as you wanted me to do, otherwise it would not be right for you to ask me to bear such expenses.

I feel sorry that I give you lot of troubles. Please excuse me.

40

I am yours,  
(Intld.) S. V. R.

*Translated :*

(Sgd.) Illegibly.

P49.  
 Conveyance  
 No. 945 attested  
 by V. S.  
 Somasuntharam  
 1.6.50

**P49.**

**Conveyance No. 945 attested by V. S. Somasuntharam**

Application No. 1194/1.7.52.

The duplicate bears 10 stamps to the value of Rs. 479/-.

Conveyance.

Land One.

Rs. 30,000/-.

No. 945.

To all to whom These Presents shall come I, Thambipillai Sivasubramaniam, Secretary of the District Court of Jaffna. 10

Send Greeting.

Whereas under and by virtue of a mortgage decree entered in Case No. 5266 of the District Court of Jaffna certain Nagalingam Subramaniam of Nallur, Jaffna, the Defendant in the said Case, was decreed to pay to Veeragathipillai Rajasegaram of Grand Bazaar, Jaffna, the Plaintiff in the said Case, a sum of Rupees Thirty-Six Thousand Two Hundred and Twenty-Two and cents fifty (Rs. 36,222/50) with legal interest thereon from 28th February, 1949, till payment in full and costs of this action as taxed by the Officer of this Court due in respect of mortgage bonds dated 31st March, 1945, and 20 8th August, 1945, and 6th February, 1946, and 17th August, 1946, all attested by the Notary attesting These Presents under Nos. 519, and 550 and 595 and 663 respectively.

And whereas by the said decree all that piece of land called "Uppukulamkaru, Punkunintrauppu-kulamkarai alias Thandikulamkarai" in extent 2 lms. P.C. and 4½ kls. with three shop houses and other appurtenances belonging thereto situated at Vannaraponnai East and more fully described in the Schedule hereto annexed was decreed to be sold by Sinnathamby Sangarapillai of Jaffna, as commissioner appointed by Court for recovering the money due on the said 30 decree.

And Whereas in pursuance of the said Commission issued to the said Sinnathamby Sangarapillai by virtue of the said decree the said land was put up for sale after due notice and publication as required by the conditions of sale on the 6th day of March, 1950, by Public Auction.

And Whereas the said Veeragathipillai Rajasegaram the plaintiff in the said case No. 5266 of the District Court of Jaffna purchased the said land as the highest bidder for the sum of Rupees Thirty Thousand (Rs. 30,000/-) and he was given credit for the said amount 40 as the plaintiff purchaser.

And Whereas the said sale was confirmed by Court on the 26th day of April, 1950, and I the said Thambipillai Sivasubramaniam, the Secretary of the District Court of Jaffna, am authorised by the said Court to execute this deed of conveyance in favour of the said plaintiff-purchaser.

P49.  
Conveyance  
No. 945 attested  
by V. S.  
Somasuntharam  
1.6.50—  
*Continued*

Now Know all men by These Presents that I the said Thambipillai Sivasubramaniam, Secretary of the District Court of Jaffna, in consideration of the premises aforesaid and in consideration of the sum of Rupees Thirty Thousand (Rs. 30,000/-) given credit to in the  
10 said case No. 5266 of the District Court of Jaffna, do hereby grant, convey, assign, transfer, set over and assure unto the said Veeragathipillai Rajasegaram of Grand Bazaar, Jaffna, his heirs, executors, administrators and assigns all that land and premises described and set forth in the schedule hereto annexed with all easements, rights and advantages, whatsoever appurtenant to or reputed to appertain to the said property or any part thereof and all the estate right, title, interest, claim and demand whatsoever of the said Defendant into, upon or out of the said property.

To have and to hold the said land and premises hereby conveyed  
20 or intended to be conveyed with all the appurtenances belonging thereto unto the said Veeragathipillai Rajasegaram and his aforewritten for ever.

In witness whereof I the said Thambipillai Sivasubramaniam, Secretary of the District Court of Jaffna, do hereby set my hand to this and to two others of the same tenor and date as These Presents at Jaffna on this first day of June, One Thousand Nine Hundred and Fifty.

*The Schedule Referred to Above*

All that piece of land called "Uppukulamkarai, Punkuntrauppu-  
30 kulamkarai alias Thandikulamkraia" marked Lot 1A. 5A. in plan No. 86 suply : A dated 10th December, 1944, made by S. T. Pillai, Licensed Surveyor of Jaffna in extent Two Lachams of Paddy culture and four and a half kulies (2 lms. P.C. and 4½ kls.) with three shop buildings and out houses, together with the right to use as a bye-lane the reservation land represented by Lot marked 1A, 5C in aforesaid survey plan and other appurtenances belonging thereto situated at Vannaraponnai East in the Parish of Vannaraponnai of the Division and District of Jaffna, Northern Province, Ceylon, and bounded on the East by the property of Nagalingam Subramaniam, North by  
40 Stanley Road, West by Lot marked 1A, 5B belonging to the heirs of the late Nagalingam Chetty, Sanmugam Chetty, Sethurajah Chetty, and on the South by Lot marked 1A, 5C, shown in the said survey plan reserved for lane belonging in common to Nagalingam Subramaniam and now belonging to the purchaser hereof and the heirs

P49.  
 Conveyance  
 No. 945 attested  
 by V. S.  
 Somasuntharam  
 L.6.50—  
 Continued

of the late Nagalingam Chetty Sanmugam Chetty, Sethurajah Chetty and Registered in the Jaffna Land Registry under Volume D177, Folio 143.

Signed in the presence of us.

*Witnesses :*

1. (Sgd.) A. CHELLIAH.
2. (Sgd.) Illegibly.

(Sgd.) T. SIVASUBRAMANIAM,  
*Secretary, District Court,*  
*Jaffna.* 10

(Sgd.) V. S. SOMASUNDERAM,  
*Notary Public.*

I, Vaithilingam Sinniah Somasuntharam of Jaffna, Notary Public, do hereby certify and attest that the foregoing instrument having been read over by the said Thambipillai Sivasubramaniam, Secretary of the District Court of Jaffna, who is known to me, in the presence of Arunasalam Chelliah of Kodday in Jaffna and Vaithilingam Thamby of Vannarponnai, East Jaffna, the subscribing witnesses hereto who are both known to me, the same was signed by the said Thambipillai Sivasubramaniam and also by the said witnesses and by 20 me the said Notary in my presence and in the presence of one another all being present at the same time at Jaffna on this first day of June, One Thousand Nine Hundred and Fifty.

And I further certify and attest that no consideration passed in my presence and that before the same was read over as aforesaid in the duplicate in page 3 in line 5 the word " June " was typed over an erasure and in lines 18 and 19 and in lines 23 and 24 the words " (the defendant abovenamed) " were deleted and the first mentioned two corrections appear also in the original where in page 3 in line 23 the words " (the defendant abovenamed) " were deleted, and that 30 the duplicate of this instrument bears 10 stamps to the value of Rs. 479/00 and the original a stamp of Re. 1/00.

(Sgd.) V. S. SOMASUNTHARAM,  
 (SEAL) *Notary Public.*

Date of attestation }  
 1st June, 1950. }

I, K. Duraiappah, Registrar of Lands of Jaffna, do hereby certify that the foregoing is a true copy of a deed of conveyance made

from the duplicate filed of record in this office and the same is granted on the application of Mr. S. Nagalingamudaly of Point Pedro.

Land Registry,  
Jaffna,  
3.7.1952.

(Sgd.) K. DURAIAPPAH,  
*Registrar of Lands.*

P49.  
Conveyance  
No. 945 attested  
by V. S.  
Somasuntharam  
1.6.50—  
*Continued*

**D18.**

**Pawn Broker's Licence Issued to S. Veeragathipillai  
& Sons**

10 Duplicate.

CB No. 137.  
2.8.50.

13715/18.

(To be issued to licensee.)

D18.  
Pawn Broker's  
Licence issued  
to S. Veera-  
gathipillai &  
Sons  
2.8.50

**FORM OF LICENCE**

(Section 24 of Ordinance 8 of 1893)

I, Philip James Hudson, Government Agent of the Northern Province, do hereby authorise and license S. Veeragathipillai & Sons of Jaffna to carry on the business of a Pawnbroker at Grand Bazaar, Jaffna, within the limits of the Jaffna District under the provisions of  
20 "The Pawnbrokers' Ordinance, 1893" as amended by Ordinance No. 5 of 1935.

This Licence will expire on July 31st, 1951.

(Sgd.) Illegibly,  
for P. J. HUDSON,  
*Government Agent, N.P.*

The Kachcheri,  
Jaffna.  
2.8.50.

(Stamped)

" True Copy "

30

(Sgd.) N. VELUPILLAI,  
for Government Agent, N.P.  
22.10.53.

P19A.  
 Ledger "P"  
 pages 59, 105,  
 31, 109, 144,  
 120, 140 and 149  
 20.10.50 to  
 29.3.51

## P19A.

## Ledger "P" pages 59, 105, 31, 109, 144, 120, 140 and 149

## V. Rajasegaram

		P.59.	
		Rs.	Cts.
1950	Brought forward from O. page 471 ..		107,324 19½
Oct. 20.	To Amount paid for as per 1 N.B. cheque No. 818618 for the profit out of the shop's account Rs. 14,591.32 and of Pallai Estate Accounts Rs. 3,081.71 for the year 1949 ..	17,673	09
Total payments ..		124,997	28½
<hr/>			
Dec. 9.	.. Amount paid out of K. N. Nadarajah's Ac- count .. .. Rs. 1,725.00		
	N. T. Ponnambalam .. .. 500.00	2,225	11
	.. Amount paid as per National Bank cheque No. 818620 .. .. Rs. 16,000.00		
	C.B. cheque No. 172858 .. .. Rs. 6,700.00	22,700	00
	.. Amount paid in cash .. .. .. 77 61		
28.	.. Amount received out of the rent of Paranki- theru for 12 months from January to the end of December 1950 .. .. .. 390 25		
30.	.. Amount paid for the 55 palmyrah trees felled at Pallai in May .. .. .. 110 00		
	.. Amount paid for 230 coconuts taken in November .. .. .. 32 00		
	.. Amount paid for 10 bushels of paddy taken at Pallai .. .. .. 80 00		
	By Amount received out of the rent of the Point Pedro godown for 1 year from January to December, 1950 .. .. .. 450 00		
	.. Amount received for one half share of do. out of the profit of Rs. 13,841.30 of the Pallai Estate for the year 1950 .. .. .. 6,920 65		
	By amount received .. .. .. 101 00		
Total Rs. ..		150,222	20½
		7,831	90
<hr/>			
To balance of payment..		142,390	30½
1951			
Mar. 3.	To Amount paid on cash .. .. .. 500 00		
5.	.. Amount paid as per 1 C.B. cheque No. 172862..	15,650	00
29.	.. Amount paid to M. G. Ignatious .. .. ..		
Rs. ..		158,540	30½
<hr/>			

## V. Rajasegaram

p. 105.

P19A.

Ledger "P"  
pages 59, 105,  
31, 109, 144, 120,  
140 and 149  
20.10.50 to  
29.3.51—  
*Continued*

		Rs.	Cts.	Rs.	Cts.
1951	Brought forward from page 59 ..	158,540	30½		
Mar. 29.	To Amount of principal and interest mortgage deposited by M.B. ..	27,316	25		
	By Amount received as per one M.B. cheque No. 588404 ..			2,316	25
	Total Rs. ..	185,856	55½	2,316	25

	To amount of balance payments ..	183,540	30		
June 4.	To Amount paid to Proctor V. S. Somasunderam ..	4,800	00		
12.	„ Amount paid in cash ..	4,200	00		
15.	„ Amount paid on account of sale of car ..	3,700	00		
22.	„ Amount paid as per 4 cheques ..	1,767	00		
26.	„ Amount paid as per 1 C.B. cheque No. 172868..	15,000	00		
	Total payments ..	213,007	30½		

Dec. 7.	„ Amount paid as per one N.B. cheque No. 73625 ..	15,000	00		
28.	„ Amount paid out of the rent of the Stanley Road shop. Rent for 1950-1271 for 20 Tax 99-96				
	Balance 1,171.24				
	Rent for 1951 1,525.44 ..				
	Tax .199.22 ..				
	Balance 1,325.52				
	Total for 2 years—2,496.76				
	Pro rata share 1/3 ..			832	25
29.	„ Amount paid as per sale of 15,300 coconuts of Pallai Estate Rs. 3,060/- of this Rs. 15/- deducted ..	3,045	00		
	„ Amount paid for the share of the lorry on account of the building 365.50				
	On account of cement 182.00				
	On account of paddy 8.00				
	Expenses for carrying tiles .. 225.50..	781	00		
	By Amount received on account change made on the entry of the account written off in the name of V. Rajaratnam of the rent of Stanley Road Land ..			1,664	51

Translated :

(Sgd.) Illegibly.

p. 31.

## V. Rajaratnam

1950	Brought forward from page O. 399 ..	5,031	25		
July 20.	To Amount paid for 7 bags of bran ..	59	85		
	Total payment ..	5,091	10		

		Rs.	Cts.	Rs.	Cts.
P19A.					
Ledger "P" pages 59, 105, 31, 109, 144, 120, 140 and 149 20.10.50 to 29.3.51—					
<i>Continued</i>					
Aug.	2.. To	Amount paid to N.M.L. for a bucket	..	6	25
	24.. ,,	Amount paid for one bag of black sugar	..	80	09
		,, Amount paid for 2 bags of bran	..	19	00
				<hr/>	
				5,196	44
Sept.	4.. ,,	Amount paid for 15 bags of bran Rs. 135·90	..		
		and one bag of cotton seed Rs. 21·18	..	157	08
	23.. ,,	Amount paid for removing stones and sand from 8.2.50 till 20.9.50 for erecting godowns at Parankitheru as per bill	..	1,298	00
				<hr/>	
				Total payments	6,651 52
Nov.	30.. ,,	Amount paid as fare for removing sand and stone from and till the end of the said date for the building	..	221	50
				<hr/>	
				Total payment	6,873 02
				<hr/>	
Dec.	14.. ,,	Amount paid Tindal of ship Subramaniapuravy on account in Pampan	..	33	00
	21.. ,,	Amount paid for 5 bags of bran	..	37	75
	25.. ,,	Amount paid to V. T. Fernando for glass	..	35	00
	29.. ,,	Amount paid as per account of the building	..	9,782	57
		By Amount received as per accounts written off of the accounts of Point Pedro shop	..		
				<hr/>	
				Total Rs.	16,761 34
					16,761 34
				<hr/>	
1951					
Jan.	29.. To	Amount paid for 20 bags of bran	..	146	00
		,, Amount paid for paint and brush	..	15	75
				<hr/>	
				Total payment	161 75
				<hr/>	
Mar.	6.. ,,	Amount paid to S. Ponniah Chettiar for 10 bags of bran	..	100	50
	14.. ,,	Amount paid for 2 bags of punae	..	44	00
	21.. ,,	Amount paid for glass Rs. 50/-	..		
		Amount paid for Private Tuition Rs. 30/-	..	80	00
				<hr/>	
				Rs.	386 25
				<hr/>	

p. 109.

## V. Rajaratnam

		Rs.	Cts.	Rs.	Cts.
1951					
		Brought forward from p. 31	..	386	25
April	13.. To	Amount paid for Punae	..	14	00
	24.. ,,	Amount paid for one Mammatty, one axe, one hammer and one bucket, as per M.M.L. Bill	..	54	45
	28.. ,,	Amount paid for Burnard Pump	..	1,450	00
		,, Amount paid for Private Tuition	..	30	00
				<hr/>	
				Total payments	1,934 70
				<hr/>	



		Rs.	Cts.	Rs.	Cts.	P19A.
May	7.. To Amount paid for one bed .. ..	25	00			Ledger "P"
	23.. ,, Amount paid for one bag of Poonac .. ..	14	60			pages 59, 105,
	31.. ,, Amount paid out of the accounts of the building as per Bill .. ..	16,169	22			31, 109, 144, 120, 140 and 149 20.10.50 to 29.3.51—
	Total payments .. ..	18,143	52			Continued
<hr/>						
June	14.. ,, Amount paid to Ana Vayanna for the rent of the ground for one year from May, 1950, to the end of April, 1951 .. ..	30	00			
	Total payments .. ..	18,173	52			
<hr/>						
July	4.. ,, Amount paid for Private Tuition 30.00 Cash .. ..	200.00	230	00		
	10.. ,, Amount paid for coconut poonac .. ..		23	00		
	13.. ,, Amount paid to Shanmugalingam .. ..		20	00		
	23.. ,, Amount paid for 1 bag of poonac 42.90 For 5 bags of bran 50.75 .. ..		93	00		
	Total payments .. ..	18,540	17			
<hr/>						
Aug.	7.. ,, Amount paid for Private Tuition .. ..	30	00			
	8.. ,, Amount paid for paint oil .. ..	36	00			
	13.. ,, Amount paid for 3 windows .. ..	94	00			
	14.. ,, Amount paid for 20 bags of bran .. ..	215	00			
	15.. ,, Amount paid for bucket and Kavy as per bill of M.M.I. .. ..	17	25			
	21.. ,, Amount paid for 1 bag of poonac .. ..	10	50			
	Total payments .. ..	18,943	42			
<hr/>						
Sept.	12.. ,, Amount paid for black sugar 1-2-4½ for water shed at— Sannathy 81.14 Buckets 2 8.50 Tins 3 0.60 .. ..		90	24		
	Total payments .. ..	19,033	66			

p. 144.

**V. Rajaratnam**

1951	Brought forward from p. 109 .. ..	19,033	66		
Sept.	13.. To Amount paid for 1,200 lime fruits for water shed at Sannathy Temple .. ..	60	00		
	22.. ,, Amount paid for one bag of cotton seed .. ..	24	00		
	,, Amount paid for ceiling planks and the rafters .. ..	8	51		
	24.. ,, Amount paid for coconut poonac .. ..	8	25		
	Total payments .. ..	19,134	42		
Oct.	31.. ,, Amount paid out of the building accounts .. ..	10,142	81		
	Total payments .. ..	29,277	23		

P19A.  
Lodger "P"  
pages 59, 105,  
31, 109, 144,  
120, 140 and 149  
20.10.50 to  
29.3.51—  
Continued

		Rs.	Cts.	Rs.	Cts.
Nov.	5..To	Amount paid for private tuition ..	..	30	00
	6..,,	Amount paid for 15 bags of bran ..	..	158	75
	,,	Amount paid for 9 bags of bran ..	..	97	20
	9..,,	Amount paid for coconut poonac ..	..	6	75
	12..,,	Amount paid for 1 bag of cotton seeds ..	..	26	05
Total payments ..				29,595	98
Dec.	1..,,	Amount paid for cloth.. ..	..	85	00
	5..,,	Amount paid out of building accounts ..	..	6,393	85
	14..,,	Amount paid to V.T.S. Shop ..	..	21	50
	,,	Amount paid as private tuition ..	..	30	00
	26..,,	Amount paid for articles ..	..	4	00
	28..By	Amount received on account of the rent of the Stanley Road shop ..	..		
		Rent for 1950—1,271·20. Tax 99·96			
		Balance Rs. 1,171·24			
		Rent for 1951—1,525·45. Tax 199·92			
		Balance Rs. 1,325·52			
		The total for the 2 years is Rs. 2,496·76 of this 2/3rd share ..	..		1,664 51
	29..To	Amount paid for removing stones, sand and ground stones by lorry for the building ..	..	751	00
	,,	Amount of rent of the Stanley Road land as written off in V. Rajasegaram's accounts ..	..	1,664	51

Translated :  
(Sgd.) Illegibly.

**Point Pedro Shop**

p. 120.

1951		Brought forward from page 71 ..	..	14,071	16	807,684	25
		By balance of receipt ..	..			793,613	09
June	2..To	Amount paid for 23 gallons of petrol for CY 4699	..	6,210	00		
	6..,,	Amount paid for 2 locks 7·50 and car plug 5·00 ..	..	12	00		
	,,	Amount paid for 2 tyres for car ..	..	20	00		
	16..,,	Amount paid as per 1 National Bank cheque sent for the balance freight of boat No. 2 ..	..	1,699	00		
	20..,,	Amount paid for 15 gallons of petrol and oil for 4699 ..	..	49	55		
	27..,,	Amount paid ..	..	8	00		
	30..,,	Amount paid as per 1 N.B. cheque No. 818650 sent for tiles by boat No. 71 ..	..	5,463	13		
	,,	Amount paid as per 1 cheque No. 302305 of N.B. sent for tiles to boat No. 48 ..	..	11,109	02		
	,,	Amount paid as per 1 cheque of N.B. No. 302310 to V. M. Sivasidamparam for account of mortgage.. ..	..	10,000	00		
	,,	Amount paid for the balance freight of boat No. 34 as per National Bank cheque No. 311 Rs. 699/-.. ..	..				
		Boat No. 48 cheque No. 313—Rs. 1,079/- ..	..	1,778	00		
Total Rs. ..				30,200	80	793,613	09

		Rs.	Cts.	Rs.	Cts.	P19A.
	By balance of receipts .. ..			763,412	29	Ledger "P"
July	2..By Amount received for account of freight of 64,000 tiles brought by Schooner Athipoorany by her 2nd trip .. ..			4,480	00	pages 59, 105, 31, 109, 144, 120, 140 and 149
	To Amount paid to K. Narayanasamy Naidu .. ..	10	00			20.10.50 to 29.3.51—
	„ Amount paid for 11 gallons of petrol for car .. ..	29	70			<i>Continued</i>
5..	„ Amount paid for daily Notes .. ..	2	25			
20..	„ Amount paid for 3 plugs for car .. ..	7	50			
24..	„ Amount paid for 2 books for entries of payments .. ..	4	87			
25..	„ Amount paid for 16 gallons petrol for car in shed No. 1 .. ..	43	20			
	Total Rs. ..	97	52	767,892	29	
	By balance of receipt .. ..			767,794	77	
Aug.	1.. „ Amount paid for 16 gallons of petrol and oil for car in shed No. 1 .. ..	42	25			
	Rs. ..	42	25	767,794	77	

p. 140.

**Point Pedro Shop**

1951	Brought forward from p. 120 .. ..	42	25	767,794	77	
Aug.	18..To Amount paid for Pallai Estate .. ..	350	00			
	22.. „ Amount paid for 11 gallons of petrol and oil in shed No. 1 .. ..	53	18			
	27..By Amount received for 726 flat tiles and 20 ridges .. ..			294	36	
	„ Amount received for 22 half tiles Rs. 4.40, tail broken tiles 12, Rs. 2.16 .. ..			6	56	
	Total Rs. ..	4,454	37	768,095	69	
	By balance of receipts .. ..			767,650	26	
Sept.	3..By Amount received for 1,150 flat tiles and 40 ridges 480.00					
	Half tiles 34 6.80					
	Head broken tiles 25 7.00 .. ..			493	80	
	4..To Amount paid for 10 gallons of petrol in shed No. 2 .. ..	27	00			
	5..By Amount received for 1,500 flat tiles and 60 ridges .. ..			639	00	
	28..To Amount paid for 29 gallons of petrol in shed No. 1 .. ..	79	55			
	29..By Amount received for 3,000 flat tiles and 100 ridges .. ..			1,300	00	
	Total Rs. ..	106	55	170,083	06	

P19A.  
 Ledger "P"  
 pages 59, 105,  
 31, 109, 144,  
 120, 140 and 149  
 20.10.50 to  
 29.3.51—  
 Continued

		Rs.	Cts.	Rs.	Cts.
	By balance of receipts .. ..			769,976	51
Oct.	1..By Amount received for 1,540 flat tiles, ridges 50 and half tiles 40 .. ..			670	50
	.. Amount received for 3,000 flat tiles Bill 8889 ..			1,140	00
	.. Amount received for flat tiles 1,000, ridges 70 as per bill No. 8890 .. ..			499	00
	2..To Amount paid for 13 gallons of petrol for car in shed No. 2 .. ..	35	10		
10..	By Amount received for 900 flat tiles bill No. 8906 ..			363	50
	.. Amount received on 12.8.51 for 2,000 flat tiles .. ..				
	.. 24.8.51 flat tiles 1,400 .. ..			504	00
	.. 17.9.51 flat tiles 2,000 .. ..			740	00
12..	.. Amount received for 800 flat tiles and 20 ridges .. ..			338	00
	.. Amount received for 350 flat tiles and 10 ridges .. ..				
	.. .. .. ..			150	00
22..	.. Amount received in cash .. ..			5,000	00
23..	To Amount paid for switch for car .. ..	12	50		
24..	.. Amount paid for repair and service of car No. 4699 in Muthurajah's garage ..	52	00		
		99	60	780,111	51

p. 149.

**Point Pedro Shop**

1951	Brought forward from p. 140 .. ..			780,011	91
Nov.	3..To Amount paid for 11 gallons of petrol in shed No. 2 for car .. ..	29	70		
	5.. .. Amount paid for plug .. ..	5	00		
19..	By Amount received for 1,700 flat tiles and ridges 50.. ..			756	50
	To Amount paid for 26 gallons of petrol in shed No. 1 .. ..	71	08		
27..	.. Amount paid to Segaram & Sons for 2 tins of Caltax oil and cylinder casket packing plugs..	32	80		
	Total Rs. ..	138	58	780,768	83

	By balance of receipts .. ..			780,629	83
Dec.	4.. .. Amount paid for 12 gallons of petrol for 4699 in shed No. 2 .. ..	32	40		
	.. Amount paid for petrol .. ..	4	25		
5..	By Amount received for 800 big flat tiles and 54 ridges Rs. 403.80 .. ..				
	Head broken tiles 40 Rs. 11.20 .. ..			415	00
7..	.. Amount received for 245 flat tiles .. ..			95	55
8..	.. Amount received from V. Nagaratnam for 950 flat tiles and 70 ridges .. ..			499	00
	To Amount deposited on the Kachcheri for the licence of the gun .. ..	2	50		

	Rs.	Cts.	Rs.	Cts.	P19A.
10..By Amount received for 800 flat tiles and 40 ridges in Kuthirai Kiddanki .. .. .	379	80			Ledger " P " pages 59, 105, 31, 109, 144, 120, 140 and 149
11.. ,, Amount received for 300 flat tiles and 24 ridges ,, Amount received for 1,000 flat tiles and 35 ridges .. .. .	160	80			20.10.50 to 29.3.51—
13..To Amount paid for 26 gallons of petrol for car in shed No. 1 .. .. .			72	25	<i>Continued</i>
14..By Amount received for 1,300 flat tiles and 22 ridges in Kuthirai Kiddanki .. .. .			556	40	
29.. ,, Amount received on account of Pallai Estate accounts written off .. .. .			11,050	07	
To Amount paid out of the accounts of Tindal Sanmugam Rs. 4,917/- Schooner Athipoorani Rs. 3,674.56 .. .. .			8,591	56	

Translated :  
(Sgd.) Illegibly.

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**P16.**

**Financial Statement of Messrs. S. Veeragathipillai & Sons  
for the year ended 31.12.50**

P16.  
Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.50

FINANCIAL STATEMENTS OF  
MESSRS. S. VEERAGATHIPILLAI & SONS, JAFFNA,  
FOR THE YEAR ENDED 31ST DECEMBER, 1950

M. N. SAMBAMURTI & CO.,  
*Chartered Accountants*  
*Incorporated Accountants*  
Imperial Bank Buildings,  
P.O. Box 210, Colombo.

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**  
**Trading Account for the Year Ended 31st December, 1950**

	<i>Tiles</i>	<i>Paddy</i>	<i>Black Gram</i>	<i>Camphor</i>	<i>Total</i>
	Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.
To Opening stock .. .. .	1,974 00	10,065 00	—	—	12,039 00
„ Purchases .. .. .	84,462 56	54,253 54	5,027 36	5,007 91	148,751 37
„ Freight, duty, etc. .. .. .	56,888 94	140 14	213 03	1,363 67	58,605 78
„ Cooly, and cart hire .. .. .	6,758 91	192 36	601 59	69 47	7,622 33
„ Commission .. .. .	—	393 43	—	—	393 43
„ Balance C/d. .. .. .	55,779 30	831 08	—	—	56,610 38
	Rs. .. 205,863 71	65,875 55	5,841 98	6,441 05	284,022 29
	205,863 71	65,875 55	5,841 98	6,441 05	284,022 29
	Rs. c.	Rs. c.	Rs. c.	Rs. c.	Rs. c.
By Sales .. .. .	203,597 71	65,125 55	4,822 87	—	273,546 13
„ Closing stock .. .. .	2,266 00	750 00	—	6,441 05	9,457 05
„ Balance C/d. .. .. .	—	—	1,019 11	—	1,019 11
	Rs. .. 205,863 71	65,875 55	5,841 98	6,441 05	284,022 29
	205,863 71	65,875 55	5,841 98	6,441 05	284,022 29
			Rs. c.		
Gross profit .. .. .			56,610 38		
Less Loss .. .. .			1,019 11		
Transferred to Profit and Loss Account ..		Rs. ..	55,591 27		

540

Examined and found correct (Subject to our report of even date).

(Sgd.) Illegibly.  
Chartered and Incorporated Accountants.

Colombo, 8th January, 1952.



**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Profit and Loss Account.—(Contd.)**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
B/forward .. ..			23,520	89	B/forward .. ..			79,263	79
To Rebates allowed (Sundry persons) .. ..			160	93					
„ News and periodicals .. ..			52	55					
„ Advertisement .. ..			50	00					
„ Bad debts written off .. ..			13,376	60					
„ Charity, presents, etc. .. ..			637	00					
„ Net profit C/d. .. ..			41,465	82					
	Rs. ..		<u>79,263</u>	<u>79</u>		Rs. ..		<u>79,263</u>	<u>79</u>

**Profit and Loss Appropriation Account**

	Rs.	c.	Rs.	c.		Rs.	c.	Rs.	c.
To Transfer to Partners Current Account :					By Balance as per last Balance Sheet ..			36,374	01½
V. Rajaratnam .. ..	24,249	34½			„ Net profit as per Profit and Loss			41,465	82
V. Rajasekaram .. ..	12,124	67	36,374	01½	Account .. ..				
„ Balance to Balance Sheet .. ..			41,465	82					
	Rs. ..		<u>77,839</u>	<u>83½</u>		Rs. ..		<u>77,839</u>	<u>83½</u>

Examined and found correct (Subject to our report of even date).

Colombo, 8th January, 1952.

(Sgd.) Illegibly.  
*Chartered and Incorporated Accountants.*



**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**

**Balance Sheet as on 31st December, 1950**

LIABILITIES	Rs. c.	Rs. c.	ASSETS	Rs. c.	Rs. c.
Point Pedro .. .. .		804,458 77	Cars and lorries .. .. .		8,929 25
<b>Sundry Creditors :</b>			Property—Stanley Road Buildings, Jaffna .. .. .		28,828 76
On open accounts .. .. .	4,212 81		Shares in Co-operative stores at cost ..		250 00
For salaries .. .. .	482 00		Closing stock .. .. .		9,457 05
„ charities .. .. .	1 25	4,696 06	Pawn outstandings.. .. .		323,367 00
			<b>Ceylon Government Loans :</b>		
			3 % 1954 .. .. .	20,000 00	
			2½ % 1955 .. .. .	25,000 00	45,000 00
			<b>Sundry Debtors :</b>		
			Loans .. .. .	153,539 88	
			For goods .. .. .	12,767 53	
			„ rent .. .. .	177 12	166,484 53
			<b>Advances :</b>		
			Staff .. .. .	7,807 96	
			Legal .. .. .	1,157 05	
			Rent .. .. .	40 00	9,005 01
			V. Rajasekaram drawings .. .. .		142,390 30½
			R. Sundaramoorthy account .. .. .		946 31
			Partner's (R. Sivakumaran).. .. .		165 81
			Cash at foreign banks .. .. .		8,539 06
			Cash at banks : Current .. .. .	41,472 51	
			Deposit .. .. .	55,000 00	96,472 51
Profit and Loss Account balance ..		41,465 82	Cash on hand .. .. .		10,785 05½
	Rs. ..	<u>850,620 65</u>		Rs. ..	<u>850,620 65</u>

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**AUDIT REPORT**

We have examined the above balance sheet with the books of Messrs. S. Veeragathipillai & Sons, Jaffna, and do hereby certify that the Balance Sheet is in accordance therewith. The books, however not been vouched.

(Sgd.) Illegibly.  
Chartered and Incorporated Accountants.

Colombo, 8th January, 1952.

**Messrs. S. VEERAGATHIPILLAI & SONS, JAFFNA**  
**Profit and Loss Adjustment Account for Purposes of Income Tax.**

	Rs.	c.		Rs.	c.
To Depreciation .. .. .			By Net profit as per Profit and Loss Account .. .. .		
„ Adjusted profit .. .. .	48,223	45		41,465	82
			„ <b>Items Inadmissible :</b>		
			Charity, etc. .. .. .	637	00
			Bad debts .. .. .	6,692	00
			Car maintenance (1/3) .. .. .	1,109	63
	Rs. ..	49,904 45		Rs. ..	49,904 45

**Statement of Divisible Income**

	Rs.	c.		Rs.	c.
<b>Business :</b> Jaffna .. .. .				48,223	45
Point Pedro .. .. .				12,343	99
<b>Rental Income :</b> Stanley Road property					
Gross (6.3.50 to 31.12.50) .. .. .				1,271	20
Less Rates .. .. .		99			
Repairs (1/5) .. .. .		234		334	21
				Rs. ..	61,504 43
			<b>Division</b>		
V. Rajaratnam 2 .. .. .				Rs. c.	
V. Rajasekaram 1 .. .. .				41,002	96
				20,501	47
				Rs. ..	61 504 43

Examined and found correct (Subject to our report of even date).

(Sgd.) Illegibly.

*Chartered and Incorporated Accountants.*

Colombo, 8th January, 1952.

**MESSRS. S. VEERAGATHIPILLAI & SONS, JAFFNA****Notes, Explanations and Reservations**

The following are the abstracts of certain ledger accounts furnished with a view to reconcile the opening and closing balances as on the respective balance sheets :—

**Property—(Stanley Road, Building)**

	Rs. c.		Rs. c.
To Purchase of mortgaged property sold by Auction on 6.3.50 Deed No. 945 ..	30,000 00	By Rents received ..	1,271 20
„ Rates .. .. .	99 96	„ Balance to Balance Sheet	28,828 76
	<u>30,099 96</u>		<u>30,099 96</u>

The above property belonging to N. Subramaniam was mortgaged for Rs. 30,000/-. As no interest was received, action was filed in Court, Court auctioned the property and it was purchased for Rs. 30,000/-.

**Partner's Son (R. Sivakumaran)**

	Rs. c.		Rs. c.
To Balance as per last Balance Sheet .. .. .	569 56	By Rents from Grand Bazaar property .. .. .	403 75
	<u>569 56</u>	„ Balance to Balance Sheet	165 81
	<u>569 56</u>		<u>569 56</u>

(Sgd.) Illegibly.

*Chartered and Incorporated Accountants.*

Colombo, 8th January, 1952.

**Establishment**

	Rs. c.
S. Mylvaganam .. .. .	1,810 00
N. Alagasunderam .. .. .	1,990 00
V. Velupillai .. .. .	840 00
N. Murugesu .. .. .	500 00
E. Raman (driver) .. .. .	1,440 00
	<u>5,580 00</u>

**Rent and Lighting**

Rs. c.		Rs. c.
390 25	Rent paid to partner V. Rajasekaram for Main Street ..	..
807 50	Rent paid to partner's son R. Sundaramoorthy ..	.. 403 75
	R. Sivakumaran .. .. .	.. 403 75
158 90	Lighting .. .. .	<u>..</u>
<u>Rs. 1,356 65</u>		

**Legal and Audit**

Rs. c.	
1,000 00	Audit fees.
66 40	Legal expenses for recovery of debtor.
<u>Rs. 1,066 40</u>	

P16.

Financial Statement of Messrs. S. Veeragathipillai & Sons for the year ended 31.12.50—  
*Continued*







**MESSRS. S. VEERAGATHIPILLAI & SONS, POINT PEDRO****Notes, Explanations and Reservations**

The following are the abstracts of certain ledger accounts furnished with a view to reconcile the opening and closing balances as on the respective Balance Sheets:—

**Partner's Current Account (V. Rajaratnam)**

Rs. c.		Rs. c.	
To Drawings .. .. .	17,097 70	By Balance as per last	
„ Drawings in Jaffna Branch		Balance Sheet ..	10,226 49
transferred .. .. .	16,761 34	„ Profit Transferred :	
„ Boat working suspense as per		Jaffna .. .. .	24,249 34½
last Balance Sheet trans-		Point Pedro .. .. .	4,933 30½
ferred .. .. .	952 59		
„ Loss in running of Athi-			
poorani .. .. .	1,372 25		
„ Balance to Balance Sheet ..	3,225 26		
	Rs. .. 39,409 14		Rs. .. 39,409 14

**Charity Account**

Rs. c.		Rs. c.	
To Payment .. .. .	56 57	By Balance as per last Balance	
„ Balance to Balance Sheet ..	16 52	Sheet .. .. .	56 57
		„ Collections .. .. .	16 52
	Rs. .. 73·09		Rs. .. 73 09

**Details of Boat Running Account (Athipoorani)**

Rs. c.		Rs. c.	
To Voyage expenses .. .. .	11,171 29	By Voyage receipts .. .. .	11,530 75
„ Loading and unloading .. .. .	1,137 78	„ Loss transferred to part-	
„ Repairs, etc. .. .. .	501 93	ner's current account .. .. .	1,372 25
„ Sundry stores .. .. .	92 00		
	Rs. .. 12,903 00		Rs. .. 12,903 00

(Sgd.) Illegibly.

*Chartered and Incorporated Accountants.*

Colombo, 8th January, 1952.

**Establishment**

Rs. c.	
S. Narayanasamy Naidu .. .. .	420 00
K. Sellathamby (driver) .. .. .	1,200 00
S. Sandrasegaram (extra driver) .. .. .	50 00
S. Karali .. .. .	126 00
	Rs. .. 1,796 00

**Sundry Creditors**

Rs. c.	
C. Ponniah .. .. .	152 52
R. Sivadas .. .. .	4,340 65
A. Nesaratnam .. .. .	199 22
	Rs. .. 4,692 39

P16.

Financial  
Statement of  
Messrs. S.  
Veeragathipillai  
& Sons for the  
year ended  
31.12.50—  
*Continued*

**MESSRS. S. VEERAGATHIPILLAI & SONS, POINT PEDRO**

**Schedule of Money Lending**

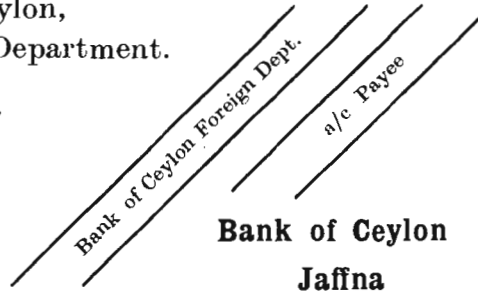
	<i>Balance on</i>		<i>Interest</i>	<i>Balance on</i>		<i>Remarks</i>
	1.1.50			31.12.50		
	Rs.	c.	Rs.	c.	Rs.	c.
K. Ponnamah .. .. .	655	00	—	—	655	00
N. Manganayagam .. .. .	1,000	00	150	00	1,500	00
K. Ponnuthurai .. .. .	1,700	00	—	—	1,700	00
S. Devasikamani .. .. .	5,000	00	—	—	5,000	00
K. Arunachalam .. .. .	2,000	00	—	—	1,520	00
K. Visalachi .. .. .	3,000	00	—	—	3,000	00
V. Nagappar .. .. .	3,000	00	—	—	3,000	00
K. Sivakalimuttu .. .. .	7,000	00	—	—	7,000	00
V. Ramasamy .. .. .	15,000	00	1,800	00	15,000	00
M. Visvalingam .. .. .	6,000	00	—	—	6,000	00
S. Kidnasamy .. .. .	—	—	—	—	5,000	00
V. Nagappar .. .. .	—	—	—	—	10,000	00
						Given on 10.6.50. Rs. 16 000 was given on 27.9.50 Rs. 6 000/- was received on 30.12.50.
V. Nagappar .. .. .	—	—	—	—	375	00
V. Nagappar .. .. .	15,000	00	2,575	00	—	Account settled 27.9.50.
S. Seenivasam .. .. .	100	00	30	00	—	do.
K. Murugupillai .. .. .	4,000	00	620	00	—	do. 13.12.50.
K. Ponnuthurai .. .. .	1,000	00	200	00	—	do. 2.8.50.
S. Renganayaki .. .. .	3,000	00	100	00	—	do. 8.3.50.
S. Sinnathurai .. .. .	5,000	00	396	00	—	do. 6.11.50.
	Rs.	72,455	5,871	59,750		
		00	00	00		



**D23.****Cheque Issued by S. Veeragathipillai & Sons for Rs. 1,500/-**Bank of Ceylon,  
Foreign Department.

No. 172867.

A/c payee.


  
Bank of Ceylon  
Jaffna

(Cheque)

Jaffna,  
23.5.1951.

D23.  
Cheque issued  
by S. Veeragathipillai &  
Sons for  
Rs. 1,500/-  
23.5.51

Pay Sundaramoorthy.....order  
Rupees One Thousand Five Hundred only.....

S. Veeragathipillai & Sons,  
(Sgd.) V. Rajaratnam,

Rs. 1,500/-.

*Partner.***D24.****Cheque Issued by S. Veeragathipillai & Sons for Rs. 30,000/-**

No. 172869.

(Cheque).  
Jaffna,

17th July, 1951.

Bank of Ceylon,  
Jaffna

Pay yourselves .....  
Rupees Thirty Thousand only.....

S. Veeragathipillai & Sons,  
(Sgd.) V. RAJARATNAM,

Rs. 30,000/-.

*Partner.*

D24.  
Cheque issued  
by S. Veeragathipillai &  
Sons for  
Rs. 30,000/-  
17.7.51

D20.

Pawn Broker's  
Licence issued  
to S. Veeraga-  
thipillai & Sons  
26.7.51

D20.

**Pawn Broker's Licence Issued to S. Veeragathipillai & Sons**

Duplicate.  
(To be issued to licensee).

12498/18.  
(3B).

CB 1751

26.7.51.

**FORM OF LICENCE**

(Section 24 of Ordinance 8 of 1893)

I, Peter Oliver Fernando, Government Agent of Northern Province do hereby authorise and license S. Veeragathipillai & Sons <sup>10</sup> of Jaffna to carry on the business of a pawnbroker at Grand Bazaar, Jaffna, within the limits of the Jaffna District, under the provisions of "The Pawnbrokers' Ordinance, 1893" as amended by ordinance No. 5 of 1935.

This Licence will expire on July 31st, 1952.

(Sgd.) Illegibly,  
for P. O. FERNANDO,  
Government Agent.

The Kachcheri,  
Jaffna.

26.7.1951.

20

(Stamped)  
" True Copy "

(Sgd.) N. VELUPILLAI,  
for Government Agent, N.P.  
22.10.53.

D21.

Cheque issued  
by S. Veeraga-  
thipillai & Sons  
for Rs. 25,000/-  
21.2.51

D21.

**Cheque Issued by S. Veeragathipillai & Sons for Rs. 25,000/-**

No. 172860.

(Cheque).  
Jaffna,  
21.2.1951. 30

**Bank of Ceylon,  
Jaffna**

Pay yourselves .....  
Rupees Twenty-Five Thousand only .....

Rs. 25,000/-

S. Veeragathipillai & Sons,  
(Sgd.) V. RAJARATNAM,  
Partner.

## D22.

Cheque Issued by S. Veeragathipillai & Sons for Rs. 5000/-

(Cheque)

No. 172870.

Jaffna,

14th August, 1951.

Bank of Ceylon,  
Jaffna

Pay yourselves .....  
Rupees Five Thousand only.....

S. Veeragathipillai & Sons,  
(Sgd.) V. RAJARATNAM,

Rs. 5,000/-

Partner.

D22.

Cheque issued  
by S. Veeraga-  
thipillai & Sons  
for Rs. 5,000/-.  
14.8.51

## P18.

Trial Balance for November, 1951

*Translation*

Sivamayam.  
Translation.

S. V. & Sons—Jaffna Shop  
Trial Balance up to the end of November, 1951

P18.

Trial Balance  
for November  
1951

	Dr.	Cr.
	Rs. Cts.	Rs. Cts.
1. Swamies .. .. .		1 25
76. Hindu College, Jaffna .. .. .		60 01
313. Sinnathamby Kanapathy of Karaitivu .. .. .	265 00	
377. Subramaniam Muthammah of Tellipalai .. .. .	3,500 00	
382. Northern Omini Bus Co. S. S. Nagalingam .. .. .	5,000 00	
63. Mutturajah Garage .. .. .	75 00	
68. A. C. Ponnambalam .. .. .	1,088 15	
111. V. Sellaturai of Vaddu .. .. .	112 63	
167. R. Sivakunan .. .. .	165 81	
188. K. Sathasivam of Land Registry .. .. .	433 75	
256. Ceylon Government 3% N.L.A./C. .. .. .	20,000 00	
273. P. M. Thambiyah .. .. .		388 44
308. Carpenter Rasiah .. .. .	553 60	
338. Agent Raman .. .. .		15 00
357. Vasavilan N. Vallipuram .. .. .		3,000 00
369. L. Muttuthamby .. .. .	1,583 31	
378. V. Thambipillai of Karaitivu .. .. .	525 00	
398. C. C. Subramaniam of Uduvil .. .. .	20 00	
401. Siva Paripalana Sabai M. Mailvaganam .. .. .	100 00	
407. Ceylon Government 2½% N.D.L. .. .. .	25,000 00	
412. Proctor V. S. Somasunderam .. .. .	1,657 05	
423. R. Sunderamoorthy .. .. .	1,047 31	
453. A. R. Sabaratnam of Valvetturai .. .. .	58 50	
456. S. Sunderalingam of Valvetturai .. .. .	150 00	
457. A. Kumaraswamy of Hindu College .. .. .	1,426 40	
472. Jaffna Co-operative Stores .. .. .	233 75	

P18.			Rs. Cts.	Rs. Cts.
Trial Balance	2. Stanley Prince Studio	.. ..		400 00
for November,	9. P. S. Subramaniam	.. ..		25 00
1951—	13. National Bank Fixed deposit	.. ..	25,000 00	
Continued	25. R. Ariyamuttu	.. ..	42 60	
	28. W. Ponnudurai of Uduvil	.. ..	24 00	
	29. District Court T. Selladurai	.. ..	82 15	
	43. Stanley Road building	.. ..	29,028 68	
	48. Kathirippialli Murugesue of T'mannar	.. ..	275 00	
	52. T. Tharmaratnam & Ramiah Chettiar	.. ..	72,380 00	
	54. M. J Ignatius	.. ..		75 00
	55. Eliyathamby Mailvaganam of Valvedy	.. ..	250 00	
	60. N. N. Sambamoorthy & Co.	.. ..	745 00	
	61. M. T. Ponnambalam	.. ..		488 25
	62. V Annamalai	.. ..	260 00	
	66. P. Kanagaratnam	.. ..	73 00	
	69. V. Suppiah	.. ..	339 00	
	70. Dr. V. Thuraisamy	.. ..	7 00	
	72. Velliore of Parangutheru	.. ..		170 00
	77. S. Navaratnam of Chulipuram	.. ..	6 50	
	85. Jaffna Food Control Dept.	.. ..		371 20
	86. C. K. A. Sinnathamby of Karainagar	.. ..		121 15
	87. Richard Teacher	.. ..	40 70	
	92. B. S. Joseph	.. ..	96 80	
	93. T. Shanmugam Tindal	.. ..	4,917 00	
	95. N. M. L. and brother	.. ..	2,234 40	
	96. K. Valupillai of Point Pedro	.. ..	165 75	
	97. N. Vythilingam Hindu College	.. ..	134 00	
	105. V. Rajasegaram	.. ..	213,007 30½	
	106. A. I. Kasilingam	.. ..	349 00	
	110. V. Velupillai Kathiripai	.. ..	570 00	
	111. Segaram & Sons	.. ..	101 00	
	114. P. Nadesan, Sanitary Inspector	.. ..	250 00	
	115. K. S. Saravanamuttu, Chavakacheheri	.. ..	509 05	
	117. E. N. Sanku	.. ..	20 00	
	118. Driver E. Raman	.. ..	1,070 00	
	121. S. Mailvaganam	.. ..	9,444 65	
	123. N. Sellathurai of Manipai	.. ..		510 00
	125. Cook Manthapal	.. ..	120 00	
	128. M. M. Aboobucker, Chavakacheheri	.. ..	390 00	
	129. National Bank	.. ..	23,394 48	
	130. A. Velupillai, Landing Contractor	.. ..		5 45
	131. A. Alagasunderam	.. ..	1,728 77	
	132. Bank of Ceylon Fixed deposit	.. ..	30,000 00	
	133. N. S. Sethurajah	.. ..	46,716 00	
	135. Rev. Fr. V. R. Tarsius	.. ..	2,058 03	
	139. Pallai estate	.. ..		8,759 82
	143. Boat Athipoorani	.. ..	3,596 56	
	144. V. Rajaratnam	.. ..	29,595 98	
	145. Bank of Ceylon	.. ..	2,343 14	
	146. Cook N. Murugesu	.. ..	60 00	
	149. Point Pedro shop	.. ..		780,629 83
	150. Cook Kanthasamy	.. ..	30 00	
	151. Buvaneswary Hardware Stores	.. ..		400 00
	152. T. Kumaravelu Edaikadu	.. ..	48 00	
	Lorry C.E. 4332	.. ..	2,664 40	

	Rs.	Cts.	Rs.	Cts.	P18.
Old Vauxhall Car .. .. .			785	15	Trial Balance for November, 1951— <i>Continued</i>
2. Flooring tiles .. .. .	861	25			
3. Sky light tiles .. .. .	34	00			
7. Champo .. .. .	5,967	55			
15. Light .. .. .	135	20			
16. Profit .. .. .			5,847	12	
27. Printing and Stationery .. .. .	186	95			
37. Expenses of remitting money .. .. .	407	98			
46. Vauxhall .. .. .	10,555	00			
54. Ventilator tiles .. .. .			171	00	
57. General expenses .. .. .		50			
67. Half tiles .. .. .	3,704	63			
63. Half tiles .. .. .			834	12	
68. Paddy .. .. .	2,893	50			
69. Broken tiles .. .. .			2,448	38	
71. Maintenance A/c. .. .. .	4,902	72			
72. Shop expenses .. .. .	320	90			
73. Flat and ridge tiles .. .. .			39,444	29	
74. Court expenses .. .. .		3 60			
75. Bran .. .. .		426 38			
76. Lorry .. .. .		1,477 43			
77. Stamps .. .. .		408 82			
Pawn capital A/c. .. .. .	292,212	00			
Pawn Interest A/c. .. .. .			12,977	65	
Cash in hand .. .. .		8,262 08			

Translated by :

(Sgd.) A. ARUMUGAM,  
Sworn Translator, District Court, Jaffna.

### D9.

## Application for Foreign Currency by the Plaintiff to the Exchange Control

### FORM " E "

#### CEYLON

#### DEFENCE (FINANCE) REGULATIONS

#### Application for Foreign Currency

(N.B.—See overleaf for instructions regarding the use of  
this form.)

To The Deputy Controller of Exchange, through Chartered Bank.

I/We the undersigned request that the under-mentioned amount of foreign currency  
be placed at my/our disposal :—

.....  
(currency required)

.....  
(amount in figures)

say—

.....  
(amount in words)

2. Name and address of payee : The Standard Tile & Clay Works, Ltd.,  
Feroke, S. India.

D9.

Application for  
Foreign  
Currency by the  
Plaintiff to the  
Exchange  
Control  
19.3.52

D9.  
Application for  
Foreign  
Currency by the  
Plaintiff to the  
Exchange  
Control  
19.3.52—  
*Continued*

3. (a) State whether draft, cable or mail transfer, or other form of delivery.....  
.....  
(b) If an extension of a previous contract, state details of original deal.....  
.....  
(c) Date when required :.....  
4. If to pay for imports state :.....

(a) Description of Goods : Roofing tiles

(b) Quantity	(c) CIF value	(d) Name of carrying Vessel	(e) Country of origin	(f) Country whence consigned	(g) No. and Date of Import Licence or other authority for import	(h) Name and address of in- denting Agent (if any)
			India	India		S. Veeragathi- pillai & Sons, Tondamanar.

I/We attach the " Exchange Control copy " of the import licence or other authority for import, and also

- \*(a) attach the relevant Customs stamped invoice and the Exchange Control copy of the relevant Customs entry ; OR  
\*(b) attach invoice or supplier's acceptance (if the former is not available) and undertake to produce within 3 MONTHS the Customs stamped invoice and the Exchange Control copy of the Customs Entry.  
5. If required for any other purpose, state what it is and attach documentary evidence, if any is available :.....  
6. I/We declare that the statements on this form are true, that the foreign currency will be used solely for the purpose specified above and that this purpose in no way contravenes the provisions of the Defence (Finance) Regulations, 1939.

Name and address of Applicant(s) :

S. Veeragathipillai & Sons,  
Tondamanar.

(Sgd.) V. RAJARATNAM,  
*Partner.*

S. Veeragathipillai & Sons,  
*(Signature(s)).*

*Date : 19.3.1952.*

\* Delete whichever is inapplicable. Where goods are received through the post and Customs entry is not passed, the production of the Customs stamped invoice will suffice.

**D36.**  
**Rough Day Book**

D36.  
Rough Day  
Book  
27.3.52

*Translation*

		Payments	Receipts
		Rs. c.	Rs. c.
1952			
Mar.	By stock .. .. .		8,211 40
27.	By Amount received from P. shop .. .. .		5,000 00
	To Amount paid to do. shop as per bill No. 128, to boat cheetu B.R. 3507 .. .. .	5,826 80	
	By Amount received on account of Standard Tiles Company tiles sent to V. Shop as per bill 128 .. .. .		5,824 50
	„ Amount received on account of commission for tiles sent by boat No. 128 .. .. .		2 30
	„ Amount received from Ceylon Bank cheque No. 172888 .. .. .		10,000 00
	To Amount paid to V. Rasasegaram by Ceylon Bank cheque No. 172888 .. .. .	10,000 00	
	„ Amount paid for meals expenses .. .. .	3 50	
	„ Amount paid for washers, springs retainer, etc. for car .. .. .	3 75	
	„ Amount paid for engine oil, etc. for lorry to Segaram & Sons .. .. .	8 25	
	„ Amount paid to Manipay Hindu College general expenses .. .. .	15 00	
	By Amount received by sale of flat tiles 90 .. .. .		34 65
	„ Amount received by sale of half tiles 10 .. .. .		2 00
	„ Amount received by sale of flat tiles 25, and ridge tiles 7 .. .. .		21 30
	„ Sale of flat tiles 400 .. .. .		154 00
	To Amount paid for purchasing tiles brought by boat No. 111 flat tiles 38,760, ridge tiles 1,020, half tiles 1,020, duty and rent .. .. .	2,864 74	
	By Amount received by sale of 10 ridge tiles .. .. .		16 50
	To Amount paid for purchasing tiles as per chit, unloading charges and rent paid for room .. .. .	56 20	
	„ Amount paid K. 3608 .. .. .	100 00	
	3609 .. .. .	60 00	
	3610 .. .. .	150 00	
	3611 .. .. .	100 00	
	3612 .. .. .	100 00	
Mar. 27.	„ Amount paid K. 3613 .. .. .	55 00	
	3614 .. .. .	25 00	
	3615 .. .. .	300 00	
	3616 .. .. .	90 00	
	3617 .. .. .	35 00	
	By Amount received 1555 .. .. .		65 00
	1724 .. .. .		50 00
	1731 .. .. .		75 00
	3120 .. .. .		60 00
	3257 .. .. .		50 00
	3320 .. .. .		30 00
	3447 .. .. .		75 00
	3482 .. .. .		90 00





**D35.****Bill of Chartered Bank**

THE CHARTERED BANK OF INDIA, AUSTRALIA AND CHINA  
P.O. Box 27, Colombo.

D35.

Bill of  
Chartered Bank  
7.5.52

Date : May 7th, 1952.

**Memorandum**

Date : May 7th, 1952.

**Memorandum**

Inward Bills Department			
B.R. No. 5760	Branch B.C. No. 70	Rs. ..	13,849 00
Int. from . . . . .	to . . . . . 1/8 of Com.	.. ..	17 05
	Days @ . . . . .	.. ..	2 —
		Rs. ..	13,868 05
Boat 39.			
	c/d @ Exchange : 997/8	.. ..	Rs. 13,850 98
If Payment is made by outstation cheque please include 1/8% Com. of		Plus	
Rs. 17.31	Stamps	Stamps	06
This exchange rate is subject to change and holds good for		Fire In-	
payment today only		surance	
Thirteen thousand eight hundred and fifty-one cents 04/100.		Comm.	
Drawer : The Standard Tile & Clay Works Ltd.		on Par-	
Drawee : S. V. Rajaratnam		cels.	
C/o S. Veeragathipillai & Sons,		Tele-	
Grand Bazaar, Jaffna.		grams	
Please send us your cheque for .. .. .		Rs.	13,851 04

(Sgd.) Illegibly,  
Sub-Accountant.

Your account has been debited with Rs. . . . . in words  
Rs. . . . . Please send us your cheque in support  
of debit. Please return the enclosed Exchange Application Form  
duly completed and signed, together with the necessary licences, if  
any.

Commission on parcels at 75 cents per parcel —maximum Rs.25/-.

*N.B.*—Cheques on clearing Banks tendered in payment of Bills  
must be handed in before 12 noon. Such cheques received on Satur-  
days will be cleared on Mondays. No cash received after 2 p.m.  
(Saturdays 11.30 a.m.).

66,000 on roofing.

2,000 ridge tiles per boat 39.

D25.  
Letter written  
by Plaintiff to  
the Sub-Post-  
master,  
Thondamannar  
7.5.52

**D25.**

**Letter written by the Plaintiff to the Sub-Postmaster,  
Thondamannar**

S. Veeragathipillai & Sons,  
*Merchants.*

Thondamannar,

*Branched at :*

Ceylon.

Jaffna and Point Pedro.

7th May, 1952.

The Sub-Postmaster,  
Thondamannar.

Dear Sir,

I am the Senior partner and managing partner of S. Veeragathi-<sup>10</sup>  
pillai & Sons. I would request you to deliver all letters addressed  
to S. Veeragathipillai & Sons, to me, as usual.

Yours faithfully,

No. 98.

(Sgd.) V. RAJARATNAM.

D6.  
Letter written  
by the Plaintiff  
to the  
Chartered Bank,  
Colombo  
8.5.52

**D6.**

**Letter written by the Plaintiff to the Chartered Bank,  
Colombo.**

S. Veeragathipillai & Sons,  
*Merchants.*

20

*Branches at :*

Jaffna and Pt. Pedro.

Thondammannar,

*Tel./Address :* "Ruby," Velvettiturai.

Ceylon.

8th May, 1952.

Chartered Bank,  
Colombo.

Dear Sirs,

We have received and advance copy of invoice No. 753  
for Rs. 8,842-8-0 for tiles shipped to us through Boat No. 19 by the  
Standard Tile & Clay Works Ltd., Feroke.

30

We have not received the Bill for the said shipment so far. We expect the Boat in a day or two. So kindly send the bill to the following address immediately.

S. Veeragathipillai & Sons,  
Thondamannar.

Yours faithfully,

(Sgd.) V. RAJARATNAM,  
*Senior Partner.*  
S. Veeragathipillai & Sons.

D6.  
Letter written  
by the Plaintiff  
to the  
Chartered  
Bank, Colombo  
8.5.52—  
*Continued*

10

D5.

Letter written by the Plaintiff to the Chartered Bank,  
Colombo

S. V. Rajaratnam,  
S. Veeragathipillai & Sons.  
*Merchants.*

*Branches at : Jaffna and Pt. Pedro.*  
*Tel./Address : " Ruby ", Velvettiturai.*

Thondamannar,  
Ceylon.  
10th May, 1952.

D5.  
Letter written  
by the Plaintiff  
to the  
Chartered Bank  
Colombo  
10.5.52

The Chartered Bank,  
Colombo.

20

Dear Sirs,

I have received a copy of invoice No. 759 for Rs. 13,849/- for tiles loaded in Boat No. 39 by the Standard Tile & Clay Works, Feroke. Please send the bill relating to this invoice at your earliest to the following address :—

V. RAJARATNAM,  
C/o S. Veeragathipillai & Sons,  
Thondamannar.

Yours faithfully,

(Sgd.) S. V. RAJARATNAM.

30

D7.  
Letter written  
by the Plaintiff  
to the  
Chartered Bank  
11.5.52

D7.

**Letter written by the Plaintiff to the Chartered Bank**

S. Veeragathipillai & Sons,  
*Merchants.*

*Branches at :* Jaffna and Pt. Pedro  
*Tel./Address :* " Ruby," Velvettiturai.

Thondamannar,  
Ceylon.  
11th May, 1952.

The Chartered Bank,  
Colombo.

Dear Sirs,

Yesterday we sent you cheque for the Bill for Invoice No. 753  
for tiles loaded in Boat No. 19 by The Standard Tile & Clay Works,  
Ltd., Feroke. 10

Please send the documents relating to this Bill to us to Thonda-  
mannar as stated in the invoice and not to Jaffna.

Yours faithfully,

S. Veeragathipillai & Sons,  
(Sgd.) V. RAJARATNAM.

D13.  
Chartered Bank  
Receipt  
14.5.52

D13.

**Chartered Bank Receipt**

20

*Name :* S. VEERAGATHIPILLAI & SONS.

*To :* The Chartered Bank of India, Australia & China, Colombo.

Bill No. 5485.

We acknowledge receipt of documents as under relating to the  
above mentioned bill.

Yours faithfully,

(Sgd.) V. RAJARATNAM,  
*Senior Partner.*

S. Veeragathipillai & Sons.

14.2.5.5 30

Bill(s) No.	..	..	1
Invoice(s) : 2.	..	..	2
Certificate(s) of origin :	..	—	
Do. Insurance	..	—	
Policy :	..	..	—
Bill(s) of Lading :	..	..	1
Parcel Notice(s) :	..	—	
Date : 12/5.	..	..	—

Memo No.	..	..	1
Parcel Arrival Advice :	..	—	
Shipping Notice :	..	—	
Letter(s) No.(s) :	..	—	
S/G Indemnity No :	..	—	

-----  
Date 12/5

**D14.**

**Letter by Chartered Bank to Messrs. S. Veeragathipillai  
& Sons**

*Certified True Copy*

THE CHARTERED BANK OF INDIA, AUSTRALIA  
AND CHINA

P.O. Box 27

Colombo, (Ceylon)

*URGENT*

D14.

Letter by  
Chartered Bank  
to Messrs. S.  
Veeragathi-  
pillai & Sons  
21.5.52

10 No. BR/6653.

21st May, 1952.

Messrs. S. Veeragathipillai & Sons,  
Thondamannar.

Dear Sirs,

Invoice 753 for Rs. 8,842.8.0.

With reference to your letter of 8th instant, and your receipt of 14th instant for the documents relating to the above shipment, we enclose a copy of a letter received from your Jaffna Branch, and we shall be glad if you will deliver the documents to Mr. Rajasegaram as requested by him.

20

Yours faithfully,

(Sgd.) Illegibly,

*Manager.*

Copy to S. Veeragathipillai & Sons,  
Jaffna.

**D15.**

**Letter written by Plaintiff to Chartered Bank,  
Colombo**

S. Veeragathipillai & Sons,  
*Merchants.*

30 *Branches at* : Jaffna and Pt. Pedro.  
*Tel./Address* : "Ruby," Velvettiturai.

Thondamannar,  
Ceylon.

23rd May, 1952.

The Manager,  
The Chartered Bank of India, Australia & China,  
Colombo.

Dear Sir,

Invoice 753 for Rs. 8,842.8.0.

With reference to your letter BR/6653 of 21st May, we have to inform you that the invoice was addressed to S. Veeragathipillai

D15.

Letter written  
by Plaintiff to  
the Chartered  
Bank, Colombo  
23.5.52

D15.  
Letter written  
by Plaintiff to  
the Chartered  
Bank, Colombo  
23.5.52—  
*Continued*

& Sons and our firm's money was paid and you sent the documents to S. Veeragathipillai & Sons and not to Rajaratnam. So there is no necessity for handing the documents to V. Rajasegaram.

Rajasegaram is not the managing partner of our firm. He is a junior partner.

Yours faithfully,

S. Veeragathipillai & Sons,  
(Sgd.) V. RAJARATNAM,  
*Senior partner.*

D16.  
Letter from the  
Chartered  
Bank, Colombo  
to Messrs. S.  
Veeragathi-  
pillai & Sons  
24.5.52

D16.

10

**Letter from the Chartered Bank, Colombo to Messrs.  
S. Veeragathipillai & Sons**

*Certified True Copy*

CHARTERED BANK OF INDIA, AUSTRALIA  
& CHINA

P.O. Box 27,  
Colombo, (Ceylon)

24.5.52.

No. BR/6852.

Messrs. S. Veeragathipillai & Sons,  
Grand Bazaar,  
Jaffna.

20

Dear Sirs,

BR. 5485, p. Rs. 8,844/54.

With reference to your letter dated 21st May, we append a copy of a letter received from S. Veeragathipillai & Sons, Tondamannar.

Kindly note that delivery of documents to any partner of a firm constitutes a perfect legal delivery.

Yours faithfully,

(Sgd.) Illegibly.

30

*Manager.*

Copy to S. Veeragathipillai & Sons,  
Thondamannar.

**P3.**

**Plaintiff's Letter to Government Agent, Jaffna, for Copy of Certificate of Business Names Registration**

V. Rajaratnam,  
*Partner.*

S. Veeragathipillai & Sons,  
*Merchants.*

*Branches at : Jaffna and Point Pedro.*

Thondamannar,  
Ceylon.

27th May, 1952.

10

The Government Agent,  
Jaffna.

Sir,

Please issue me a copy of the certificate of Registration of Business of S. Veeragathipillai & Sons registered in March, 1929.

I shall send the fees on hearing from you.

I am, Sir,

Your Obedient Servant,

(Sgd.) V. RAJARATNAM,

*Partner.*

20 Certificate.  
No. 668.

P3.  
Plaintiff's  
Letter to  
Government  
Agent, Jaffna,  
for Copy of  
Certificate of  
Business Names  
Registration  
27.5.52.

**P33.**

**Plaint in case No. 4278/P, D.C., Point Pedro**

*Nature of Action : Partition.*

*Value of subject matter : Rs. 85,000/-.*

P33.  
Plaint in case  
No. 4278/P  
D.C. Point  
Pedro  
29.5.52

**IN THE DISTRICT COURT OF POINT PEDRO**

Rajaratnam Sivadas of Thondaimannar.....  
.....*Plaintiff*

No. 4278.

*vs.*

30

Veeragathipillai Rajasegaram of Thondaimannar  
.....*Defendant.*

This 29th day of May, 1952.

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

I. The plaintiff seeks to partition the land described in the schedule hereto situated at Soranpattu within the Jurisdiction of this Court.

P33.  
 Plaint in case  
 No. 4278/P  
 D.C. Point  
 Pedro  
 29.5.52—  
*Continued*

2. Certain Ar. Ar. Sm. Somasunderam Chettiar was the owner and proprietor of the said land under and by virtue of deed No. 11649 dated 26.8.1920 and attested by K. S. Veeravagu, Notary Public.

3. The said Ar. Ar. Sm. Somasunderam Chettiar having held and possessed the said land died and his estate was administered in D.C. Jaffna Testamentary Case No. 5408.

4. The said land was sold by public auction for the purpose of the administration of the said Estate on a Commission issued by the District Court of Jaffna in the said Testamentary case No. 5408 and was purchased in equal shares by the defendant and his brother 10 Veeragathipillai Rajaratnam on Administrator's Conveyance No. 21763 dated 2.4.1931 and attested by S. Subramaniam, N.P.

5. The said Veeragathipillai Rajaratnam having held and possessed his half-share of the said land donated it to his son the plaintiff on deed No. 2268 dated 31.1.48 and attested by K. Sinnathamby, Notary Public.

6. Thus the said land belongs to the parties as follows :—

- (a) An undivided half share to the plaintiff.
- (b) An undivided half-share to the defendant.

7. The plaintiff and the defendant have by their own undisturbed 20 and uninterrupted possession and by the like possession of their previous owners for more than ten years next immediately preceding the date of this action by a title adverse to and independent of all others whomsoever acquired a prescriptive right and title thereto in terms of Section 3 of Chapter 55 of the Legislative Enactments of Ceylon.

8. To the best of the plaintiff's knowledge, information and belief no persons other than those mentioned above have any share or interest in the said land.

9. Possession in common as heretofore is found to be inconvenient 30 and it is therefore necessary that the said land should be partitioned or sold under the Partition Act No. 16 of 1951.

10. The said land is reasonably worth Rs. 25,000/-.

Wherefore the plaintiff prays :—

- (i) that the said land be declared the common property of the plaintiff and the defendant ;
- (ii) that the said land be partitioned and divided shares thereof be allotted and given to the parties as aforesaid ;



- (iii) that in the event of the partition being found impracticable the said land be sold under the said partition Act No. 16 of 1951 and the proceeds of sale be divided and given to the parties *Pro rata* ;
- (iv) that the parties be ordered to pay the costs of this action and of partition in proportion to their shares in the said land ;
- (v) for costs of contest in the event of there being any contest and for such other and further relief as to this Court shall seem meet.

P33.  
 Plaint in case  
 No. 4278/P  
 D.C. Point  
 Pedro  
 29.5.52—  
*Continued*

10

(Sgd.) M. ESURAPADHAM,

*Proctor for Plaintiff.*

Memo of documents annexed.

An Abstract of title.

B. Pedigree.

(Sgd.) M. ESURAPADHAM,

*Proctor for Plaintiff.**Schedule of Property*

A coconut estate called : " Soranpattu " in extent 138 acre 1 rood and 13 perches situated in the Village of Soranpattu in Puloppali Parish in Pachchilaipali Division in Jaffna District, Northern Province and bounded on the east by Sand road and by the property belonging to Seeravitpillaiyar Temple and by the estate called Kayampallam belonging to Sellammah, widow of Gunanayagam, north by sand road, by Tank called Genia belonging to the Crown by the property belonging to Aramber Sinnathamby Walliammai, wife of Wallipuram and shareholders and Karuvalthamby Suppiah, Poovaiyar Sinnucuddy and shareholders Ramu Chelliah and shareholders Walliammai, wife of Wallipuram and shareholders west by sand road Crown land, by Tank belonging to the Crown and south by Central Road. The whole of those contained within these boundaries.

(Sgd.) M. ESURAPADHAM,

*Proctor for Plaintiff.*

True Copy of Plaint in D.C. Pt. Pedro case No. 4278.

(Sgd.) Illegibly.

*Secretary, D.C., Pt. Pedro.*

26.1.55.

P4.  
Statement of  
Change of  
Business Names  
Registration  
7.6.52

P4.

## Statement of Change of Business Names Registration

*True Copy.*

(Sgd.) Illegibly.  
for Registrar of Business Names, N.P.

4th July, 1952.

BUSINESS NAMES ORDINANCE (CAP. 120)  
Form R.B.N. 6.

*To be accompanied by the Certificate of Registration*

**Note.**—This form should not be used when a business changes hands.

Stamps of Rs. 2.50 (Uncancelled) § affixed
---

### STATEMENT OF CHANGE UNDER SECTION 7

In pursuance of the provisions of Section 7 of the Business Names Ordinance (Cap. 120), the following statement of a change which was made or occurred in the particulars registered in the Office of the Registrar of Business Names for the \*Northern Province under number 668 on the 12th day of March, 1929, in respect of † S. Veeragathipillai & Sons is made by us/me the undersigned.

<p>1. Nature of Change</p> <p><b>N.B.</b>—If a new partner is admitted, his full named, residence, nationality, and occupation should be stated.</p>	<p>Veeragathipillai Rajasegaram—Proprietor. Veeragathipillai Rajaratnam has ceased to be a partner.</p>
<p>2. Date of Change</p>	<p>6th June, 1952.</p>

Dated this 7th day of June, 1952

To THE REGISTRAR OF BUSINESS NAMES for the\* Northern Province.

*Signature or Signatures: ‡*

(Sgd.) V. RAJASEGARAM.

\* Here insert name of Province.

† Here state the Business Name.

‡ The statement must in the case of an Individual be signed by him.

In the case of a Firm it should be signed by all the partners in their individual names : otherwise, it may be signed by one of them, who should furnish an affidavit<sup>1</sup> verifying the particulars.

§If uncanceled stamps are sent by post it is very desirable that they should be sent under registered cover as in the event of any loss in the ordinary post, no claim for compensation is entertained by the Postmaster-General.

## 1. AFFIDAVIT

I, Veeragathipillai Rajasegaram of Jaffna affirm that to the best of my belief all the particulars contained in the above statement are true.

Affirmed at Jaffna this 7th day of June, 1952.

*Before me :*

( Sgd.) S. SUBRAMANIAM,

*Justice of the Peace.*

7.6.52.

*Signature*

Sgd.) V. RAJASEGARAM,

Re. 1 stamp affixed and  
cancelled by the department.

(Sgd.) V. RAJASEGARAM.

P4.  
Statement of  
Change of  
Business Names  
Registration  
7.6.52—  
*Continued*

## P4A.

**Original of Statement of Change of Business Names  
Registration**

BUSINESS NAMES ORDINANCE (CAP. 120)

Form R.B.N. 6.

*(To be accompanied by the Certificate of Registration*

<p>Stamps of Rs. 2.50† Affixed. §</p>
---

P4A.  
Original of  
Statement of  
Change of  
Business Names  
Registration  
7.6.52

**Note.**—This form should not be used when a business changes hands.

## STATEMENT OF CHANGE UNDER SECTION 7.

In pursuance of the provisions of Section 7 of the Business Names Ordinance (Cap. 120), the following statement of a change which was made or occurred in the particulars registered in the Office of the Registrar of Business Names for the\* Northern Province under number 668 on the 12th day of March, 1929 in respect of† S. Veeragathipillai & Sons is made by me the undersigned.

P4A.  
Original of  
Statement of  
Change of  
Business Names  
Registration  
7.6.52—  
*Continued*

<p>1. Nature of Change</p> <p><b>N.B.</b>—If a new partner is admitted, his full name, residence, nationality, and occupation should be stated.</p>	<p>Veeragathipillai Rajasegaram—Proprietor. Veeragathipillai Rajaratnam has ceased to be a partner.</p> <p>Copy issued to Mr. V. Rajaratnam. (Sgd.) A. AMBALAVANAR, for Regr. of B.N., N.P. 4.7.52.</p> <p>Copy issued to Mr. V. Rajaratnam. (Intld)..... for R.B.N., N.P. 3.6.53.</p>
<p>2. Date of Change</p>	<p>6th June, 1952.</p>

Dated this 7th day of June, 1952

To THE REGISTRAR OF BUSINESS NAMES for the\* Northern Province.

*Signature or Signatures : †*

(Sgd.) V. RAJASEGARAM.

\*Here insert name of Province.

† Here state the Business Name.

‡ The statement must in the case of an Individual be signed by him.

In the case of a Firm it should be signed by all the partners in their individual names : otherwise, it may be signed by one of them, who should furnish an affidavit<sup>1</sup> verifying the particulars.

§ If uncanceled stamps are sent by post it is very desirable that they should be sent under registered cover as in the event of any loss in the ordinary post, no claim for compensation is entertained by the Postmaster-General.

### 1. AFFIDAVIT

I, Veeragathipillai Rajasegaram of Jaffna affirm that to the best of my belief all the particulars contained in the above statement are true.

Affirmed at Jaffna this 7th day of June, 1952.

*Before me :*

(Sgd.) S. SUBRAMANIAM,  
*Justice of the Peace.*

7.6.52.

*Signature :*

Re. 1 stamp affixed and  
cancelled by the Defendant  
(Sgd.) V. RAJASEGARAM,  
7.6.52.

**P5.****Certificate of Registration of Business Names**

P5.  
Certificate of  
Registration of  
Business Names  
11.6.52—

*True Copy :* (Sgd.) Illegibly.  
*for Registrar of Business Names, N.P.,*  
*Jaffna.*  
1.7.52.

**BUSINESS NAMES ORDINANCE (CAP. 120).****CERTIFICATE OF REGISTRATION OF AN INDIVIDUAL**

Pursuant to a change on 6.6.52.

Certificate No. 668.

I HEREBY CERTIFY that the following Statement, made in pursuance of the Business Names Ordinance (Cap. 120) was registered in the Office of the Registrar of Business Names for the Northern Province, under number 668 on the twelfth day of March, 1929.

1. The Business Name	S. Veeragathipillai & Sons.
2. The General Nature of the Business	Paddy, Rice, Teak and other articles.
3. The Principal Place of the Business	Jaffna.
4. The Date of the Commencement of the Business, if the Business was commenced after November 7, 1918.	2nd March, 1929.
5. Any other Business Name or Names under which the Business is carried on	
6. The present Name (in full) of the Individual.	Veeragathipillai Rajasegaram.
7. Any former Name (in full) of the Individual	
8. The Nationality of the Individual	British.
9. The Nationality of Origin of the Individual, if not the same as the present Nationality	
10. The usual Residence of the Individual	Thondaimannar.
11. The other Business Occupation (if any) of the Individual	

Office of the Registrar of Business  
Names for the Northern Province.  
Dated at Jaffna, this 11th day of June, 1952.

(Sgd.) M. RAMALINGAM,  
*Asst. Registrar of Business Names*  
*for the Northern Province.*

**N.B.**—Any change in the above particulars must be notified within 14 days : the penalty for default is Rs. 100/- for each day's delay.

*True Copy :*  
(Sgd.) Illegibly.  
*for Registrar of Business Names,*  
*Jaffna.*  
3.6.53.

P6.  
Statement of  
Change of  
Business Names  
Registration  
including  
Thondamannar  
and Point  
Pedro  
31.10.52

P6.

**Statement of Change of Business Names Registration  
including Thondamannar and Point Pedro**

BUSINESS NAMES ORDINANCE (CAP. 120).  
Form R.B.N. 6.

*(To be accompanied by the Certificate of Registration)*

**Note.**—This form should not be used when a business changes hands.

Stamp of  
Rs. 2-50  
(Uncancelled)  
§ Attached.

**STATEMENT OF CHANGE UNDER SECTION 7.**

In pursuance of the provisions of Section 7 of the Business Names Ordinance (Cap. 120), the following statement of a change which was made or occurred in the particulars registered in the Office of the Registrar of Business Names for the \* Northern Province under number 668 on the 11th day of June, 1952 in respect of † S. Veeragathipillai & Sons is made by us/me the undersigned.

<p>1. Nature of Change</p> <p><b>N.B.</b>—If a new partner is admitted, his full name, residence, nationality, and occupation should be stated.</p>	<p>In cage 3 " with branches at Thondamannar and Point Pedro " to be included.</p>
<p>2. Date of Change</p>	<p>31st October, 1952.</p>

Dated this 31st day of October  
To THE REGISTRAR OF BUSINESS NAMES for the\* Northern Province.

*Signature or Signatures: ‡*  
(Sgd.) V. RAJASEGARAM.

\* Here insert name of Province.  
† Here state the Business Name.  
‡ The statement must in the case of an Individual be signed by him.  
In the case of a Firm it should be signed by all the partners in their individual names : otherwise, it may be signed by one of them, who should furnish an affidavit verifying the particulars.  
§ If uncanceled stamps are sent by post it is very desirable that they should be sent under registered cover as in the event of any loss in the ordinary post, no claim for compensation is entertained by the Postmaster-General.

**1. AFFIDAVIT**

I..... do swear (or) affirm that to the best of my belief all the particulars contained in the above statement are true.

Sworn (or) affirmed at.....this.....day of.....

Before me :

*Signature :*

*Justice of the Peace.*

Re. 1  
Stamp  
(to be cancelled)  
by the deponent)

**P8.****Letter of Registrar of Business Names to Plaintiff**

No. FRE 6225/BN.

The Kachcheri,

Jaffna,

26.6.52.

P8.  
Letter of  
Registrar of  
Business Names  
to Plaintiff  
26.6.52

Sir,

Copy of Certificate of Registration No. 668

**S. Veeragathipillai & Sons**

10 With reference to your letter of the 12th instant, I have the honour to inform you that the certificate No. 668 issued to Messrs. S. Veeragathipillai & Sons was amended after the receipt of your application as the other partner Mr. Rajasegaram notified the change that he was the sole proprietor of the firm and that you were no more a partner.

2. Please let me know whether you need a copy of the Original Certificate No. 668 or a copy of the amended certificate No. 668.

I am Sir,

Your Obedient Servant,

(Sgd.) M. RAMALINGAM.

*Assistant Registrar of Business Names,  
Northern Province.*

20

V. RAJARATNAM Esq.,  
Thondaimannar.

**D27.****Affidavit sent by the Plaintiff to the Registrar of Business Names**

I/- Stamp cancelled by Mr. V. Rajaratnam.

I, Veeragathipillai Rajaratnam of Thondaimannar, do hereby solemnly, sincerely and truly affirm and declare as follows:—

30 1. A firm with Sinnathamby Veeragathipillai, Veeragathipillai Rajasegaram and myself as partners was started in 1929 under the business name of S.V. The business name was registered on 12th March, 1929.

2. Thereafter the said Sinnathamby Veeragathipillai died leaving behind a Last Will No... 22227 of 14th October, 1933, and attested by S. Subramaniam, Notary Public, by which he bequeathed his share to me.

40 3. The said Last Will was duly admitted to Probate in case No. 58 T., D.C., Jaffna and I thus became entitled to a two-third share of the business and Veeragathipillai Rajasegaram to the remaining one-third share.

D27.  
Affidavit sent  
by the Plaintiff  
to the Registrar  
of Business  
Names  
28.6.52

D27.  
Affidavit sent  
by the Plaintiff  
to the Registrar  
of Business  
Names  
28.6.52—  
Continued

4. The change referred to above was notified to the Registrar of Business Names on 19th November, 1934. The business name was also changed in to "S.V. Veeragathipillai & Sons."

5. I am still the owner and proprietor of a two-third share of the said firm.

6. I have not transferred or assigned my said rights in the said firm to Veeragathipillai Rajasegaram or anybody else.

7. I learn that Veeragathipillai Rajasegaram who owns only one-third share of the said business has made a false statement to the effect that on the sixth-day of June, 1952, I have ceased to be a partner of the said business and that he had become the sole proprietor.

8. I state that the said statements are false and appear to have been made deliberately.

9. It is therefore necessary that the necessary amendments in the register should be made and the Certificate of registration dated 12.8.1936, should be restored and that necessary steps should be taken against Veeragathipillai Rajasegaram on whose affidavit the Certificate of registration dated 11th June, 1952, has been issued.

Affirmed to at Point Pedro this 28th day of June, 1952.

20

(Sgd.) V. RAJARATNAM.

Before me :

(Sgd.) M. ESURAPADHAM,  
J.P.

No. FRE, 6225/BN.

The above is a true copy of the affidavit submitted by Mr. V. Rajaratnam of Thondamannar.

The Kachcheri,  
Jaffna,

(Sgd.) Illegibly.  
for Registrar of Business Names,  
Northern Province.

20th September, 1952.

30

P9A.  
Affidavit of  
Plaintiff to  
Registrar of  
Business Names  
28.6.52

P9A.

**Affidavit of Plaintiff to Registrar of Business  
Names**

Rs. 1/- stamp affixed and cancelled.

I, Veeragathipillai Rajaratnam of Thondaimannar, do hereby solemnly, sincerely and truly declare as follows :—



1. A firm with Sinnathamby Veeragathipillai, Veeragathipillai Rajasegaram and myself as partners was started in 1929 under the business name of S.V. The business name was registered on 12th March, 1929.

2. Thereafter the said Sinnathamby Veeragathipillai died leaving behind a Last Will No. 2227 of 14th October, 1933, and attested by S. Subramaniam, Notary Public, by which he bequeathed his share to me.

3. The said Last Will was duly submitted to probate in case 10 No. 58 T, D.C. Jaffna and I thus became entitled to a two-third share of the business and Veeragathipillai Rajasegaram to the remaining one-third share.

4. The change referred to above was notified to the Registrar of Business Names on the 19th November, 1934. The business name was also changed into "S. Veeragathipillai & Sons".

5. I am still the owner and proprietor of a two-third share of the said firm.

6. I have not transferred or assigned my said rights in the said Firm to Veeragathipillai Rajasegaram or anybody else.

7. I learn that Veeragathipillai Rajasegaram who owns only one-third share of the said business has made a false statement to the effect that on the 6th day of June, 1952, I have ceased to be a partner of the said business and that he had become the sole proprietor.

8. I state that the said statements are false and appear to have been made deliberately.

9. It is therefore necessary that the necessary amendments in the Register should be made and the Certificate of Registration dated 12.8.36 should be restored and that necessary steps should be taken against Veeragathipillai Rajasegaram on whose affidavit the Certificate 30 of Registration dated 11th June, 1952, has been issued.

(Sgd.) V. RAJARATNAM.

Affirmed to at Point Pedro.  
This 28th day of June, 1952.

Before me :

(Sgd.) M. ESURAPADHAM,  
*Justice of the Peace.*

*True copy*

(Sgd.) M. RAMALINGAM,  
*for Registrar of Business Names,  
Northern Province.*  
6.1.54.

P9A.  
Affidavit of  
Plaintiff to  
Registrar  
of Business  
Names  
28.6.52—  
*Continued*

P9.  
Letter by  
Plaintiff to  
Registrar of  
Business Names  
1.7.52

**P9.**

**Letter by Plaintiff to Registrar of Business Names**

V. RAJARATNAM,

Thondamannar.

The Registrar of Business Names, N.P.,  
Jaffna.

Sir,

Copy of Certificate of Registration No. 668

**S. Veeragathipillai & Sons, Jaffna**

With reference to your letter No. FRE 6225/BN of 26.6.52, I have the honour to inform you that I need copies of both the original 10 certificate No. 668 and the amended certificate No. 668 stamps to the value of Rs. 2/50 being balance copying fees due in respect of both the copies is enclosed herewith. Please be good enough to cause the certified copies of the certificates issued to me as early as possible.

2. In this connection I wish to state that I am surprised that the original certificate has been altered without my knowledge. I am still the two third share holder of the business and I tender herewith an affidavit sworn by me in support of same.

3. I shall be grateful if you will kindly enquire into the matter and cause the amended certificate issued to Mr. Rajasegaram cancelled. 20

I am Sir,

Your Obedient Servant,

(Sgd.) V. RAJARATNAM.

*True Copy*

(Sgd.) M. RAMALINGAM,  
*for Registrar of Business Names,*  
Northern Province.  
6.1.54.

P10.  
Letter by  
Registrar of  
Business Names  
to Plaintiff  
17.7.52

**P10.**

**Letter by Registrar of Business Names to Plaintiff**

30

No. FRE 6225/BN.  
The Kachcheri,  
Jaffna,  
17th July, 1952.

Sir,

Registration of Business Name. Certificate No. 668

**S. Veeragathipillai & Sons, Jaffna**

With reference to your letter of the 1st July, 1952, I have the honour to inform you that it is regretted that the change effected on

11.6.52 cannot be rectified by me as it is a matter for the District Court under section 5 of the Business Names Ordinance (Cap. 120). I would advise you to seek legal opinion on the matter.

P10.  
Letter by  
Register of  
Business Names  
to Plaintiff  
17.7.52—  
Continued

I am Sir,

Your Obedient Servant,

(Sgd.) P. J. HUDSON,  
Registrar of Business Names,  
Northern Province.

V. RAJARATNAM, Esq.  
10 Thondaimannar.

**P37.**

**Plaint in Case No. 4316, D.C. Point Pedro**

P37.  
Plaint in case  
No. 4316 D.C.  
Point Pedro  
21.7.52

Nature : Money.

Value : Rs. 5,840.07.

**IN THE DISTRICT COURT OF POINT PEDRO**

Rajaratnam Sivadas of Thondaimannar  
..... Plaintiff

vs.

- |    |           |   |
|----|-----------|---|
| 20 | No. 4316. | 1. Veeragathipillai Rajaratnam of Thondaimannar.                  |
|    |           | 2. Veeragathipillai Rajasegaram of Thondaimannar..... Defendants. |

This 21st day of July, 1952.

The plaintiff of the abovenamed plaintiff appearing by Mr. M. Esurapadham, Proctor, states as follows :—

1. The parties reside and the cause of action hereinafter set out arose at Thondaimannar within the Jurisdiction of this Court.
2. The defendants who are brothers are carrying on business at Point Pedro and at Jaffna under the Vilasam of " S. Veeragathipillai & Sons " and are joint owners of the said business and its assets.
3. The plaintiff is the owner and proprietor of an undivided half-share of the coconut estate called " Soranpattu " in Pulopalai Parish in Pachchilaipaly Division under and by virtue of deed No. 2268 dated 31st January, 1948, and attested by K. Sinnathamby, Notary Public, and the 2nd defendant is the owner of the remaining half-share of the said land.

P37.  
 Plaint in case  
 No. 4316 D.C.  
 Point Pedro  
 21.7.52—  
 Continued

4. In or about the month of January, 1948, the defendants abovenamed took charge of the plaintiff's said half-share of the said estate and agreed to manage the same for the benefit of the plaintiff, to account at the end of each year for the income derived from the said share and to pay to plaintiff jointly and severally all such income.

5. Accordingly the defendants took charge of the said half-share managed the entirety of the said estate and have been at the end of each year accounting for and paying to the plaintiff the income derived from the plaintiff's said half-share.

6. The plaintiff further states that the defendants have been 10 receiving the entire income from the said estate, have been debiting themselves with the amount they so received and crediting the plaintiff with a half-share of the nett income and have been at the end of each year paying the plaintiff his share of the said income.

7. There is due to the plaintiff from the defendants, the sum of Rs. 5,840.07 being a half-share of the nett income of the said estate for the period commencing from the 1st day of January, 1951, and ending on the 31st day of December, 1951. The plaintiff annexes hereto marked " A " a copy of the statement delivered to the plaintiff by the defendants showing the income received from the entire estate 20 and monies expended in respect of same during the year 1951.

8. The plaintiff demanded from the defendants the payment of the said sum of Rs. 5,840.07 cents but the defendants have failed and neglected to pay the said sum or any portion thereof.

9. A cause of action has therefore accrued to the plaintiff to sue the defendants jointly and severally for the recovery of the said sum of Rs. 5,840.07.

10. The plaintiff reserves to himself the right to sue the defendants for an accounting of the income due to the plaintiff for the current year at the end of the year 1952 as no cause of action has accrued to 30 plaintiff in respect of same.

Wherefore the plaintiff prays :—

- (i) that the defendant be ordered and decreed to pay jointly and severally to plaintiff the said sum of Rs. 5,840.07 with legal interest thereof from the date hereof till payment in full ;
- (ii) for costs and for such other and further relief as to this Court shall seem meet.

(Sgd.) M. ESURAPADHAM,  
*Proctor for Plaintiff.* 40

P38.

## Amended Answer in D.C. Point Pedro 4316

IN THE DISTRICT COURT OF POINT PEDRO

P38.  
Amended  
Answer in  
D.C. Point  
Pedro 4316  
16.10.53Ratnam Sivadas of Thondaimannar.....  
..... Plaintiff

No. 4316.

vs.

1. Veeragathipillai Rajaratnam of Thondaimannar.
2. Veeragathipillai Rajasegaram of Thondaimannar..... Defendants.

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On this 16th day of October, 1953.

The amended answer of the 2nd defendant appearing by K. Ratnasingham his Proctor states as follows :—

1. Answering to paragraph 1 of the plaint, the 2nd defendant admits the residence of the parties to this action but denies that any cause of action has accrued to the plaintiff to institute this action.

2. Answering to paragraph 2 of the plaint, the 2nd defendant admits that the defendants are brothers and denies the truth of the other averments therein contained.

20 3. Answering to paragraph 3 of the plaint, the 2nd defendant admits the truth of the averments contained therein.

4. Answering to paragraphs 4, 5, 6, 7 and 8 of the plaint, the 2nd defendant denies the truth of the averments therein contained.

5. Further, answering to the said paragraphs the 2nd defendant states that the plaintiff's share of the said estate was managed solely by the 1st defendant who is the plaintiff's father. The 1st defendant was in law entitled to be in possession of the plaintiff's share of the said land till the plaintiff attained majority in or about January, 1952.

30 5A. This defendant states that the 1st defendant possessed the said coconut estate on behalf of the plaintiff and appropriated the incomes thereof during the period material to this action and that therefore no cause of action has accrued in favour of the plaintiff as against this defendant. This action is not maintainable in law against the 2nd defendant.

6. Further answering to the plaint as a whole the 2nd defendant states that this is a collusive action instituted at the instance of the 1st defendant who has quarrelled with his brother the 2nd defendant against whom the 1st defendant has instituted action No. 4323 of this Court falsely and fraudulently claiming Rs. 600,000/-.

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Continued

7. Further answering this defendant states that the said coconut estate was managed by Messrs. Veeragathipillai & Sons of which the 1st and 2nd defendants were partners prior to 1947. The accounts of the estate for the period material to this action were entered in the books of the Jaffna business which was exclusively owned by the 2nd defendant since 1947 and also in the books of the Point Pedro business which was exclusively owned by the 1st defendant. This defendant therefore states that the plaintiff cannot have and maintain this action.

- (a) as there is a misjoinder of parties and causes of action and 10
- (b) as the accounts of the Jaffna Branch are subjudice in case No. 4323 of this Court.

Wherefore the defendant prays :

- (i) that the plaintiff's action as against this defendant be dismissed ;
- (ii) for costs and for such other and further relief as to this Court shall seem meet.

Received copy.

(Sgd.) S. NAGALINGAMUDALY,  
*Proctor for 1st Defendant.*

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(Sgd.) M. ESURAPADHAM,  
*Proctor for Plaintiff.*

(Sgd.) K. RATNASINGHAM,  
*Proctor for 2nd Defendant.*

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Journal Entries  
in D.C. Point  
Pedro 4278  
21.10.53 to  
18.11.53

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**Journal Entries in D.C. Point Pedro 4278**

**IN THE DISTRICT COURT OF POINT PEDRO**

Rajaratnam Sivadas of Thondaimannar.....  
.....*Plaintiff*

No. 4278.

*vs.*

30

Veeragathipillai Rajasegaram of Thondai-  
mannar.....*Defendant.*

\* \* \* \* \*

J.E.(60) 21.10.53.

Order for delivery of possession in favour of plaintiff issued through fiscal, N.P., ret. 20.1.54.

\* \* \* \* \*

J.E.(66) 30.10.53.

Fiscal, N.P., returns writ for delivery of possession with report:—

My officer reports that when he proceeded to the spot to deliver possession of the property referred to in the writ he found the gate leading to the said property locked.

The writ is therefore returned to Court for instructions as to whether my officer can be directed to break open the lock and deliver possession of the property to the plaintiff.

File.

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(Sgd.) A. W. NADARAJA,  
D. J.

J.E.(67) 30.10.53.

As the outer gate of the land is locked and as the Fiscal is therefore unable to deliver possession of the land to the plaintiff in terms of the order for delivery of possession issued in this case, Mr. M. Esurapatham, proctor for plaintiff, moves that the Fiscal be authorised to break open the said gate. In terms of the decree in this case the plaintiff is the sole owner of the said gate.

Call 4.11 to be supported.

20

(Sgd.) A. W. NADARAJAH,  
D. J.

J.E.(68) 30.10.53.

Mr. K. Ratnasingham, proctor for defendant, by motion states that the defendant in this case is out of Jaffna in connection with a case in Negombo and moves that the delivery of possession in this case be given to the plaintiff in terms of the usual procedure, after the Fiscal, N.P., Jaffna, fixes a date and time according to their convenience with due notice in writing to the defendant to be present. He further submits that the application made by the proctor for plaintiff for the Fiscal to break open the gate is not relevant and regular at the present time.

Mention on 4.11.

*Vide* J.E. (67) of 30.10.53.

(Sgd.) A. W. NADARAJA,  
D. J.

J.E.(69) 4.11.53.

Mr. M. Esurapatham, proctor for plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

(1) Case called to be supported—J.E. (67).

40 (2) Case mentioned *vide* J.E. of 30.10.53 (68).

The D.J. is ill. Call case before him to be supported on 11.11.

(Intld.) V. M. C.,  
A.D.J.

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Journal Entries  
in D.C. Point  
Pedro 4278  
21.10.53 to  
18.11.53—  
*Continued*

P34.  
Journal Entries  
in D.C. Point  
Pedro 4278  
21.10.53 to  
18.11.53—  
Continued

J.E.(70) 11.11.53.

Mr. M. Esurapadham, proctor for the plaintiff.

Mr. K. Ratnasingham, proctor for defendant.

Case called to be supported. Call on 13.11.53.

(Intld.) R. S. H.,  
A.D.J.

J.E.(71) 13.11.53.

Case called *vide* J.E.(70) of 11.11.53.

Proctor for defendant, Mr. K. Ratnasingham, states that the defendant will hand over the keys of the property to the writ officer in 10 question before 10 a.m. on or before 16.11.53.

Inform Writ Officer accordingly and return writ extended.

(Intld.) R. S. H.,  
A.D.J.

\* \* \* \* \*

**Order for Delivery of Possession**

**IN THE DISTRICT COURT OF POINT PEDRO**

Rajaratnam Sivadas of Thondaimannar.....  
.....*Plaintiff*

No. 4278.

*vs.*

Veeragathipillai Rajasegaram of Thondai- 20  
mannar.....*Defendant.*

To :

The Fiscal of the Northern Province, Jaffna.

Whereas under the Final Partition Decree entered in this case on the 2nd day of October, 1953, it was ordered and decreed that the plaintiff should be allotted and given the divided lot of land described in the schedule hereto and represented by lot 2 in Survey Plan No. 230 dated the 1st day of July, 1953, and prepared by Mr. P. Aiyadurai, Licensed Surveyor, copy of which is hereto annexed.

And whereas the plaintiff has applied to this Court to be put in 30 possession of the said divided lot in terms of Section 52 of the Partition Act No. 16 of 1951.

These are to command you that without delay you enter the same and cause the said plaintiff to have possession of the said lot and in what manner you shall have executed the writ make appear to this Court immediately after the execution thereof on or before the 20th day of January, 1954, and have you there this mandate.



*Schedule*

Land situated at Soranpattu in Puloppalai Parish, Pachchilaipali Division, Jaffna District, Northern Province called Soranpattu Estate in extent 142 acres 3 roods 01 perches according to Survey but 138 acres 1 rood and 13 perches according to deed and depicted in Survey Plan No. 230 dated 1st July, 1953, and prepared by Mr. P. Aiyadurai, Licensed Surveyor.

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21.10.53 to  
18.11.53—  
*Continued*

The lot marked 2 in extent 71 acres 1 rood and 20½ perches with its appurtenances including the stone house marked "A" and sheds  
10 "B", "C", "D", "E", and "F" and approach road "D" and excluding channel and tank and bounded on the East by the property of Sellammah, widow of Gunanayagam and of Seeravi Pillaiyar Temple on the North by the property of Karuvalthamby Suppiah and shareholders, on the West by lot No. 1 and on the South by road.

This 21st day of October, 1953.

(Sgd.) A. W. NADARAJAH,  
*District Judge,*  
21.10.1953.

*Drawn by :*

20 (Sgd.) M. ESURAPADHAM,  
*Proctor for Plaintiff.*  
29.10.53.

My Officer reports that when he proceeded to the spot to deliver possession of the property referred to in the writ he found the gate leading to the property locked. The writ is therefore returned to Court for instructions as to whether my officer can be directed to break open the lock and deliver possession of the property to the plaintiff.

(Sgd.).....  
*For Fiscal.*

30 \* \* \* \* \*

Jaffna.

(72) 13.11.1953.

The annexed writ of possession is extended and re-issued for execution returnable on 13.2.1954 *vide* copy of order dated 13.11.1953, annexed hereto.

(Sgd.) R. SHIVAPATHASUNDRAM,  
*Addl. District Judge.*

(73) 18.11.53.

40 My Writ Officer entrusted with the execution of the Writ reports that he duly handed over possession of property to the Writ holder on 16.11.53.

Writ is returned duly executed.

(Sgd.).....  
*for Fiscal, N.P.*

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Journal Entries  
in D.C. Point  
Pedro 4278  
21.10.53 to  
18.11.53—  
*Continued*

True copy of J.EE (60, 66—71), order for delivery of possession and Fiscal's report on Writ in case No. 4278 D.C., Pt. Pedro.

(Sgd.) K. M. CHELLAPPAH,

*Secretary, D.C.*

11.11.54.

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Order in case  
No. 4316 D.C.  
Point Pedro  
12.11.54

**P39.**

**Order in Case No. 4316, D.C., Point Pedro**

\* \* \* \* \*

12.11.54.

*Order*

Court adjourns for lunch interval.

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Court re-assembles after lunch interval.

At this stage, Mr. Kulasingham states that at the suggestion made by Court before the lunch interval, the account books have been looked into by going through certain accounts between the 2nd defendant and the 1st defendant on the one hand and the plaintiff on the other relating to the management of this coconut estate and it is found that all accounuts have been brought into the books except the amount now claimed by the plaintiff in the plaint. Mr. Kulasingham states that he has advised his client to accept the word of his brother in regard to this claim and the 2nd defendant accepts that.

20

It is agreed that for the entering up of the consent order hereafter to be dictated that all accounts relating to this management of the coconut estate up to the end of December, 1951, is concluded between the parties on payment of the amounts to be mentioned hereafter and to be treated entirely as being outside the business of "S.V. & Sons."

It is further agreed that the consent order to be entered in this case will be without prejudice to any rights or pleas that may be taken in case No. 4323, D.C., Point Pedro and also without prejudice to the rights of the plaintiff to recover from the defendants whatever amount for any period commencing from 1.1.52.

Of consent : The 1st defendant will bring into Court a sum of Rs. 630.07 and the 2nd defendant will bring into Court a half of Rs. 11,050.07 on or before 26.11.54. On the 1st defendant depositing the amount of Rs. 630.07, the 2nd defendant will be entitled to a half of Rs. 630.07 and the plaintiff will be entitled to the other half of Rs. 630.07. Out of the amount deposited by the 2nd defendant, the plaintiff will be entitled to a payment order for the half of

Rs. 11,050.07 in his favour. No costs. Enter decree accordingly. Decree on 26.11.54. Parties move to withdraw the documents tendered. I allow the application.

(Sgd.) S. THAMBYDURAI,  
*District Judge,*  
12.11.54.

P39.  
Order in case  
No. 4316 D.C.  
Point Pedro  
12.11.54—  
*Continued*

True copies of plaint, amended answer of the 2nd defendant and order dated 12.11.54 in D.C. Pt. Pedro Case No. 4316.

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(Sgd.) K. M. CHELLAPPAH,  
*Secretary,*  
D.C., Pt. Pedro.  
26.1.55.

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D12.

**Proxy filed in C.R. Jaffna 12916**

D12.  
Proxy filed in  
C.R. Jaffna  
12916

12916/A.

Know All Men by These Presents that We, V. Rajaratnam and V. Rajasekaram of Jaffna, carrying on business under the name, firm and style of S. Veeragathipillai & Sons have nominated, constituted and appointed and do hereby, nominate, constitute and appoint  
20 Mr. V. S. Somasunderam, Proctor of the Honourable the Supreme Court of the Island of Ceylon, to be our true and lawful Proctor and for us, and in our name and behalf before the Court of Requests of Jaffna to appear and therein to sue for and recover from M. Ponnu, Contractor of Karaiyur the sum of Rs. 152/- due to us on account of timber sold and Rs. 1.75 cost of Letter of Demand and recover costs and for this purpose do all things and acts needful and necessary in the said premises. And to receive and take all moneys that may be recovered, deposited or paid, in this suit and in respect of claim and costs and without notice to move for and obtain in his name  
30 any order or orders from the said Court for payment of any sum or sums of money that may be so recovered, paid or deposited therein and to give all necessary receipts releases and discharges therefor; and if need be to refer the said claim and all or any matters in respect of the action instituted by virtue of these proceedings to the award and decision of arbitrators, and to name an arbitrator, for that purpose, and to sign any motion, application, submission or bond for the purpose of the arbitration and to appear before the arbitrators and to take all steps in respect of any award on such submission or reference  
40 and otherwise to take all such lawful ways and means and to do and perform all such acts, matters and things as may be useful and neces-

D12.  
 Proxy filed in  
 C.R. Jaffna  
 12916—  
*Continued*

sary in and about the premises as said Proctor or Proctors for their substitute or substitutes may consider necessary towards procuring or carrying into execution and judgment or order, or a definite sentence, or final decree to be made and interposed herein, and from any judgment, order or decree interlocutory or final of the said Court, to appeal and every bond 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 name and as act and deed, and to sign and deliver, and to appoint if necessary one or more substitute or substitutes, 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 or Proctors shall see cause the said action or suit to discontinue compromise, settle or refer to arbitration and every such compromise, settlement or reference in name and behalf to settle and sign, hereby promising to release all kinds of irregularities and to ratify, allow and confirm all whatsoever the said Proctor or Proctors or his or their substitute or substitutes or the said Advocate or Advocates shall do herein. 10

In Witness whereof.....have hereunto set.....  
 hand at . . . . this.....day of . . . 193 .

The address of the said Proctor for service of Process under the Provision of the Civil Procedure Code is at his office at . . .

(Sgd.) V. RAJARATNAM,

(Sgd.) V. RAJASEGARAM.

*Witnesses :*